

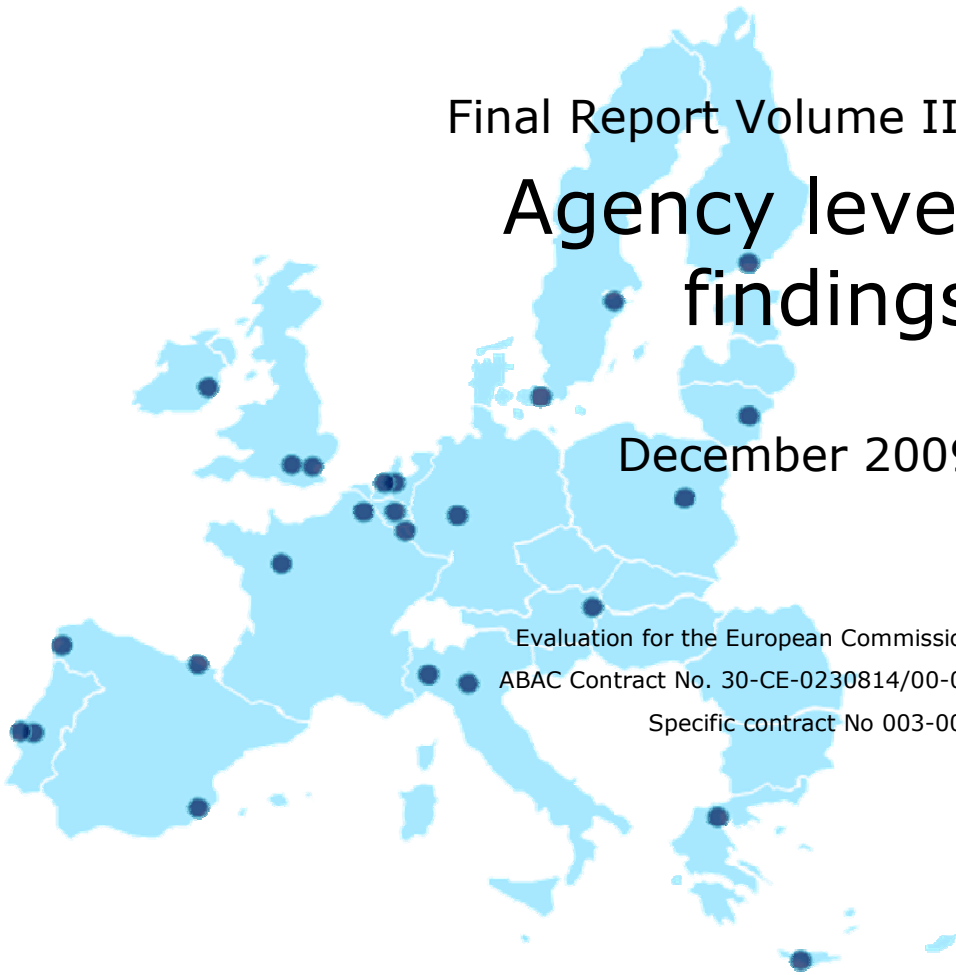
# Evaluation of the EU decentralised agencies in 2009

Final Report Volume III

## Agency level findings

December 2009

Evaluation for the European Commission  
ABAC Contract No. 30-CE-0230814/00-05  
Specific contract No 003-004



This evaluation was commissioned by the European Commission in the context of the framework contract signed between the Directorate General for Budget and Ramboll-Euréval-Matrix (Lot 3).

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The progress of the evaluation is monitored by a steering group composed by representatives from DG BUDG, DG ADMIN, and the Secretariat-General. The IAS participates as an observer.

The opinions expressed in this document represent the authors' points of view which are not necessarily shared by the European Commission.

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**List of agencies covered by the study**

<b>Acronym</b>	<b>Full name</b>	<b>Location</b>
CdT	Translation Centre for the Bodies of the European Union	Luxemburg
CEDEFOP	European Centre for the Development of Vocational Training	Thessaloniki
CEPOL	European Police College	Bramshill
CFCA	Community Fisheries Control Agency	Vigo
CPVO	Community Plant Variety Office	Angers
EAR	European Agency for Reconstruction	Thessaloniki
EASA	European Aviation Safety Agency	Köln
ECDC	European Centre for Disease Prevention and Control	Stockholm
ECHA	European Chemicals Agency	Helsinki
EEA	European Environment Agency	Copenhagen
EFSA	European Food Safety Authority	Parma
EIGE	European Institute for Gender Equality	Vilnius
EMCDDA	European Monitoring Centre for Drugs and Drug Addiction	Lisbon
EMEA	European Medicines Agency	London
EMSA	European Maritime Safety Agency	Lisbon
ENISA	European Agency for Networks and Information Security	Heraklion
ERA	European Railway Agency	Lille/ Valenciennes
ETF	European Training Foundation	Torino
EU-OSHA	European Agency for Safety and Health at Work	Bilbao
EUROFOUND	European Foundation for the Improvement of Living and Working Conditions	Dublin
EUROJUST	European Body for the Enhancement of Judicial Co-operation	The Hague
EUROPOL	European Police Office	The Hague
FRA	Fundamental Rights Agency	Vienna
FRONTEX	European Agency for the Management of Operational Co-operation at the External Borders	Warsaw
GSA	European GNSS Supervisory Authority	(Brussels)
OHIM	Office for Harmonisation in the Internal Market	Alicante

## Introduction

This document is the third volume of the Evaluation of the EU decentralised agencies in 2009. It reports on the main findings and conclusions for each agency individually.

The other volumes are:

- I – Synthesis and prospects
- II – Answered evaluation questions
- IV – Evaluation method

In this Volume, each agency chapter covers the following issues:

- Agency profile in a few words, with a table describing the main agency tasks;
- Reasons for creation and continued relevance to needs;
- Agency and EU institutions, with a focus on relationships with the Commission, contribution to inter-institutional decision-making, and Community added value;
- Internal coherence (activities vs mandate) and external coherence with other agencies, other key operators, EU policies and EU strategic objectives;
- Effectiveness in achieving outputs and customer satisfaction;
- Efficiency in managing resources and executing the budget.

Appended to this volume is a series of tables displaying comparative information for all the agencies under study.

## 1. CdT

### 1.1. Introduction

The Translation Centre for the Bodies of the European Union (CdT)<sup>1</sup> is the European Union body responsible for meeting the translation needs of the other decentralised Community agencies. It also meets specific translation requests of the European institutions and bodies which already have their own translation service and with which the CdT has signed a cooperation agreement.

Established in 1994, Regulation (EEC) 2965/94 provided for the setting up of the CdT with two amending acts in 1995 and 2003<sup>2</sup>. Based in Luxemburg, the Centre currently employs 225 staff members, and its budget for 2009 is EUR 62 million.

CdT's main task is to provide translation services to Agencies, Bodies and institutions, as shown in the table below.

<b>CdT</b>	
<b>Main Task</b>	<b>Translation</b>
<b>Main objective</b>	Providing translation services to EU decentralised agencies, as well as other EU bodies and institutions
<b>Budget<sup>3</sup></b> (% per year, 2008)	71.36%
<b>Dedicated staff</b> (FTE %, 2008)	62.54%
<b>Outputs</b>	Translations Revision Amendments/modifications Editing Standardisation Terminology and Term lists
<b>Addressees / Users</b>	EU decentralised agencies Institutions and bodies of the EU with their own translation service which have signed an agreement with the CdT
<b>Results/ impacts</b>	The CdT helps the EU bodies use its services to comply with their legal obligations concerning the use of languages Strengthening multilingualism

<sup>1</sup> 'CdT' is the French acronym of the organisation's official title, Translation Centre for the Bodies of the European Union (Centre de traduction des organes de l'Union européenne).

<sup>2</sup> Council Regulation of 28 November 1994 establishing a Translation Centre for the Bodies of the European Union (CdT) EC No 2965/94, *Official Journal of the European Communities* L314, 7.12.1994 as last amended by Council Regulation EC No. 1645/2003.

<sup>3</sup> The remaining part of the budget (and staff) is dedicated to administrative and other support tasks, as well as additional activities mentioned in the text.

Translation is the regulatory task of the agency. CdT is the main translation centre for EU Agencies, which provide the bulk of its translation work.

In addition, the centre participates in the Inter-institutional Committee for Translation and Interpretation, which is working to promote collaboration between the services and to achieve economies of scale in the translation field. In 2008, this activity consumed 3.19% of the budget, and 2.89% of staff resources. This activity was introduced with the 1995 amendment to the founding regulation. In 1999, the Centre initiated a project for the creation of a single central terminology database for the agencies of the European Union. It became truly a large-scale project - the InterActive Terminology for Europe (IATE) - when the other inter-institutional partners, especially the Commission (the main financier and contributor of terminology to the project), joined in. IATE is fully operational today and CdT, upon the mandate of the Inter-institutional Committee on Translation and Interpretation (ICTI), provides maintenance and technical support services to this inter-institutional project. Its involvement in this area is continuous but does not constitute a main task and is thus not included in the table above.

## **1.2. Rationale and relevance**

CdT is the service provider agency for more than 40 clients and presents the specificity of having two client categories: primarily, it is the central translation service for all other decentralised agencies, and, secondly, it responds to ad hoc requests on behalf of the European institutions to absorb peaks in their workload or respond to specific needs. It was created simultaneously to the wave of agencies created in 1994 so as to provide for the latter's translation needs. Before 1994, the only two existing agencies, EUROFOUND and CEDEFOP, had their own translation services which they gradually phased out so as to use those of CdT (although they maintain a small in-house translation capacity).

The evaluation team assesses that the rationale for undertaking CdT's tasks through an agency rather than something else (e.g. private sector) was not clearly explained at the time of creation. Possible alternatives to the agency model could be 1) the Commission (DGT), 2) all agencies having their own translation services, or 3) outsourcing by agencies (individually or collectively) to the private sector. It is not within the scope of this evaluation to assess which of these solutions would be the best in terms of cost and quality, although it was suggested by some interviewees that agencies doing their own translations would lead to higher costs and possibly lower quality. Several interviewees spontaneously compared CdT's services to that of the private sector. The most obvious alternative would, in the opinion of the evaluator, seem to be incorporating the activities into those of DGT which already provides translation services to the European Commission. However, the agency option provides a certain degree of flexibility, for instance in terms of possibilities for up- or downscaling the size of the activities, which may be the main explanation for maintaining a separate organisation for serving (mainly) the needs of the agencies.

CdT provides a multidisciplinary and multilingual service and continues to seek to satisfy the diverging linguistic, topical and technical requests of each of its clients.

As mentioned above, CdT is a member of the Inter-institutional Committee for Translation and Interpreting (ICTI). The aim is to achieve economies of scale in the field of translation at a Community level by pooling together working methods and tools.



The agency's mandate has not changed over time; only incremental changes have taken place.

At its start, CdT put major focus on developing its business model, in which managing high volumes with limited in-house staff and keeping to very strict delivery deadlines were the top priority. A shift of emphasis in the core business was started with the introduction of the EFQM model. It is taken further in the present strategy of CdT which, though respecting deadlines, focuses more on translation quality, as well as on the quality of the service in general.

Secondly, the technicalities of the work have evolved. The documents to be translated have increased in complexity, new types of translations have appeared in the shape of websites or brochures and the need for 'sexier' journalistic papers is strong. CdT tries to improve its services through quality management strategies and to innovate with economies of scale. Streamlining tendering procedures is a case in point.

### **1.3. Agency's input to the work of the EU institutions**

CdT's relationship with its parent Directorate General for Translation (DGT) is facilitated by the geographical proximity of being both located in Luxembourg and the fact that the Director-General of DGT is the chair of CdT's Management Board. The Commission has a second voting representative in the Management Board, who is also traditionally an official from DGT. CdT also has a service level agreement with DGT, which has mainly been used for the translation of confidential documents from the Centre by the Commission. The liaison officer within DGT is the assistant to the Director General. In the framework of the inter-institutional cooperation, DGT and CdT share freelance translators and inform each other on eventual problems which may arise concerning the latter.

CdT also provides translation services to a number of other DGs and institutions.

Considering that CdT is a service provider, it does not directly contribute to policy-making. It indirectly contributes to the promotion of multilingualism through translation. Via the fixed-price<sup>4</sup> for all languages it promotes, it aims to send a positive message regarding EU's linguistic policy in giving equal importance to all languages.

### **1.4. Internal and External Coherence**

The activities of the Centre are fully coherent with its mandate, with its primary translation activity undertaken in relation to the decentralised agencies which it was set up to service, and additional translation activities carried out for other EU institutions and bodies in line with its founding regulation and amendments. The minor activity of participation in the Inter-institutional Committee for Translation and Interpretation is also in line with the Centre's mandate.

CdT is currently setting up a new General Affairs department so as to ensure greater coherence in the internal division of tasks and improved external customer relationships. In its wake, it will also palliate the lack of an official communication department, and in this aim a Communication strategy is presently being developed.

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<sup>4</sup> Translation fees are the same for all languages.

CdT clients can be divided into three categories:

- Clients bound to cooperate by their Founding regulation (e.g. EMEA, EEA, EASA, ECHA, OHIM, ECDC, EU-OSHA);
- Clients cooperating with CdT on a voluntary basis (e.g. CEDEFOP, EUROFOUND, EUROJUST);
- Clients who have their own translation services and who cooperate with CdT on a voluntary basis (e.g., CJCE, ECA, ECB etc.)

CdT's main client is the Office for Harmonisation for the Internal Market (OHIM), which currently represents more than 60% of the activity (68% in 2008 and 62% in 2009). There is thus a high degree of dependence on one client, which may be considered risky.

CdT is attracting attention abroad from other organisations and countries who wish to set up their own translation services. For instance, according to agency interviewees, it has been approached and has received visits from the 'Organisation de la Francophonie', the African Union and the Greek government to explain its structure and working processes.

CdT also plays a role within IATE and the International Annual Meeting on Language Arrangements, Documentation and Publications (IAMLDP), an international body bringing together people at an international level to discuss topics related to the work of language services.

The management board has 64 members, consisting of a representative from each of the agency's users/partners (EU agencies, offices, institutions and bodies), a representative from each Member State and two Commission representatives. It is thus one of the largest management boards among the decentralised agencies<sup>5</sup>. It is also the only Agency management board with such a high number of members which does not have any additional governance or support structure to facilitate management, such as a reduced bureau. Given that the agency's services are targeted at EU users and not at Member States, it is the evaluator's assessment that the relevance of Member State membership of the board, particularly in the light of the added costs for travel, etc., can be questioned. Some interviewees question the fact that important decisions, such as price-fixing per page, are taken in the presence of all the clients, who are board members, thus potentially entailing a certain degree of conflict of interest. However, since specific services are provided at the same price to all clients, it is the opinion of the evaluator that this situation does not constitute any significant risk.

### **1.5. Effectiveness in achieving outputs and customer satisfaction**

As the only centralised service provider to decentralised agencies, the CdT received positive assessments on timeliness. Interviewed users agree that CdT perfectly meets set deadlines. CdT teams are viewed by users as very good in the planning phase and very flexible, especially with short term urgent translations. According to interviewees, they make big efforts to provide information and provide translations within deadlines.

The opinion on the quality of translations, however, differs from client to client. For some interviewees, it is excellent and invariable, regardless of ur-

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<sup>5</sup> Only three decentralised EU agencies have larger boards, namely CEDEFOP, EU-OSHA, and EUROFOUND which have three board members from each Member State (i.e. 80+ members). These three agencies all have a reduced bureau which meets more frequently (4-6 times a year), and the management board is further divided into three groups (employers, employees, and governments), each with a co-ordinator.

agency. For others, issues of misspellings and incorrect wording do arise due to the complexity of the topics, which can affect the generally good reputation of the agency's work.

CdT operates with a global annual work programme adopted by the Management Board, setting the clear objectives of delivering translations more than 99% on time (with an indicator of 99,27%) and achieving good quality, to be measured through client satisfaction forms sent out with each translation returned to the client and through regular client satisfaction surveys (cf. below).

Feedback on client satisfaction forms remains low (return rate in 2008: 2.18%; return rate in first half 2009: 3.92%) and thus does not provide statistically valid information on the satisfaction of clients. In addition to the client satisfaction forms, CdT conducted two user surveys in 2008: a general Client Satisfaction Survey and a survey on FlosysWeb (CdT's system for handling translations electronically). The Client satisfaction survey was the second one ever organised (the first being conducted in 2004). The response rate was 57%. According to the survey report, slightly more than half of the clients who answered the questionnaire were "fairly" satisfied with the linguistic quality of the translations provided (12 out of 21 respondents - 57%), while 24% are "very" satisfied. The survey showed that the quality and technical understanding varies according to language and domain. Some respondents stated that terminology should be considered as an area for attention<sup>6</sup>. The survey confirmed that the CdT performs well on deadlines, with respondents replying that deadlines are "always" (76%) or "often" (23,8%) respected<sup>7</sup>.

The FlosysWeb survey was sent to 35 clients, out of which 27 replied. On the whole, users expressed their satisfaction with the system<sup>8</sup>.

The demand for CdT's services is growing, both in the number of clients, and in the volume of translations. The agency got 6 new clients in 2007, 4 new ones in 2008, and expects 8 new clients for 2009-2010<sup>9</sup>. The number of pages translated increased by a little over 2% and totalled 747 416 in 2008, compared to 732 673 in 2007 and 546 735 in 2006. This represented a 2% increase over forecasts for the year (732 300 pages, which already represented a 6.67% increase compared to the initial forecast of 686 500 pages)<sup>10</sup>. The respect of deadlines for translations in 2008 was 98.37%, i.e. slightly lower compared to previous years. According to the 2008 Activity Report, this is mainly due to the increase in the volume of urgent translations<sup>11</sup>.

According to interviewed users and CdT staff, the biggest drivers of effectiveness are CdT's low and fixed prices<sup>12</sup> (85 Euro/standard page), reaching the appropriate deadlines and providing the necessary quality. Interviewed staff

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<sup>6</sup> CdT, Report on Client Satisfaction Survey 2008, unpublished.

<sup>7</sup> Ibid.

<sup>8</sup> FLOSYSWEB Survey conducted in December 2007/January 2008 – Analysis of Results, Note to the Director and Heads of Departments/Sections, 2 April 2008 (unpublished document).

<sup>9</sup> Staff Policy Plan 2010-2012, p. 25. It should be mentioned that the amount of work provided by individual clients varies significantly.

<sup>10</sup> CdT Activity Report for 2008

<sup>11</sup> Ibid.

<sup>12</sup> It should however be noted that pricing has been the subject of substantial discussions since prices for different types of documents are seen as imbalanced. Cf. Also below, section 1.6.

point to CdT's use of external translators as contributing to the timeliness and the quality of its work through providing extra capacity in peak periods.

CdT's work and resources are reliant on the translation budgets of their clients, and the agency is particularly dependent on industry oriented agencies, such as EMEA or OHIM. With the impacts of the economic crisis beginning to be felt, the agency's workload is foreseen by interviewees to decline. In order to prevent the problems involved with such a decline, CdT is working out different scenarios for the future.

#### **1.6. Efficiency in managing resources and executing the budget**

CdT outsources 58% of translated pages. Interviewees in the agency assess CdT's services as efficient and, as mentioned above, so do users interviewed for this evaluation (mainly in terms of timeliness).

The specially developed IT tool, FLOSYSWEB, is generally assessed as efficient by the clients (as evidenced by the FLOSYSWEB survey referred to above). Clients send translations via the system, choosing between different format options, and receive the translations back via the system.

##### *Influence of the setting up of the agency*

The location of the agency does not pose any accessibility problems. The agency is centrally located in Europe and a cross-agency analysis carried out by the evaluation team of travel and premises costs shows that CdT is well below the agency average on both indicators.

As discussed above, the large size of the management board may be an issue in terms of large costs associated with meetings and in terms of its effectiveness.

##### *Budgetary issues*

CdT operates by basing itself on the budget forecasts of its clients and the agreements laid down with them, which can make budgeting and resource planning difficult.

The agency is financed directly by its clients to whom it provides a service. Fees are agreed upon in the management board with the clients and member states. According to the Founding Regulation, "The Centre's revenue shall comprise payments made by the bodies for which the Centre works and by the institutions and organs with which collaboration has been agreed in return for work performed by it, including inter-institutional activities, and a Community subsidy". The Community subsidy would be given only in the case of deficit. However, the agency operates with a surplus, which is against the Regulation. The accumulated budget surpluses are significant (2006: EUR 16.9 million, 2005: EUR 10.5 million, 2004: EUR 3.5 million). The Court of Auditors commented on the budget surplus in its 2007 report on CdT, stating that "the method for pricing its translations is not precise enough". The CdT thus decided to refund EUR 9.3 million to its clients in 2007 and replied to the Court of Auditors that "To prevent this situation from arising in the future, the Centre will do its utmost to improve the method for calculating prices. Moreover, as this method requires an estimate of the foreseen demand for translation, the Centre will encourage its clients to improve their forecasts"<sup>13</sup>. However, the situation has not improved. According to recent data provided by the CdT, the accumulated surplus for the years 2007 and 2008 was EUR

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<sup>13</sup> European Court of Auditors: Report on the annual accounts of the Translation Centre for the Bodies of the European Union for the financial year 2006 together with the Centre's replies.

11.5 million, out of which the Centre reimbursed EUR 10.9 million to its clients in 2009.

The surpluses arise mainly from the pricing structure, a complex and sensitive issue over which the Centre itself does not have total control, since its clients sit at the Management Board, which has the final word on prices. The issue of prices has been the subject of long discussions in the Management Board, since they are imbalanced, favouring some types of documents to the detriment of others. According to information from DGT, the Centre commissioned a study to an external consultant to address this issue and a proposal is currently under consideration by the Management Board.

#### *Human resources management*

As in almost all agencies, the large majority of staff have temporary, rather than permanent, contracts. This provides the agency with some flexibility to adapt its human resources to the demand for services. Staff turn-over is a little over 5%, which is not particularly high seen across agencies.

Several agency interviewees stated that the preponderance of temporary contracts has a negative influence on the agency's capacity to attract and retain qualified staff. By the end of 2008, 189 of out 233 posts in the establishment plan were filled<sup>14</sup>, which corresponds to a vacancy rate of 19%. According to the agency's Staff Policy Plan (2010-2012), the main reason for the difficulties in filling vacant post is the fact that the agency is competing with other European institutions located in Luxembourg and is at a disadvantage in this because it cannot offer permanent posts. The Commission is, however, not of the same opinion and argues that all large institutions face similar difficulties in recruiting staff to Luxembourg, stating that "The argument related to "inter-institutional competition" cannot therefore be construed as a reason for not taking action"<sup>15</sup>.

#### *Oversight activities*

2005 saw the Centre's first internal audit on the Centre's internal control standards, carried out by the Commission's Internal Audit Service. In 2007, there was a follow-up audit of the implementation of internal control standards in the Translation Centre (IAS-2007-W-CDT-001), 2008 saw the HR Management Audit and 2009 the IAS Audit on "Monitoring and building blocks of assurance". The evaluator has not had access to these reports and thus cannot report on their conclusions.

There are no requirements in the Centre's founding regulation for overall evaluations of the Centre. An external evaluation was carried out in 2001 but has not been considered in the context of this evaluation since the information must be considered outdated.

#### *Increasing efficiency*

CdT aims to increase efficiency, in particular by improving the translation workflow through its system, Flosys, which has been specifically developed for the Centre's needs. The latter has, according to CdT staff, proven to be a valuable and productive working process. As mentioned above, according to

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<sup>14</sup> Staff Policy Plan 2010-2012, p. 5.

<sup>15</sup> Opinion of the Commission Services on Staff Policy Plan 2010-2012 of the Translation Centre for the Bodies of the European Union (CdT), document accompanying the Staff Policy Plan of the Centre..

the user survey carried out in 2008, clients seem to be generally satisfied with the system.

### **1.7. Main findings**

#### *Main findings*

- The rationale for the provision of translation services at European level is clear in the sense that there is an evident need for the services that the CdT provides; however, it is not clear to what extent alternative options, such as outsourcing to the private sector, were considered when the agency was founded.
- The large size of the management board seems excessive and costly. In particular, the relevance of all Member States being represented in the board can be questioned (see section 1.4)
- There is a high dependency on one client (OHIM) which can be risky, in particular since the amount of work requested by this client is highly dependent on overall economic trends (see section 1.4)
- The agency provides timely outputs, responding to urgent requests while respecting deadlines (see section 1.5)
- The majority of clients are fairly or very satisfied with the services provided (see section 1.5)
- The agency experiences some difficulties in recruiting sufficient numbers of qualified staff (see section 1.6)
- The agency has implemented a performing translation workflow system, with which clients are generally satisfied (see section 1.6).

## 2. CEDEFOP

### 2.1. Introduction

CEDEFOP<sup>16</sup> - *the European Centre for the Development of Vocational Training* - is the European agency that promotes vocational education and training (VET) in the European Union (EU). The centre of expertise supports the development of VET and evidence-based policy-making. It provides advice, research, analysis, information and forums for policy debate. It stimulates European cooperation and mutual learning.

Established in 1975, CEDEFOP was one of the two first specialised and decentralised agencies set up to provide scientific and technical know-how in specific fields and promote exchanges of ideas between different European partners. Originally based in Berlin, CEDEFOP's head office was transferred in 1995 to Thessaloniki. Between 125 and 130 people currently work in CEDEFOP and the budget of the agency is €17,1m in 2009.

CEDEFOP has three interlinked main tasks of relatively equal importance. As far as the rationale of establishing the agency is concerned, the first historical task was to collect and disseminate information; however, CEDEFOP has developed this role to support an evidence-based EU policy-making process, which is the purpose of Task1.

At present the heaviest activities in terms of resources is the Task 2 which can be understood as a contribution to the soft coordination of EU Member States (Open Method of Coordination<sup>17</sup>) in the areas of vocational education, training, and lifelong learning<sup>18</sup>.

Task 3 consists of communicating towards the wider public at EU level as to raise awareness on the same issues<sup>19</sup>.

CEDEFOP			
Tasks	Task 1	Task 2	Task 3
<b>Main objective</b>	Research to provide evidence for policy making, development and implementation	Support to enhanced cooperation in VET and lifelong learning	Raising the profile of VET for policy makers and public at large
<b>Budget<sup>20</sup></b> <b>(% per year, 2008)</b>	27%	46%	25%

<sup>16</sup> 'CEDEFOP' is the French acronym of the organisation's official title, European Centre for the Development of Vocational Training (Centre Européen pour le Développement de la Formation Professionnelle)

<sup>17</sup> The Open Method of Coordination aims at improving the making of Member State policies through mutual learning, transfer of good practices, and the monitoring of progress towards common targets

<sup>18</sup> Such a task will also be of major importance in EIGE

<sup>19</sup> Such a task is also of major importance in EU-OSHA

<sup>20</sup> The remaining 2% refer to administrative/governance tasks

<b>CEDEFOP</b>			
<b>Tasks</b>	<b>Task 1</b>	<b>Task 2</b>	<b>Task 3</b>
<b>Dedicated staff<sup>21</sup></b> <b>(FTE %, 2008)</b>	22%	46%	29%
<b>Outputs</b>	Studies; publications; Online database; conferences and workshops; participation in EC expert groups; Input to EU communications and guidelines	Publications; web-tools; Conferences; Interventions in high level policy events; mutual learning seminars; participation in EC expert and member states groups; Study visits (260); information material for the general public	Strategic documents; policy briefings; press release; website; Online databases; advice on VET terminology; Europass website and online documents
<b>Addressees / Users</b>	Policy makers at EU and national levels, social partners and other stakeholders, other EU agencies and researchers	Policy makers at EU and national levels, social partners and other stakeholders, other EU agencies, researchers, practitioners and citizens	Policy makers at EU and national levels, social partners and other stakeholders, other EU agencies, researchers, practitioners, citizens and the press
<b>Results/ impacts</b>	Policy-makers and other stakeholders are better informed on VET systems, research findings and policy initiatives  Results are transferred into policy/practice	Mutual learning and increased cooperation across Europe  Adoption of shared policies and common VET principles, tools and frameworks around Europe  Evolution of national VET policies	Meaningful information on VET reaches a wide range of stakeholders  The importance of VET is recognised  Common European formats are used

The table highlights the strategic shift operated in the last 10 years away from CEDEFOP's traditional 'open source' role – collecting and disseminating information – towards supporting policy making and implementation.

## 2.2. Rationale and relevance

In the 70's the European Parliament (EP) and the Council requested the creation of an institute able to deal with research and to provide a platform for vocational training in the frame of a new social policy linked with unemployment<sup>22</sup>. The European Parliament and the Council considered it could not be an EC object as it needed real independence and autonomy. It was then decided that the institution should be independent but managed by a governing body including all Member States governments and social partners.

<sup>21</sup> The remaining 3% refer to administrative staff

<sup>22</sup> CEDEFOP's Founding Regulation provides the policy background and rationale for its creation in 1975. <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31975R0337:EN:HTML>



VET is indeed a policy issue with a wide, but fragmented constituency of stakeholders. Responsibility for VET is often shared to varying degrees in Member States between governments (including different ministries) and social partners. The Commission, Member States' governments, the social partners are all represented on CEDEFOP's Governing Board<sup>23</sup>. Consequently, it is crucial for CEDEFOP to work not only in cooperation with the Commission, but also to respond directly to Member States, especially through their EU Presidencies, and social partners concerns and needs. The quadripartite composition of CEDEFOP's Governing Board ensures this.

However, the Governing Board is quite large (currently 89 members). To ensure efficient governance, a Bureau (currently 8 members), comprising all the Governing Board's constituencies is responsible for executive decisions<sup>24</sup>. The Bureau's members include 3 representatives of the Commission and the other members are representatives of the governments or social partners (i.e. VET experts and decision makers in their fields). The Governing Board meets once a year, the Bureau 6 times a year. Occasionally, the Bureau is enlarged to 20 members (by decision of the Governing Board) for meetings in which for example drafts of the Annual Work Programme or the Medium Term Priorities are discussed. Interviewees are generally satisfied with this governance system. Interviewed Bureau members state that a very good working culture has been developed. Proposals for work programmes and budgets are discussed in details in order to set priorities in accordance with the resources available. Audits and accounts are also discussed. After problems with the procurement procedures during the period 2001-2005 were assessed in 2005, Bureau members state that an effort was made to strengthen procedures and that transparency of the agency's activities and procedures is now good. To strengthen governance further, CEDEFOP also involves stakeholders from its Governing Board (on a voluntary basis) in major projects and steering key activities.

EU policy developments, in particular the adoption of the Lisbon agenda in 2000 have changed considerably the positioning of VET in the EU social and economic policy agenda. It became clearly recognised as a key tool in the development of human capital and in the alleviation of social disadvantages. CEDEFOP has responded to this change (see 2.1) and its role and mission have evolved in line with EU education and training policy.

### **2.3. Agency's input to the work of the EU institutions**

The relevance of CEDEFOP's work to the EU and Commission is demonstrated by the use of CEDEFOP's results and expertise to support the EU VET policy process and the Commission's work. This is evidenced by references to CEDEFOP in EU policy documents and working papers in 2008. CEDEFOP's Medium-Term Priorities 2009-2011 and annual work programmes also make systematic reference to how its work is shaped to support policy process and achievements are reviewed in the annual report.

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<sup>23</sup> For each Member State: one government representative, one employers' organisations representative and one trade union organisations' representative. Both Norway and Iceland also have three representatives (one each from government, employers and trade unions) who sit on the Governing Board as observers. Social partners at European level are represented by one person from Business Europe and one from the ETUC. European social partners also have observer status. Chairmanship of the Governing Board rotates between governments and social partners every two years

<sup>24</sup> The bureau meets every two months, as the Governing Board meets only once a year. The members of the Bureau consult with their group before meetings of the Bureau

In 2002, the Commission, Member States and social partners adopted the Copenhagen declaration<sup>25</sup> which established a process to take forward VET policy. CEDEFOP was then mandated 'to support the Commission, in particular by monitoring and reporting on progress in implementation' of the Copenhagen priorities. This mandate was renewed in the Helsinki (2006) and Bordeaux (2008) communiqués.

CEDEFOP supplies a European analysis and cross-cutting comparative analyses which are needed by the EC to produce European decision (policy). One example is REFERNET, a network of national bodies aimed at describing national VET systems and analysing the implementation of the priorities of the Copenhagen process in all Member States. It develops mutual understanding, European comparisons and provides a platform for discussion. The agency proposes a European perspective and prospective that is not proposed anywhere else and brings clarity and visibility to a complex and very fragmented issue.

CEDEFOP also supports the EU policy making process by providing the required evidence base (such as in the Communication of the Commission on New Skills for New Jobs) and common European tools for the transparency and recognition of knowledge, skills and competence (such as for example the European Qualification Framework). This illustrates the relevance of CEDEFOP activities, not only to EU VET policy, but also to employment policy.

CEDEFOP provides relevant inputs to the EC (DG EAC, DG EMPLOY, DG ENTR (e-skills), DG TAXUD, DG ESTAT), the Council and the Parliament, but also to the European Investment Bank (EIB), the Economic and Social Committee and the Committee of the Regions.

#### **2.4. Internal and External Coherence**

CEDEFOP's medium-term priorities (MTPs) ensure coherence between CEDEFOP's strategic objectives and EU VET policy objectives. The latest MTPs for 2009-11 are operationalised through annual work programmes. A logical framework approach is used to cascade strategic objectives down to the level of individual projects. This aims to ensure internal coherence between CEDEFOP's activities and strategic objectives and external coherence with EU VET policy objectives.

The 2009 work programme<sup>26</sup> shows how this approach has been implemented and is monitored through output and impact indicators. CEDEFOP is careful to draw links and make reference to EU policy processes and objectives at the different levels of its logical framework approach.

CEDEFOP is also careful to organise cooperation (e.g. joined research with EUROFOUND on "industrial relations in the field of VET") and to coordinate through a memorandum of understanding and annual work programmes with the European Training Foundation (ETF), which is active in closely related fields. In the course of this evaluation, it has been noted that (1) the recent recast of ETF prevents any overlapping between the two agencies, and (2) there are strong demands in ETF (interviews) for strengthening ties and increasing synergies (see 18.4)

The agency's main tasks are in addition complementary with that of other key operators such as: OECD (work on adult competence assessment), EURO-

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<sup>25</sup> [http://ec.europa.eu/education/pdf/doc125\\_en.pdf](http://ec.europa.eu/education/pdf/doc125_en.pdf)

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[http://www.CEDEFOP.europa.eu/etv/Information\\_resources/Bookshop/publication\\_details.asp?pub\\_id=521](http://www.CEDEFOP.europa.eu/etv/Information_resources/Bookshop/publication_details.asp?pub_id=521)

STAT, CRELL (Centre for Research on Lifelong Learning based on indicators and benchmarks), similar agencies in MS (cooperation through the ReferNet), Business Europe and UEAPME (employers' organisation and SME European union), formal committees of the EC or of the Council, etc.

CEDEFOP works on the other hand with DG EAC and DG COM to organise joined press conference, in order to support each other in communication. Open door events, schools visits and photo prizes are staged and an open library provided to get closer to the Greek citizens.

## **2.5. Effectiveness in achieving outputs and customer satisfaction**

CEDEFOP's effectiveness was assessed by a recent external evaluation in 2007-08. This evaluation recognised a general overall effectiveness of the information, communication and dissemination activities (with some concern about the multiplicity of the web sites that presented the agency to the outside world and about design and access, however since January 2009 all websites have been integrated into one CEDEFOP website). Its exchange and cooperation activities were also clearly seen by the interviewed users as highly effective in helping it deliver its overall mission. The activities regarding research, advice and policy support were assessed very diverse and effective.

According to the 2007-2008 evaluation, "CEDEFOP represents an organisation with a very distinct added value. There are simply no valid alternatives at the moment for what it does and over many of its actions it has no obvious peer."

Our own investigations among the stakeholders confirm this assessment. The quality of CEDEFOP's production is widely recognised. The Governing board members for instance consider the outputs of the agency as of high quality (93%) and useful (92%)<sup>27</sup>. The satisfaction of the addressees can also be seen through the documents dissemination and the number of invitations to conferences CEDEFOP receives.

Europass is a good example of a project that reaches nonetheless all member states but also directly European citizens. The project performed well above expectations: used in all 32 countries participating in the Copenhagen process, the program directly addresses half a billion citizens. The website, directly hosted and developed by CEDEFOP is available in 26 languages and it is increasingly used: by December 2008, 4.2 million curricula vitae were completed online and another 5.7 million CV templates downloaded.

CEDEFOP's action in support of the Copenhagen process has also proven widely successful in leading countries to focus on VET's quality. As countries work to improve quality and modernisation of their VET and labour markets, CEDEFOP's analysis and countries' self-assessment show an increasing alignment of national priorities and the European agenda. Although progress varies, a European VET area is emerging.

These results are even more remarkable, if we consider that both Education and Training 2010 and the Copenhagen process are to be implemented through the Open Method of Coordination (OMC), whereby Member States are involved only on a voluntary basis.

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<sup>27</sup> Source: Consortium's online survey to governing board members (CEDEFOP: 91 members, 41 answers). 'The outputs of the agency are of high quality': 44% highly agree, 49% agree. 'The outputs of the agency are useful': 46% highly agree, 46% agree. The members of the Governing Board also confirm that the outputs of the agency benefit both institutions at national level (75% agree) and the European Commission (96% agree). 75% of the members consider that 'the agency's activities aid new policy preparation in their organisation/ administration' (70% 'aid policy development' and 58% 'aid policy implementation')

## **2.6. Efficiency in managing resources and executing the budget**

### *Influence of the setting up of the agency*

The process of setting up the agency has avoided conflicts of interest (through the representation of both MS and social partners - employers' organisations and trade union organisations), and has ensured transparency. The agency however suffers from a location problem. Thessaloniki is difficult to reach (the city is not well connected by plane and the Centre is difficult to reach by public transport) and no good seat agreement could be arranged.

### *Budgetary issues*

In 2008, 99% of CEDEFOP's EU budget was executed.

The agency is financed through a specific subsidy included in the EU budget, plus additional financing through DG Employment programmes and (up to 2008) DG Enlargement, own revenues (selling books) and Iceland and Norway subsidy. In 2007 the EP, the EC and the Council agreed to revise the Multiannual Financial Framework for 2007 – 2013, with a view to secure funding for the European GNSS programmes (Galileo) and for the European Institute of Technology (EIT). This led to a linear reduction of the budgets of some of the decentralised agencies, and thus the budget of CEDEFOP was reduced by 5% for period 2009 – 2013.

### *Human resources management*

As an organisation primarily based on human capital services, CEDEFOP's impact depends heavily on the capacity, quality and stability of its human resources (a majority of which is composed of experts). The occupation rate of the establishment plan has increased from 85% in 2006 to 98% end 2008 and the year 2008 has seen a significant slowing down of staff turnover. This might mean that CEDEFOP has a higher capacity to retain its human capital, even though problems in attracting staff remain, owing to lack of childcare and international schooling and of employment opportunities for spouses and partners. As far as internal organisation is concerned, the 2001 evaluation had identified a lack of co-operation and co-ordination between the working units. This was addressed by organisational measures (introduction of an area structure in 2004 and a major reorganisation of the centre in 2007 that has shaped the areas in a consistent pattern to the long-term mission and priorities of the Agency) and major improvements of planning, monitoring and cross-area team working, involving staff on all levels, which improved coordination and alignment. Despite organisational improvements some interviewees, however, still mention that internal issues (which mainly are linked to the transfer of the agency from Berlin) exist between senior staff members and the Staff Committee<sup>28</sup>.

The effectiveness of the EC procedures for human resources however remains in question.

The Governing Board members who answered the online survey seem to consider these procedures as less effective than those for finance (only 61% agree on the effectiveness of recruitment procedures, compared with 81% for effectiveness of financial management). Interviewees in CEDEFOP point out that the heavy EC recruitment procedures which the agency has to follow<sup>29</sup>, are not really adapted to small structures such as agencies (in process, time and cost). Interviewees in the Commission however underline the necessity of

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<sup>28</sup> Interviews inside and outside Agency respectively

<sup>29</sup> All agencies, as public bodies, are expected to comply with the legal obligations incumbent to them, as those deriving from article 110 of Staff Regulations (SR).

these procedures as they guarantee that basic principles such as clarity and transparency of vacancy notices, equal treatment of candidates, or independence of selection panels are fully implemented.

#### *Oversight activities*

The agency experienced procurement problems some years ago (2005) which have been successfully overcome as proven by the audit reports of the Court of Auditors and the Internal Audit Service for 2007 and 2008. The Commission's Internal Audit Service (IAS), which is in accordance with the Financial Regulations Art 7 (1) and following usual practice the Internal Auditor of CEDEFOP, visits the agency once or twice per year, concentrating on particular themes, according to the general audit strategy, as well as to follow up previous audits. CEDEFOP also has an internal audit capability (IAC) and an internal control coordinator (the Deputy Director). The IAC has its own annual audit plan, defining its activities, to which special ad hoc requests by the Director can be added.

In accordance with the internal control standards and in addition to the periodic external evaluation of its activities by the IAS, CEDEFOP has a rolling programme of specific evaluations of particular activities. An annual evaluation plan is part of its annual management plan. These evaluations are carried out either in-house or by external evaluators.

Interviewees in the agency perceive an important pressure and some risk of overlapping between the various auditing bodies despite the fact that audits are coordinated. At the same time they acknowledge the positive contribution of the auditors' recommendations<sup>30</sup>.

#### *Cost-effectiveness increase*

CEDEFOP aimed to increase efficiency in particular by improving administrative services and applying good administration principles.

The implementation of Activity Based Budgeting (developed in 2008 and fully operational in 2009) helped to compare efficiency and provides transparency. In the recent period, better cost-effectiveness was reached through:

- Automation of procedure (invoices payment automated system: decrease of over 40% of invoices paid after 30 days – 52% of invoices now paid within 15 days; on line procurement, e-recruitment)
- Better cost estimates
- Well prioritised management planning (including administrative activities)
- Tight financial monitoring (92% (2007) to 97% (2008) of overall budget implementation (99% implementation of the EU subsidy)
- Cuts in costs (publication, printing and translation used to be expensive activities. Efforts have been made to cut the costs and find alternative solutions.)

The key success factor lies in very detailed planning and monitoring, which requires a lot of ex-ante work. The annual management plan integrates the different planning steps and provides overviews to facilitate planning, implementation and reporting on activities. Monthly monitoring has improved internal efficiency by identifying problem areas and solutions early.

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<sup>30</sup> The European Court of Auditors and the Commission's Internal Audit Service coordinate their activities and access each other's reports

## 2.7. Main findings

- The agency's rationale is clearly established and still relevant (see section 2.2).
- The quality of CEDEFOP's production is widely recognised (see section 2.5).
- CEDEFOP has operated a strategic shift in the last 10 years away from its traditional 'open source' role – collecting and disseminating information – towards supporting policy making and implementation. Its role and missions have evolved in line with EU education and training policy developments (see sections 2.1 and 2.2).
- CEDEFOP's governance system provides both a large and fair representation of all stakeholders and an effective decision making capacity through the Bureau which provides for effective governance despite the large Management Board (see section 2.2).
- The agency offers a very strong added-value both at EU and at national levels (see sections 2.3 and 2.5).
- The Agency has improved its cost-effectiveness ratio in the last years, notably thanks to Activity Based Budgeting, reinforced planning and monitoring, cuts in costs and automation (see section 2.6).
- Hindrances however still remain, such as heavy administrative procedures, a budget reduction which will affect the Centre until 2013 and a lasting location/attractiveness issue (see sections 2.6).

### 3. CEPOL

#### 3.1. Introduction

The European Police College (CEPOL) brings together senior police officers across Europe and provides them with training about EU institutions, decision-making processes at European level and other aspects relevant to combating cross-border crime and maintenance of public security and law and order.

CEPOL was established as a network in 2001 and began operating as an EU Agency on 1 January 2006. It is located in Bramshill, Hook, Hampshire, in the United Kingdom. The Establishment plan in 2006 included 22.5 employees. In 2009 the Establishment plan includes 26 staff plus 8 project staff for two projects. In addition interim staff is recruited for HR and financial work. Two Seconded National Experts are also recruited. The annual budget for 2009 is €8.8m. CEPOL activities (except internal tasks<sup>31</sup>) are organised in three tasks: (1) Training and Exchange of senior EU police officers; (2) Research and building up Networks; and (3) Training of police officers of third (Mediterranean) countries.

The two first tasks can be understood as a contribution to the soft coordination of Member States Public managers in order to better achieve the objectives of the EU security policy<sup>32</sup>.

The third task can be understood as providing a specific service to other EU bodies as to better achieve the objectives of the external EU policy

CEPOL			
Tasks	Task 1	Task 2	Task 3
<b>Main objective</b>	Training of senior EU police officers	Training and Research Support	Training of police officers of third (Mediterranean) countries
<b>Budget<sup>33</sup> (% per year, 2008)</b>	35%	23%	18%
<b>Dedicated staff<sup>34</sup> (FTE %, 2008)</b>	25%	34%	16%
<b>Outputs</b>	Training sessions, training for trainers, Exchange Programme, Common Curricula, e-learning	Meetings, research products, Research dissemination, Seminars and conferences	Training and exchanges of information for senior police officers from MEDA countries
<b>Addressees / Users</b>	Member States implementing bodies	Member States and Members of Working Groups	Senior police officers from MEDA countries

<sup>31</sup> Internal tasks relate to the functioning of the Board and several consultative bodies

<sup>32</sup> Several agencies undertake similar activities as their main task (CEDEFOP) or second main task, e.g. CFCA, EMSA, EUROPOL, FRONTEX

<sup>33</sup> The remaining 2% refer to administrative/governance tasks.

<sup>34</sup> The remaining 3% refer to administrative staff /governing board members.

CEPOL			
Tasks	Task 1	Task 2	Task 3
Results/ impacts	Dissemination of knowledge in Member States, being members of Networks	Mutual learning and awareness rising	Knowledge disseminated to/cooperation with police officers from MEDA countries

Task 1 and 2 are financed from the EU budget subsidy, while tasks 3 is funded through a 3-year project of the Euromed Police II project (MEDA II) via a contract with DB DG AIDCO. MEDA II is planned and programmed by DG RELEX.

### 3.2. Rationale and relevance

At the Council summit in Tampere in 1999, EU Member State Ministers agreed on the establishment of a European Police College. On the basis of this, the Council took a favourable decision in 2000 and the college was set up in 2001<sup>35</sup>. The Council decision outlined CEPOL's objective as being *"to help train the senior police officers of the Member States by optimising cooperation between CEPOL's various component institutes ... [and] ... to support and develop a European approach to the main problems facing Member States in the fight against crime, crime prevention, and the maintenance of law and order and public security, in particular the cross-border dimensions of those problems"* (Article 6).

The survey of Governing Board members carried out in connection with this evaluation<sup>36</sup> indicates an overall agreement with the statement that the need CEPOL is meant to address was clearly defined (two thirds of respondents agree). Three quarters of respondents believe that CEPOL addressed these needs when it became operational, and all "strongly agree" or "agree" that these needs are still relevant today.

The expected added value of the CEPOL network compared to a network of national training institutes was to provide a European-wide approach and a networking effect. The costs of implementing the measures in the annual programme (referred to in Article 3), together with the administrative costs of CEPOL were to be borne jointly by the Member States on the basis of their Gross National Product (GNP).<sup>37</sup>

CEPOL's first three year report<sup>38</sup> uncovered a number of inadequacies in the way CEPOL was operating. These included, in particular, difficulties in reaching the intended target audience, issues around limited budget and an overall lack of human resources. In order to overcome these obstacles, a 2004 ex ante evaluation assessed three scenarios for CEPOL's future: the continuation as a network; the establishment of a central police academy for the EU; or transforming CEPOL into an EU agency. The latter was favoured as a compromise solution. It was considered more stable than continuing as a network. The 2004 ex ante evaluation points out that the transformation of CEPOL into

<sup>35</sup> Council Decision 2000/820/JHA.

<sup>36</sup> The overall response rate to the survey among CEPOL's governing board members was 46% (12 out of a total 26 board members who received the survey).

<sup>37</sup> Council Decision of 22 December 2000 establishing a European Police College (CEPOL) (2000/820/JHA), Article 5

<sup>38</sup> Annex of Note from CEPOL to Article 36 Committee, Subject: Three-year report on the operation and future of the European Police College, Brussels, 9 December 2003.



an EU body would enable CEPOL to achieve its aims better. *"CEPOL's legal personality will allow it to enter into necessary contractual obligations ... A permanent seat will give CEPOL the stability it needs to develop, allowing for decisions to be made regarding allocation of human and material resources, and contribute to the establishment of a recognisable CEPOL identity at EU level."*<sup>39</sup>

The Management Board survey indicates that alternative scenarios may have been insufficiently considered. A quarter of respondents (25%) either "disagree" or "strongly disagree" that alternatives were analysed before the agency was created. The alternative to hosting the training within Europol was discussed and investigated. Such an alternative would have been similar to solutions found by other agencies (such as FRONTEX or the CFCA) that provide training to Member State stakeholders. However, neither Europol, nor the national colleges were in favour of the Europol alternative. Only one Member State supported the Europol alternative.

Accordingly, the Council Decision of the 20th September 2005 declared the transformation of the CEPOL network into an agency with a permanent seat in Bramshill (UK). This implied a change in funding from Member States' contributions to direct funding from the overall EU budget and a need to comply with EU staff and financial reporting regulations.

Against a background of a surge in cross-border crime (e.g. human trafficking, drug smuggling, financial crime, terrorism, etc.), CEPOL and CEPOL users see a clear need for cooperation among law enforcement authorities of all EU Member States. CEPOL users referred to their experience that a shared understanding of relevant topics, the EU regulatory framework as well as mutual trust among police officers across the EU are essential elements feeding into successful cross-border joint action. Hence why CEPOL aims to bring senior police officers together to ensure a common knowledge basis and provide a platform for networking. However, despite continuous need for training, the question whether or not CEPOL provides the most relevant structure for training law enforcement officers remains open. Despite the acknowledgement of the subject expertise provided in CEPOL seminars and the opportunity to engage in a cross-border context, the need for a separate agency with the purpose of training police officer is not clear against possible alternatives e.g. the fact that EUROPOL both has the topical expertise and the contacts to Member States via its liaison officers on its premises. The continued rationale of CEPOL has been questioned by several interviewees in the course of this evaluation with reference to the small size of the agency and the major contextual change which has occurred since the conversion of EUROPOL into an EU agency. As mentioned above, it can be noted that in other policy areas (e.g. CFCA, FRONTEX), the same agency deals with both operational coordination and training (see section 22.2).

### **3.3. Agency's input to the work of the EU institutions**

CEPOL fulfils a unique task by addressing the need for senior police officers across Europe to gain insight into EU institutions, processes and decision-making at EU level as well as to build cross-border networks. In this sense, the Member States are the main users targeted by CEPOL<sup>40</sup>. CEPOL is a ser-

<sup>39</sup> Draft ex-ante evaluation for the draft Council Decision transforming the European Police College (CEPOL) into a body of the EU. (2004), p. 10.

<sup>40</sup> For this reason, the usefulness of the outputs of CEPOL to the Commission and other EU institutions is not dealt with in any detail in this section. Instead the usefulness, quality etc. of the outputs of CEPOL in relation to its main users are dealt with in section 3.5, below.

vice provider and does therefore not work to directly influence policies at European or Member State level. However, EC officials as well as other EU Agency staff (mainly from EUROPOL) participate as external trainers.<sup>41</sup> The added value at EU level is perceived in the fact that police officers engage with each other in a cross-border context and are trained on cross-border topics not otherwise accessible in the Member States<sup>42</sup>.

CEPOL does nevertheless keep track of relevant Council Decisions and debates between the European Commission and European Parliament on matters related to combating cross-border crime. It attends The Hague initiative<sup>43</sup>, led by the Commission's Directorate-General for Justice, Freedom and Security that meets twice a year. Through this participation CEPOL has been able to establish informal contacts with Europol, Eurojust, Frontex and the European Anti-Fraud office (OLAF).

The European Commission has supported and monitored the CEPOL's activity since its very beginning, for instance through offering specific financial training sessions were to CEPOL when it was set up as an Agency in 2006. However, according to some internal stakeholders, CEPOL had hoped for better support from the Commission during the set-up phase. This is mirrored to some extent with the Management Board's views. In the survey, 25% of members "disagree" that the Commission's role in creating the agency was undertaken efficiently.

Interviewees within the agency believe that they are able to produce valuable outputs (e.g. research findings) that could benefit the Commission, not just the Member States. Indeed, 50% of Governing Board members responding to the survey agree that CEPOL's outputs benefits the European Commission, whilst 83% believe it benefits other institutions in the EU.

### **3.4. Internal and External Coherence**

The Governing Board is advised by four Committees: The Strategy Committee, Annual Programme Committee; Budget and Administration Committee and Training and Research Committee. Besides Budget and Administration, each Committee is supported by Working Groups. These Working Groups again receive support by sub-groups. There is a bottom-up approach to fulfilling CEPOL's tasks. Results by the relevant sub-groups feed into the Working Groups and in turn, their results feed into discussions held and decisions made by the Governing Board. In this way vertical coherence is ensured. Some Committees also feed into the work of other Committees. For example, the Strategy and Training and Research committees input feed into the planning of the Annual Programme Committee. Seen from this perspective there seems to be a degree of horizontal cooperation.

However, although there seems to be coherence between different organisational levels and functional streams, internal interviewees pointed towards a degree of 'over-collaboration' in the sense that the process of preparing for decisions to be made at the Governing Board was seen as time-consuming (see Chapter 3.6).

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<sup>41</sup> In 2008, courses involved a total of 193 external trainers, out of which for instance 37 were from EUROPOL, 34 from the CEPOL Secretariat, and 19 from the European Commission. More details, see "CEPOL activities Year 2008 – Trainers", version February 2009.

<sup>42</sup> Phone interview, June 2009.

<sup>43</sup> The Hague Initiative for Law and Armed Conflict is an initiative to bring together all actors in the field of International Humanitarian Law in the Netherlands, and to disseminate International Humanitarian Law through different activities.

The Hague Programme as approved by the European Council in 2004<sup>44</sup> assigns relevant responsibilities in the field of police cooperation to CEPOL. In particular, the improvement of police officers' understanding of the working of Member States' legal systems and organisations is mentioned as a crucial factor. In this sense, both the seminar programme as well as the Cepol Exchange Programme are in line with this strategic objective and contribute to better police cooperation.

Prior to CEPOL coming into existence, cooperation between countries with regard to training was based on bilateral agreements. In this sense, CEPOL added a new dimension in facilitating and supporting cooperation of all EU Member States and Associated countries.

Regarding external cooperation, CEPOL signed strategic cooperation agreements with EUROPOL, FRONTEX and Interpol in 2007 and agreed with EUROPOL to take over training courses previously offered by EUROPOL. CEPOL has undertaken some joint investigation activities with EUROJUST and has initiated discussions with FRONTEX about possible joint activities in the areas of trafficking and fire arms. According to agency staff, CEPOL also has strong working relations with the Second Pillar European College of Defence in Brussels, e.g. on army-police cooperation in Bosnia Herzegovina and Kosovo, and are organising seminars in cooperation.

Two thirds of respondents in the Management Board survey agree that CEPOL activities "are coordinated with those of other agencies working in the same policy areas". Regarding the Agency's coherence with the Commission, 92% of the respondents agree that CEPOL's activities are both "consistent with its constituent act" and "aligned with the strategic priorities of the European Union". An interview with the parent DG confirmed that CEPOL activities are closely related Commission's policies linked to operational activities of police forces.

As regards other key stakeholders, CEPOL is in contact with the Organisation for Security and Co-operation in Europe (OSCE) and the United Nations Office on Drugs and Crime (UNODC) but no joint activities have been undertaken so far. A first cooperation has been initiated with Russia. Working relations with the US and Canada are about to be discussed at a conference in Europe in 2009 and in the US in 2010.

### **3.5. Effectiveness in achieving outputs and customer satisfaction**

Although the number of courses has gradually increased over time, CEPOL did not meet its target in the last years. In 2007, 85 courses and seminars were organised out of 99 scheduled. Three were cancelled and eleven postponed into 2008. In 2008, 87 courses and seminars were held out of 103 scheduled. Three were cancelled and 13 were postponed into 2009.

In 2008, the actual total number of participants attending training amounted to 2,078 individuals out of an anticipated number of 2,841 (calculated on the basis of the assumption that all Member States send one participant per activity); the average attendance was 22 participants per activity, a decrease by 1% per activity compared to 2007<sup>45</sup>. The relatively modest number of participants in some training courses does raise the question whether the training is perceived as beneficial enough to participants or whether it is a question of resources being scarce at the national level. According to interviews with CE-

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<sup>44</sup> [http://ec.europa.eu/justice\\_home/doc\\_centre/doc/hague\\_programme\\_en.pdf](http://ec.europa.eu/justice_home/doc_centre/doc/hague_programme_en.pdf)

<sup>45</sup> CEPOL Courses and Seminars Year 2008 – Participant Distribution List. These figures did not include trainers.

POL staff<sup>46</sup>, the main reasons for non participation by countries were mainly a lack of financial and human resources (Member States cover the travel costs, host Member States additionally cover the course preparation and management), topic not being a priority, and insufficient English language skills. Member States' representatives also mentioned that certain topics are less relevant than others and there is an awareness that for some (other) Member States financial resources set a restriction to send officers to the trainings.<sup>47</sup> Since 2009, CEPOL offers Member State participants 10 flights for free to overcome these apparent financial obstacles. In the 2008 training courses, over 50% of the Member States were represented on average. All Member States, except one, hosted at least one training course.

It is hoped that the obstacle of insufficient English language skills can be overcome with E-learning facilities where the initial English version can be translated to native languages by the Member States.

However, the Management Board survey indicates overall satisfaction with CEPOL's service. 83% of respondents agree that the output is "useful", 92% believe it is of high quality, whilst 58% agree that it is "timely".

The effectiveness of training offered to individuals depends to a large extent on the number of participants of the Member States and the way that individuals are nominated for training courses. Getting the participants with the 'right' background and expertise to attend and for them to cascade the gained knowledge to colleagues afterwards are crucial ingredients of success of any given training. From the limited evidence collected, there are indications that this is potentially a problematic area in the sense that participants need to be nominated by their national hierarchies which does not always mean that the most qualified people are promoted onto courses but other, non-merit-based criteria might play a role. In this regard, one external stakeholder pointed out, that junior officers should be the targets for training since language issues are less an obstacle and most courses address the operational levels of police activities<sup>48</sup>. Another issue relates to the degree to which participants are really able and willing to disseminate lessons learnt to its colleagues or whether the information is "only" for that particular individual. As will be seen below, the participants tend to indicate that they do indeed disseminate their knowledge. However, the Management Board survey do not really support this, with only about 50% agreeing that CEPOL activities "aid policy implementation" in the participants' organisation.

Overall, there is little systematic evidence to suggest that the knowledge is used in operational policing.

CEPOL seems to take delivery in the shape of didactics seriously. It has for instance initiated a working group on interactive learning methods to ensure that the best possible exchange of expertise is undertaken and learning optimised. Topic-wise CEPOL also appears to be offering training on most up-to-date issues. The 2008 course evaluations show good satisfaction from the participant perspective.<sup>49</sup> Due to perceived insufficiencies in the transfer of knowledge to the national working environment, CEPOL carried out a post-

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<sup>46</sup> Interviews, March 2009

<sup>47</sup> Phone interview, June 2009

<sup>48</sup> Phone interview, June 2009

<sup>49</sup> On a scale from 1 to 6 (6 is highest score) participant ranked the organisation of the training highest (5.55) followed by networking (5.31), experts/trainers (5.3), objectives (5.23), learning and content (5.2), transfer of learning (by cascading knowledge from the participant to colleagues) (5.17). The response rate to this survey was 91 % (1,907 out of 2,078).

course evaluation, 3 – 6 months after the activity. The response rate was 42%. The observations show that 96% of the participants who responded indicated that they had cascaded the information to colleagues, line managers and staff. It also shows that 78% of the participants could apply the knowledge gained during the activity. 39% responded that they continued to work within the network developed during the course. 92% expressed that they have continued the learning after the course. A next planned step is to introduce indicators on how to measure whether objectives have been achieved in a more optimal way.

An external stakeholder stated that CEPOL's common curriculum project, the exchange programme, and training for trainers are positive examples of tackling the issue of effectiveness and highlights the networking effects achieved through CEPOL training courses<sup>50</sup>.

Several external interviewees pointed out that close working relations between Members of the Governing Board meant that CEPOL was well connected to key experts on relevant topics in several Member States.

### **3.6. Efficiency in managing resources and executing the budget**

#### *Influence of the setting up of the agency*

The CEPOL Governing Board had a considerable influence in transforming the former CEPOL network into an agency. In the report about its first three years of operation and future perspectives on 11 December 2003<sup>51</sup>, the Governing Board identified three major obstacles to CEPOL's proper functioning: (1) the lack of legal personality; (2) the lack of a permanent seat; and (3) the understaffing of the CEPOL Permanent Secretariat. The Governing Board emphasised that giving CEPOL legal personality should "provide a framework that can contribute towards stability" and a permanent location of the seat would contribute to a common and recognizable CEPOL identity and improve its visibility which then would enable CEPOL to "more easily reach its target group and better deliver its objectives."

In response, Ireland proposed to amend the original Council Decision 2000/820/JHA in order to give CEPOL legal personality<sup>52</sup> and the UK proposed to establish a permanent seat in Bramshill, U.K.<sup>53</sup>

#### *Budgetary issues*

CEPOL's budget execution rate is low. In 2007, out of its total budget of EUR 8.1m (including a project-related grant) only 86% was executed. In terms of Community funding, out of the EUR 7.439m EUR 6.450m were transferred to the CEPOL account and only EUR 5.084m were actually spent which results in an under-spending of 32%. In 2008, the total budget was EUR 11.8m out of which 85.8% was executed.<sup>54</sup> Due to this recurring problem, the Commission proposed to cut off EUR 1 million in the budget for 2010.<sup>55</sup>

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<sup>50</sup> Phone interview, May 2009.

<sup>51</sup> CATS 74 Enfopol 117 15722/03 of 09 December 2003

<sup>52</sup> OJ C001 of 06 January 2004

<sup>53</sup> OJ C 20 of 24 January 2004

<sup>54</sup> Data provided by CEPOL, July 2009

<sup>55</sup> Communication with DG JLS, September 2009, and Preliminary Draft General Budget of the European Commission for the Financial Year 2010

The fact that training courses are cancelled or go ahead with a limited number of participants (normally 15) involves important inefficiencies. Also, the high ratio of trainers to participants (1 trainer for every 2.7 participant) indicates scope for significant efficiencies improvement in this area. However, CEPOL perceives the large number of trainers as positive since it contributes to its objective of networking and ensuring a European-wide approach. Also in comparison with other agencies and organs delivering training, two trainers/key note speakers, in average per training day, is not high.

#### *Management*

When CEPOL was initially set up it faced a considerable lack in staff with key competencies and there were no posts in the staff establishment plan approved by the Parliament; controller post, procurement officer, quality manager, management support, financial assistance and some other functions. In the interviews with CEPOL<sup>56</sup> it was highlighted in addition that none of the staff members had a working background in the European Commission. This is not uncommon for agencies but does tend to add to the difficulties in complying with the staff and financial regulations because of lack of experience with the way such regulations are applied within the EU system.

After the amendment of the legal status, the recruitment of officers to the CEPOL Secretariat started within three months. The first financial, HR and administration officers were recruited in autumn 2006. It took another year to recruit additional officers dealing with programme and research. Interim staff was used for the financial work; Finance and Budget, Finance Assistants, Budget Support etc. An officer for evaluation processes was recruited in the beginning of 2007 who effectively contributed to assessing the satisfactions of course participants. Two important staff members, the Accounting Officer and the Head of Administration resigned and new officers had to be recruited. In 2009 a new Head of Administration, a Budget and Finance officer and a Finance Assistant were recruited. At the time of the interviews in March 2009, no assessment on the benefits of the additional staff members could be made yet.

Compliance with staff and financial regulations has been a big issue for CEPOL since the inception. In 2007, it was assessed as problematic by the Court of Auditors. It appeared that the obligations stemming from the EU financial and procurement regulations were not respected and that there were serious weaknesses in the organisation of CEPOL's Secretariat. As an immediate consequence, OLAF has started an investigation and the Parliament had delayed the discharge.<sup>57,58</sup> The Commission's Internal Audit Service (IAS) listed 13 Recommendations (2 critical, 9 very important, 4 important) and the parent DG (DG JLS) pointed on several occasions to the shortcomings of its secretariat. DG JLS (CEPOL's parent DG) states that CEPOL does not yet have the full capacity to handle the requirements associated with being a fully-fledged EU agency over two years into implementation and that there are serious management problems.

Strikingly, 75% of respondents in the Management Board survey "disagree" or "strongly disagree" that CEPOL's procedures for financial management are ef-

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<sup>56</sup> March 2009

<sup>57</sup> Proposal from the Committee on Budgetary Control of the European Parliament, see <http://www.europarl.europa.eu/sides/getDoc.do?type=REPORT&reference=A6-2009-0160&language=EN>

<sup>58</sup>

<http://www.europarl.europa.eu/oeil/FindByProcnum.do?lang=en&procnum=DEC/2008/2271>

fective while 67% of respondents “disagree” or “strongly disagree” that CEPOL’s procedures for human resources management are effective. These responses relate to issues where Management Board members expressed the largest degree of dissatisfaction compared to all other questions.

Given the small size of the organisation it is questionable that such a small organisation can ever be expected to comply effectively with the complexities of the EU financial and staff regulations.

#### *Oversight activities*

The Governing Board is CEPOL’s overall decision-making body. It consists of 27 voting members (one per Member State) and non-voting observers from the Member States, the European Commission, the Council and EUROPOL. The CEPOL Director participates without a right to vote. Non-voting observers from Member States can in practice involve up to 5-6 members per country<sup>59</sup> resulting in up to 75 – 85 individuals attending each Governing Board meeting. Budget decisions are made with unanimity while for all other decisions a qualified majority is sufficient.

The size of the Governing board does not seem to be commensurate to the size of the agency. For a small agency like CEPOL it is questionable whether it is reasonable and efficient to have Governing Board meetings with a number of participants as high as three times the size of the agency itself.

According to interviews with agency staff, very little voting has taken place during the 8 years of CEPOL’s existence and it was argued that reaching a compromise is necessary to ensure good implementation even if it takes time. To develop the Annual Work Programme, for example, the topic is first discussed in all working groups before handed over to the Annual Programme Committee who again discusses it and submits a draft to the Governing Board.

While the majority of respondents in the Management Board survey (75%) agree that the composition of the Governing Board is right, only one third agrees that the decision-making procedures in the Board are right.

The evaluation team has done a systematic analysis of governance arrangements across all agencies by looking at the various needs that have to be addressed and how these needs are reflected in the balance of powers. CEPOL belongs to the agencies where discrepancies have been found. The agency contributes to achieving objectives at EU and Member State levels but, due to the inter-governmental origin of CEPOL, the EU interests (Commission, Council) are not voiced in a powerful enough way compared with other agencies<sup>60</sup>.

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<sup>59</sup> The travel costs of up to two delegates per Member States are reimbursed.

<sup>60</sup> European Institutions have no power except in case of significant changes in the budget, something which has not occurred. Commission, General Secretary of the Council, and EUROPOL are non-voting observers in the board.

### 3.7. Main findings

- The need for a separate agency with the purpose of training police officer is not clear against possible alternatives e.g. the fact that EUROPOL both has the topical expertise and the contacts to Member States via its liaison officers on its premises. (3.2)
- The effectiveness of CEPOL trainings depends on Member States' choice of participants and on debriefing procedures in the countries. (3.5)
- There is evidence that participating in seminars and in particular in the exchange programme had positive networking effects on the participants and provided knowledge about and access to relevant experts on relevant topics. (3.5)
- The Governing Board meetings can be attended by as many as 75-85 individuals although only 27 Member State representatives have the right to vote. This makes both the organisation of meetings and decision-making processes lengthy and onerous. (3.6)
- Incompliance with staff and financial regulations were observed and led to comments from the European Parliament in the context of the Discharge in 2008. (3.6)
- The small size of the organisation makes its capacity to effectively comply with the complexities of the EU financial and staff regulations questionable. (3.6)



## **4. CFCA**

### **4.1. Introduction**

CFCA – *The Community Fisheries Control Agency* – is the European agency that organises the operational coordination of fisheries control and inspection activities by Member States and assist them to cooperate so as to comply with the rules of the Common Fisheries Policy in order to ensure its effective and uniform application. CFCA was established by the Council Regulation No 768/2005. The establishment was made possible through the Common Fishery Policy (CFP) adopted a few years earlier which required EU Member States to ensure effective control, inspection and enforcement of the rules of the Common Fishery Policy and cooperate with each other and with third countries.

The Community Fisheries Control Agency started its activity in a temporary office in Brussels with its first annual programme in 2007. In July 2008, the agency was relocated to its headquarter in Vigo (Spain). Its budget was 5M€ in 2007 and reaches 9M€ in 2009, mainly composed of EU subsidies<sup>61</sup>. 47 people<sup>62</sup> currently work in CFCA. The agency is still in its growing phase.

CFCA activities are organised around two main tasks: (1) Joint Deployment Plans and (2) Capacity Building.

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<sup>61</sup> In 2008, EU subsidies represented 86% of the overall budget. In 2009, it represents 76% (estimated figures). The remaining part of the budget is composed of services rendered by the agency (Additional contractual services delivered to Member States at their request).

<sup>62</sup> Total actual Staff as of 31 march 2009.

<b>CFCA</b>		
<b>Tasks</b>	<b>Task 1</b>	<b>Task 2</b>
<b>Main objective</b>	<b>Joint Deployment Plans</b> Organise the operational coordination between Member States in the area of fisheries control and inspection with a recovery plan or in the case of international control schemes	<b>Capacity Building</b> Support the development of uniform control and inspection methodologies and practices
<b>Budget<sup>63</sup> (% per year, 2008)</b>	43%	8%
<b>Dedicated staff<sup>64</sup> (FTE %, 2008)</b>	53%	11%
<b>Outputs</b>	Joint inspection campaigns, training seminars, briefings and debriefings with national inspectors	Harmonised and reliable inspection procedures and data Training seminars of national inspection authorities
<b>Addressees / Users</b>	The European Commission; Member States (e.g. National inspection authorities)	The European Commission; Member States (e.g. National inspection authorities)
<b>Results/ impacts</b>	Better cooperation between Member States in the area of control and inspection. Better and harmonised compliance with the CFP rules	Use of harmonised and reliable inspection procedures and data Better knowledge of EU rules and of national experiences Better compliance with the CFP rules

CFCA is a new agency, composed of three units: 1-Unit A (administration); 2-Unit B (Capacity Building); 3-Unit C (Operational coordination). Two units are focused on the two main agency activities. The table above shows that the Unit C concentrates a significant share of the overall financial and human resources.

In its first years of existence (2007-2008), the CFCA strongly developed activities related to Unit C, in accordance with the work programmes. With regard to Unit B, the Agency's main achievement so far has been to hire competent staff and activities will really start in 2009.

The table above shows that the two operational tasks represent 51% of the budget, which means that about half of the financial resources are devoted to administrative tasks. However, as the budget was not activity based budget at

<sup>63</sup> Those figures takes into account the % of EU subsidy granted finally committed in the year 2008 (6.4 M€). Services rendered by the Agency are not taken into account. Task 2 just takes into account staff expenditure as capacity building activities will really start in 2009. The remaining 49% concerns administration activities.

<sup>64</sup> The remaining 36% refers to administrative and governance task.

the time of this evaluation, this figure must be taken carefully as they are estimated<sup>65</sup>.

For the purpose of inter-agency comparisons, the evaluation team has related the above tasks to the following categories respectively:

- Facilitating operational coordination of public managers in the Member States as to better achieve EU policy objectives<sup>66</sup>
- Contributing to the soft coordination of Member States policies, for the same purpose

#### 4.2. Rationale and relevance

The debate on the reform of the Common Fisheries Policy in 2002 showed a broad consensus that policy at the time was incapable of reversing the increasing threats to important fish stocks and in providing economic sustainability to the fisheries sector.

Major weaknesses had been identified in the field of control and enforcement<sup>67</sup>. The use of inspections and surveillance was mainly optimised on the national level and gaps were evident at the European Union level. On the industry side, fragmented control and enforcement were seen as providing opportunity for unfair competition between fleets of different nationalities.

The mandate of the CFCA was clearly set to tackle these weaknesses. It aims to develop operational cooperation between Member States in fisheries, particularly fish stocks at risk, and to harmonise inspection procedures.

The evaluator's investigations among stakeholders identified two possible alternatives to the creation of the agency. Agency's activities could have been achieved either by Member States themselves or by the Commission. However the various interviewees unanimously recognised that the agency, functioning as a permanent and independent platform was the most effective option to ensure operational cooperation and coordination between Member States<sup>68</sup>:

- Direct management by the European Commission could have been possible as competences are relatively similar between the Agency and the Commission (DG MARE). However, interviewees generally put forward that the Commission is responsible for controlling the application of the Fisheries Policy rules by Member States (enforcement control), and cannot assist Member States to fulfil their obligations.
- Member States could have managed the development of a cooperation plan. There were examples of joint action by Member States regarding

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<sup>65</sup> The Budget of the agency is described into three chapters: Title I (staff expenditure); Title II (administrative expenditure); Title III (operational expenditure). The budget share of each task, as stated in the table, takes into account operational expenditure (Title III) and staff expenditure of the unit B and C (% of Title I). The share of administration activities takes into account administrative expenditure (Title II) and staff expenditure of the administrative unit (% of Title I). It was not possible to reallocate administrative expenditure into the different tasks.

<sup>66</sup> Same logic as EMSA, EUROJUST, EUROPOL, FRONTEX, except that CFCA "organises" coordination rather than "facilitates"

<sup>67</sup> *Commission staff working paper proposal for a council regulation establishing a community fisheries control agency- impact assessment and ex ante evaluation. COM (2004)289 final.*

<sup>68</sup> The *Commission staff working paper (COM (2004)289 final)* came to the same conclusion.

cod fisheries in the North Sea and the Baltic. But it was acknowledged that this option did not offer sufficient guarantees for consistent and lasting results.

In 2010, a new control regulation will be in place and should broaden the mandate of CFCA in order to enhance cooperation between Member States<sup>69</sup>.

The evaluation team has undertaken a review of all agencies carrying out tasks which require some multi-annual strategic thinking, which is the case of CFCA's second task. Such tasks deserve to be prioritised within a multi-annual work programme. This is not yet the case, but the CFCA is developing a mid-term strategy that will be presented to the board by the end of 2009.

#### **4.3. Agency's input to the work of the EU institutions**

The Community control and enforcement system, laid down in Chapter V of Regulation (EC) No 2371/2002, stipulates the distribution of responsibilities for fisheries control and enforcement between the Commission and Member States<sup>70</sup>.

The establishment of CFCA does not affect this distribution of responsibilities. Our investigations among stakeholders highlighted that it even clarifies the role of the Commission inspectors. Prior to the creation of the agency, Commission inspectors had to give advice to the Member States to fulfil their obligation together with their control and enforcement functions. With the creation of CFCA, interviewees said that there was a clearer distinction between the role of advice and the role of control toward the Member States.

CFCA has close relations with the European Commission. The Commission receives a weekly report and an assessment campaign report for each JDP campaign. This information is used as an input to the risk analysis which helps to decide and plan Commission inspection activities and to adapt the work programme of the agency.

The European Commission has also a significant role in the definition of the agency activities. The Commission approves the work programme as part of the administrative board. Six representatives of the Commission are appointed to this board<sup>71</sup> and the chairperson is elected among them. The board discusses and adopts the budget and the Work Programme<sup>72</sup>. Before the approval of the Administrative Board, the draft Work Programme is submitted by the Executive Director to the Commission and the Member States for consultation<sup>73</sup>. Apart from this board, Member States are part of the various

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<sup>69</sup> This new regulation follows a report of the Court of Auditors (2007) which found substantial remaining weaknesses in the area of control and enforcement at the Commission and Member States level (Source: *Communication from the commission to the European parliament and the council on the proposal for a council regulation establishing a community control system for ensuring compliance with the rules of the common fisheries policy. (COM (2008) 718 final)*).

<sup>70</sup> The Member States are primarily responsible for control and enforcement of the rules of the CFP in its jurisdictional area as well as fisheries beyond this area in which vessels flying its flag participate. The Commission is responsible for the monitoring and enforcing of the correct application of these rules by Member States.

<sup>71</sup> The Administrative Board is composed of 33 members: 6 representatives of the Commission, a representative of each Member States. One observer of the Advisory board is also invited to the Administrative Board. The Advisory Board represents the Regional Advisory Committees. It gives technical advice to the executive Director.

<sup>72</sup> Council Regulation (EC) No 768/2005 of 26 April 2005 (Art. 23)

<sup>73</sup> Council Regulation (EC) No 768/2005 of 26 April 2005 (Art. 29)

steering groups which ensures the governance of each Joint Deployment Plans<sup>74</sup>. The stakeholders are represented in the Advisory Board which gives advice to the Director.

Our own investigations among stakeholders highlighted that they are generally satisfied with the way the Member States and also the sector are involved in the agency system. The online survey of CFCA administrative board members<sup>75</sup> for instance pointed out that a wide majority of respondents agree that the procedures for decision-making on the board are effective<sup>76</sup>. Some interviewees stated, however, that the participation of the various Regional Advisory Council<sup>77</sup> (RAC) representatives in the Advisory Board was not sufficiently effective.

#### 4.4. Internal and External Coherence

The constituent act is detailed in terms of tasks to be performed by the Agency. It is clearly stated that the Agency has to develop Joint Deployment Plans as well as monitoring control and surveillance activities. This would seem to suggest that the main tasks of the Agency are coherent with the objectives set out in the mandate.

As stated above, the Work Programme is decided in accordance with the Commission, which gives little room for any incoherence with the Common Fishery Policy. The Joint Deployment Plans are also decided in priority areas covered by a recovery plan developed by the European Commission or through international agreements.

Stakeholder's interviews and the online survey to the members of the administrative board seem to confirm this analysis. CFCA board members, for instance, generally agree that the activities of the Agency are consistent with its constituent act and with the strategic priorities of the European Union<sup>78</sup>.

According to the Agency staff, CFCA is currently seeking cooperation with FRONTEX<sup>79</sup>. The Unit in charge of capacity building is also in contact with EMSA<sup>80</sup> to share its experience with regard to monitoring tools. In the process of developing appropriate performance indicators, the Agency is also relating to DG Research and the Framework Programmes for research.

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<sup>74</sup> The coordination of a JDP is made possible by the creation of two groups: 1) The Steering Groups ensure the political coordination of the implementation of the JDP. They are composed of national contact persons appointed by the participating Member States, a representative of the Commission and chaired by the Agency. 2) The Technical Joint Deployment Groups are in charge of the operational coordination of the implementation of each campaign, planned in the JDPs. They are composed of national inspectors and an Agency staff playing the role of coordinator.

<sup>75</sup> In the case of CFCA, 12 members out of 33 answered to the online survey.

<sup>76</sup> The answers are: strongly agree (17%); agree (67%); neither agree nor disagree (8%); disagree (8%). The answers to the "composition of the board is right" are: strongly agree (33%); agree (42%); neither agree nor disagree (17%); disagree (8%).

<sup>77</sup> A Regional Advisory Council is a forum gathering stakeholders of the fishery sectors and other interest groups affected by the CFP

<sup>78</sup> The answers regarding the constituent act are: strongly agree (8%); agree (84%); disagree (8%). The answers with the strategic priorities of the European Union are: strongly agree (16%); agree (84%).

<sup>79</sup> European Agency for the Management of Operational Cooperation at the External Borders (FRONTEX)

<sup>80</sup> European Maritime Safety Agency

The Agency has no institutional relations with international organisations (e.g. FAO<sup>81</sup>, international fisheries organisation...) as it is the role of the Commission to represent the Community vis-à-vis these organisations. However, CFCA has operational relations with international organisations. CFCA sends inspection reports to fisheries organisation and can assist the Commission with technical advice during discussions within international organisations (e.g. technical advice on illegal fishing for the FAO).

The CFCA may also, within its field of competence, carry out on behalf of Member States tasks under international fisheries agreements to which the Community is party.<sup>82</sup>

#### **4.5. Effectiveness in achieving outputs and customer satisfaction**

Based on the evaluator's assessment of the contents of the CFCA annual reports for the past two years, the agency achieved the outputs stated in the various work programmes<sup>83</sup>. The evaluator's investigations among stakeholders (sector, MS) confirm that the quality of production is generally recognised as being high. The administration board members for instance consider the output of the agency as of high quality (58%) and useful (67%)<sup>84</sup>. They also consider that the agency meets the objectives of its work programme (75%)<sup>85</sup>.

However, up to now, the Commission does not share this high level of satisfaction. The main reason stated by the Commission is that the agency has not yet carried out evidence based evaluations of Joint Deployment Plans.

Indeed, the agency has not yet identified relevant performance indicators. At the present time, the last annual report has been rather case study oriented, presenting detailed inspection activities (e.g. means deployed, participating MS, numbers of inspectors involved in JDPs...). The agency is aware of this aspect and is currently working to identify relevant indicators, some of them being included in the Work Programmes 2009 and 2010.

Satisfaction can also be approached in an indirect way through participation of Member States. The last annual report (2008) highlighted that each Member States concerned by a JDP strongly participates in joint campaigns. Having said that, each MS share resources within each JDP, so they would naturally be keen to participate in them as it provides them with economies of scale.

Interviews with stakeholders (sector, MS) generally pointed out that Joint Deployment Plans improved transparency<sup>86</sup> between Member States and

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<sup>81</sup> Food and Agriculture Organization of the United Nations

<sup>82</sup> Council Regulation (EC) No 768/2005 of 26 April 2005 (Art. 4)

<sup>83</sup> Four Joint Deployment Plans have been set up: JDP NAFO; JDP North SEA; JDP BAL-TIC SEA; and JDP Bluefin Tuna. With regard the Agency's capacity building work, activities will really start in 2009.

<sup>84</sup> The answers to the question "the outputs of the agency are high quality" are: strongly agree (8%); agree (50%); neither agree nor disagree (34%); disagree (8%). The answers to the question "the outputs of the agency are useful" are: strongly agree (25%); agree (42%); neither agree nor disagree (25%); Don't Know (8%).

<sup>85</sup> The answers to the question "the agency constitutently meets the objectives of its work programme" are: strongly agree (17%), agree (58%), neither agree nor disagree (25%).

<sup>86</sup> Through coordination meetings (steering/technical committee) and campaign reports, they receive the same information on control means, vessels positions and infringements.

contributed to mutual learning among them<sup>87</sup>. Interviews also highlighted results on indirect users, i.e. the fishery sector. RAC interviewees reported that there was more transparency between the sector and the decision-makers since the creation of the Agency.

By coordinating national means, training national experts in line with Community guidelines, providing a communication platform for inspection and facilitating the exchange of data, CFCA contributes to a uniform application of the CFP, particularly within JDPs areas. The evaluator's investigations among stakeholders (sector, MS) also pointed out that Joint Deployment Plans create a peer pressure climate that contributes to the spread of a culture of compliance among MS involved.

Pooling national means together (at sea and on port) also increases the total number of means available over a set period and spreads efforts more widely within a target area, hence leading to deployments being made in a more cost-effective way.

Interviewees stress that Joint Deployment Plans are rather new (no more than two years) and that it is not realistic to expect a full equal level of law enforcement in such a short time. Various opinions are stated about the changes which occurred in the control systems so far. These opinions range from "dramatic" to less enthusiastic statements.

#### **4.6. Efficiency in managing resources and executing the budget**

##### *Influence of the setting up of the agency*

Almost every interviewee acknowledged that the lack of direct connection flights from Vigo is a strong weakness regarding the efficiency of the agency activities. Travelling from and to Vigo (either for the Staff or externals) induces high transport costs and working hour losses. Efforts are made to exchange emails instead of travelling and some meetings are held in Brussels.

The online survey of board members confirms this analysis. A majority of board members agrees that the geographic location has a negative influence on the agency activities (58% of all respondents).

This point is also confirmed by the evaluation team's comparative analysis of travel cost and time across agencies. CFCA has the highest travel time index and one of the highest travel cost<sup>88</sup>, whilst its coordination function would require a high accessibility.

##### *Budgetary issues*

The agency is financed through a European Commission subsidy and through services rendered by the Agency to Member States (the services rendered by the CFCA to the member States, charter of a EU inspection vessel, do not generate any additional income to the CFCA because the money received by the CFCA goes in its integrity to pay the charter of the vessel). The share of the EU subsidy decreased in percentage terms<sup>89</sup> from 2008 to 2009 (from 86% to 76%). In line with this, the share of the budget made up of other services provided by the Agency should further increase in the coming years

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<sup>87</sup> The Joint Deployment Plans gathered Member States for training courses, inspection campaigns and meetings thus provided ample opportunity to share experience and to build a mutual understanding of the rules of the CFP.

<sup>88</sup> Respectively 180 (max = 180) and 158 (max = 166).

<sup>89</sup> EU subsidy slightly decreases in actual terms: from 7.3M€ in 2008 to 6.85M€

By the end of the financial year 2008 the Agency had committed 88% of the subsidy granted, which implies a significant improvement compared with 2007 budget execution levels (65%).

As stated above, the share of administrative activities approach nearly half of the budget execution (based on EU subsidies). Several interviewees pointed out that, given the small size of the agency, the weight of the financial procedures (recruitment, procurement...) with which the Agency has to comply diverts attention away from core business potentially weakening the Agency's impacts and results. Moreover, stakeholders were of the opinion that the financial regulation is not adapted to small structures such as the CFCA. A significant share of the staff was hence said to be dedicated to complying with the regulation.

#### *Drivers for efficiency*

From the various interviews (Agency and MS), it appears that a key factor of external efficiency is relationships established between the Agency and the various Member States concerned by JDPs through regular meetings (in relation to each campaign). Effective coordination wouldn't be possible without this driver.

The training sessions carried out in 2008, although limited in number (6 days in 2008)<sup>90</sup>, were also often pointed to as a key factor in reaching a level of harmonised practices among MS.

Finally, the last driver relates to the position of the agency. The MS and RAC interviewees stressed that the good results in terms of cooperation between MS and relations with the sector, were due to the role of the Agency as an adviser and a facilitator. This role is clearly different from the Commission's, which is seen as a controller.

#### *Leverage of inspection means*

From the Agency perspective, the cost of running JDPs is mainly composed of human resources cost (0.4M€ for operational expenses, 2.7M€ for human resources)<sup>91</sup>. This of course excludes the cost of inspection means (vessels and equipment) as well as human resources provided by the MS for joint operations, coordination meetings, etc.

MS interviewees fed back that time spent in meetings, although time-consuming, were well worth the effort since it resulted in better inspection coordination.

MS stakeholders consulted agreed that inspection procedures were much more cost-effective within a JDP than would have been the case by unilateral action. According to the same interviewees, this is the main incentive for strong participation of MS.

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<sup>90</sup> In 2009, within the development of the second Agency task (capacity building), it is planned to implement a training Centre that will manage training programmes for inspectors.

<sup>91</sup> Base on the Budget execution for 2008 (see table in appendix).



#### **4.7. Main findings**

- The rationale for the Agency is clearly established and recognised by involved parties (see section 4.2).
- The creation of the Agency enabled a clarification of the role of the European Commission toward the MS and the sector (see section 4.3).
- There is a clear coherence between the activities of the Agency, its mandate and the strategic priorities of the European Union (see section 4.4).
- There is clear added value of the Agency at European level, due to the facilitation of cooperation between Member States (see section 4.5).
- The lack of direct connection flights from the Agency's location has a negative influence on its external efficiency (see section 4.6).
- The effort required to comply with administration and financial procedures is considered to be not adapted to the size of the agency and divert a disproportionate amount of resources away from its core business (see section 4.6).
- The Agency is able to facilitate strong leverage of Member State inspection means (resources) enabling inspection practices and operations to become more cost-effective (see section 4.6).

## 5. CPVO

### 5.1. Introduction

The Community Plant Variety Office (CPVO) implements, develops and applies a system for protecting new plant varieties which has been established by Community legislation. This legislation is based on the UPOV Convention (1991 Act). This system allows intellectual property rights, valid throughout the European Union, to be granted for new plant varieties.

Created in 1994, CPVO is an independent, self-financing decentralised European agency. Based in Angers in France, the Office had in 2008 an annual budget (forecast) of EUR 12.6 million (actual income was EUR 10.6 million, almost all of it user fees). It currently employs 45 people including 16 dedicated to the technical aspects.

From the creation of the Community Plant Variety Office (activities began in 1995) until the end of 2007, a total of 21 228 Community plant protection rights have been granted to breeders from all over the world, but mainly from the European Community<sup>92</sup>.

CPVO carries out one single, but important task (granting intellectual property rights for new plant varieties) which as the evaluation team has categorised as "Dealing with individual applications of firms as to ensure a safe functioning of the EU market".

<b>CPVO</b>	
<b>Main objective</b>	Granting plant variety rights at EU level
<b>Budget</b> (% per year for 2008)	(1)
<b>Dedicated staff</b> (FTE%, 2008)	(1)
<b>Outputs</b>	Plant variety rights at EU level, including the protection of the name of the new protected variety
<b>Addresses / Users</b>	Plant breeders
<b>Results / impacts</b>	New plant varieties are intellectually protected on all the territory of the European community; Breeders can ask for royalties on new protected varieties; Innovation and new varieties encouraged.
(1) CPVO has only one operational task	

<sup>92</sup> Requests come mostly from breeders from the ten following countries (in order of importance): the Netherlands, Germany, France, United States, United Kingdom, Denmark, Switzerland, Italy, Belgium and Japan.

Granting plant variety rights at EU level is the historical task of the agency. The CPVO is considered as a reference at international level in plant variety rights. It works in parallel with national procedures in the EU Member States to grant plant variety rights at National level. The CPVO relies on entrusted examination offices, to which it outsources all of the testing needed for its decisions.

Some complementary activities have been developed in the recent years by the CPVO. Representing less than 1% of the office budget, they aim at improving the targeted results and impacts, these activities are mainly meetings or reports of different kinds:

- Organizing meetings in new Member States for informing breeders about the Community Plant Variety System;
- Training and information sessions for lawyers, breeders, EU and third country officials to explain the implementation of the Community plant variety rights regime;
- Advising and consulting on the implementation of the EU legislation on Community Plant Variety Rights.

## 5.2. Rationale and relevance

The evaluation team assesses that the rationale for undertaking CPVO's tasks through an agency rather than something else (e.g. some intergovernmental arrangement) was not clearly explained at the time of creation<sup>93</sup>.

Interviewees also tend to describe the rationale of the policy instrument rather than that of the agency itself.

In a context of globalisation and enlargement of the European Union in the 80', plant breeders had to face a difficult situation – problem of language or testing validity for example - to protect a new plant variety in the relevant Member States. Indeed, the breeders were willing to obtain a harmonised protection in all EU Member States.

The settlement of the Office has brought both harmonization and simplification of procedures. Breeders who need to protect a new variety in all Member States have only to address one request to the CPVO, valid on all the territory of the European Community once delivered.

No obvious evolution of the breeders needs has occurred since the creation of the office, as shown by the constant growth of the number of breeders' applications. However, the agency has enlarged its activities within the competence given by the EU Regulation, i.e. "to meet its clients' concerns". In this respect, the CPVO is developing R&D activities, but also becomes an active promoting body of the implementation of the Community plant variety rights system outside of Europe (Asia, Africa and South America) in order to facilitate breeders' access outside Europe. Moreover, for a few years, the CPVO has been involved in supporting the enforcement of the plant variety rights protection, by organising information activities towards EU judges and lawyers and other relevant authorities.

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<sup>93</sup> The founding Regulation contains 25 "whereas" justifying the need for a Community Plant Variety Rights regime and explaining its various components, and only one "whereas" justifying the agency option for implementing the regime: "it is appropriate that the implementation and application of this Community regime should not be carried out by the authorities of the Member States but by a Community Office with legal personality" .

The continued rationale of CPVO has been questioned in the course of this evaluation (interviews) with regards to the small size of the agency and the fact that it shares the same logic as OHIM (see 26.2).

The logic of CPVO's activities is very similar to that of OHIM. Indeed both are totally financed by the so-called users (clients in reality) to provide them a single service linked to private interest: protection of their economic rights. The two agencies are highly consensual (according to all interviewees) since they mainly deal with the interests of one single group of stakeholders. The question has been raised<sup>94</sup> of the need to have two distinct agencies dealing with so close activities. On the contrary, it has been stated<sup>95</sup> that the practical methods, tests, and control for granting rights is quite different in both agencies.

### **5.3. Agency's input to the work of the EU institutions**

The Commission, via DG SANCO, the parent DG of the CPVO is involved in the governance of the agency via one non-voting member in the Board.

The CPVO has no direct inputs on Community decision-making as its activities are focused on service to customers (breeders). Stakeholders however mention that two issues are potentially of interest for EU policy-making:

- Reforming the regime of farm saved-seed;
- Dealing with cases related to plant variety rights in a limited number of specialised courts.

The creation of CPVO did not mean any transfer of competencies from the EC to the agency as the European Commission had no specific role in granting plant varieties right before, but an activity in registration and listing of new plant varieties in the seed marketing sector could be foreseen after amending the basic regulation on CPVR and the seed marketing Directives .

Before creation of the CPVO, Member States were the only entities playing a role in granting PVR and at national level. The number of varieties protected at Community level has increased while decreasing at national level, and some national offices have now begun to change or enlarge their activities as compensation for the loss of protection activities, and some National examination centres work now for the CPVO .

The European Community is full UPOV member (International Union for the Protection of New Varieties of Plants<sup>96</sup>) since 2005 and the CPVO is member of the delegation of the European Community at UPOV meetings because of its expertise on the implementation and enforcement of the CPVR regime . The CPVO provides its expertise on CPVR issues in this framework. According to several interviewees, CPVO tends to be considered by other members of the UPOV as a member in itself at the expense of EC's authority, especially when it comes to explaining the implementation of the EU legislation.

The evaluation team has done a systematic analysis of governance arrangements across all agencies by looking at the various needs that have to be addressed and how these needs are reflected in the balance of powers. CPVO belongs to the agencies where discrepancies have been found. The agency

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<sup>94</sup> Evaluation interviews within European Institutions

<sup>95</sup> EU interviewee

<sup>96</sup> The UPOV is an intergovernmental organization in Geneva established by the International Convention for the Protection of New Varieties of Plants adopted in 1961 and amended in 1972 and 1991 in view of protecting new varieties of plants by an intellectual property right.

contributes to achieving objectives at EU level. It serves the interests of plant breeders, and it cooperates with national agencies in the Member States. These three categories of interests are not balanced in the agency governance which is mainly inter-governmental<sup>97</sup>.

#### **5.4. Internal and External Coherence**

The agency activities are coherent with the objectives set out in its mandate considering that the only task of the CPVO is the implementation of the basic Regulation 2100/94 on CPVR. The President has decided to draw up an internal work programme (not compulsory) which describes activities being coherent with the strategic objectives of the agency.

Subsequently, all staff can be considered dedicated to this one task; however the European Court of Auditors assesses that only 49% of staff is "operational", the remaining 51% being "administrative".

The agency's activities are not linked to any other European decentralised agency. However, CPVO and the OHIM have contacts for good practice exchanges on functioning and organisation.

The office has close relationships with national agencies settled in Member States dealing with certification and testing activities for the marketing of seeds on the EU Territory and on the most when these national agencies are entrusted by the CPVO to carry out DUS tests for the CPVO.

The Office also shares its list of denominations with the DG Agriculture in order to avoid denomination mistakes between Protected Designation of Origin (PDO)/Protected Geographical Indication (PGI) products and protected varieties as DG AGRI deals with the acceptance of PDO/PGI products.

Regarding the board ("Administrative Council"), all Member States and the Commission have a representative and one alternate. The Commission has no voting right. Breeders are not represented. This last point seems to remain a problem, as most of its budget comes from the fees paid by users, and this brings them to claim being part of the board.

#### **5.5. Effectiveness in achieving outputs and customer satisfaction**

The fundamental conclusion of the 2001 evaluation is that the CPVO is achieving its basic objective of establishing and operating the Community Plant Variety System. One can go beyond this and say that the system itself is successful, as evidenced by the level of take-up, and the fact that the number of demands for Community Protection of new plant varieties have been increasing (except in 2009). Moreover, as a proof, the CPVO is recognised at international level by similar organisations all over the world and also by breeders. Under UPOV, the CPVO is the largest expertise organisation.

A work programme has been introduced in 2009 for the first time in order to:

- Improve the Office answers to the users on some aspects identified by the agency
- Promote activities on Rights of breeders and on intellectual property rights toward lawyers, judges, farmers, Member states officials...

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<sup>97</sup> Although breeders' organizations are consulted on a regular basis

No quantitative objectives were assigned by the EC when the office was created.

The CPVO is also trying to reduce the duration of the various processes leading to the grant of rights, for instance the delay between the receipt of applications and the full registration of the files (objective of 5 days)<sup>98</sup> via using electronic communication tools. The capacity of the agency to improve its skills in reducing duration of dossiers treatment is especially appreciated by breeders. They also underline that, despite its strong competitive advantages in comparison with its national counterpart, the agency is not 'sleeping' as they could do, but it always tries to improve its functioning.

Interviewed users appreciate that the CPVO developed complementary activities such as trainings to lawyers or information courses in new Member States which is for them a proof of the real involvement of the agency in the issue of granting CPVR. These positive comments are strengthened by the results of the survey towards users implemented in 2004, the level of satisfaction of interviewees was high, including on service prices. If users and other stakeholders are not directly involved in the governing board, a consultation procedure is organised before these meetings between users and the CPVO to consult them on the main issues to be discussed and take into account their views. This is also appreciated by users which consider this tool to improve the relevance and effectiveness of the CPVO activities.

About only 80 appeals on the Office decisions have been made on the 16000 grants delivered by the CPVO over the last 13 years. This can be considered as a proof of the strength of decisions and rights granted by the Office.

## **5.6. Efficiency in managing resources and executing the budget**

### *Influence of the setting up of the agency*

The process of setting up the agency has brought simplification of the granting process of plant variety rights in an enlargement context. Even if the price for one right is higher than the grant of a PVR delivered in each of the MS, it is much more interesting, less complicated (administrative burden) and less expensive onwards certification is valid for more than two countries.

Some costs are generated by the localisation of the agency. Indeed, the accessibility of the Office is not so good and induces additional costs of travelling (no international airport in Angers). But long and expensive journeys for travelling specialists are not the only drawback of the location of the agency. It also constraints its human resources, as opportunities for potential experts' partners to find a job in Angers is reduced by the size of the city and its low involvement in international institutions.

### *Budgetary issues*

The CPVO is 100% self funded. Probably thanks to focusing on one task, and to being paid individually for each right, the budget execution of the CPVO has given birth to a growing surplus. It is difficult to assess whether this surplus is an indicator of efficiency, as it is based on the fee level, which had primarily no obvious technical basis (the situation being new when CPVO was established), but which is constantly revised by way of legal act at EU levels. To solve this problem, the board decided to create artificially a temporary deficit mainly by reducing temporarily the annual fee paid for maintaining a right.. The surplus accumulated over the years has been reduced to €5m<sup>99</sup> by the

<sup>98</sup> At present time, the success rate to register demands for a new certification under 5 days is reached between 90 to 100%

<sup>99</sup> Corresponding to one year of staff salaries

end of 2007. Considering the economic crisis context and the probably decrease of application in the coming years, this surplus can be considered as an opportunity in case the activity of the Office would be reduced.

#### *Human resources management*

The agency states that it is dealing with an increasing number of dossiers (3000 per year at present) with a stable staff.

Interviewees inside and outside the agency express convergent opinion that the human resources are well managed.

#### *Oversight activities*

Several mechanisms of monitoring are implemented by the CPVO. Internal audit has been outsourced to an audit firm. The external audit is done by the European Court of Auditors through audit visits twice a year. The audit has to take account of the legal framework and use internal audit standards (convergence of public and private sector approaches)

The agency has never experienced procurement problems but, following up with audit recommendations, it has added some non-compulsory tools to improve its procurement process.

#### *Cost-effectiveness increase*

While quantitative rise should have produced a scale effect, costs for granting CPVR are rising. Hence, the 2009 work programme includes an objective of optimizing quality/cost of services. In that regard, the solution may, at least partly, rely on the cost levels of the (national) examination offices to which the testing is outsourced.

## **5.7. Main findings**

- The objectives of the Agency are clearly established and still relevant. The agency is developing additional activities as to support European breeders activities (see section 5.2)
- CPVO belongs to the agencies where the balance of powers is not aligned with various needs that have to be addressed (see section 5.4)
- Users are satisfied of the effectiveness of the agency, and of the new reinforcement of its activities (5.5)
- Agency's location generates some problems such as travel costs and human resources constraints (5.6)
- The oversight of the agency's activities and performance has been developed with time in order to improve its performance (see section 5.6)

## 6. EAR

This chapter pertains to an agency which is now closed. EAR has been included in the evaluation for the sake of learning from its specific experience, and especially from its unique experience of closing an agency. For these reasons also, this chapter is shorter than the average agency chapter, and it does not include a table of tasks.

### 6.1. Introduction

The *European Agency for Reconstruction* (EAR) was in charge of the European Union's post-war assistance programmes in the Balkans. Created in February 2000 to assist reconstruction in Kosovo, EAR subsequently expanded its activities to Serbia and Montenegro, and the Former Yugoslav Republic of Macedonia.

EAR was accountable to the Council and the European Parliament. Its Governing board was made of representatives of the 27 EU Member States and the European Commission. The president was the representative of the Commission.

The initial five-year mandate was extended twice by Council Decisions, until the end of 2008, when the agency was closed.

Its task has been re-construction of war damages, i.e. mainly re-building destroyed houses, power plants and lines, hospitals and schools, etc<sup>100</sup>. After the most urgent reconstruction tasks were fulfilled, its mandate was extended by the Parliament to institutional reform in 2002, and eventually to assistance to pre-accession. It is not, then, a multi-task agency, but rather a single-task agency which changed gradually due to the evolution of the context, while remaining stable in its fundamental logic, i.e. delivering a highly specific service (programme management) to EU public managers in charge of the External Policy<sup>101</sup>.

### 6.2. Rationale and relevance

After evacuation of Kosovo in 1999, the EU decided that it wanted to be a major player in helping to stabilise and reconstruct Kosovo following the 1999 conflict. It was therefore seeking an effective and efficient way of delivering assistance in those fields. For post-crisis reconstruction, the most important success criteria were 1) speed (needed for calming ethnic tensions) and 2) specific addressing of aid; i.e. bringing aid to individuals that need it the most and avoiding mis-allocation and diversion to opportunists. Hence procedures had to be 1) de-decentralised, flexible, and 2) very close to the field, acting as directly as possible with local partners, making use of information and competencies network; this meant at the same time a specific ex-ante mission statement, and ex-post supervision and control.

Assistance to reconstruction was possible with many administrative and organisational combinations, such as direct management by the Commission or channelling the EU support through multilateral agencies. In the case of the Balkans, the Court of Auditors<sup>102</sup> specifically assessed that the agency mode

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<sup>100</sup> ... and also some capacity building activities and support to SMEs

<sup>101</sup> Due to the specific case of EAR (i.e. the agency has phased out), the table of tasks has not been set up for this agency.

<sup>102</sup> European Court of Auditors: Report concerning the financial accounts of the European Agency for reconstruction and the implementation of aid for Kosovo for the year



showed the best efficiency when compared to the 3 others, because of quality of devolved and indirectly centralised action.

Staffing needs were also very specific, and only the management officers would have been easily found in the Commission, whereas most other specialists had to be temporary. According to the former Director, the EAR deliberately set out to recruit staff with relevant specialist profiles - especially programme and task managers (local as well as international), using the flexibility afforded it as an Agency to, as far as possible, offer the "going rate" (i.e. pay and conditions). Work methods were atypical, making intensive use of NGO capabilities, UNO forces, etc., and of field work. It would have been difficult to focus on such activities for a Commission delegation, with heavy other types of burden (administrative,...)

The agency was closed on account of having fulfilled its tasks and thus suppressed the very needs which composed its rationale. This can be considered as the sound end of a success story. But interviewees mention that some Members of the Parliament recommended to continue the agency, for use in other post-crisis interventions (Palestine, Afghanistan...), while other Parliament members and Commission authorities preferred the closing option. The tasks of the agency were transferred to the Commission (EU delegations). The relevance of this decision was then based on the actual ability of delegations to take over the indispensable tasks (or on considering the remaining tasks manageable for a delegation in addition to its current activities).

Retrospectively speaking, an executive agency would probably have been more relevant in the context of the Balkans, but the legal provisions for such agencies were not available by these times.

### **6.3. Agency's input to the work of the EU institutions**

The reconstruction tasks were new and not transferred. For the subsequent missions in the field of institutional reforms support, the agency was probably acting as precursor of the Commission, when pre-accession aid and support to these countries entered in the Commission's scope.

The sharing of roles with the Commission appeared very clear. The Commission produced multi-annual plans for intervention in countries, drafting the "country strategy" that indicated the priorities for intervention and the objectives to be met. Interestingly, these guidance documents have been assessed as too general for proper direction of EU action by the Court of Auditors<sup>103</sup>, whereas EAR seemed to have found them sufficient and helpful. This could indicate that EAR could efficiently complement the general Commission vision with field specificity and technical sectoral relevance.

The Governing Board was chaired by the Commission's representative and the Commission had all final decision on resources. According to interviewees, Member States representatives in the board were, with a few exceptions, rather passive. Their presence was mostly a security procedure for avoiding major disagreements about the agency's action with MS prerogatives and priorities. This compelled the agency to find a consensus by preliminary consultation prior to board meetings.

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2000, accompanied by the replies of the Commission and of the European Agency for Reconstruction (2001/C 355/01)

<sup>103</sup> Court of Auditors report No 5/2007 on the Commission's Management of the CARDS programme together with the Commission's replies (pursuant to Article 248(4), second subparagraph, EC) (2007/C 285/01)

#### **6.4. Internal and External Coherence**

In addition to its parent DG (External Relations) the EAR was systematically consulting other relevant DGs, considering the political issue of the policy implemented. For instance, police in Skopje was an important issue, so the agency organised meetings with the Council and DG JLS. DG AGRI was also an important DG and a committee was created to work with the agency and to interact all the time (interviews). Links with CEDEFOP and the World Bank are also reported.

#### **6.5. Effectiveness in achieving outputs and customer satisfaction**

The first and the last reports of the Court of Auditors (2001 and 2007, respectively) stated that the EAR met its objectives. The first report stated that the "outstanding performance" of the EAR was due to its focusing on a limited number of priority areas. It also assessed that the very good rate of budget implementation had been accompanied by results in terms of lowering prices and supporting the local activities, thus helping the recovery of local economy, but also involving risks for the agency<sup>104</sup>. Moreover, creating the EAR was seen retrospectively as an efficient way to significantly improve the EU's action in this field<sup>105</sup>. Referring specially to the creation of EAR, it was stated that "Along with the KFOR troops, the EU's assistance helped normalize life in Kosovo"<sup>106</sup>.

However, the consistency of EAR's activities with its objectives has been questioned when it came to the shifting to institutional support. For instance, the Court of Auditors reports that EAR used the full amount of a border control reinforcement programme for "buying vehicles instead" (see reference above). The Court of Auditors' drafting, as well as interviews made, suggest that re-directing the action of an agency created for a specific purpose is not easily done and may lead to potential inefficiency.

In addition to the fulfilment of the reconstruction mission and mandate, the reports to the EU institutions have often been considered of high quality. For instance the Court of Auditors, in its report N°5/2007, recommends that the EC delegations use the EAR monitoring reports as a standard for delegation reports. Likewise, quarterly reporting has been praised for its quality.

Just after the establishment of the agency, the funds were spent at 80% a year, which was judged to be very satisfying considering the contextual constraints.

#### **6.6. Efficiency in managing resources and executing the budget**

By being de-centralised, the agency could avoid some of the drawbacks of the EU system, and especially some of its administrative burdens. Participants to the meetings were specifically delegated, with specific relevant objectives for the meeting or the task to fulfil.

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<sup>104</sup> ... in terms of sound management. European Court of Auditors: Report concerning the financial accounts of the European Agency for reconstruction and the implementation of aid for Kosovo for the year 2000, accompanied by the replies of the Commission and of the European Agency for Reconstruction (2001/C 355/01)

<sup>105</sup> "EAR actions in Kosovo immediately after the crisis met the ambitious objectives in the fields of basic services », Court of Auditors Report N°5/2007.

<sup>106</sup> Court of Auditors, *ibid.*

Efficiency was assessed<sup>107</sup> as satisfactory and resulting from:

- The implementation mechanisms. Field-based detailed identification of the specific type of assistance needed prior to any grant or aid provided;
- Competition obtained among materials providers through large framework contracts and tenders organised per type of materials, careful ex-ante selection of enterprises and implementation through a voucher system;
- Specific dimensioning of the aid granted by an ad-hoc committee in each village, with NATO and UN representatives, EAR, Village representatives and NGOs for monitoring. This reduced costs by helping focusing aid on priority needs (differentiation of urgency degrees, capabilities / dependence of victims).
- Well designed and consistent monitoring practices, as acknowledged by the Court of Auditors, who clearly recommends that the EAR methodology for project evaluation and monitoring be extended to the delegations.

However this efficiency might have been somehow at the expense of sound financial management. In the EAR discharge report of the Parliament in 2006, the questioning of the management methods and results is unambiguous, and it goes beyond, to questioning the use of agencies and their suitability to the needs of the population<sup>108</sup>.

## 6.7. Main findings

- The agency was established for a limited time period and its mandate was extended in time and coverage for a second period, before it was closed for having achieved its goals (see section 6.2).
- Guidance, resources and management were very much in the hands of the Commission. Retrospectively speaking an executive agency would probably have been more relevant in this context, but the legal provisions for such agencies were not available by these times (see section 6.3)
- Overall, the story is one of success in terms of performance in delivering highly specific services in the context of the EU external policy(see sections 6.5 and 6.6)

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<sup>107</sup> Court of Auditors, *ibid*, p9 and following

<sup>108</sup> REPORT on the discharge for the implementation of the budget of the European Agency for Reconstruction for the financial year 2005 (C6-0388/2006 – 2006/2155(DEC))

## 7. EASA

### 7.1. Introduction

The European Aviation Safety Agency became operational in 2003 on the basis of a European Parliament and Council Regulation (1592/2002) amended in 2008 (216/2008). The agency was created in 2002 and subsequently established in Köln. It has grown from 2 people in Brussels to more than 450 in 5 years. Its management board includes representatives of all Member States and one representative of the Commission. The agency is funded by fees (€55m in 2008), and by a EU subsidy (€30m).

This young agency benefited from the experience of numerous entities working in the same field at the national level in Europe and North America. Its competencies were essentially transferred from the Member States. This transfer came to force progressively.

Devoted first to certification and to harmonised rulemaking of aircraft airworthiness, the agency's remit was rapidly extended, to a comprehensive safety system. At present, it carries out three tasks:

1. Certification activities are divided in two different kinds: product certification activities and organization approvals. Product certification is the approval of all designs (aircraft, engines, propellers, parts and appliances) in the fields of airworthiness and environment limitations. To that purpose, the applicants must show the compliance of their design with a set of technical standards notified by the Agency. This process includes demonstrations, calculations, simulations, reviews and tests, performed at the bench, on the ground and in-flight. This process is monitored by the Agency, which may delegate some of the findings of compliance to the applicant, under his design organization approval, generally in the areas where the design is well proven. After initial certification, in-service events are used, in a joint process between the design approval holder and the Agency, to monitor the continuing airworthiness of the product. Under this process, the Agency may mandate corrective actions to restore the level of safety. Those are known as "airworthiness directives". The Community then proceeds with a EU-wide certification.
2. The Rulemaking process consists of drafting opinions on future safety legislation, via a consultation process involving all interested parties. It pertains to the different aviation domains for which EASA has competence: airworthiness, operations, flight crew licences, airports and air traffic management. The Opinions (and usually also proposals for Implementing Rules) are forwarded to the European Commission for Adoption after consultation of the relevant Committee, a process in which the Agency also acts as an advisor to the Commission.
3. Standardization consists of monitoring, on behalf of the EU Commission, the implementation of the EU safety legislation by National Aviation Authorities.

For the purpose of inter-agency comparisons, the evaluation team relates the above tasks to the following categories:

- Dealing with individual applications of firms as to ensure safety on the EU market<sup>109</sup> (task 1)
- Providing expert advice to policy-makers in EU as to support an evidence-based decision-making process (tasks 2 and 3)

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<sup>109</sup> In this respect, EASA compares with CPVO, ECHA, EMEA, and OHIM

<b>EASA</b>			
<b>Tasks</b>	<b>Task 1</b>	<b>Task 2</b>	<b>Task 3</b>
<b>Main objective</b>	<b>Certification</b>	<b>Rulemaking</b>	<b>Standardization</b>
<b>Budget</b> (% per year, 2008)	51, 17 (incl 35,5 certification, remaining: organization approvals)	12,3	7,4
<b>Dedicated staff</b> (FTE %, 2008)	33%	16%	
<b>Outputs</b>	Delivery of design approvals for aircraft, components or spare parts as well as design organizations and foreign organizations involved on the production or maintenance of aircraft	Drafting of pieces of legislation and issuing the related certification specifications and means of compliance (soft law)	Delivering standardisation report of visits to NAAs
<b>Addressees / Users</b>	Aircraft design companies and third country organisations involved in aircraft manufacturing or maintenance	EC (adopting legislation) as well as national aviation administration	EC, Member State Governments, EU National Aviation Authorities
<b>Results/ impacts</b>	EU-wide certification of components as a result of a single procedure, with extensive consultation. Single certification process for foreign organizations  Safety is enhanced and trade barriers are lowered	Harmonised legislation  Standards are harmonised throughout member States and leveled to highest  Aircraft design companies comply  Safety is enhanced and trade barriers are lowered	EU rules are implemented in a uniform and adequate manner throughout Europe  Safety is enhanced and trade barriers are lowered

The three tasks are closely linked, as rules are setting the technical standards to which certification assesses compliance of aircrafts and operating of aviation. However, the specific tasks are different in terms of processes, outputs and addressees.

EASA's certification role requires that the organisation implements highly technical assessment of industrial process and products.

One of its challenges is to pursue three objectives that may conflict one another: (1) providing service to aircraft companies however regulating their activities (at the same time the "clients" and the "target group"), (2) ensuring safety of European airplane users (final beneficiaries), and (3) ensuring a fair internal and international competition.

## **7.2. Rationale and relevance**

The agency came to birth at the same time as a major change in the EU aviation policy. Prior to this change, harmonisation of rules and safety standards was a result of a voluntary-based coordination of national aviation agencies' directors, with no enforcement strength. This approach left room for national interests (companies and organisations supporting national industry) to take advantage from national interpretation of the safety regulation system<sup>110</sup>. This was seen as an obstacle to collective efficiency and to the good functioning of the market. The Member States and the companies themselves demanded more strength and control.

For the same reasons, it was considered necessary to separate clearly, and then institutionally, the policy-making side of regulation from its technical side. This is why a EU agency was created.

Besides, there was a need to sustain European expertise and certification rules so as to enhance European capability to influence on standards and procedures, as a counterpart to US Federal Aviation Agency, especially in third countries (Brazil, Russia, India, China). There was also a need to avoid keeping the Airbus consortium in an unfair situation against its American competitors.

Adopting an inter-governmental organisation, based on a Convention, had long been considered and even prepared. It was rejected because of:

1. The need for credibility in front of the US aviation sector;
2. The need to appear more independent from specific Member State interests;
3. The political preference for a Community-based transfer of authority from Member States as opposed to an inter-governmental one;
4. The need for preventing unfair competition through self-binding institutions.

The choice of having the agency funded by fees (at least in part) was also discussed since the US system relies on subsidies, but it was decided to avoid bringing the EU tax-payer to subsidise private aviation companies' interests.

Interviewees inside and outside the agency tend to confirm the relevance of the policy objectives as well as the choice to establish an agency. Basically, harmonisation is seen as a common good from both the standpoints of safety and industrial interests. Technical specialisation appeared necessary for credibility vis-à-vis US stakeholders and national interests within the EU market. The agency's expertise allowed significant progress in drafting harmonised rules and standards, which gave ground to extension of the scope of its competencies.

Continued relevance is shown by general agreement from all stakeholders on the utility of a unique safety system, repeated calls to broaden the scope of the agency and the high satisfaction of the Board members. Whether this broadening is feasible as quickly as it is undergoing is a question of efficiency, but not of relevance.

## **7.3. Agency's input to the work of the EU institutions**

The agency's tasks were transferred from the Member States at a time when the Community was given new competencies. EASA prepares legislation proposals and the Commission initiates the legislative process. The drafting of

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<sup>110</sup> Several interviewees used the term "free-riding" for qualifying such a behaviour

the founding regulation has made tasks, objectives and scope very clear, leaving no ambiguity with respect to roles and objectives.

The survey of board members suggests that the European Commission is highly dependent on the agency's proposals. It is however said (external as well as internal interviewed) that, until recently, the Commission did not always consult the agency (and, through this, other stakeholders) before changing the regulations.

The management board is composed of one representative of the Commission and representatives of all Member States. National representatives usually represent the aviation authorities which had to transfer a part of their competencies and activities to EASA. National agencies still have important certification activities, sometimes on behalf of the agency and always under its control through standardisation inspections. In fact, many certification activities are left to some Member States, acting then as externalised sources of expertise and testing. National board members may therefore be in the position of administrators, partners, contractors, regulated bodies, and competitors at a time.

External (Member States, industry) as well as internal (agency) interviewees point out that the Commission, though having just one voice and respecting the administrative procedure, exerts a considerable power through its role in the budget process (see 7.6).

#### **7.4. Internal and External Coherence**

The founding regulation specifies very clearly the agency's tasks and mission. There is very little room for incoherence with regards to the agency's mandate.

In one specific instance, there has been a diversion from the mandate when EASA participated in company blacklisting. This participation is in line with the agency's regulation (notably in that it provides advice and expertise). But it is not included in its current missions and backed with corresponding devoted resources. In this instance, the Commission has requested and obtained co-operation and work on an issue which was not in the agency's remit. More generally, there is an issue here on how growing participation of EASA to general air transportation safety would stay in line with its mandate and resources.

#### **7.5. Effectiveness in achieving outputs and customer satisfaction**

As regards certification task the agencies' stakeholders are the aviation industries and the national authorities. The agency is starting to monitor their satisfaction at the time of this evaluation.

The quality of aircraft certification is assessed very positively by all interviewees. However, outputs are considered quantitatively insufficient so far as regards *continued airworthiness certification*<sup>111</sup> (CAW) and harmonisation of certification tasks..

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<sup>111</sup> Certification of aircraft during its exploitation by continuous checking, and new certification when a modification of the aircraft occurs.

The quality of “service” to the small and medium enterprises (SME) is said to be lower than to large companies, though in progress<sup>112</sup>. On the one hand, SMEs have to comply with a system suited to large, complex and long-term programmes. This probably produces additional administrative burden when compared to the previous system. On the other hand, the possibility to deal with one single agency adds much value in comparison with the need to obtain multiple national certificates. As opposed to large companies having their own expertise, SMEs need support and advice from the agency. The agency puts forward increasing its dedication to this task.

The ultimate intended impact of the agency is that safety related decisions are independent from private companies’ interest and from national political pressures. The corresponding achievements are uneven:

- Some interviewed stakeholders point out a possible technical dependence of the agency towards the industry, and a strong role of the latter in specification and advice. On the contrary, interviewees inside the agency stress that care is taken to balance influence and to deal with applicants and issues on equal terms. To back this statement, they highlight that: (1) it refused to locate an EASA team in Toulouse, close to Airbus’ headquarters, as required by the latter for efficiency reasons and symmetry with US Federal Aviation Agency (claim confirmed by industry for efficiency reasons); (2) it organises an internal turnover of experts and a hierarchical cross-checking of their activities.
- Independence from political pressure is symmetrically questioned by interviewed stakeholders, considering that the agency relies partially on national resources for implementing its assessments and that national agencies may not be free of political pressures, e.g. in some new Member States (see below specific paragraph). Agency interviewees state that the on-going recruitment programme will reduce the need to rely on national expertise and resources, which will strengthen the independence.

Basically, for the industry, outputs of EASA’s activities is avoiding the tedious task of convincing all member States to adopt the certificate, and not to raise specific national provisions causing trade barriers and additional costs. For example, it happened previously that a National Aviation Authority (NAA) denied agreement on interior configuration of an aircraft, although it had been certified by the Joint Authorities Arrangements. For the industry, this alone would be a sufficient argument for general satisfaction with EASA, even if questions and doubts remain in some areas. Moreover EASA is a young agency and stakeholders tend to be optimistic about its long term success.

#### **7.6. Efficiency in managing resources and executing the budget**

The recent agency evaluation (2008) states that the creation of the agency has not yet entailed an overall cost reduction in the European aviation safety system as a whole.

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<sup>112</sup> It was not possible to interview a representative from SME due to difficulties to get an appointment. Material here is based on other interviews, mostly from inside the agency.



*Influence of the setting up of the agency*

The recent agency evaluation (2008) concludes that the size of the board makes effective and efficient governance difficult, and that the governance systems focuses too much on formal work at the expense of strategic issues.

*Budgetary issues*

Despite a rapid growth, the agency has had a satisfactory rate of budget execution.

The management of resources appears difficult due to double decision-making: decision and orientations taken by the management board (generally following an advice of the parent DG), and, later on, budget and staff cut-downs occurring through the budgetary process, with no possible consultation or negotiation, and little consistency with board's choices. Multi-annual programming, business-planning and strategy design are then complicated.

The amount of resource is another difficult subject. All interviewees - including the board members but except the Commission - consider that the EU subsidy is insufficient, when compared to the tasks which are not to be invoiced, and which are both partly unfulfilled and expanding.

*Financial and human resource management*

Some interviewees mention difficulties to comply with the Staff Regulation (although not affecting efficiency in a significant way), and instances of excessive unit fees and inefficient use of certification teams.

The recent agency evaluation (2008) assesses that financial and staffing rules are clearly a heavy burden to the work of the Agency, amounting in some respects (e.g. in the labour market) to a competitive disadvantage. This statement is however assessed as over-pessimistic by some interviewees in the agency.

*Oversight activities*

*Evaluation:* The agency is submitted to an external evaluation every five years. The first one occurred in 2008.

*Audit:* EASA has an internal audit capacity. In 2008, the agency carried out an overall evaluation and, as most EU agencies, it had three audit visits (two from the European Court of Auditors and one from the Commission's Internal Audit Service). It has also a technical audit visit by the International Civil Aviation Organization. In line with several interviewees, the evaluation team assesses that these oversight activities are both particularly heavy and potentially unbalanced: administrative issues and processes being overemphasised in comparison with performance.

### **7.7. Main findings**

- General agreement on both (1) the high relevance of a European safety regulation and certification system, and (2) the justification of a EU agency in this context (see 7.2)
- Potentially, Member State representatives in the board have a number of conflicts of interests (see 7.3)
- Independence towards industrial interests is both questioned by some stakeholders and carefully managed by the agency (see 7.5)
- The current phase of fast-growing staff and activities has induced difficulties in terms of adjusting the agency's budget, its work programme, and its management (see 7.6).
- Oversight activities are both particularly heavy and potentially unbalanced: administrative issues and processes being overemphasised in comparison with performance (see 7.6).

## 8. ECDC

### 8.1. Introduction

ECDC is the European Centre for Disease Prevention and Control. Its main objective is to identify, assess, and communicate regarding current and emerging threats to human health from communicable diseases. To this purpose, it provides scientific services and advice to the European Commission, the Member States and the European Parliament, with the aim of facilitating access to knowledge, improving the understanding of the risks factors and determinants, enhancing methods and forecasting, supporting the answers to threats.

The Agency was established in 2005 in Stockholm after Europe faced the SARS Coronavirus crisis (2002-2003)<sup>113</sup>. ECDC was an answer to the weakness of Europe's protection against communicable diseases, the lack of coordination capacities and scientific expertise at EU level, which the crisis revealed.

Four years after its creation, the agency is still in a growing phase. The total number of contract staff and temporary agents working at ECDC at the end of 2008 was 154. The executed 2008 budget of ECDC amounted to EUR 41 million and the 2009 appropriations EUR 51 million.

ECDC has three main tasks: (1) Surveillance, (2) Scientific support, and (3) Preparedness and response. A fourth task, which is not displayed in the table below<sup>114</sup>, consists of Communication to the wider public. The resources allocated to the core functions are balanced and reflects their equal importance and high complementarity.

The logic of the three main tasks is understood as respectively:

- Collecting and disseminating harmonised information to policy-makers in EU & MS to support an evidence-based making of their Health policies<sup>115</sup>;
- Providing expert advice to policy-makers in EU & MS to support an evidence-based making of their responses to health threats<sup>116</sup>
- Contribution to the soft coordination of Member States policies to better achieve the objectives of the EU health policy<sup>117</sup>

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<sup>113</sup> Regulation (EC) no 851/2004 of the European Parliament and of the Council of 21 April 2004 establishing a European Centre for Disease Prevention and Control

<sup>114</sup> The evaluation team has chosen to limit the presentation set in the table to the agency's three main tasks. It should be noted that activities also include training, communication (not limited to communication to the general public), and country relations, cf. Also the "logic of the three main tasks" mentioned below.

<sup>115</sup> This logic can be compared to that of EMCDDA (main task) or EFSA and EU-OSHA (second main tasks)

<sup>116</sup> Same logic as that of EFSA (main task) or ECHA and EMEA (second main task)

<sup>117</sup> Agencies such as CFCA, EMSA, EUROPOL, and FRONTEX also have similar secondary tasks

<b>ECDC</b>			
<b>Tasks</b>	<b>Task 1</b>	<b>Task 2</b>	<b>Task 3</b>
Main objective	<b>Surveillance of Communicable diseases</b> Develop and run an effective European-level surveillance system of communicable diseases	<b>Scientific Support</b> Provide authoritative expert advice and scientific opinions and studies on communicable diseases	<b>Preparedness and Response</b> Develop procedures and capacities for identifying emerging health threats, monitors and detect threats of EU scope, support emergency operations
Budget <sup>118</sup> (% per year, 2008)	13%	10%	12%
Dedicated staff <sup>119</sup> (FTE %, 2008)	18%	17%	17%
Outputs	Databases (e.g. European Surveillance System); Data assessment and dissemination	Technical reports, guidance (e.g. question from the Parliament on HIV prevalence); European centre for knowledge on communicable diseases	Monitoring threats (e.g. Joint risk assessment of H1N1); Preparedness visits and reports, guidance; Simulation exercises; Training
Addressees / Users	European institutions; Competent bodies in the MS, the Research community	Policy makers (DG SANCO, European Parliament, MS, National agencies)	Member States, European Commission, 3 <sup>rd</sup> countries
Results/ impacts	Better understanding of risks factors and determinants Earlier detection and warning of threats	Easier access to knowledge (EU, worldwide) Strengthened public health research and scientific knowledge	Earlier detection and warning of threats Coordinated and more effective answers

These core functions of ECDC are clearly defined in the founding regulation. From the very beginning of its activities, the internal organisation of the Centre was developed along these core functions, in order to ensure full coherence with the objectives, and not according to diseases – as is usually the case in national agencies.

However, while the functions and organisation fully reflects the mandate and the objectives of the agency, the budget structure, as presented in the annual report, is not activity based. This hinders the analysis of the budget according to functions fulfilled and objectives pursued. It should be noted that from

<sup>118</sup> Figures provided by ECDC. It should be mentioned that all operational IT developments and meeting costs are not included in these figures, which consequently do not provide the full picture. The remaining 65% concern the other staff (communication, administration), buildings, equipment and miscellaneous operating expenditure (15%), other operations (ICT support, meetings). Since activity-based budgeting is not fully applied, more precise figures could not be obtained.

<sup>119</sup> The remaining 48% refer to administrative staff (29%), communication staff and other

from 2010 onwards, ECDC work programmes will be structured around disease-specific programmes.

## 8.2. Rationale and relevance

Since 1998, the European Commission has been responsible for implementing the Community network for the epidemiological surveillance and control of communicable diseases<sup>120</sup>. This network was set up to promote cooperation and coordination between the Member States, with the assistance of the Commission, with a view to improving the prevention and control of communicable diseases<sup>121</sup>.

Not in a position to develop internal capacities, the Commission first relied on consultation committees, networks and projects funded by DG SANCO, in order to fulfil its obligation. This approach, however, had weaknesses, as stated by both the Commission and ECDC:

- a lack of continuity and sustainability: the surveillance networks and training projects had to reapply every three years with the obligation to renew their approach and go through the whole selection process
- a lack of consistency: The Commission could not closely monitor all the networks, which jeopardized the quality and comparability of data
- a lack of reactivity: The set-up was not the most appropriate to deal with urgent requests

The weaknesses of the system became obvious during the SARS Coronavirus crisis in 2002-2003. Despite efforts by the Commission to coordinate responses to the threat at EU level, to collect and analyse evidence with the support of the MS - and with no clear mandate to do it - it was clear that coordination capacities and scientific expertise at EU level were weak.

The Agency is still a young organisation and the reasons for its set up are still valid and adequate to the needs, according to the Commission. However, interviews with stakeholders have shown that expectations can differ between MSs: smaller or newer MSs, with weaker capacities, fully acknowledge the importance of the support provided to them by ECDC and tend to ask for a larger range of services.

According to the Agency, there are additional needs which are not covered, for instance radiological, chemical and nuclear threats (ECDC has no mandate to deal with the Lukashenko case for instance)

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It was agreed with the Commission, the MSs and the ECDC Management Board that ECDC should focus on the pre-existing list of diseases set by the Commission Decision on the communicable diseases to be covered by the Community network<sup>122</sup>. As for ECDC's capacities, a strategy for reinforced cooperation with Microbiological Laboratories is under development<sup>123</sup>.

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<sup>120</sup> Decision No 2119/98/EC of the European Parliament and of the Council of 24 September 1998 setting up a network for the epidemiological surveillance and control of communicable diseases in the Community

<sup>121</sup> Commission Decision No 2000/57/EC on the early warning and response system for the prevention and control of communicable diseases under Decision No 2119/98/EC of the European Parliament and of the Council, sets the implementation rules of the EWRS

<sup>122</sup> Commission Decision No 2000/96/EC on the communicable diseases to be progressively covered by the Community network under Decision No 2119/98/EC of the European Parliament and of the Council. It should however be mentioned that the man-

### 8.3. Agency's input to the work of the EU institutions

According to interviewees from the agency and the Commission, a number of activities were transferred from the Commission (DG SANCO) to ECDC:

- Coordination and monitoring of the surveillance networks: the 17 existing networks, funded and coordinated by the EC, were evaluated and 8 transferred to ECDC and integrated into a single integrated surveillance system. Sustainability and standardisation were the main objectives of this integration.
- European training programme: Before ECDC was set up, the only possibility to develop training schemes with a common European approach, was to run 2-3 year projects.
- Scientific advice: The Commission used to provide advice to the MS but there was a lack of capacities and resources. ECDC relies on in-house experts, established specialised networks, as well as resources from the Member States
- Operating the Early Warning and Response System (EWRS) on behalf of the European Commission: ECDC is now responsible for receiving, analysing, disseminating and motoring information received from the MSs

Despite this origin of tasks, interviews with the Commission and ECDC show that both parties as well as the members of the advisory forum have a common understanding of the division of work: ECDC is responsible for risk assessment while the Commission is responsible for risk management. The picture may be slightly more complex than this, but according to the Agency, it is very careful not to overstep its advisory role. In turn, both the Commission and ECDC staff agree that cooperation between ECDC and the Commission is functioning very well and that mutual trust can be observed. This leads to constructive and fruitful cooperation. The joint presentation to the Health Council of the 2008 action plan to better control – and ultimately eliminate – Tuberculosis is an illustration of this<sup>124</sup>.

The European Commission does not have the capacities to carry out the background scientific work in the field of communicable diseases and thus relies on ECDC's inputs in that regard. The Commission has different channels to influence ECDC's agenda: the annual and multiannual work programmes are discussed with the Commission before being formally adopted by the Management Board; the Commission can also submit a request for advice to ECDC.

Human health policy remains a national competency. The role of the Commission is to take initiatives to facilitate the coordination of national policies. ECDC supports the Commission by providing scientific background and assessing policy options. ECDC outputs should remain scientific, as stated by the Commission. Interviewees from the Commission, ECDC staff, but also the

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date is not limited to the list of communicable diseases identified in Decision 2000/96. The Founding regulation refers to current and emerging threats to human health from communicable diseases but illnesses of unknown origin which may spread within or to the Community are also in the scope of ECDC's mandate until the source of the outbreak is known.

<sup>123</sup> General Strategy and Framework of Actions (2007-2013) for ECDC Cooperations with Microbiology Laboratories and Research Institutes in the EU, ECDC Management Board, Eleventh Meeting, Stockholm, 13-14 December 2007, Agenda Item 8, MB11/11, 27 November 2007

<sup>124</sup> This plan was developed upon request from Commissioner Andros Kyprianou

members of the advisory forum, are all reluctant to talk about “recommendations” or even “guidelines”. The term guidance is preferred, as discussed during a Management Board Working Group and summarized at the MB12 meeting<sup>125</sup>. ECDC has fully endorsed this stance.

One example of ECDC’s contribution to the Commission’s policy-making activities is the Agency’s input to the Communication and proposal for a Council recommendation on patient safety. Another example is the contribution to the Commission’s proposal for a Council recommendation on “Cross border aspects of childhood immunisation”. Through the EWRS, the surveillance system and its epidemic intelligence activities, ECDC also supports the Commission in its monitoring of the implementation of the Decision No 2119/98/EC setting up a network for the epidemiological surveillance and control of communicable diseases in the Community. These examples were mentioned by both ECDC and the European Commission, who agreed on the fact that these are major ECDC achievements.

To a smaller extent, ECDC also provides services directly to the European Parliament. For instance, as mentioned by ECDC, it recently answered a question from the Parliament on HIV prevalence.

The agency provides added value through its capacity to provide comparative cross-cutting analysis. ECDC now has integrated networks of competent bodies represented in all countries, which enables the centre to work on the quality and comparability issue of data, as explained by interviewees from ECDC’s surveillance unit. Collected data feeds into ECDC’s database. This enables ECDC to publish ad hoc studies, such as the annual epidemiological report, which the Commission sees as a primary tool offering an overview and helping to define EU priorities.

#### **8.4. Internal and External Coherence**

##### *Internal coherence*

All interviewees agree to say that the activities carried out by ECDC are fully in line with the mandate. The founding regulation was the starting point for defining functions and developing the organisational set up and activities of ECDC. In addition to the directors’ cabinet and the administrative service unit, core organisational units include the Scientific Advice Unit, the Surveillance Unit, the Preparedness and Response Unit and the Health Communication Unit.

Since 2005, the Agency has developed technical capacities with multidisciplinary staff, aiming to ensure its ability to fulfil its mandate. ECDC is now moving towards strengthening its internal scientific capacities. Horizontal disease related programmes are in place, cutting across functions. These programmes are operational, but still being developed (according to the agency, their operations and resources will grow). ECDC now seeks to move towards an organisation more similar to national agencies, i.e. organised along with diseases instead of health functions.

The strategic multiannual programme (SMP) is developed in cooperation with the Commission, based on ECDC’s mandate. The annual WP follows the same route. The 2008 EC Communication SEC(2008) 741 sets outputs indicators, which was hardly referred to by ECDC and the Commission during the interviews, although this is the only document where a volume (number) of

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<sup>125</sup> The ECDC process to deliver evidence-based scientific advice, ECDC Advisory Forum Fifteenth Meeting, Stockholm, 9-10 October 2008, Agenda Item 6, AF15/8, 25 September 2008

outputs is indicated. According to ECDC, the Communication is an important document developed jointly by ECDC and the Commission and submitted to the budgetary authority, which gives an overview of the main achievements and its plans of future development in the frame of the SMP 2007-2013. It does not set annual targets for outputs as such, but includes workload indicators to “justify” the staff increase. The targets it includes are those of the SMP which is used as reference by ECDC. It should be noted that the SMP 2007-2013 was developed before the Communication and thus, the targeted figures are not explicitly mentioned in the SMP.

#### *External coherence*

In general, the activities of ECDC are well coordinated with those of other agencies working in the same policy area. This tends to be confirmed by the results of the survey to the members of the Management Board (MB)<sup>126</sup>, despite the fact that ECDC operates in a rather complex environment.

According to ECDC, a strong partnership is needed with EFSA (European Food Safety Authority), since there is a high degree of complementarity between the two agencies. In zoonosis, especially, overlapping has to be avoided and complementarity ensured. In principle, as clarified by ECDC staff, the dividing line runs between animal health (EFSA) and human health (ECDC). A MoU is signed and all interviewees from ECDC agree that the two agencies have set up an effective cooperation<sup>127</sup>.

There is complementarity between EEA (European Environment Agency) and ECDC, since EEA can contribute to better understand environmental factors of virus development. ECDC interviewees mentioned the fact that EEA has developed a database, which is complementary to ECDC’s. So far, EEA has not been willing to sign a MoU.

ECDC has an MoU with EMCDDA (European Monitoring Centre for Drugs and Drug Addiction) and the two agencies collaborate and exchange information in particular on data collection activities. Interviewees from ECDC mentioned that they were careful to avoid any overlapping with EMCDDA on transmitted diseases from drug users.

Both ECDC and EMEA (European Medicines Agency) are entitled to work on issues related to medical treatments. Overlapping is however avoided, according to ECDC, since EMEA deals with products that have received an EU marketing authorisation, while ECDC deals with non licensed products. ECDC staff stress the fact that cooperation is in place between the two agencies, mentioning the example of HPV vaccines: while ECDC set up a panel of experts to provide guidance for the introduction of HPV vaccines in EU

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<sup>126</sup> Due to lack of willingness to repeat the survey carried out as part of the 2008 external evaluation of ECDC, only 6 members (19%) of the Management Board have answered to the questionnaire. Survey results are therefore used carefully and only in general terms.

<sup>127</sup> Main lines of cooperation between EFSA and ECDC are:

- ECDC collects all data on viruses, in order to avoid duplication (previously, the MSs were reporting to both agencies). EFSA does not want to establish a database, while ECDC has developed its own.
- EFSA and ECDC conduct joint analysis of data and share results: both points of view are important to fight diseases.
- In the EFSA’s annual “Community Summary Report on Trends and Sources of Zoonoses and Zoonotic Agents” (EFSA has a mandate under the EU Directive on Zoonoses), ECDC writes the chapter dealing specifically with human health



countries<sup>128</sup>; , EMEA offered its support and provided information on authorized vaccines to this panel.

As regards other key operators in the field, the World Health Organisation (WHO) is one of the most important public health partners of ECDC. The two organisations are rooted in different backgrounds - WHO is an intergovernmental body whose field of responsibilities, as set in the International Health Regulation, goes beyond communicable diseases - but both organizations carry out similar activities. Therefore, coordination is very important, and the ECDC's founding regulation itself requires the Centre to coordinate with WHO. In order to ease cooperation, a MoU was signed in with WHO Europe in 2005 and WHO maintains a liaison officer at ECDC. The ECDC and WHO collaborate at the operational level to maximize benefits<sup>129</sup> whilst avoiding duplication and extra burdens on Member States. In order to avoid duplication, ECDC and WHO are harmonizing reporting requests and coordinating networks of contact points in the MSs. This can sometimes lead to complications, such as the discussion which occurred during the Pandemic (H1N1) 2009 crisis on the issue of double reporting for the EU and WHO Member States<sup>130</sup>.

Interviews with ECDC and WHO show that both organisations cooperate all the more closely when it comes to international activities. ECDC answers to WHO requests when a situation in a 3rd country represents a threat for the EU. ECDC is also a "one stop shop" for WHO when European staff and expertise is needed. ECDC and WHO organize joint missions, for instance to EU neighbouring countries.

ECDC has a MoU with agencies in 3<sup>rd</sup> countries, such as in the US, Canada and China.

In order to ensure complementarity, and ECDC works closely with DG SANCO. Work Programmes are developed in close cooperation with the Commission, and priorities are also discussed in the annual technical coordination meetings. There are regular contacts between ECDC and the EC (monthly video conference meeting with the Health threats Unit/C3 in DG SANCO). Finally, interviewees agree that ECDC shows responsiveness and supports the Commission's initiatives (Childhood vaccination, Tuberculosis, Cancer Vaccine, Seasons Vaccines etc.).

ECDC defines its priorities together with the advisory forum, but the EU institutions can interact and participate to the identification of the Centre's

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<sup>128</sup> Guidance for the Introduction of HPV Vaccines in EU Countries, Stockholm, January 2008

<sup>129</sup> Examples of cooperation include:

- Surveillance: Joint HIV and TB surveillance; Integration of databases...
- Preparedness and responses: joint response to outbreaks (e.g. Chikungunya in Italy), the fourth EU/WHO/ECDC Pandemic Preparedness meeting in Luxembourg and support for the WHO European Ministerial Conference on Tuberculosis in Berlin other joint technical activities such as case definitions, TB (inc collaboration on the WHO and EU Action Plans), HIV, VPD, EI (EWRS and GOARN), measles, AI, Pandemic Preparedness, IHR, AMR, risk communication, training modules and laboratories...

<sup>130</sup> The division of work with WHO was one of the difficulties encountered during the H1N1 crisis in 2009. Indeed, it was important to avoid duplication of work for the MSs who has to notify cases to ECDC (under the Decision No 2119/98/EC) and WHO (under the International Health Regulation). After some discussions on how to preserve the direct link between WHO and its members, it was agreed that WHO should have access to the EWRS (secured Early Warning Response System) and would then be directly notified of cases through the same channel as used within the EU.

priorities. For instance, zoonosis is a priority defined by a Directive of the Council and the Parliament.

In the beginning of ECDC's activities, coherence was more difficult to achieve. For instance DG SANCO and DG RTD would frequently launch a call without informing ECDC. ECDC is nowadays systematically consulted. With regard to relations with DG RTD, interviews with Commission's staff showed that, despite initial reluctance and doubts about ECDC's relevance, the Agency has demonstrated its added value and good relationships and cooperation are now in place. The ECDC Director is a member of the DG Research Advisory Board in her personal capacity.

ECDC works as appropriate with other DGs in the Commission, DG SANCO being the entry point. Since 2008, ECDC has received a grant from DG Enlargement in order to include candidate (and as from 2009 also potential candidate) countries into its activities. However, cooperation with EC delegations during country visits in 3rd countries could be further improved, according to ECDC.

## **8.5. Effectiveness in achieving outputs and customer satisfaction**

### *Achievement of planned outputs and services*

The staffs interviewed at ECDC acknowledge that objectives set in previous work programmes during the first two years (2005-2007) were not specific enough and too ambitious. In an attempt to define more achievable and measurable objectives, the Commission developed a series of indicators which were listed in the 2008 EC Communication SEC(2008) 2792, which however is not used explicitly in the strategic multiannual programme 2007-2013. The multiannual work programme defines more precise objectives compared to the previous ones but, in the evaluator's assessment, more needs to be done in terms of setting measurable targets and monitoring their achievement.

According to the 2008 evaluation, "the ECDC is an independent centre of scientific excellence and has made a significant contribution to fighting against communicable diseases"<sup>131</sup>. Our own investigation among the stakeholders confirms that ECDC has performed well with regard to its objectives: All praise the work and results achieved, including the Commission. Highly positive results from the survey to the members of the MB further support this assessment<sup>132</sup>.

The 2005-2007 main objective was actually to set up a fully operational agency, and this has been achieved. Major achievements include:

- Surveillance: All 17 existing surveillance networks funded by the Commission have been evaluated and 8 transferred to ECDC based on the results of this evaluation and the capacity of ECDC to take on the work. The other networks will be integrated progressively in the future. The European Surveillance System (TESSy database) now covers all diseases with a basic data set but is not yet available online. The need to better involve laboratories in the EU-wide surveillance system was identified and a strategy for reinforced cooperation with Microbiological Laboratories has been developed<sup>133</sup>.

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<sup>131</sup> External evaluation of the ECDC, 15 August 2008 : Conclusion 6

<sup>132</sup> With the reservations previously expressed regarding the low response rate to the survey.

<sup>133</sup> General Strategy and Framework of Actions (2007-2013) for ECDC Cooperation with Microbiology Laboratories and Research Institutes in the EU, ECDC Management Board,

- Scientific support: ECDC issues technical reports (about 10/year), guidance (about 1/week) and news/updates with critical findings (several/week)<sup>134</sup>. These outputs are praised for their high quality by the Commission and the members of the advisory forum, and ECDC is identified as a centre of expertise, which assembles the best expertise and knowledge available in Europe and beyond. However, according to ECDC itself, the MS do not systematically “think ECDC”. In order to answer requests, ECDC reacts on a case by case basis to mobilize in-house or external resources, and one of the strengths of the agency is, according to all interviewees, its ability to rapidly mobilize expertise through its networks. The need to better equip ECDC with analysis capacities has been identified by members of the advisory forum: the only criticism which was formulated on ECDC’s work by the MS representatives was the fact that more thorough analysis may sometimes be needed. A lack of virology background and the weakness of the laboratory networks may be an explanation for this. This issue has already been identified by ECDC and the strategy for reinforced cooperation with Microbiological Laboratories is part of the answer.
- Preparedness and response: ECDC has now fully taken over from the Commission with regard to the organisation of trainings: 15 sessions of short courses on outbreak investigation have been organised since establishment of ECDC. The Early warning and response system (EWRS) and Emergency Operations Centre (EOC) are now fully operated by ECDC. The Agency has proved its effectiveness during the H1N1 crisis: the monitoring of the threat by ECDC was praised by all interviewees, especially the MS (members of the advisory forum), as being highly supportive.
- Communication: 1) Web-site and web-sources: the web portal is now fully operational but there is a need to improve access to databases through the web, since TESSy is not online yet. 2) Scientific communication: the ECDC’s journal (Eurosurveillance) is deemed by ECDC itself to be the most important peer reviewed scientific journal on communicable diseases. Yet, interviewees from ECDC acknowledge that there is a need to push more the information to its targets: medical libraries, competent bodies, key professionals (need to build a diffusion list). Translation is still an issue; ECDC is working on building capacities to translate, but this is a challenge due to quality control requirements. Therefore, the process of having reports translated into different languages has been delayed. So far, 13 contracts were signed with NCPs for quality control of translation and dissemination services. 3) Communication with the media and the public: ECDC shares the work with the Commission. The European antibiotic awareness day was deemed to be a success story by ECDC.

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Eleventh Meeting, Stockholm, 13-14 December 2007, Agenda Item 8, MB11/11, 27 November 2007

<sup>134</sup> *Technical reports* present the outcome of ECDC’s scientific panels, consultation groups and working groups. Authored or co-ordinated by ECDC’s scientists, the reports provide evidence-based answers to scientific, public health and operational questions, including risk assessments. *Guidance* are issued on specific request from Member States or the European Commission. ECDC convenes scientific panels to provide guidance for policymakers in the area of public health. These panels analyse the available evidence on a particular question in order to help EU MSs to make policy choices. They highlight the issues that need to be considered and provide a list of policy options for each of these.

#### *Users' satisfaction and benefits for users*

ECDC has had informal positive feedback from the MS and the Advisory Forum. Interviews with members of the advisory forum and the results from the MB survey confirm this.

No satisfaction measurement has been conducted so far. ECDC has focused more on surveying the needs of users and beneficiaries in order to adapt its products and services (ex: for the European antibiotic awareness day, a survey was sent to the MS to better prepare the event).

The Scientific Support Unit is currently developing a quality management system to look at processes and satisfaction.

### **8.6. Efficiency in managing resources and executing the budget**

#### *Budgetary issues*

97% of the 2008 authorized budget was committed.

The agency is financed mainly through an EC subsidy (98%)<sup>135</sup>. The Agency is still in a growing phase and its budget has been increasing over the years, from EUR 16.9 million in 2006 to EUR 50.7 million in 2009.

#### *Management of resources*

The annual programme is developed in accordance with the available budget. The budget is allocated per unit and then per unit activities. Thus, each unit has an earmarked budget but the budget structure, as presented in the annual report, is not fully activity based. This hinders the analysis of the budget according to functions fulfilled and objectives pursued. ECDC has been recently moving towards activity based budgeting. Survey results indicate that the members of the Management Board assess ECDC's procedures for financial management very positively.

Horizontal disease specific programmes, cutting across the functional units, have no specific budget line. They are part of the units' budgets. A programme coordinator is nominated, and staff members are appointed in each unit; the coordinator works 80% on this task.

The 2008 independent evaluation highlighted the need to improve efficiency by establishing more coordination and interaction between the functional units and horizontal disease specific programmes<sup>136</sup>. As an answer to the increasing need for more disease related management of resources, ECDC has initiated in 2009 an internal review of the current structure and practical options for the next few years. As a result, changes in structure – and the balance between public health and disease-specific functions – are foreseen in 2010. Thus, the matrix structure of ECDC continues to evolve and the "centre of gravity" is progressively changing from the current public health functions towards disease-specific programmes.

ECDC is also seeking improvement in its management and project management capacities, as progress margin was identified by the 2008 external evaluation<sup>137</sup>. A comprehensive Management Information System is under im-

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<sup>135</sup> Other sources of revenue are EEA countries contributions and ECDC internal revenues from publications, etc

<sup>136</sup> External evaluation of the ECDC, 15 August 2008 : Conclusion 9

<sup>137</sup> External evaluation of the ECDC, 15 August 2008 : Conclusion 8

plementation, and programme and budget management trainings for senior staff are foreseen<sup>138</sup>.

Due to the specificities of its activities, ECDC maintains flexible management, which proves to be a success factor for timely response to requests and urgent needs:

- ECDC's standard operating procedures are defined in the "internal procedure on handling requests for scientific advice"<sup>139</sup>; it sets operating rules but remains flexible, which is seen by ECDC as an asset to facilitate responsiveness<sup>140</sup>.
- In order to better respond to urgent issues, ECDC has developed and regularly updates a "public health event operation plan"<sup>141</sup> and, according to both ECDC and Commission sources, ECDC uses to reallocate some of its resources and tasks in line with changing priorities (within the margins of manoeuvre provided by the financial regulation).

The agency does not pay fees to external experts participating in panels (they receive a mission reimbursement only) and this has not been an obstacle so far. However, according to survey results, members of the Management Board consider that shortage in human resources can to some extent hamper the work of the agency.

#### *Cost effectiveness*

It is the assessment of the evaluator that ECDC offers good value for money, which adds to the justification of setting up an agency. Two striking facts can be mentioned to support this assessment:

- *On surveillance:* Before their integration to ECDC, the total costs for operating the 17 specific networks (through projects funded by DG SANCO) amounted to about EUR 8.5 million per year (EC contribution = EUR 4.2 million). This has to be compared to the budget of the Surveillance unit, 5.2 Mo EUR in 2008, including the costs pertaining to the management of the 8 networks integrated to ECDC. The total eligible costs of the 8 remaining networks operating under ECDC contracts amounted to about EUR 2.5 million (ECDC contribution = 2 Mo EUR) in 2009. In a nutshell, the operating costs of all the specific networks previously managed through project funding by the EC are higher than the current budget of the Surveillance unit plus the costs for operating the remaining decentralised networks. In addition to this, according to interviews with the ECDC surveillance unit, the direct management of these networks by ECDC ensures sustainability, continuity, uniformity and potentially comparability of data (through

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<sup>138</sup> ECDC's response to the External Evaluation of the Centre, MB14/12, 3 November 2008

<sup>139</sup> Internal Procedure (Work Instruction) on Handling Requests for Scientific Advice at the European Centre for Disease Prevention and Control, ECDC/SAU/001, 05.01.2009

<sup>140</sup> ECDC's regulation stipulates that "the Centre shall issue scientific opinions within a mutually agreed time frame". This time frame is not specified (except for Rapid advice on Commission/EP request, where the result is needed within 48 hours, but this is an internal procedure, which only a few people seem to be aware of) and ECDC is generally in a position to set the deadline together with the requesting party, based on the urgency of the issue, the scope of the request, the availability of in-house expertise etc. So the time needed is defined on a case by case basis by the person responsible for answering to the request.

<sup>141</sup> ECDC Public Health Event Operation Plan, Version 3, Version date: 25/02/08

case definition, standards, quality insurance etc.). Therefore, the running of the networks by ECDC may be assessed as more efficient than the previous set-up.

- *On scientific advice:* In order to produce credible scientific advice, ECDC relies on internal but also, and quite extensively, on external expertise. It is the view of the evaluator that one of ECDC's strengths lies in its ability to maintain permanent cooperation with a large number of networks, the expertise of which is mobilized more or less formally. This includes personal contacts with ECDC staff, networks of competent bodies, MoUs with neighbouring organisations, the Advisory Forum and contacts with the national agencies, experts' database etc. All this expertise does not cost more than the actual operating costs of ECDC. As mentioned above, the external experts participating to working groups and panels work on a voluntary basis (they are unpaid).

## 8.7. Main findings

- An agency fully relevant to needs; the alternative option relying on the EC and the MSs capacities showed its limits before the Agency was set up (section 8.2)
- Smooth relationships and clear division of work with the Commission, due to a common understanding of ECDC's mandate and the willingness of ECDC top management not to overstep its mandate (section 8.3)
- ECDC's activities fully in line with its mandate. The founding regulation was the starting point to define functions and develop the organisational set up of ECDC. (section 8.4)
- Intense efforts deployed to ensure coherence with neighbouring bodies, especially with WHO with which permanent dialogue is needed (section 8.4)
- Permanent contacts and consultations between the EC and ECDC to ensure coherence with EU policies (section 8.4)
- Four years after its creation, ECDC is fully operational to fulfil its mandate (section 8.5)
- Indicators to measure ECDC's performance , activity based management and mechanisms for measuring the user's satisfaction need to be further developed; measures for improvement are being implemented (section 8.5)
- A flexible management, which proves to be a success factor for timely response to requests and urgent needs (section 8.6)
- Good value for money (section 8.6)

## 9. ECHA

### 9.1. Introduction

The European Chemicals Agency (ECHA) was created in June 2007 in order to help implementing the new regulation related to the pre-registration, evaluation, authorisation and restriction of chemicals<sup>142</sup>. The first operations related to pre-registration and registration commenced in June 2008. However, the agency is still in its set-up phase with some of its main statutory activities are due to take place in the future.

The Agency is located in Helsinki. The total number of contract staff and temporary agents working at ECHA at the end of 2008 was 219, and the number of authorized staff (temporary agents excluded) in 2009 was 324. The planned budget amounted to €66m in 2008 and € 71 m in 2009.

The overall purpose of the related EU policy is to ensure a high level of protection of human health and the environment, promote alternative methods to animal testing for assessment of hazards of chemicals, facilitate free circulation of chemical substances within the single market and enhance competitiveness and innovation

ECHA' three main tasks consists of (1) delivering opinions on chemical substances and their associated risks, classifying and labelling such substances, and taking decisions within its remit such as imposing restrictions and granting authorisations for use where relevant, (2) providing scientific and technical advice to EU<sup>143</sup> and Member State authorities, and (3) maintaining open communication channels with industry and making information publicly accessible.

Industry is to undertake joint registration if they deal with the same chemical. The registration of a chemical is subject to a fee and allow industry to market or manufacture these chemicals in the EU and EEA/EFTA states. The joint registration brings efficiency gains and also leads into reduced animal testing and costs, as the same dossier is applicable to all parties. While the industry itself is responsible for the necessary cooperation between companies in preparing the registrations, an IT-application maintained by ECHA facilitates contacts between firms as to locate relevant partners.

The agency's main scientific-technical tasks involve very close cooperation with national authorities and with the European Commission. Overall, the tasks of ECHA are detailed in a very specific manner in the legislation, including also strict deadlines. Hence, the Agency has fairly little room for flexibility in implementing its tasks.

For the purpose of inter-agency comparisons, the evaluation team relates the above tasks to the following categories:

- Dealing with industrialists' applications as to ensure safety of the EU workers and consumers, and of the wider public (tasks 1 and 3)<sup>144</sup>

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<sup>142</sup> Both the new policy and the agency were founded by the same legal act: Regulation (EC) 1907/2006 of the European Parliament and the Council concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH). The agency also implements the regulation on Classification, Labelling and Packaging of substances (CLP) in the area of chemicals substances and mixtures.

<sup>143</sup> Including support to the Commission in the context of international relations

<sup>144</sup> Agencies such as EASA and EMEA share the same logic

- Providing expert advice to policy-makers in EU & MS as to support an evidence-based decision-making process (task 2)<sup>145</sup>

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<sup>145</sup> As in the case of ECDC and EFSA (main task) or EASA and EMEA (secondary task)



<b>ECHA</b>			
<b>Tasks</b>	<b>Task 1</b>	<b>Task 2</b>	<b>Task 3</b>
<b>Main objective</b>	<b>Risk assessment</b> Managing the registration of chemicals, evaluating their risks and taking regulatory decisions in this respect	<b>Scientific and technical advice</b> Providing scientific and technical advice on questions relating to the safety of chemicals	<b>Information</b> Making information on chemicals publicly accessible
<b>Budget</b> (% per year, 2008)	44%	17%	19%
<b>Dedicated staff</b> (FTE %, 2008)	36%	22%	13%
<b>Outputs</b>	Decisions in the field of registration, evaluation and classification and labelling ; Opinions and scientific dossiers on restrictions, authorisations and harmonised classification and labelling. Candidate list with substances of very high concern.	Guidance and advice to industry and national authorities; Ad hoc/immediate support via helpdesk; Scientific opinions and advice papers.	Databases with information on chemical substances and websites
<b>Addressees / Users</b>	Industry (direct addressees) Consumers, workers, and the wider public (indirect addressees)	Policy-makers at EU level and law enforcement authorities at Member State level; Industrial and scientific community	Chemical industry and downstream industry, consumers and the wider public, law enforcement authorities
<b>Results/ impacts</b>	Safety of consumers, workers, the wider public, and the environment through a rigorous and harmonised risk assessment and management of all chemicals, including those imported from outside of Europe and old products.  Enhanced innovation through efficient EU wide registration and research and development notifications.	Restrictions and authorisation decisions are scientifically grounded.  Improved and uniform implementation enforcement of the legislation in the EU.	Safety of consumers, workers, the wider public, and the environment through comprehensive and accessible information about all chemicals which requires safety procedures.

## 9.2. Rationale and relevance

The same regulation establishes both the new policy instrument and the agency, and seems to take for granted that the regulation has to be applied

by an agency. A study has however been commissioned by the parent DG to an external consultant in 2002. The report concludes that an independent entity would be the best option on the basis of a careful investigation into several alternatives. Interviewed stakeholders agree that an agency was, and still is, the only viable approach.

Interviewees stress that the new regulation aims to address number of shortcomings in the former EU chemicals legislation, in particular the lack of information on risks to public health and environment for the majority of chemicals and the slowness of dealing with substances identified as very hazardous.

The previous legislation was a patchwork of disparate legislations with different rules and regulations that industry had to respect. As a consequence, it was difficult to bring a new chemical onto the market which left Europe behind in innovation. It also operated on presumption that existing chemicals were safe until the Member States proved otherwise and imposed high requirements on companies that intended to market new innovative chemicals.

There was a need to change the legislation as the process of reviewing effects of chemicals on public health and environment was slow, European innovation was hampered and industry was not responsible of the potential effects that their chemicals produce.

To address these shortcomings the Commission made its first proposal to create new legislation in 2003. The REACH regulation was adopted at the end of 2006. It holds industry responsible for examining the potential adverse effects and managing the risks associated with their substance. On the whole, the regulation involves all downstream industry facilitating dialogue in the whole supply chain.

The role of ECHA in managing the REACH regulation is considered paramount for years to come. The issues ECHA was required to address in the founding regulation have not been altered. Although stakeholder interviews unveiled some discrepancies with regards to the advice function of the agency, with industry expecting more support on the explanation of the legislation, the relevance of the agency is generally undisputed. Moreover, the regulatory framework of the agency is considered to be clearly defined. If the agency is successful, more activities could be transferred under its mandate.

Considering the fact that the policy instrument is fundamentally new and has no equivalent in the Member States<sup>146</sup>, it is understood that the Commission would have had to do the main part of the tasks in the absence of an agency, some technical activities being probably left to Member State agencies. It is clear that the size of the task (324 authorised staff in 2009) and its technicality would have induced staff problems. Some interviewees insist on the need for ECHA to be independent and science driven as to establish a sufficient level of authority. The evaluation team however understands that another very sound reason for choosing the agency option was the need to work in close cooperation with the chemical and downstream industry, whilst taking full account of the environment and of the legitimate interests of consumers, workers, and the wider public whose safety and health is an ultimate goal for the EU policy.

The evaluation team has undertaken a systematic analysis of governance arrangements across all agencies. This analysis has compared the various needs

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<sup>146</sup> Like EMEA in the medicines field, ECHA is responsible for a registration which was done before at national level. Contrary to EMEA, the process has however been considerably reformed and all applications have to go via ECHA. No national route and subsequent mutual recognition remains.

that have to be addressed and how these needs are reflected in the balance of powers. ECHA belongs to the agencies where discrepancies have been found, a conclusion which builds upon the following reasoning:

- The agency first serves the needs of the EU in implementing the chemical safety policy. Beyond that, it has to address the potentially contradictory needs of two categories of stakeholders (consumers / workers and industry). Finally, Member States also have an interest on an individual basis since they provide both inputs and resources to the implementation of the legislation. Moreover, they have the right to initiate restriction and the authorisation processes and are carrying out the main scientific-technical part of the substance evaluations.
- The agency's governance gives the main power to individual Member States (overwhelming majority of board members, plus two scientific committees and a Member State Committee). European Institutions' powers lie in the three representatives of the Commission in the board and two representatives appointed by the European Parliament with voting rights<sup>147</sup>. Finally, stakeholders' interests are represented by three observers in the board, and discussed in an advisory committee (see 9.5).

### **9.3. Agency's input to the work of the EU institutions**

ECHA's relationship to the European Institutions is clearly defined in the legislation and interviewees do not mention any confusion around the respective responsibilities of the agency and the Commission.

In particular, the technical aspects of the EU policy fall under ECHA's mandate, whereas the Commission remains responsible for policy-making and final decision on how to deal with chemicals raising concerns.

In dealing with technical dossiers, taking individual decisions, and providing opinions, the agency performs a role that the Commission would have difficulties to take on. The agency also ensures independence of scientific assessment from policy development.

Previously Member States had the responsibility to deal with new chemicals, and the Chemicals Bureau<sup>148</sup> had the role of analysing the existing chemicals. These tasks have moved under ECHA's mandate, whereas the Member States still provide inputs into the risk assessment of chemical substances.

ECHA also provides a service beyond legislative matters by providing technical advice to the Commission. For example, ECHA has provided advice on how biocides directive could be altered to make it compatible with REACH. ECHA is also involved in discussions on how nano-materials should be treated under REACH.

The agency's operational structure includes key committees that contribute to the operationalisation of the REACH regulation:

- The Member State Committee's (MSC) purpose is to resolve potential differences of opinion on draft decisions proposed by ECHA;

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<sup>147</sup> ... and in their power in the budgetary process which will decrease in relative terms as far as the agency's budget will increasingly rely on fees.

<sup>148</sup> The European Chemicals Bureau (ECB), was part of the Institute for Health and Consumer Protection (IHCP), which is one of the seven scientific institutes in the European Commission's Joint Research Centre (JRC).

- Risk Assessment Committee (RAC) provides opinions on proposals for classification and labelling of substances, restrictions on chemicals and authorisation of chemicals;
- Socio-Economic Analysis Committee (SEAC) gives opinions on the socio-economic impacts of authorisation and restriction of chemicals. It also gives opinions on the technical and economic feasibility of alternatives;
- The Forum functions as a platform for Member States to exchange information and coordinate their enforcement activities;
- The Board of Appeal is responsible for deciding on appeals against certain decisions taken by ECHA.

The number of meetings has been highlighted by interviewees as a risk. Many of the stakeholders do not have the resources to attend such a high number of meetings<sup>149</sup>. Attention is currently being paid to streamlining processes of discussion and information to mitigate this risk.

#### 9.4. Internal and External Coherence

ECHA implements EU policy in the field of chemicals where the primary purpose is to protect public health and the environment, and is considered to be fully aligned with EU strategic priorities. The overall focus of the EU policy is to:

- protect environment and human health (industry must make toxicology assessments of their substances);
- avoid unnecessary animal testing (companies must share information or undertake joint testing), and promote alternatives to it;
- facilitate the functioning of internal market via the application of common rules; and
- strengthen the competitiveness of European industry.

ECHA's multi-annual work programme, and especially its objectives and activities, is coherent with the EU policy. However, as the agency is still in its growing phase the full coherence is not yet achieved.

Since there are different potential uses of chemicals, ECHA's work relates to some risks addressed by other agencies. In this respect, the founding regulation states that ECHA should coordinate activities with EFSA. Interviewees within ECHA assess that there is little risk of overlap with EFSA and EMEA.

ECHA has signed a Memorandum of Understanding in order to formalise its coordination arrangements with EFSA and it is currently developing the forms of cooperation with the Advisory Committee on Safety, Hygiene and Health Protection at Work. In addition ECHA also coordinates activities with EMEA and EU-OSHA but this is on a less formal basis by organising joint meetings. Moreover, ECHA is working with EMEA and ECDC on risk communication relating to chemicals. It is written in the REACH regulation that these coordination activities must be undertaken.

ECHA's activities are also coherent with the EU's international commitment at UN level of making the use of chemicals safe by 2020. The standards at which ECHA operate are linked to international benchmarks. For example, the CLP regulation is in line with the UN specifications and the IT tools used as part of

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<sup>149</sup> The agency is however supporting participants

REACH processes (IUCLID.5) are based on standards agreed at OECD level. In addition, ECHA is adhering to OECD standards regarding test methods that are accepted as providing legitimate results on properties of chemicals.

Moreover, the EU policy, and ECHA's activities, tend to be considered as a benchmark at international level. For example Japan, the US and China are looking into the activities of ECHA in the field of chemicals.

#### **9.5. Effectiveness in achieving outputs and customer satisfaction**

The agency has been established quite rapidly and smoothly, thanks to an effective support of its parent DG, and to exchanges of experience with other similar agencies.

Although ECHA's tasks have not been fully rolled out, outputs are generally considered to be timely, useful and of high quality benefiting both the European Commission and other European Institutions, and unsurprisingly of particular value for the implementation of European policy.

To date ECHA has focussed on essential activities to deliver priority tasks. For example, on the day of creation ECHA had a multilingual website and the committees and forum were established as soon as in June 2008. Tools were developed on time so as to enable firms to prepare and submit their Dossiers electronically. The pre-registration of chemicals was completed in December 2008 as planned. A list of 15 Substances of Very High Concern (SVHC) has been established. Overall, the main short-term targets of the EU regulation have been met by the end of 2008.

Industry stakeholders used the pre-registration tools extensively, and ECHA's helpdesk and IT functions were under a great strain during this period. The Commission had estimated ECHA to receive about 170,000 pre-registrations of chemicals but 2.7 million were actually received.

A constant feedback between ECHA's IT and business process teams and industry users takes place in order to develop the IT tools and guidance needed. However, feedback procedures are not seen to be consistent, and has been criticised for not having enough customer focus ('customer' here referring to industry)<sup>150</sup>. Furthermore, industry has reservations with regards to ECHA's advice role, experiencing at times reluctance from the agency to provide interpretations of the legal text. This is most likely due to ECHA's non-political role and to the fact the interpretation of the legislation is the role of the European Commission.

Nonetheless, stakeholders have the opportunity to be involved in the ECHA procedures. For example, associations can nominate observers to attend advisory committee meetings. As the Committees can deal with sensitive issues some of the meetings can be closed but generally will be open to selected stakeholders.

Moreover, stakeholders conferences which involve industry and other interest groups are web streamed to open them to a wide audience. ECHA also organises workshops and web based trainings on topics relevant for industry such as on the use of safety data sheets.

The scientific opinions of the Committees will also present an important contribution to the EU policy.

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<sup>150</sup> An interviewee illustrated this point with the case of pre-registration being restricted to office hours so as to limit risks of hacking, a decision which was not communicated to industry, which in turn experienced this as constraining, particularly considering time differences across Europe. The agency however disagrees on this point.

## 9.6. Efficiency in managing resources and executing the budget

### *Influence of the setting up of the agency*

To date the agency has been funded by an EU subsidy, almost exclusively. From 2010 onwards, fees are expected to fully cover the Agencies funding in the future. This is of course a risky step in the development of ECHA, since the number of registration dossiers and applications to be received cannot be precisely foreseen, and the efficiency in processing them, especially through new IT systems, is not yet fully assured.

Some interviewed stakeholders state that the Board overemphasises implementation issues at the expense of strategic issues<sup>151</sup>. However, a majority of respondents to the questionnaires sent to board members agree with the statement that “procedures in decision-making by the Board are effective”.

### *Management of financial and human resources*

The agency’s procedures for both financial management and human resources are considered to be effective and ECHA is proactive in complying with good practice.

### *Activity-Based Management*

ECHA uses the Commission’s budget accounting system that defines all financial transactions and workflows. The agency is working on principles of activity based and results based management. However, these approaches have not yet been fully tested since ECHA is not undertaking all its main activities. At present, the activity based management is said to help estimating the allocation of resources by foreseeing activity (e.g. number of dossiers) and related resources (e.g. time needed to analyse a dossier and take decision). Specific results are identified in the work programmes.

### *Oversight activities*

*Evaluation:* the founding regulation only state that the agency should be reviewed in 2012 without giving specific aspects of the responsibilities and the dissemination. A specific review should be done by the Commission in 2019 (article 138).

*Quality management:* ECHA has adopted and is adhering to the ISO90001 standards. Within this core practice, any exception to rules is registered and established as a file for auditors

*Reporting:* the founding regulation allocated specific reporting tasks to the Member States, the Agency and the Commission; reporting shall take place every year or every 3 or 5 years, depending on the subject.

*Audit:* The agency is subjected to periodic visits by the European Court of Auditors (external audit) and by the Commission’s Internal Audit Service (internal audit). Its internal control system is build upon good practice from the Commission.

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<sup>151</sup> It has however to be noted that the Budgetary Authority (i.e. Parliament and Council) requires the board to approve a detailed budget proposal and “staff policy plan”.

## 9.7. Main findings

- The rationale and relevance of the new EU policy are clearly established and recognised, as well as that of establishing the agency (see section 9.2)
- ECHA belongs to the agencies where the balance of powers is not fully aligned with various needs that have to be addressed (see section 9.2)
- ECHA performs a role that the Commission is not in a position to take on and has the added value of ensuring independence of scientific assessment from policy development (see section 9.3)
- ECHA is fully aligned with EU strategic priorities and complementary to other agencies (see section 9.4)
- Objectives and activities of the multi-annual work programme are coherent with the mandate and the related EU policy (see section 9.4)
- The agency has been established quite rapidly and smoothly, thanks to an effective support of its parent DG, exchanges of experience with other similar agencies, and strong support from the host country (see section 9.5)
- Outputs are timely, useful and of high quality (see section 9.5)
- The agency is not yet capturing feedback consistently and would benefit from a stronger customer focus (see section 9.5)
- Financial management and human resources procedures are effective and ECHA is proactive in complying with good practice (see section 9.6)
- The founding regulation imposes that a review of the agency be done after ten years (see section 9.6)

## 10. EEA

### 10.1. Introduction

The European Environment Agency, EEA, was formally established in 1990 by Council Regulation No. 1210/90 and has been operational since 1994 in Copenhagen with the main purpose to provide information to support the development and implementation of European environmental policy. The EEA is a medium-sized agency with a total staff of currently 167 and an annual budget of approx. 40 million EUR. It is the only institution of its kind in the world, collecting and processing information from its 32 member countries (the EU Member States, EEA countries, Turkey and Switzerland) and 7 co-operating countries (Monaco and the West Balkan countries).

The main tasks of the EEA are, according to the founding regulation, to provide the Community and the Member States with objective, reliable and comparable information on the state of the environment, to provide technical and scientific support to the framing and implementation of environmental policies, and to co-ordinate the European environment information and observation network (Eionet). According to its mission statement, the Agency aims to achieve significant and measurable improvement in Europe's environment through "the provision of timely, targeted, relevant and reliable information to policy-making agents and the public".

EEA			
Tasks	Task 1	Task 2	Task 3
<b>Main objective</b>	Provide objective, reliable and comparable information at European level	Assess the results of environmental policy measures	Ensure that the public is properly informed about the state of the environment, ensuring access to environmental information to decision-makers
<b>Budget</b> (% per year, 2008)	48%	9%	19%
<b>Dedicated staff</b> (FTE %, 2008)	30%	12%	26%
<b>Outputs</b>	Reports; Briefings; Technical reports EEA Fact sheets; Indicators	Integrated assessments, including the 5-year State of the environment and Outlook report; economic analysis, scenarios	EEA Multimedia publications Information services on the internet Annual "Signals" outreach publication in 23 languages
<b>Addressees / Users</b>	Policy makers, stakeholders, experts	Policy makers, stakeholders, experts	General public (mainly)
<b>Results/ impacts</b>	Providing input to policy-making and monitoring of effects of environmental policies	Input to environmental policy-making	Raising environmental awareness and knowledge among general public

The main task (task 1) is, in terms of the current multi-annual work programme<sup>152</sup> and annual management plans constituted by two main groups of themes: *environmental themes* (air quality, air pollutant emissions, biodiversity, greenhouse gas emissions, freshwater, and marine), and *cross-cutting themes* (climate change impacts, vulnerability and adaptation, ecosystem services, environment and health, maritime, sustainable consumption, land use, agriculture and forestry, energy, and transport). Task 2 includes among others the production of the 5-year State of the Environment and Outlook Report (the next one planned for 2010), which is a flagship product but in effect consumes a relatively small part of the agency's resources. The co-ordination

<sup>152</sup> EEA Strategy 2009–2013: Multi-annual Work Programme



of Eionet is not mentioned as an individual task here, since it is an integral part of the collection of data which forms the basis for both task 1 and task 2. Finally, task 3 covers the Annual "Signals" outreach publication in 23 languages as well as multimedia publications and other web services which are mainly directed at the general public and an important part of the profile of the agency.

For the purpose of inter-agency comparisons, the evaluation team relates the above tasks to the following categories:

- Collecting harmonised information and disseminating it to policy-makers in EU & MS as to support an evidence-based policy-making process (tasks 1 and 2)
- Communicating towards a targeted public at EU level as to raise awareness on a given issue (task 3).

## 10.2. Rationale and relevance

The reason for creating the agency was that the quality and availability of comparable and reliable environmental information available across Member States (and other participating countries) was not adequate. This was confirmed by interviewees and is also implicit in the founding regulation which, although acknowledging that there already existed facilities at Member State and Community level providing some of these services, stated that "the collection, processing and analysis of environmental data at European level are necessary in order to provide objective, reliable and comparable information which will enable the Community and the Member States to take the requisite measures to protect the environment, to assess the results of such measures and to ensure that the public is properly informed about the state of the environment"<sup>153</sup>. The setting up of the agency is assessed by interviewees as relevant and rational to address these needs – although several interviewees referred to the original idea being more extensive (with inspection/compliance powers) than what became the end result. The survey among management board members confirms this: 88% of respondents agreed or strongly agreed that "When the agency became operational it addressed the needs it was created to address"<sup>154</sup>.

It is not clear to which extent alternatives to the agency model were seriously considered in connection with the establishment of the agency. However, according to both interviewees and a recent evaluation of the agency from 2008, there were and are no viable alternatives to the agency. The 2008 evaluation considered three alternatives to EEA from a cost perspective: 1) the Commission, 2) contracting the activities out, and 3) replacing EEA by an executive or administrative agency (in addition to discontinuation of the activities, which was not considered a real option). The conclusion was: "None of the envisaged solutions – even were they feasible – seem likely to produce any increases in efficiency or savings in costs. We con-

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<sup>153</sup> COUNCIL REGULATION (EEC) No 1210/90 of 7 May 1990 on the establishment of the European Environment Agency and the European environment information and observation network, preamble.

<sup>154</sup> Source: Internet-based survey among management board members carried out for this evaluation. For EEA, 47% of the management board members (17 out of a total of 36) answered the survey.

sider the Agency is therefore the most efficient way to deliver the products and services required by the stakeholders.”<sup>155</sup>

Interviewed staff and stakeholders agree that the needs for environmental information and analysis of the kind provided by the EEA are still present and constantly expanding as new topics – not least climate change – make their way to the top of the political agenda. 88% of respondents in the management board survey also agree that the needs the agency was created to address are still relevant today.

### **10.3. Agency’s input to the work of the EU institutions**

The EEA maintains a close co-operation with the Commission, primarily with DG Environment but increasingly with relevant sector DGs. Its strategy and activities are currently structured in accordance with the EU’s 6<sup>th</sup> Environmental Action Plan 2002-2012 (EAP)<sup>156</sup>. The work of the EEA is core to six of the seven priority areas laid out in the EAP<sup>157</sup>.

The task of collecting environmental data in certain areas (e.g. on air quality and waste management) was previously undertaken by the Commission through contracts with external consultants but was transferred to the EEA. Other tasks, such as the co-ordination of the Eionet, were new and among the reasons for creating the EEA, as stated in the agency’s founding regulation (cf. above).

The use by the Commission of EEA work includes i.a. the publication of a number of annual or multiannual reports on e.g. greenhouse gas which the Commission is required to do. These reports are produced by the EEA and are generally assessed as valuable by stakeholders (the greenhouse gas reports are mentioned as particularly valuable). In addition to DG Environment as the main user and parent DG, EEA is involved in many other contexts with other DGs. Examples include for instance DG Transport and Energy (TREN) which relied on EEA’s analytical work on the assessment of the availability of biomass in connection with the preparation of the renewable energy directive (biofuels). Another example mentioned by DG TREN is the area of pollution emission legislation where EEA’s monitoring of the development of air quality and assessment of the impact that legislation has on air quality is deemed as important for the revision of legislation in the future, and it is mentioned that EEA’s data reports have been used quite often by several Commission services. DG Enterprise’s work on implementing the GMES programme (European Earth Observation Programme) builds on EEA’s existing Member State networks (including Eionet) for organising consultations and implementing the programme. Another example of Commission services drawing on EEA expertise is DG Regional Policy, which consulted EEA on the terms of reference for an environment study in the context of the ex post evaluation of the 2006 programming period, and where EEA sat on the steering group for the study<sup>158</sup>. The EEA also provides reports and advice to the EP and the Council. Examples of contributions to inter-institutional decision-making include feeding into decisions on the voluntary agreement on CO<sub>2</sub> reductions, and the

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<sup>155</sup> Technopolis Effectiveness Evaluation of the European Environment Agency, October 2008, p. 81. In the remainder of this chapter, the Technopolis evaluation is referred to as “the 2008 evaluation”.

<sup>156</sup> Decision No 1600/2002/EC of the European Parliament and of the Council of 22 July 2002.

<sup>157</sup> 2008 Evaluation, p. 23, and also mentioned in interviews with agency staff.

<sup>158</sup><sup>158</sup> These examples are based on interviews with the Commission services mentioned.

current work on a transport and environment report, according to agency staff.

As regards developments in the volume and frequency of Commission requests for EEA work, the agency has no scientific way of measuring this but assesses that, over time, the frequency and volume of requests has increased. According to EEA, a formal mechanism was put in place in 2005, in response to a perception that EEA was being flooded by bilateral requests. Thus, any new requests for EEA support must now be passed up the hierarchy which means that the mechanism in place for managing requests is more transparent (although some requests still fall outside this procedure). The current situation, according to the agency, is that there are new requests from DG ENV for the 2010 work programme over and above what was provided in 2009 which means that some requests could only be taken on with additional support. The top priorities will then be worked out in co-operation with the Commission. The input from interviewed Commission stakeholders on this issue was not uniform: some stated that co-operation has increased others that it hasn't (and still others did not know).

The agency provides Community added value through its integrating role and the provision of cross-cutting analyses and advice, which is key to both the original and continued rationale for the existence of the agency. Without the agency, much of the work would have to be produced anyhow, either by the Commission or by external experts – both alternatives which have been assessed as less efficient than an agency (cf. the 2008 evaluation).

#### **10.4. Internal and External Coherence**

The evaluator assesses that there is good coherence between EEA's activities and its mandate as expressed in the founding regulation. As the overview of the tasks (cf. the introduction to this chapter) shows, the strategy and overall activities of the agency are fully aligned with the mandate.

The Agency's strategy has been designed specifically to be coherent with and underpin the European environment policy agenda (mainly 6<sup>th</sup> EAP), and its planning and reporting has been adapted to make this coherence more explicit<sup>159</sup>. DG Environment's input to the EEA's strategy and programme is reported by interviewed agency staff and the 2008 evaluation as being substantial. Although DG Environment is the parent DG and main Commission "client", the agency also co-operates with other DGs as shown in the examples mentioned above (section 10.3). Another example is the work on agriculture and environment which involves co-operation with DG Agriculture and DG ESTAT, for instance the CIFAS project (Cross-compliance Indicators in the context of the Farm Advisory System) in 2005-2006, which was launched and financed by DG Agriculture<sup>160</sup>. In addition to the already mentioned co-operation with DG Agriculture, DG Transport and Energy, DG Enterprise and DG Regional Policy, other DGs with which the agency occasionally or regularly co-operates includes for instance the DGs for Health and Consumers, Maritime Affairs, and Taxation.

External coherence with other EU actors is assessed by the evaluator as generally good. Given the high degree to which environment issues are relevant to other sectoral policies and actors, there could potentially be overlaps on many fronts but it seems that actual overlaps are kept to a minimum and coherence and co-ordination is actively pursued. The 2003 evaluation of the EEA

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<sup>159</sup> 2008 Evaluation and evaluator's own assessment on the basis of the current (2009-2013) and previous (2004-2008) multi-annual work programmes.

<sup>160</sup> Evaluation of the European Environment Agency, Final Appendices, 2008, pp. 22ff.

pointed to overlaps and a difficult working relationship with EUROSTAT. This problem was, however, subsequently addressed through the creation of the so-called Group of Four consisting of EEA, the Joint Research Centre (JRC), DG Environment, and Eurostat. The group co-ordinates activities to create synergies and avoid duplication of effort. This has meant some redistribution of tasks. Although overlaps are thus largely avoided such redistribution is, however, not entirely without problems: A key stakeholder pointed out that for instance in the area of soil, the task was given to JRC but the feeling in DG Environment is that this has led the EEA to re-direct activities from this area, which could mean that the EEA now may not have sufficient expertise to build on the work from the JRC.

According to agency staff interviewed, activities are complementary with other agencies such as ECDC, ECHA, EFSA, EMSA (on the use of the oil spill data), CFCA, and ENISA. There are a few examples of minor concerns with respect to coherence (or rather, the distribution of tasks) with other agencies, mainly in relation to EFSA on GMOs and the assessment of the risk of GMOs to the environment, although it should be taken into consideration that GMOs is not a significant priority for EEA.

Coherence with other strategic objectives (other policy areas) is thus generally good, although some conflicts are inherent between policy areas, for instance where economic interests clash with environmental concerns. An agency staff member provided an example where the EEA has in the past warned against new Member States shifting out of rail transport into road transport, tapping into community funds to build roads instead of railways. Another example mentioned by other interviewees is in the area of biofuels where EEA is perceived by some stakeholders as being slightly "politicizing" and seen as working from the presumption that biofuels are a "bad thing", rather than basing their judgement purely on science.

The agency plays a key role in international co-operation. Important international operators include for instance the OECD, the UN-ECE (UN Economic Commission for Europe) and the UNEP (UN Environment Programme). This co-operation is, according to the 2008 evaluation report, seen as very important. A number of joint reports have been produced with e.g. UNEP. According to agency staff interviewed, the vision is "that Europe has its business under control. You don't want to see the UN spending money describing Europe, we play that role".

### **10.5. Effectiveness in achieving outputs and customer satisfaction**

The agency seems to a large degree to meet its targets in terms of planned outputs. According to interviewed agency staff, 95% of the objectives from the previous EEA strategy (2004-2008) were met. Likewise, the 2008 evaluation concluded that the agency had largely met its targets or was on track towards doing so. EEA uses a balanced scorecard in its management systems and annual reports, based on key indicators. In the 2007 annual report, the output-related indicators of the balanced scorecard (website, media and communications, direct contact with clients) showed a performance hovering around 100%, with performance on individual indicators ranging between 90% and 107%<sup>161</sup>.

The survey among EEA management board members supports an overall positive evaluation of the agency's outputs and achievement of its objectives.

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<sup>161</sup> EEA: Annual report 2007 and Environmental statement 2008. The more recent 2008 annual report also contains balanced scorecard indicators but they are fewer than, and not directly comparable with, those in the 2007 report.

Of those who answered the survey, 100% agreed or strongly agreed that the outputs of the agency are of high quality, 94% agreed or strongly agreed that they are timely, and 100% agreed or strongly agreed that they are useful. Similarly, 94% agreed or strongly agreed that the agency consistently meets the objectives of its work programme. However, there was slightly lower agreement on whether the agency consistently receives positive feedback from its users: 82% agreed or strongly agreed.

The 2008 evaluation of the agency concluded that the needs of the Commission seem on the whole to be met, although this is more the case for DG Environment than for some of the other DGs. According to the 2008 evaluation, the agency has a well-established role in several policy areas as a trusted information provider and its input is assessed as valuable by Commission users. A core area is climate change where the agency contributes on a number of policy issues, particularly in areas where there is a strong need for reporting, and the Commission relies on the agency. Case studies carried out for the 2008 evaluation confirmed that the work of EEA addresses the needs of wide stakeholder groups, including NGOs. Another important area is agri-environment policy, where DG Environment, DG Agriculture and Eurostat highlighted the information providing role of EEA<sup>162</sup>. These conclusions are supported by interviews with stakeholders, for instance in connection with the examples provided above (sections 10.3 and 10.4) of co-operation with various Commission services.

94% of the respondents in the management board survey agree or strongly agree that the outputs of the agency benefit the European Commission (1 respondent strongly disagrees). A smaller majority (79%) agree or strongly agree that the European Commission depends on outputs from the agency for certain functions.

However, the 2008 evaluation also warns that the efforts of the Agency to satisfy all its stakeholders results in a lack of focus and an attempt to spread resources too thinly. This is partly a result of the different requirements and priorities of the stakeholders – different Commission services, Parliament and member countries – and partly reflects the desire of the Agency staff to meet all the demands made on them<sup>163</sup>. Several interviewed stakeholders also refer to the latter issue, stating that the EEA tends to take on a lot of different tasks for which they do not always have sufficient resources, which sometimes means redirecting resources from other parts of the work programme, or not being able to fully deliver what was promised; as put by one stakeholder, “there is a gap between willingness and resources”. A further point, also brought up by several interviewed stakeholders, is that there is a risk involved in the EEA moving beyond the assessment and monitoring of current and past trends into more prospective-type analyses. Whereas the assessment and monitoring work of EEA is generally highly regarded by users in terms of quality and reliability, analyses that are more prospective also become more debatable. According to some stakeholders, focusing too much on this type of analysis may potentially have a negative impact on the reputation of the agency as a supplier of solid, balanced assessments of actual developments and the current situation.

A number of customer satisfaction surveys on specific products and target groups were carried out during the period 2004-2007, with reasonably good results. In the reports reviewed, target groups (European institutions, member states, media, NGOs) overall assessed the agency’s outputs as being

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<sup>162</sup> 2008 Evaluation.

<sup>163</sup> 2008 Evaluation, p. 2

relevant and of good quality, but the products were not always used in their daily work<sup>164</sup>.

#### **10.6. Efficiency in managing resources and executing the budget**

Overall, the EEA is well-managed and reasonably efficient. It has an Activity-Based Management system which has been commended by the European Court of Auditors, and no budgetary problems have been reported.

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<sup>164</sup> Evaluation of EEA products and services, Report on two polling surveys carried out in 2004; and Polling Survey of 3 EEA Products with 2 target groups - NGOs and Mass Media, October 2005.

### *Influence of the setting up of the agency*

No particular issues influencing current operations were reported by agency staff, stakeholders or documents in relation to the process of establishing the agency. The main issue of contention seems to have been whether the agency was to have inspection and compliance powers (similar to those of national environmental agencies). This was reportedly preferred by the European Parliament, whereas the Member States resisted and eventually prevailed, with the condition that the issue should be reconsidered after 3 years. The first evaluation considered this issue but concluded that the basic mandate of the agency should not be changed.

The location of the agency in a capital with good international transport connections does not pose any practical problems. The Danish government does not provide any support to the running of the agency<sup>165</sup>. There was an issue around taxation on the rent bills by the Municipality of Copenhagen which refused to relinquish its requirements. The Danish Government eventually had to step in and reimburse building tax payments. This issue is now solved. One remaining problem is difficulties in obtaining Danish social security numbers for EEA staff – not least those from outside the EU – which is required for many basic services in Denmark (such as opening a bank account).

### *Budgetary issues*

There are no specific budgetary issues to report. The overall budget of the agency has grown slowly over the past few years, from 35 m EUR in 2007, to 37 m EUR in 2008 and 40 m EUR in 2009. The execution of the budget does not pose any problems, with an execution rate of 96% and 98% in 2007 and 2008 respectively.

Most of the budget (approx. 87%) stems from the EU subsidy, while the remainder of the revenue is made up by contributions from non-EU member countries.

### *Human resources management*

The majority of the agency's staff are temporary agents on (potentially) long-term employment, supplemented by contract agents on short term employment, and seconded national experts. No problems with recruitment are reported. The 2008 evaluation did, however, raise some issues in relation to the reliance on a high number of seconded national experts, in particular among the technical staff, which means that there is a relatively high turnover in this group (although turnover in other staff groups is low). Related to this is the issue of the relatively limited training offered to the short-term staff, and the 2008 evaluation concluded that "the training needs of non-permanent staff need to be addressed in a structured way, ensuring that they can contribute most effectively to the work of the Agency".

The agency has set up an integrated management control system which combines various management IT applications including financial applications, time-tracking (recording time worked), a 'career development cycle' application, and a system for monitoring publications, which links each product to a work programme measure. The system enables management to track the progress of the agency's projects and the use of resources in real time. The system is also transparent to the staff, where each person has time planned against projects and tasks (cf. also below).

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<sup>165</sup> Apart from a one-off contribution in the form of furniture and decoration of the premises in connection with the establishment in Copenhagen, as listed in the original seat agreement.

### *Activity-Based Management System*

The above-mentioned management system is in effect an Activity-Based Management system. It has been highlighted by the European Court of Auditors as good practice with potential for transfer to other agencies<sup>166</sup>. Since the introduction of the management system, an improvement in efficiency has been reported, and the 2008 evaluation report concluded that the EEA “demonstrates a reasonable level of efficiency and a commitment to improve, as evidenced by the implementation of the management system”.

The agency has also developed and implemented a quality management system based on ISO 9000 standard and the internal control standards.

### *Oversight activities*

As a general statement, several agency staff feel that there is an excess of oversight and reporting activities. The main problems, as formulated by agency staff, are 1) too much reporting and auditing, 2) requests come from many different actors (Court of Auditors, IAS, Parliament,...), and 3) there are many ad-hoc requests for information which are not co-ordinated or which use slightly different categories meaning that the data generated for one request cannot be reused for another (in addition to standard reports, there are one-off requests for surveys, studies, evaluations etc.).

*Evaluation:* The founding regulation only specified the first two evaluations/reviews of the agency (after 5 and 10 years, respectively). Other than that, there were no specific requirements for evaluations to be carried out. During 2004-2007, the agency established effectiveness evaluation work with evaluations of specific tasks and outputs (mainly measurements of customer satisfaction, cf. section 10.5). However, a Parliamentary resolution on the 2005 discharge required EEA to evaluate every 5 years, which resulted in the comprehensive evaluation in 2008. The main follow-up to the 2008 evaluation was in the context of the new multi-annual strategy for 2009-13.

The requirement to do an overall evaluation every 5 years has overshadowed ongoing smaller-scale evaluations of specific products over the last two years, but the intention of the EEA is to strengthen the Quality Management system to follow up on ongoing effectiveness evaluation in the periods between the large-scale periodic evaluations.

*Annual reporting:* The agency produces both an annual report (for publication), and an annual activity report (for the budgetary authority). According to interviewees, they have more or less the same content, but there is a requirement in the EEA Financial Regulation to produce a separate activity report.

*Audit:* Agency staff are of the opinion that the agency is “heavily audited”<sup>167</sup>. However, the agency tends to get quite a good report, and recommendations are followed up. EEA also has a quality control function (referred to as the “internal audit capability”<sup>168</sup>) with the mandate to look into any procedure to check that EEA lives up to the internal quality standards.

With regard to the functioning of the management board, the board members themselves seem fairly happy with the situation: in the survey, 94% agree or

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<sup>166</sup> European Court of Auditors: The European Union’s Agencies: Getting Results, Special Report No. 5, 2008, p. 21

<sup>167</sup> It should be noted that the EEA is subject to the same auditing as all other agencies (usually IAS twice a year, and the Court of Auditors once a year).

<sup>168</sup> This should not be confused with the statutory role of internal auditor (carried out by the IAS), as the internal function can never be fully independent.



strongly agree that “the composition of the Board is right”, and that “the Board reviews evaluations of the agency” (in both cases, 1 person strongly disagrees). But fewer (73%) agree that “the Board regularly reviews internal audits”.

## 10.7. Main findings

### *Main findings*

- There is a clear rationale for carrying out the agency’s activities at European level. The need is growing, and no viable alternatives to an agency have been identified (see section 10.2).
- The agency provides significant Community added value through its integrating role and the provision of cross-cutting analyses, which is key to both the original and continued rationale for the existence of the agency (see section 10.3).
- There is good coherence with other EU institutions and policies. Potential overlaps and conflicts are largely avoided through collaboration and co-ordination with other actors (see section 10.4)
- The agency meets its targets in terms of planned outputs, and there is overall satisfaction with the quality of the work, in particular as regards assessment and monitoring. Some concerns are however expressed with regards to analysis of a more prospective nature which some stakeholders see as a risky activity and not necessarily something that EEA should put too much weight on (see section 10.5).
- Overall, the agency is well-managed and efficient. It has a well-developed Activity-Based Management system, a multi-annual work programme, a balanced scorecard with indicators, and an integrated management control system which all contribute to efficient management. (see section 10.6)

## **11. EFSA**

### **11.1. Introduction**

The European Food Safety Authority (EFSA) was established through Regulation (EC) No 178/2002 in January 2002, following a series of food crises in the late 1990s, as an independent source of scientific advice and communication on risks associated with the food chain. EFSA was created as part of a comprehensive programme to improve EU food safety, ensure a high level of consumer protection and restore and maintain confidence in the EU food supply. It has been operational in Parma since 2005, currently employs 395 staff<sup>169</sup> and had a budget of €66.4m in 2008.

EFSA's governance structure is composed of:

- A Management board composed of 15 members, of which 14 are appointed by the Council of Ministers, plus a representative of the Commission (DG SANCO), with the remit to agree on the budget, the work programmes and monitor the implementation of core activities. It also appoints the Executive Director and the members of the Scientific Committee and Panels.
- An Advisory Forum composed of representatives from National Food Safety Authorities with an equivalent role to EFSA and which is in charge of providing advice on work programme and priorities and of promoting cooperation and pooling of expertise.
- A scientific committee whose role is to develop, promote and apply integrated approaches to risk assessment, ensure consistency between opinions of the Scientific Panels and provide advice on EFSA's scientific work programme.
- 10 scientific panels composed of independent scientists in charge of implementing the work programme in their field of expertise.

EFSA's main divisions and related activities reflect its mandate as follows:

- Risk assessment directorate, which manages the work of the Scientific Panels and Committee (provision of scientific opinions on the basis of which risk managers within the Commission can make informed decisions (see task 1 in the table below);
- Scientific cooperation and assistance directorate, which collects and analyses existing evidence in support of the risk assessment directorate, and contributes to improving the conduct of risk assessment in the EU and beyond as well as promoting cooperation with Member States on scientific issues linked to food safety, and the analysis of harmonised data relating to food safety (see task 2 in the table below);
- Communication directorate, which communicates on EFSA's scientific advice and risk assessments, and contributes to the timely release of EFSA's scientific advice and also fulfills the function of "awareness raising" (see task 3 in the table below).

The logic of the two first tasks is understood as follows:

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<sup>169</sup> As of the year 2009.

- Providing expert advice to policy-makers in EU & MS as to support evidence-based decision-making on food safety challenges and on pre-market approvals<sup>170</sup> (task 1)<sup>171</sup>
- Collecting and disseminating harmonised information to policy-makers in EU & MS as to support an evidence-based policy-making process (task 2)<sup>172</sup>

The evaluation team understands the logic of the third task as mainly a pre-condition for achieving tasks 1 or 2. It might also be understood, at least in part, as playing a role of raising awareness of the wider public as for instance what is done by EU-OSHA.

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<sup>170</sup> Around 40% of EFSA scientific opinions are linked to the assessment of authorisation dossiers

<sup>171</sup> Same logic as that of ECDC (main task) and EASA, ECHA, EMEA (secondary tasks)

<sup>172</sup> Same logic as that of e.g. EMCDDA, EUROFOUND, FRA (main task) or CEDEFOP, ECDC, EIGE, EU-OSHA (secondary task)

EFSA			
Tasks	Task 1	Task 2	Task 3
<b>Main objective</b>	<b>Independent scientific advice</b> Provide independent scientific advice and support for EU legislation/policies in all fields that impact food and feed safety, plant health, animal health and welfare, including scientific opinions delivered in the framework of the EU food legislation linked to authorisation procedures (additives, flavours, pesticides etc)	<b>Harmonising risk assessment in cooperation with MSs</b> Harmonising risk assessment approaches and data collection Collection and analysis of data relating to the exposure of individuals to risks related to food, the incidence and prevalence of biological risk, contaminants and residues in food and feed Management of the networking with MSs	<b>Information</b> Inform interested parties/public on EFSA's work; inform on EFSA's role in EU foods safety system; openness and transparency
<b>Budget</b> <sup>173</sup> (% per year, 2008)	49%	22%	12%
<b>Dedicated staff</b> <sup>174</sup> (FTE %, 2008)	47%	16%	13%
<b>Outputs</b>	Scientific opinions of Scientific Committee and Panels; EFSA conclusions, EFSA Statements; Supporting document for further work by panel or external technical reports	Guidance documents and best practices Scientific reports in particular in relation to the analysis of data at EU level (EU annual report on zoonoses, residues of pesticides) Delivery of data supporting scientific opinions	Media communications (Press Releases, web news, press briefings) Communications to / from Member States Web site content Events
<b>Addressees / Users</b>	Policy makers, Petitioners submitting authorisation dossiers Wider stakeholders, Researchers.	European level institutions, national scientific agencies/bodies in charge of risk assessment , policy makers at national level, social partners, researchers, practitioners, citizens and employers.	European institutions; European Parliament, Member States; National scientific bodies/agencies; National food safety authorities in Member States; "Media", the "public"; membership associations.
<b>Results/ impacts</b>	Changes in EU legislation Support for international standards / Trade agreements Scientific support for handling food safety concerns in the EU including in case of emergencies and crises	Improve the conduct of risk assessment in the EU and beyond Facilitation of preventive action on the basis of a better knowledge of safety trends or emerging risks Changes in EU legislation Support for international standards / trade agreements	Awareness and information of food safety issues across Europe Cooperation with Member States on food safety issues Dialogue, cooperation and collaboration with EC, Member States & 3rd countries

<sup>173</sup> The remaining 17% refer to administrative, travel costs and location costs.

<sup>174</sup> The remaining 14% refer to administrative staff /governing board members.

The main task of the Agency is to provide scientific opinions and advice to the European Commission, European Parliament and Member States (Task 1) upon request. The Directorate in charge of this task is the Risk Assessment Directorate. Its key objective is to provide independent scientific advice and support for EU legislation/policies in all fields that impact food and feed safety, plant health, animal health and welfare, including urgent scientific support in case of emergencies or crises. 45% of the scientific opinions delivered by EFSA concern pre-market approvals and this percentage is increasing. Outputs are standard in their format but their content is always tailored to the very subject / issue they aim to address.

As for Task 2, the main rationale is to harmonise risk assessment approaches and data collection across Europe and promote the collaboration with national food standard authorities on scientific questions and data collection. The directorate in charge is the Scientific Cooperation and Assistance directorate. EFSA is also responsible for the collection and analysis of key data (food consumption and consumer exposure to risks linked to food, incidence and prevalence of biological risk, contaminants and residues). In accordance with specific EU legislation, it issues each year the EU report on zoonoses and the EU report on pesticides residues. Outputs mainly feed into the work of the Risk Assessment Directorate (Task 1).

The main rationale of Task 3 is to inform interested parties/public on EFSA's work; inform on EFSA's role in EU foods safety system; and promote openness and transparency on food safety issues in Europe. The directorate in charge is the Communications Directorate. The origin of the request comes from the three stakeholders aforementioned but may also come from the media and EU citizens at large.

## 11.2. Rationale and relevance

The White Paper on Food Safety<sup>175</sup> identified the need for a European agency responsible for the scientific assessment of risks in the food chain with the ability to communicate independently on these risks. According to the White Paper, benefits derived from its establishment were expected to be improvements in the food law framework, enhancing confidence in the European food supply, the Internal Market, and international trade. The founding regulation<sup>176</sup> of EFSA defined the agency's remit as "to deliver independent, high quality and timely scientific advice on risk in the entire food chain<sup>177</sup>" AND "to communicate on these risks in an open and transparent manner to all interested parties and the public at large". A key principle of the agency is the separation of risk assessment (i.e. a function within the agency's remit) from risk management decisions which belong to the public authorities responsible for policy and legislation.

The evaluation team understands that in the absence of the agency, its assessment tasks (management of scientific expert panels) would be carried out by the Commission. According to the stakeholders interviewed, the agency, and its well-thought governance arrangements, is however much more likely to produce the kind of public trust which is particularly needed in the politically challenging context where information is produced on disputed issues.

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<sup>175</sup> White Paper on Food Safety, European Commission, January 2000, see: [http://ec.europa.eu/food/food/intro/white\\_paper\\_en.htm](http://ec.europa.eu/food/food/intro/white_paper_en.htm)

<sup>176</sup> Regulation (EC) No 178/2002 of the European Parliament and Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety.

<sup>177</sup> In an integrated manner (end to end) from field/farm to fork

The reasons for EFSA's creation are still relevant today. After its 6th year in operation, the Agency is a mature organization and has reached "cruising speed". The relevance and adequacy to the needs is evidenced by the significant increase in the number of requests originating from the Commission and the use of EFSA's scientific opinions to inform EU policy decisions (refer to section 11.5 and 11.6).

### **11.3. Agency's input to the work of the EU institutions**

EFSA main "customers" are DG SANCO (parent DG), DG ENV and DG AGRI. Its work fits in the policy making process of the Commission, whereby the Agency delivers scientific opinion in response to the Commission's requests for advice. Based on EFSA's risk assessment, the Commission then takes action to manage the risk by continuing with, amending or repealing existing regulations. An important part of EFSA's work is linked to its role of risk assessor in the authorization procedures set up by EU legislation for a large number of substances and products (food and feed additives, flavourings, materials in contact with food, enzymes, pesticides, genetically modified food and feed, nutritional substances etc). Even if the authorization dossiers are formally transmitted to EFSA by Commission or Member States, they are initially prepared and submitted by a petitioner (usually a food or chemical company). EFSA's work is thus intrinsically linked to the Commission's policy-making process allowing the Commission to focus on core policy making tasks and on risk management. It should however be noted that the transfer of tasks from the Commission which took place with the establishment of EFSA has not resulted in any reduction in DG SANCO's own staff, according to a study by the European Parliament<sup>178</sup>. According to Agency staff and the stakeholders interviewed, the independent and timely nature of the scientific advice also provides the Commission with additional benefits such as quick consensus building among Member States, third parties and trading partners.

In some instances, the cross-cutting nature<sup>179</sup> of the Commission's requests requires collaboration with sister agencies such as EMEA, ECDC, ECHA or other institutions like the Joint Research Center (JRC). EFSA has Memoranda of Understanding (MoU) with JRC, ECDC and ECHA. These agencies work jointly to provide the Commission with fully rounded scientific opinions on cross-cutting issues<sup>180</sup>. From the Agency's standpoint, the value of these institutional arrangements is that every agency focuses on what it does best with clear separation of remit and responsibilities. The results of the survey among Management Board members fully supports that "the Agency produces comparative cross-cutting (EU-wide) analyses that are not available from any other source"; 100 per cent of the respondents agree or strongly agree with this statement.

According to internal and external stakeholders, the "Community added value" of the Agency is significant and can be summarised as follows<sup>181</sup>:

- Increased European capabilities to address increasingly complex scientific issues at the heart of food safety. According to DG SANCO, before EFSA, the system was at the limit of its capacity and delivered around 100 scientific opinions per year; EFSA delivered

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<sup>178</sup> EP Notes on EFSA 2008.

<sup>179</sup> I.e. food safety, drug safety, agricultural matters.

<sup>180</sup> A recent illustration of this is the joint scientific report of ECDC, EFSA and EMEA on MRSA in livestock, companion animals and food published in June 2009.

<sup>181</sup> Based on the opinions of stakeholders, in particular the Commission (DG SANCO).

around 200 opinions in its first years and this number is now doubling. New challenges (increased number of authorisations dossiers, need to review old substances to check if they still meet updated safety criteria, evolution of sciences and technologies in the area of cloning and nanotechnologies) require strong expertise and scientific resources.

- EFSA covers the whole of the food chain, from animal health and welfare to food and feed safety, including pesticides, GMOs and nutrition. According to Commission stakeholders, one of the lessons learned from past food crises was to have a global scientific view on the whole of the food chain and this is provided by EFSA.
- Integrity and quality of science (independence of scientific advice) is ensured through the establishment of EFSA as a separate agency operating independently of the Community institutions, Member States, commercial and other interests. Its increased resources<sup>182</sup> focussed on scientific expertise coupled with the scientific networking with MSs ensures the high scientific quality required for ensuring the high level of protection of health set up in the EU legislation while providing the scientific basis needed at international level (WTO/SPS<sup>183</sup> rules).
- Cooperation with the national scientific bodies: before EFSA, a network between the risk assessment process at EU level and the national scientific agencies/bodies in charge of risk assessment did not exist. The networking put in place by EFSA ensures the sharing of scientific information and harmonisation of methodologies, thus contributing to minimising duplication of work and to an increased consensus on scientific issues throughout the EU. Due to the European nature of EFSA activities, some smaller Member States rely quasi exclusively on the advice and communications of the Agency.
- Consumer confidence: EFSA has a right to communicate the results of its work directly to the public and is committed to a high degree of transparency and openness.

#### 11.4. Internal and External Coherence

Based on a comparison of the agency's activities with its mandate<sup>184</sup> it is the assessment of the evaluator that there is good coherence between the agency's activities and its mandate (cf. also the overview of the tasks in section 11.1). This is further supported by the organisation of the agencies' directorates which directly reflects the tasks of the agency.

According to a majority of Management Board members<sup>185</sup>, the management framework (Governance structures, procedures for selecting experts, MoUs, prioritisation process, etc) is working well<sup>186</sup>.

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<sup>182</sup> Compared to the situation before the agency was established.

<sup>183</sup> WTO Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement)

<sup>184</sup> Based on documents and interviews with agency staff.

<sup>185</sup> Survey carried out among members of management boards of all agencies. The response rate for EFSA was very high, at 87% (13 out of 15 members). The majority of survey respondents agreed with the following statements :

Coherence with sister Agencies and the non food EU Scientific Committees is achieved through close working relationships and in some cases defined via Memoranda of Understanding (MoU), as mentioned above. This way of working also applies to non-EU food and Safety agencies all over the world (e.g. US FDA, WHO, FAO, etc).

Coherence with EU policy and objectives is achieved through the alignment of EFSA's annual and multiannual work programmes with those of the Commission. 100% of Management board members in the survey agree that "the activities of the agency are in line with the strategic activities of the EU". In fact, 95% of EFSA's work comes directly or indirectly from the Commission. Requests can originate from the Commission but also can be also sent by MS and the EP. Around 40% of the requests sent to EFSA result from authorization procedures according to which industry send an authorization dossier to the Commission (directly or via a MS) that has the duty of transmitting it to EFSA for a safety assessment. Around 5% falls under so-called 'Self Tasking', provided for in the founding regulation as an element of EFSA's scientific independence<sup>187</sup>.

### 11.5. Effectiveness in achieving outputs and customer satisfaction

The Agency is continuously improving performance as measured by output indicators. In 2008, EFSA produced 489 scientific outputs of which 293 were Scientific Opinions, 63 conclusions, 4 statements, 29 guidance reports, 77 scientific reports, 23 reasoned opinions. In addition to the 489 scientific outputs mentioned, 69 press releases were produced.

The effectiveness of implementation can be regarded as good as demonstrated by the fact that:

- The scientific outputs have doubled when compared to the year 2007, with only 25% more resources.
- In the 2007 work plan 67% of the requests made to EFSA were addressed compared to over 95% in the 2008 work plan<sup>188</sup>.

EFSA's work is generally recognised by interviewed stakeholders as being timely<sup>189</sup> and in line with the needs of decisions makers<sup>190</sup>. This is supported

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- "The composition of the board is right" for 92% of the respondents;
  - "The procedure for decision-making in the board are effective" for 100 per of the respondents;
  - "The agency is proactive in complying with the principles of good governance" for 92% of the respondents;
  - "the size of the management board compared to the agency is appropriate" for 92% of the respondents;
  - "the board regularly reviews internal audits" for 100% of the respondents;
  - "the board reviews evaluation of the agency" for 100% of the respondents;
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<sup>186</sup> One external stakeholder (member of the advisory forum) did however mention that part of its activities could be handled remotely rather than face to face.

<sup>187</sup> According to the founding regulation (Art 29), the Agency can issue scientific opinions on its own initiative (i.e. not requested by the Commission), on matters falling within its mission.

<sup>188</sup> EFSA was able to reduce its backlog by 33% in 2008. Source: Internal activity management report.

<sup>189</sup> One stakeholder mentioned there were few instances where timeliness was an issue. "This varies from area to area: claims process is very good, we had problems with the re-evaluation of old pesticides; all the flavourings were re-evaluated, EFSA deals with [food] crises quite well".



by the survey among management board members, where 92% of respondents agree or strongly agree that “the outputs of the agency are timely”, while 100 per cent agree or strongly agree that “the outputs of the agency are useful”.

Users of EFSA’s information include the European Commission (i.e. mainly DG SANCO, DG Environment and DG Agriculture), the European Parliament, National Food Safety Agencies in the Member States, the media, businesses and third parties (i.e. trading partners, International organisations, and non-European food safety agencies). Interviewed stakeholders generally consider EFSA’s scientific outputs as essential for their own risk management activities.

Again, 100 per cent of Management Board members surveyed agree or strongly agree that “the EC depends on the outputs from the agency for certain functions”, while 69 per cent agree or strong agree with the statement that “the agency’s activity aid new policy preparation in my organisation/administration”. The Commission’s dependence on the agency’s outputs was confirmed by interviewed stakeholders, mainly when it comes to the risk assessment activities; the Commission needs the risk assessment activities to be performed to undertake the risk management activities that fall under the Commission remit.

On the whole, EFSA’s results are generally well regarded<sup>191</sup> by stakeholders. Moreover, the EUROBAROMETER survey<sup>192</sup> indicates that a majority of EU citizens are satisfied with the way the EU and Member States regulate, inform and manage risks.

As for the satisfaction of experts working for EFSA, all of them reapply to scientific panels and committees and continue working for EFSA despite the heavy workload experienced by Scientific Committees, according to the Agency.

However, there appears to be a consistent strain on the agency staff to deliver more scientific opinions as the demand for the agency’s services grows. The number of applications for the release of authorisations emanating from industry is increasing and adding greatly to EFSA’s workload<sup>193</sup>. EFSA’s response to authorisations is considered by interviewed stakeholders as satisfactory although some stakeholders are of the view that the process could be improved<sup>194</sup>.

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<sup>190</sup> One external stakeholder commented “EFSA has a large workload and despite this it seems to be producing a regular flow of scientific opinions - This is in itself a success story. Published statements are well received and well written.”

<sup>191</sup> Anecdotal evidence around effectiveness of achieving results was given by one stakeholder as follows: “[There are] many examples of EFSA opinion used in European legislation. Quality is top class. A quantity and quality of opinions are coming out of EFSA, and some are also used in the rest of the world”.

<sup>192</sup> Refer to the Special Eurobarometer Survey – February 2005 - [http://www.efsa.europa.eu/EFSA/General/comm\\_report\\_eurobarometer\\_en2,3.pdf?ssbinary=true](http://www.efsa.europa.eu/EFSA/General/comm_report_eurobarometer_en2,3.pdf?ssbinary=true)

<sup>193</sup> Source: Internal activity management report

<sup>194</sup> One stakeholder commented: “procedures and instructions should be crystal clear on how to submit a good dossier. The quality of the dossier depends on the clarity of the instructions. Additional applications take a lot of time and delay the release of the opinion”.

## 11.6. Efficiency in managing resources and executing the budget

### *Influence of the setting up of the agency*

The location in Parma has been pointed to by a number of interviewees as a barrier for carrying out EFSA's activities efficiently<sup>195</sup>. Since location is an issue for a number of agencies, the evaluation team carried out a comparative analysis of the accessibility of agencies in terms of flight costs and travel times and, rather surprisingly, the analysis showed EFSA as being "average" on these indicators, mainly due to the well-connectedness of Milan airport. However, one factor which was not included in this analysis is the fact that, according to agency staff, EFSA spends around one million Euro a year just on transfers of visitors and staff from the airport to its headquarters, thus representing a significant budgetary burden. Furthermore, as stated in the strategic plan (2009-2013), four years after its establishment, the Agency still has some issues to resolve due to its location<sup>196</sup>. The agency invests some resources to deal with issues such as the establishment of a European School, the Final seat building agreement for 2011, and discussions around international flight connexions. 40% of the respondents in the survey pointed to the location as a negative factor for EFSA. Overall, the assessment of the evaluation team is that EFSA's location does pose some problems in terms of additional costs..

### *Budgetary issues and management*

In 2008, 97.5% of the planned budget (€64.2m of commitments) was executed. EFSA's management system is highly appreciated by the members of Management board surveyed who overwhelmingly agreed with the following statements:

- 92 per cent agree or strongly agree that "the Agency manages performance effectively";
- 77 per cent agree or strongly agree that "the Agencies' procedures for human resources management are effective";
- 92 per cent agree or strong agree that "the Agencies' procedures for financial resources management are effective".

The Agency has put in place a results-based budgeting approach whereby resources are committed with regard to the activities planned. Resource commitments are then reviewed on a weekly or bi-weekly basis depending on the urgency of request to manage the Agency work within the agreed budget. This prioritisation exercise has been put in place to ensure an efficient use of

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<sup>195</sup> This was pointed out in several staff interviews and was also brought up as an important issue during the focus group meetings with agencies held by the evaluation team in connection with this evaluation.

<sup>196</sup> "to exercise its mandate, EFSA must attract and retain high-calibre staff and experts. The organisation will work to provide a stimulating and supportive working environment, guided by appropriate human resource and career development policies. The Authority will work closely with the local and national Italian authorities to ensure that issues crucial to staff – such as the European school and the Final Seat project – and to both staff and experts – such as travel links to Parma – are adequately addressed". One stakeholder also mentioned that the location might lessen the ability to attract the best scientists because of extensive travel times.

resources at all times. In order to exploit synergies, EFSA also builds on the expertise and work programmes of national food safety agencies. It relies on mechanisms to avoid duplication of effort by sharing work plans between agencies.

With regard to management methods, one area for improvement would be in the way EFSA monitors results and impacts on stakeholders. At present only the Communication directorate monitors the results / impacts of their activities<sup>197</sup>. Since July 2009 DG SANCO provides EFSA, on a biannual basis, with a feedback on the use of the scientific outputs. This document initiated the implementation of a tool to characterise the impact of the agency's activity in 2010.

Key success factors are the relationships established primarily with the Commission and Member States and secondarily with the scientific networks. These drivers can be traced back to EFSA's governance structure<sup>198</sup>, in the close working relationships with these stakeholders<sup>199</sup> and in the selection of scientists on the basis of their scientific excellence and independence. The latest, i.e. relationship with scientists and experts, seems to be the most important one and is not too resource consuming. For instance the costs related to the various calls for expertise represent 25 per cent of the overall budget<sup>200</sup>.

The above results are achieved without transferring costs and administrative burdens to other public bodies (such as MS agencies) or private actors (such as agency's clients). But as the Agency is quite young overall efficiency is difficult to evaluate<sup>201</sup>.

#### *Oversight activities*

The founding regulation requires EFSA to carry out an evaluation every 6 years. The first (and only, so far) evaluation was carried out in 2005, when the agency was still in its start-up phase. For that reason, the results of that evaluation have not been included in this report.

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<sup>197</sup> In June 2009, no formal impact assessment / result monitoring system was in place but this was being addressed by the management team.

<sup>198</sup> The Advisory and Management Boards are composed of representatives of EFSA's key stakeholders.

<sup>199</sup> EFSA shares and coordinates its annual and multiannual work programmes with other key stakeholders.

<sup>200</sup> Refer to annual activity report 2008, chapter 14 (line 1520 – visiting expert, national experts on detachment €549k), Chapter 30 – risk assessment (€9.385k), chapter 31 – scientific cooperation (€5.694k), chapter 32 – Advisory forum (€1.329k). The overall budget was €66.4m in 2008.

<sup>201</sup> One stakeholder commented: "2009 is the year of stabilisation. Budget until now has always been higher. Now the agency is going to be put to the test".

### 11.7. Main findings

- A rationale clearly established in the founding regulation (see section 11.2);
- Strong relevance to the needs of main stakeholders as evidenced by dramatically increasing number of requests (see section 11.2);
- A close collaboration with other agencies (such as EMEA, ECDC and ECHA) to address Commission's requests of a cross-cutting nature (see section 11.3);
- A very strong added-value at international, EU and at national levels (see section 11.5);
- An improved effectiveness in the last years is due to the full implementation of the recruitment plan, planning and prioritisation process (see section 11.5 – effectiveness of implementation, 11.6 – execution of the budget);
- There is a consistent strain on the agency staff to deliver more scientific opinion as the demand for the agency's services grow (see sections 11.5);
- The number of applications for the release of authorisations emanating from industry is increasing and adding greatly to EFSA's workload (see section 11.1 – footnote 2, and 11.5).
- The location of the agency, at some distance from an international (and otherwise well-connected) airport which leads to substantial travel costs for staff and visitors, poses a budgetary problem (see section 11.6).
- The Agency has put in place a results-based budgeting approach which allows reviewing resource commitments on a regular basis depending on the urgency of request (see section 11.6);

## 12. EIGE

### 12.1. Introduction

The European Institute for Gender Equality, EIGE, was established through Regulation No 1922/2006 in December 2006.<sup>202</sup> According to an interviewee, however, the history of setting up a specialised institute dealing with gender equality runs much further back in the history of the European Union. The idea was first brought forward by the Swedish Government at the end of the 1990s and brought up again as a part of the Social Policy Agenda during the Nice European Council in 2000, which called for “increased awareness, the pooling of resources and the exchange of experience” in order to promote equality between men and women that would be done in particular through the establishment of a European institute for gender issues<sup>203</sup>. Subsequently, a feasibility study was conducted in 2001, after which the topic was set aside for reasons which could not be determined by the evaluator.

In 2004, the issue was tabled again by the European Parliament in a call for an acceleration of the efforts to set up an institute. The June Council of Employment, Social Affairs, Health and Consumer Affairs decided to support the development of a European Institute for Gender Equality. The Commission presented its proposal in early 2005, but the long negotiations between the institutions concerning the composition of the Management Board and the options for the set-up of the agency led, according to the interviewee, to the establishment of the institute only towards the end of 2006.

The most recent development towards becoming operational has been the appointment of a Director for the Agency, Lithuanian born Swede Virginija Langbakk, by the Management Board in December 2008 and subsequently approved by the European Parliament in January 2009.<sup>204</sup> The Director took over her duties on 16 April 2009. Since then, two more staff members have been recruited to take up their duties in August 2009, and it is estimated that the Institute will become operational by the end of 2009 with 15-20 people recruited in the Institute offices in Vilnius.

The main tasks of the Institute, as defined in the constituent act, can be roughly divided into two categories: support/advice on tools and methods, and dissemination of information and networking. The overall budget of the Agency in 2007-2013 is estimated to be EUR 52.5 million.

For the purpose of inter-agency comparisons, the evaluation team has categorised the agency's main tasks as follows:

- Task 1 aims at improving / harmonising Community and Member State policies through disseminating / sharing new tools and approaches. It is seen as contributing to the soft coordination between Member States and European Institutions. It is currently the second main task in terms of allocated resources<sup>205</sup>.

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<sup>202</sup> Regulation (EC) No 1922/2006 of the European Parliament and of the Council of 20 December 2006 on establishing a European Institute for Gender Equality. OJ L403, 30.12.2006.

<sup>203</sup> Conclusions of the Presidency. European Council – Nice 7-10 December 2000, Appendix.

<sup>204</sup> The hearing of Agency Directors at the European Parliament is a relatively new procedure that has been used, for example, when recruiting a Director for the Fundamental Rights Agency.

<sup>205</sup> The same logic can be found in the main task of CEDEFOP and CEPOL, as well as in some secondary tasks of CFCA, EMSA, EUROPOL, and FRONTEX

- Task 2 (which is in fact the first main task in terms of the current allocation of resources) is understood as collecting and disseminating harmonised information to policy-makers in EU & MS as to support an evidence-based policy-making process<sup>206</sup>;

<b>EIGE</b>		
<b>Tasks</b>	<b>Task 1</b>	<b>Task 2</b>
<b>Main objective</b>	<b>Support/advice on tools and methods</b> To develop, analyse, evaluate and disseminate methodological tools in order to support the integration of gender equality into all Community policies and the resulting national policies, as well as to support gender mainstreaming in all Community institutions and bodies.	<b>Dissemination of information, Networking</b> To promote networking of stakeholders and dialogue on the European level, as well as to promote dissemination of information and awareness.
<b>Budget<sup>207</sup></b> (% per year, 2009,)	16	18
<b>Dedicated staff<sup>208</sup></b> (FTE %, 2008)	n/a	n/a
<b>Outputs</b>	Methods and tools; gender mainstreaming, information and data; support and sources of information; surveys	European Network on Gender Equality, Experts' Forum, conferences, campaigns and meetings
<b>Addressees / Users</b>	Policy-makers, experts, EU citizens, Community institutions, stakeholders	NGOs, municipalities, regions, centres, bodies, researchers, experts and organisations dealing with gender equality, gender mainstreaming and awareness raising
<b>Results/ impacts</b>	Gender equality is integrated into EU and Member State policies on the basis of evidence  Effective methods and tools available to promote gender equality work and the mainstreaming of gender perspective into policies and practical implementation of policies.	Gender equality is integrated into EU and Member State policies on the basis of evidence  Networks are established and share European gender equality competences and experiences

The Constituent act includes a broader selection of tasks for the Institute than the Commission's original proposal did. The setting of priorities concerning these tasks remains to be done by the Management Board of the Institute, as part of the mid-term Work Programme of the Institute. The above division of tasks is based on the evaluation team's interviews.

<sup>206</sup> Same logic as EMCDDA, EUROFOUND, and FRA (main task), or CEDEFOP, ECDC, EFSA, and EU-OSHA (secondary task).

<sup>207</sup> Estimate from COM (2005) 81 final.

<sup>208</sup> The number of staff not known yet.

## 12.2. Rationale and relevance

Long before the establishment of the agency, the Commission undertook a feasibility study, conducted in 2001-2002, which surveyed the opinions of the main stakeholders concerning the need for establishing a European Gender Institute. The study concluded positively<sup>209</sup>. The tasks of the Institute were not to be transferred from any other institution or body.

An ex ante evaluation has also been undertaken just before creating the agency and several alternatives were considered, including the options of extending the remit of FRA or EUROFOUND. These options were rejected on the basis that gender equality would remain a peripheral matter in the extended agencies and thus would not be given sufficient political attention<sup>210</sup>.

As regards the FRA alternative, however, it must be noted that a DG EMPL study had to assess the option of extending the mandate of an agency under the umbrella of DG Justice and Home Affairs. This may create doubt as regards the independence of the assessment process.

The Commission argued in favour of creating the agency by the continued need to address the issue of gender equality through a multidimensional effort, which will present challenges and increase the demands on European Institutions and the Member States. Hence, in order to *ensure progress and effective implementation of the Community policy in this area*, there was, according to the Commission, a need for an agency that would serve as a centre of excellence on the European level and that would support the Commission and the Member States in the "collection and analysis of comparable and reliable data and information and the development of appropriate methodological tools".<sup>211</sup>

Since the creation of the agency, the context has not changed substantially. According to an interviewee, it could be said that the relevance of the Institute is in fact bigger now than it was upon the time of the Regulation, due to setbacks in some European countries on gender related legislation, such as abortion legislation.

The evaluation team assesses that the rationale for undertaking EIGE's tasks through an agency rather than something else (e.g. Commission, FRA) has been justified in a way which was not fully explicit and independent. The story behind the establishment of EIGE (as explained in section 12.1 and above) can be interpreted, at least in part, as a wish to make gender issues visible through a specific body focussing solely on the issue, rather than an actual need to have certain gender related tasks undertaken by an agency.

The evaluation team has also undertaken a review of all agencies carrying out tasks which require some multi-annual strategic thinking, which is the case of both EIGE's tasks. Such tasks would deserve to be prioritised within a multi-annual work programme. The Director of EIGE confirmed that EIGE will adopt its first Annual and Multi-annual programme in January 2010.

## 12.3. Agency's input to the work of the EU institutions

The relationship of the Institute with the Commission and the other Community institutions is upstream. This can be seen in the constituent act according to which the Institute is, among others, meant to "develop, analyse, evaluate

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<sup>209</sup> Feasibility Study for a European Gender Institute (PLS Ramboll Management). January 2002.

<sup>210</sup> Ex ante Evaluation 2005, pp. 11-12

<sup>211</sup> Proposal for a Regulation of the European Parliament and of the Council establishing a European Institute for Gender Equality. COM (2005) 81 final, 8.3.2005, p. 4.

and disseminate methodological tools in order to support the integration of gender equality into all Community policies [...]”<sup>212</sup>. Even though the tasks of the Institute will be new rather than transferred, it is foreseen that the Institute will enable the Commission to better concentrate on its core tasks, as the Institute will conduct the non policy-making activities related to the promotion of gender equality and aim to improve the visibility of the topic.

According to the interviewees, the relationship between the Institute and the Commission is very close at the moment. The Institute is to work in line with the Community policies in order to strengthen the possibilities for gender equality. This is why the Director is consulting closely with the Commission. The discussions with respect to the Institute's tasks involve both DG EMPL and DG ESTAT in order to define how to cooperate, to share information and to create a common product related to gender statistics and indicators. According to an interviewee, there have also been discussions between the gender mainstreaming Focal Points of the European Commission on the kind of methods with which the Institute could support the Commission.

#### **12.4. Internal and External Coherence**

One of the main topics when discussing the establishment of a possible European Gender Institute in the European Parliament concerned the possibility to include the tasks of the institute in the Fundamental Rights Agency (FRA) that was under establishment at the time. The possibilities for including the proposed tasks with FRA or extending the scope of an already existing agency to cover the topic of gender equality were also examined in the Ex-ante evaluation supporting the Commission's proposal for a European Gender Institute.<sup>213</sup> According to the interviewee, these possibilities were, however, not deemed ideal, as any case of including the tasks of a possible institute for gender equality in an existing agency would mean an extensive increase of the agency's mandate, and would risk the issues not getting the necessary attention. With respect to FRA, it was concluded that, whereas there are also other agencies concentrating on a specific fundamental right (for example health and safety at work), and taking into consideration the advanced state of development of the policy field of gender equality, which includes several directives and extensive case law, the question of gender equality would risk being diluted among the general question of fundamental rights<sup>214</sup>. Furthermore, gender equality also includes other aspects besides discrimination, such as gender mainstreaming, for which it would have been challenging to find a place in FRA.

With respect to the coherence of the activities of the Institute with the constituent act, it deserves to be mentioned that according to the Director, the budget available and the common understanding reached with the Commission differ somewhat from the constituent act. Whereas from the constituent act it could be derived that information dissemination and awareness-raising are the main tasks of the Institute, the discussions and the finances available direct the main task of the Institute towards the provision and development of methods and methodologies, as well as support to the Community institutions in implementing gender equality and gender mainstreaming in their work. According to the Director, the tasks given by the constituent act are much wider than the budget allocated to deliver the results.

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<sup>212</sup> Art. 3.

<sup>213</sup> SEC(2005)328, pp. 11-13.

<sup>214</sup> Proposal for a Regulation of the European Parliament and of the Council establishing a European Institute for Gender Equality. COM (2005) 81 final, 8.3.2005, p. 4.



### **12.5. Effectiveness in achieving outputs and customer satisfaction**

As the Institute has not yet become operational, no assessment concerning the achievement of planned outputs and services, as well as user satisfaction and benefits for users, could be made. According to the Director, the 2010-2013 work programme, which is under development, will however contain both output and results indicators.

### **12.6. Efficiency in managing resources and executing the budget**

As the Institute has not yet become operational, no assessment concerning the efficiency in managing resources and executing the budget could be made.

Concerning the efficiency of the institutional arrangements, it is relevant to discuss the set-up of the Management Board of the Institute. The final composition of the Management Board, as agreed by the institutions, includes a restricted Board, where 18 Member States are represented together with one representative of the Commission. The membership of the Board rotates, following the rotating Presidency of the Council. The term of the members is three years. Originally, the Commission proposed a Management Board that would be even more restricted, and would include six representatives of the Member States, six representatives of the Commission, plus an appropriate NGO, an employers' organisation and a workers' organisation, the latter three having an observer status<sup>215</sup>. This proposal was, however, not approved by the other institutions. In addition, an Experts' Forum, consisting of experts assigned by the Member States, shall support the Director in her work in order to ensure excellence and independence of activities of the institute<sup>216</sup>.

This set-up differs to quite an extent from the Management Board set-up in the other agencies; it remains to be seen whether it turns out to be efficient. According to the Director, one of the challenges with this set-up is how to keep the Member States currently not in the Management Board involved in the Institute's activities. One good possibility for this is the Experts' Forum, where all Member States will be present. However, the Experts' Forum is not clearly defined when it comes to the representation of the Member States. The constituent act states that the Experts' Forum should be composed of "members from competent bodies specialised in gender equality issues", but it is not defined what these competent bodies are and on what level the representation should be.

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<sup>215</sup> Proposal for a regulation of the European Parliament and of the Council establishing a European Institute for Gender Equality. COM (2005) 81 final, 8.3.2005, art. 10.

<sup>216</sup> Regulation 1922/2006, art. 11.

It also deserves to be mentioned that need for improvement with respect to the procedure of setting up an agency was detected. As presented by an interviewee, administrative issues, such as inspection of the potential location, signing of Service Level Agreements with the Office for Infrastructure and Logistics (OIB), etc. was split among several units, which made it difficult to achieve an overview of the process. Furthermore, staff mobility and a large number of coordinators meant that the institutional memory of the parent DG was split among too many people, which did not foster efficient co-ordination. This may partly have been caused by the late approval of the Director, but it nevertheless seems to the evaluator that a more streamlined administrative support structure, giving assistance with respect to setting-up the Institute, would have been needed in order to improve the efficiency of the set-up process.

It is also worth mentioning that the evaluation team has undertaken a comparative analysis of travel cost and time across agencies. EIGE has one of the highest travel time index and the same for travel cost<sup>217</sup>, whilst its networking function would require a high accessibility.

### 12.7. Main findings

- A rationale considered and established in a feasibility study and an ex ante evaluation. (see section 12.2).
- The agency's tasks have not been transferred from other institutions, but it is foreseen that the agency will allow the Commission to better concentrate on its core tasks (see section 12.3).
- The option of including the agency's tasks in the Fundamental Rights Agency was discussed in the ex ante evaluation published by the Commission, but deemed not to be optimal as this would have meant an extensive increase in the agency's mandate (see section 12.4).
- The agency has a restricted Management Board (18 Member States + the Commission). The efficiency of this format remains to be examined (see section 12.6).
- The procedure of setting-up seems not to have been optimally efficient. Possible reasons include the late approval of the Director and the need for a more efficient and streamlined administrative support structure. (see section 12.6).

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<sup>217</sup> Respectively 156 (max = 180) and 123 (max = 166).

## 13. EMCDDA

### 13.1. Introduction

The European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) is the European agency that monitors the drug situation in Europe.

EMCDDA was established in 1993 to provide factual, objective, reliable and comparable information concerning drugs, drug addiction and their consequences. The agency also aims at supporting policy-makers to draw up drug laws and strategies. EMCDDA is located in Lisbon, Portugal and the agency has a budget of EUR 14 million (2008) and employs 100 people.

EMCDDA activities are organised around three main tasks: (1) Collecting harmonised data; (2) Analysing trends in drug use; and (3) Disseminating results.

These three tasks can also be seen as three steps in the same overall logic, i.e. the collection and dissemination of harmonised information with an aim to contribute to an evidence-based policy-making process in the area of drugs and addictions, at the level of both Community and Member States<sup>218</sup>. The three tasks are very closely interlinked, and the two scientific units "Epidemiology, crime and markets" and "Interventions, Law and Policies", as well as the unit "Reitox and international cooperation", are to some extent involved in all three tasks. As a consequence, the agency was not able to provide a quantitative estimate of the weight of the three tasks. However, this is not a major problem for this evaluation since all tasks belong to the same logic.

EMCDDA			
Tasks	Task 1	Task 2	Task 3
<b>Main objective</b>	<b>Collecting harmonised data</b> Collecting key epidemiological data through national focal points, assuring quality and harmonization	<b>Analysing trends in drug use</b> Development of an improved understanding for the analysis of long- and medium-term trends in drug use and its consequences in Europe	<b>Disseminating results</b> Disseminating results through a wide and highly accessible communication
<b>Budget</b> <sup>219</sup> (% per year, 2008)	n/a	n/a	n/a
<b>Dedicated staff</b> <sup>220</sup> (FTE %, 2008)	n/a	n/a	n/a
<b>Outputs</b>	Databases	Research findings	Annual Report in 23 languages online with

<sup>218</sup> Same logic as for e.g. EUROFOUND and FRA (main task), or ECDC, EFSA, EIGE, EU-OSHA (secondary task).

<sup>219</sup> The remaining 2% refer to administrative/governance tasks.

<sup>220</sup> The remaining 3% refer to administrative staff /Governing Board members.

<b>EMCDDA</b>			
<b>Tasks</b>	<b>Task 1</b>	<b>Task 2</b>	<b>Task 3</b>
			summary
<b>Addressees / Users</b>	Experts at EU and Member State levels	Competent authorities in the European Institutions and Member States	Policy makers at EU and Member State levels and stakeholders in the policy-making processes
<b>Results/ impacts</b>	Information used and trusted	Direct inputs into the policy-making processes	Rising awareness of policy-makers, rising issues on the political agenda

Monitoring and reporting activities, as well as analysis of data, are the historical tasks of the agency. EMCDDA is increasingly considered as being a reliable source of information on the drug situation in Europe, exemplified by the fact that the Commission has invited EMCDDA to contribute to the drafting of the EU Strategy on Drugs, especially in terms of what can be measured and in terms of providing data. This is due to the agency's long-term strategy of being a neutral, independent body only providing the methodology and instruments for the policy-makers to understand and react better on the drug problem. This independent path has been chosen in order to give the scientific evidence high credibility.

### 13.2. Rationale and relevance

EMCDDA was founded in 1993 as a response to the limited capacity in Europe to monitor its drug problem. In the mid-80s, Europe faced an escalating drug problem and an increasing heroin epidemic. Many Member States had at that time developed drug policies generally based more on ideology than facts, which resulted in various national approaches as well as a lack of comparable information at European level concerning drugs, drug addiction and consequences. As a result, the then French President Francois Mitterrand launched an appeal to his European counterparts and asked for common action to combat the drug problem in Europe. One of the actions taken was to create an agency to meet the need of factual, objective, reliable and comparable information on drugs, drug addiction and their consequences all over Europe<sup>221</sup>.

The agency's main task, according to its constituent act, is to provide, acting as an independent body, information, expertise, methodology and tools to allow a better understanding and action to tackle the drug problem. The justification for the agency is its ability to deal with a longer-term perspective and its independent outlook.

EMCDDA thus collects and disseminates scientific evidence to be used by EU and national policy and decision makers. This allows the Commission and the Members States to undertake better supported policy-making. To sustain EMCDDA's rationale as independent body, it must remain neutral and not be subject to policy emergencies. According to the agency, this requires an effective link and close interaction between the work carried out by the EMCDDA

<sup>221</sup> www.emcdda.europa.eu and interviews with EMCDDA.

and the initiatives and activities of the Commission in the relevant EU policy area.

The agency is also perceived as relevant to the needs of today by the agency itself, the Commission's DGs involved in the agency's work, (DG JLS and DG SANCO) and the external stakeholders. This is further supported by the survey of the Governing Body, which revealed that 90% of the respondents either strongly agree or agree with this statement.

An example of the current needs addressed by the agency is the appearance of new drugs, such as new synthetic drugs, and the increase in, for instance cocaine consumption. This increases the need for continuous reliable scientific data to be able to face the new challenges of the drug problem today. The problem of infectious diseases, such as HIV, has increased over the years and has not yet stabilised in all countries in Europe. For that reason, continuous monitoring of data is essential. A specific example of the relevance of EMCDDA's work today is to be found in the work done towards raising awareness on combating the spread of HIV. Here, data from EMCDDA has shown that substitution treatment (treatment of drug users with methadone or buprenorphine) works in terms of decreasing the numbers of HIV cases (as the drug users share needles) and that the drug users can often re-establish their social network when undergoing substitution treatment. EMCDDA thus provides the evidence needed to establish an efficient intervention and overall policy measures.

The EMCDDA compiles and analyses information provided by the different Member States and cooperating countries, and provides an overview on the drug phenomenon in Europe. It also sometimes stimulates the processes and coordination of the data collection in the Member States. In 1999, ahead of the 2004 EU enlargement, EMCDDA started to work with the new Member States. EMCDDA's data have helped the new Member States to leapfrog over some of the problems that the old Member States had to deal with, such as HIV epidemics, and has collaborated with the new Member States to help them to handle the potential problems that they might face. New Member States have had a much steeper learning curve<sup>222</sup>.

### **13.3. Agency's input to the work of the EU institutions**

The relevance of EMCDDA's work to the EU institutions and the European Commission is demonstrated by the use of the agency's services in contributing to the EU Strategy on Drugs 2005-2012.

The agency is both part of the evaluation of the EU strategy on drugs as well as its development. In that regard, EMCDDA participates in meetings with the Commission where future focus areas are discussed and where the agency also suggests new areas. According to the parent DG (JLS), the agency's annual report on the drug situation in Europe is especially used by the Commission for discussions with third countries and for policy discussions with the Member States, as well as a piece of evidence on the drug situation for decision-making. The annual report shows, according to DG JLS, what works and what does not work in terms of combating drugs.

DG JLS states that EMCDDA offers value for money in the sense that they are well-known as a reference on drug issues in Europe and beyond. EMCDDA also plays a role in early warning and risk assessment of new psychotropic substances. This being said, the agency does not directly contribute to raising new issues, but provides the data for the policy-makers to be able to do so, and hence contributes indirectly to the inter-institutional processes. As men-

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<sup>222</sup> Interviews with EMCDDA.

tioned, both DG JLS and the interviews with the agency states that the agency is a neutral body and is careful not to interfere with policy-making. This is supported by the fact that 85% of the respondents in the survey of the Governing Board state that EMCDDA's activities aid new policy preparation in their organisation, thus underlining the indirect contribution to policy-making.

Before the EMCDDA was established, neither the Commission nor the Member States carried out the work that EMCDDA now does. What is more, in order to carry out their tasks, the agency needs a pool of specialists which, according to interviewed agency staff, the Commission would not probably be able to maintain as it mainly employs generalists. .

EMCDDA considers that the agency and its parent DG have a close collaboration. They also feel that their respective tasks are well defined and that they produce synergies rather than compete. This is supported both by the Parent DG (JLS) and DG SANCO, which state that the three counterparts have frequent contact, for instance via meetings on the drug strategy and via the agency's role as a think tank for the Commission with respect to policy-making on drugs issue. According to agency staff interviews, the agency provides Community added value through its scientific base which has helped in providing the Member States and the Commission with a common language and thereby a much more shared understanding of drugs problems.

The external evaluation from 2007<sup>223</sup> also suggests that EMCDDA has demonstrated Community added value by helping to develop national monitoring systems based on common methodologies and standards, and secondly, by providing the objective, reliable and comparable information that is needed as an evidence base by policy-makers at a national and European level.

#### **13.4. Internal and External Coherence**

The overall specific objectives of the agency's tasks are well aligned with the agency's mandate, according to all interviewees as well as the external evaluation from 2007. All the respondents in the survey of the Governing Body support this by stating that the activities of the agency are consistent with its constituent act.

There have obviously been changes over time in the objectives. For instance, the agency started out with a strong focus on the drug demand and health-related aspects of drug abuse and thereafter opened up to other issues: the agency now also focuses on drug supply and supply reduction. Continuous alignment has happened over the years. There is, however, an ongoing discussion of how to balance the two issues. There is a strong predominance on the health side as the agency has its own data collection. Furthermore, no other body collects data on this issue, so EMCDDA is the main source of statistical data within the area of drug use and its health consequences.

The EU policy in the area of drugs and drug addiction is largely the European strategy on drugs, which EMCDDA has helped evaluate and draft. Hence, the mandate and activities of EMCDDA are in coherence with the nearest EU policies.

EMCDDA cooperates quite a lot with other agencies and other relevant public bodies:

EUROPOL is the agency's closest partner, and the two agencies have a cooperation agreement. They publish joint publications and have carried out

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<sup>223</sup> External Evaluation of the European Monitoring Centre for Drugs and Drug Addiction, Centre for Strategy & Evaluation Services LLP, 26 November 2007.

work on definitions together in relation to the EU's action plan on drugs, work that also involved EMEA. Moreover, EUROPOL and EMCDDA are working together on an early warning system for drug abuse which aims at quickly identifying new drugs appearing on the market to determine if these drugs should be controlled by the Member States. The early warning system is based on data from the national focal points, which EUROPOL and EMCDDA use to write a report and conduct a risk assessment, and based on this the Council can decide whether or not to act.

The agency works together with EMEA when it has to do with drugs also used for medicinal purposes, in particular when new drugs enter the market, in order to determine how the drug should be classified.

ECDC is often a partner when the work carried out by EMCDDA relates to infectious diseases as a consequence of drug abuse. A Memorandum of Understanding has been signed between EMCDDA and ECDC to set the terms of their cooperation on these kinds of issues. For instance, people injecting heroin are often HIV-positive or hepatitis C-positive. For communicable infectious diseases, they have established an alert system. They are complementing each other well as ECDC is focusing on all sorts of infectious diseases, while EMCDDA focuses on a special target group, namely drug users.

The Pompidou group is a group within the Council of Europe that existed before EMCDDA and which EMCDDA sometimes works with on various issues relating to the abuse of illicit drugs, such as the development of indicators about treatment demand.

The agency also has a memorandum of understanding with UNODC (they have a similar mandate to the UNODC), and on specific assignments they sometimes work with UNAIDS and WHO.

CICAD is a sister organisation for Latin America focused on establishing a monitoring system which collects information from their Member States. The organisation is neutral as well, and EMCDDA sometimes works with it. EMCDDA's model of establishing REITOX focal points and producing national reports has been requested to be used in Latin America, Central Asia and the Balkans.

A Memorandum of Understanding for technical cooperation has been concluded between EMCDDA and Russia.

### **13.5. Effectiveness in achieving outputs and customer satisfaction**

Based on the annual reports and the interviews with EMCDDA the agency has overall achieved all the outputs planned in the Work Programme. This is supported by the results of the survey of the Governing Body where 95% of the respondents state that the agency consistently meets the objectives of its Work Programme. However, the Parent DG would like EMCDDA to undertake Activity Based Management, as they have great difficulties seeing the agency's objectives being reached and believes that activities are being carried out years after they should have ended. Looking at the first three-year Work Programme and the last one (2007-2009), there is a rather large difference, as the latter has a clearer strategic approach of the mission of the agency – it was much less structured before..

Evidenced by the EMCDDA's contribution to the EU action plan, it is clear that the Commission has been using the agency's services. EMCDDA provided the Commission with data on which to base the drafting of the action plan. Along these lines, the survey of the Governing Body shows that 85% of the respon-

dents either strongly agree (55%) or agree (30%) that the outputs of the agency benefit the European Commission.

However, when it comes to the Member States, it is sometimes difficult to say if the addressees use the products and services delivered since the agency is providing data for the Member States to use freely. However, positive informal feed-back from the Member States indicates, according to the agency, that its products and services are quite widely used. Another indicator is the agency's reputation: it seems that important progresses have been made. The agency is nowadays regarded as a serious and scientific body by its external stakeholders and its parent DG, while this was not the case at the beginning. This change has come slowly over the last ten years. This perception of the agency is further supported by the survey of the Governing Body, where 85% of the respondents state that the agency consistently receives positive feed-back from stakeholders.

The interviewed external stakeholders generally state that the data they receive from EMCDDA is of high quality. This is, according to stakeholders, reflected in EMCDDAs reporting which is considered both objective and reliable.

The 2007 external evaluation of EMCDDA assessed the agency as performing well in fulfilling its mission to provide 'objective, reliable and comparable information at European level concerning drugs and drug addiction and their consequences'. For instance, the external evaluation stated that the development across EU Member States of harmonised data collection mechanisms for information on drugs would not have taken place, at not least within the same timeframe, without the EMCDDA. However, it is also stated in the evaluation report that there is still room for improvement in fulfilling the mission. For instance, the system for data collection in the Member States has been fully operational since 2003, but was only implemented in 2007 to the extent of 60-70% at Member State level. It should however be mentioned that the improvement of the implementation of the system in the Member States depends largely on the Member States themselves.

### **13.6. Efficiency in managing resources and executing the budget**

#### *Influence of the setting up of the agency*

No particular issues influencing current operations were reported by agency staff, stakeholders or documents in relation to the process of establishing the agency, although it was mentioned by some interviewees that the location of the agency in Lisbon had some implications on e.g. the lack of good and reasonable priced schooling opportunities and on the number of job applications received from abroad. The latter was however reported to have improved over time concurrently with the increasing recognition of the agency and its activities.

#### *Budgetary issues*

The budget for 2009 is EUR 14.876.795 (EC annual subsidy and budget contribution by Norway for its participation in EMCDDA's activities), of which EUR 5.502.662 has been earmarked for expenditure concerning administrative and support activities.

EMCDDA has started using the Activity Based Management system, and set up their budget needs according to Activity Based Budgeting. The agency sees a lot of potential in this system and there is room for further development. However, they still need to process some data in the traditional way (expenditures by nature) in addition to the new approach (expenditure by activity) in



order to communicate budget-wise with the EU Budget Authority<sup>224</sup>. The agency feels that there is an artificial distinction between the administrative costs and the operational costs. For instance, salary is an administrative cost in the traditional system, but when using Activity Based Budgeting it can be an operational cost if staff is carrying out operational tasks.

#### *Human resources management*

The agency has been able to maintain a staff turnover ratio of 5-6%. A main challenge is that EMCDDA is set up to do a technical task and therefore needs technical drug specialists, whom it can be a problem to attract due to the agency's employment rules. According to DG JLS, one of the initiatives by the agency to attract and keep the personnel has been to give the researchers the possibility to publish articles in scientific journals, so that they can keep building their career and reputation while working at EMCDDA.

In 2008, the agency employed 100 people, of whom 31 were working with administrative assignments, including IT support. Even though some external stakeholders state that the agency could still do with fewer administrators and more scientific staff, the situation has improved a lot since the agency was created. 65% of the respondents in the survey to the Governing Body believe the amount of agency budget spent on management costs is reasonable.

#### *Oversight activities*

According to the agency, there is an excess of oversight and reporting activities mainly due to similar requests coming from many different actors (Court of Auditors, IAS, Parliament).

The agency carries out external evaluations on a regular basis (the latest one is from 2007) as requested by the Founding Regulation.

#### *Cost-effectiveness increase*

The workload entailed by HR and financial procedures is quite comprehensive. Mechanisms allowing for customisation of the rules are in place (agencies may adopt their own rules and processes to implement EU Financial and Staff Regulations), but they are not used. According to the agency, this is due to the mechanisms requiring the ex ante agreement by the Commission and this agreement has normally only been given when the agency's decision does not deviate from the Commission's corresponding rules and practices. EMCDDA's procedures for financial management are perceived to be effective by 65% of the respondents in the survey of the Governing Bodies, whereas 5% disagree.

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<sup>224</sup> The same issue has been raised in the EMSA case (see below)

### **13.7. Main findings**

- Founded as a response to the limited capacity in Europe to monitor its drug problem – rationale clearly established (see section 13.2)
- The justification for the agency is the longer-term process and outlook, and the agency has established itself as a neutral, independent body (see section 13.2)
- Strong added value at EU level, less pronounced at Member State level, but informal feedback suggest that value is also added at national level (see section 13.3, 13.5)
- Good cooperation with other agencies (see section 13.4)
- The agencies improves its capacity to attract and retain specialised scientific staff by giving the researchers the possibility to publish articles in scientific reviews (see section 13.5)

## 14. EMEA

### 14.1. Introduction

The European Medicines Agency (EMA) is the European Union body responsible for coordinating scientific resources put at its disposal by Member States for the evaluation, supervision and pharmacovigilance of medicinal products for human and veterinary use. Regulation (EEC) 2309/93 provided for the setting up of the European medicines Agency (EMA) with the centralised procedure available since 1995. The agency is located in London. EMA's 2008 budget was €183 million.

EMA's Management Board has 35 members: one for each Member State, two representatives of the Commission, two members nominated by the European Parliament, and four stakeholder representatives (patients', doctors' and veterinarian organisations). In addition, the three EEA-EFTA states Iceland, Liechtenstein and Norway each have one observer on the board.

The agency implements two tasks as shown in the next table. Task 1 deals with the evaluation of applications for the authorisation of medicinal products<sup>225</sup>. The second task deals with post-marketing surveillance and pharmacovigilance of medicines to ensure continuously positive benefit/risk balance of authorised medicines.

For the purpose of inter-agency comparisons, the evaluation team has categorised the two tasks as follows:

- Task 1: dealing with individual applications from a targeted public as to ensure safety on the EU market<sup>226</sup>;
- Task 2: Providing expert advice to policy-makers in EU & MS as to support an evidence-based decision-making process<sup>227</sup>.

EMA		
Tasks	Task 1	Task 2
<b>Main objective</b>	<b>Scientific evaluation of medicinal products</b>	<b>Surveillance of medicinal products</b>
<b>Budget<sup>228</sup></b> <b>(% per year, 2008)</b>	62%	19%
<b>Dedicated staff<sup>229</sup></b> <b>(FTE %, 2008)</b>	41%	18%
<b>Outputs</b>	Assessment reports (approx. 1,900 applications in 2008)	Opinions, reports, regulatory actions

<sup>225</sup> This logic is very similar to that of EASA and ECHA, i.e. ensuring security / health of consumers. There are also similarities with CPVO and OHIM but these two agencies provide security to the very target group which uses the agency's service (enterprises).

<sup>226</sup> Similar to CPVO ...

<sup>227</sup> Similar to EFSA ....

<sup>228</sup> The remaining 2% refer to administrative/governance tasks

<sup>229</sup> The remaining 3% refer to administrative staff /governing board members

<b>Addressees / Users</b>	EC & MS implementing bodies Firms Customers	Same as task 1
<b>Results/ impacts</b>	Marketing authorisation decisions by the European Commission  Rigorous and burden-free evaluation of products  Authorised products are safe and add health value	Same as task 1, but through revising authorisations

The bulk of EMEA’s activities and resources are spent on scientific evaluation of medicinal products, which lead to the issuance of marketing authorisations by the European Commission. A second very important task relates to surveillance and continuous monitoring of medicinal products on the market, which can lead to amendments to existing authorisations by the European Commission and Member State authorities. Over time, additional tasks have been added to EMEA’s core remit.

#### 14.2. Rationale and relevance

EMEA provides a specialised scientific service in the field of Public Health where independence and the highest possible level of scientific advice are of paramount importance. The alternative to an agency would have been an intergovernmental arrangement involving separate agencies in all MS which would have entailed significant duplication of activities for both MS and industry. As a scientific secretariat, EMEA pools national scientific resources and reduces duplication of national efforts and delays. The majority of respondents (90%) in the survey among management board members carried out in connection with this evaluation<sup>230</sup> agreed that the rationale for EMEA had been clearly defined in the Founding Regulation.

According to EMEA staff, given the agency’s public health remit, representation on the management board of the Commission (SANCO, ENTR), all MS, patient and healthcare professional generates necessary buy-in.

The process of producing scientific opinions for the Commission to adopt authorisation decisions is well established. At the same time, the agency’s initial mandate has been extended over time (extension of the scope of eligible medicines, legislation on orphan, paediatric, herbal medicines and advanced therapies). In addition, according to agency staff, EMEA has gradually moved more firmly into the area of Public Health, including through its work on European-wide pandemics. EMEA also provides scientific advice to industry on development of medicinal products and it responds to ad hoc Commission requests. As one interviewee pointed out, future areas of relevance are in the field of medical devices.

#### 14.3. Agency’s input to the work of the EU institutions

According to agency staff and other stakeholders, EMEA has a good relationship with DG ENTR, its parent DG. Both DG ENTR and DG SANCO are represented on the management board.

<sup>230</sup> The response rate among EMEA management board members to the survey was very high, at 79% (30 out of 38 members and observers).

EMEA's road map to 2010 emphasises the importance of the network with national competent authorities and the added value of coordination and work sharing.<sup>231</sup> The network has also developed a risk management strategy for medicines which strengthens the proactive monitoring of safety of medicines. BEMA, the Benchmarking of the European Medicines Agencies initiative introduced within the network of EMEA and the national competent authorities, contributes to the creation of the high quality system for the evaluation of medicines.

There is general agreement among all interviewees that EMEA generates substantial added value over national systems. EMEA staff reported that, from a scientific point of view, the establishment of the centralised system for authorisation of medicines benefited MS through the pooling of scientific resources coordinated by EMEA. According to one interviewee, these benefits are particularly pronounced for smaller MS.

#### **14.4. Internal and External Coherence**

The management board has established a system of topic coordinators (e.g. budget, work programme, various policies), whereby a number of members of the Board work together with the agency's staff to prepare topics for the Board meetings. According to agency interviewees, this system contributes to greater engagement of the members in the work of the agency, increases the effectiveness of the Board and facilitates the decision making.

The EMEA currently has six scientific committees, three of which were established by recent legislation on herbal, paediatric and advanced therapy medicinal products. As a consequence, the interaction between the committees has become more complex. EMEA is currently examining the functioning of its committee structure to ensure greater coherence and, according to agency interviews, a system of "working dinners" has been put in place to improve exchanges between the chairs of the committees.

According to agency staff, the scope and complexity of the Agency's scientific activities put significant strain on scientific resources within the network and this raises issues about the long-term sustainability of the current system of voluntary participation by Member States in the scientific work of the Agency, particularly in areas where national competent authorities are not financially compensated for their input.

EMEA collaborates with agencies in similar fields, including EFSA (on GMOs, antibiotic resistance), ECDC (pandemics, lack of antibiotics (so-called Gap analysis)) and ECHA. In addition, EMEA provided advice on the administrative setup of EFSA, ECDC and ECHA. According to agency staff, there are significant complementarities between the EMEA and these EU agencies but EMEA's very clear and specific mandate has prevented overlaps between these agencies.

Agency interviewees suggested that the host country (UK) had provided limited support to the agency. However, London's international connection is essential for the coordination of the expert network across 27 Member States and the English speaking environment facilitates pan-European recruitment.

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<sup>231</sup> The European Medicines Agency Road Map to 2010: Preparing the Ground for the Future, March 2005, available at:  
<http://www.emea.europa.eu/pdfs/general/direct/directory/3416303enF.pdf>

#### **14.5. Effectiveness in achieving outputs and customer satisfaction**

In the majority of cases, the Agency's scientific opinion is taken on board by the Commission in the granting of the marketing authorisation, although the Commission in some instances has asked for changes on legal grounds. The evaluator considers the agency's set up as coordinator of a network of national experts a model for generating stakeholder buy-in.

The main partners and stakeholders of the agency are the Commission, Member States, patients and healthcare professionals and industry. User surveys have shown industry satisfaction with EMEA services and a system to look at the impact of the EMEA's opinions is currently being devised. The quality of the agency's outputs is confirmed by survey respondents, all of whom agreed that EMEA produces high quality outputs.

EMEA relies on a mix of private and public funding. Industry fees for services rendered as part of marketing authorisations make up around 80% of the revenue, while the share of Community funding has declined to about 20%. Due to the EMEA being funded based on applications received (demand driven income), the fee revenue is prone to uncertainty year-to-year. According to one agency interviewee, the concept of a reserve is therefore important as it brings a degree of stability to the agency's budget. At the same time, some interviewees suggested that private (industry) revenues generated through marketing authorisations could be used for activities that are not directly industry related.

According to EMEA interviewees, this dual financing model has so far enabled the agency to deliver also on the new and expanded legislative tasks with the support of its network and the national authorities.

The MSs receive 50% of EMEA's fee revenue for scientific work carried out by their experts from the Member States (national authorities were paid approx EUR 60m in 2008). Interviewees have suggested that EMEA's use of national expertise and structures has contributed to its legitimacy and the quality of its work. At the same time, the expansion of tasks has meant that EMEA relies to a greater extent on MS volunteering the services of their national experts which poses problems particularly for those services which are not paid by the agency. More than 20% of survey respondents indicated that insufficient financial resources were the main negative influence on EMEA.

According to agency staff, differences in funding models in the MS sometimes affect their ability to actively contribute to scientific work and it is sometimes difficult to find resources to carry out non-fee generating activities. In the veterinary sector, this problem can even be more acute, due to the small size of the industry and the very small number of regulators in most Member States.

#### **14.6. Efficiency in managing resources and executing the budget**

EMEA's budget has increased gradually in recent years, from EUR 163 million in 2007, EUR 183 million in 2008, to EUR 189 million in 2009. This increase is entirely due to an increase in fees, since the Community contribution was stable at EUR 46 million in 2007 and 2008, and reduced to EUR 42 million in 2009. The execution rate was 98% in 2007 and slightly lower, at 95%, in 2008.

Compared with a system of national authorisation procedures including decentralised and mutual recognition procedures, EMEA represents an efficiency gain. Before the centralised procedure, evaluation of medicinal products could take several years in some countries compared with less than 210 days for EMEA. 100% of applications (2008) are evaluated within this time limit.

EMEA budgets for its activities on the basis of revenue forecasts. The uncertainty of the revenue from fee income makes budgeting and resource planning difficult. Control and oversight activities are important aspects of EMEA's work. As a result, a staff member suggested that resources should be specifically set aside for these activities in the agency's budget as this would increase transparency about the associated costs for the agency.

No specific issues have been identified for EMEA regarding human resources management.

#### **14.7. Main findings**

- Strong rationale for the creation of the Agency and the mandate clearly defined (section 14.2)
- Significant increase of remit and scope of tasks over the last years (paediatric, herbal medicines, advanced therapies) (14.2)
- Complex public-private funding model which has enabled EMEA to deliver on its expanded mandate. (14.5)
- Sophisticated activity based budgeting and user satisfaction monitoring is in place (14.5)
- EMEA is currently examining the functioning of its committee structure to ensure improved interactions in the light of an increase in the number of scientific committees and related scientific work (14.4)
- The long-term sustainability of a system based on a voluntary participation needs to be monitored (14.4)
- The increasing number of non-paid activities may pose difficulties for the network of EMEA and national competent authorities to successfully implement new tasks in the long term (14.5)
- EMEA is more efficient than the previous system of national marketing authorisations (14.6)

## 15. EMSA

### 15.1. Introduction

EMSA is the European Maritime Safety Agency and was set up in 2002 as a response to the Prestige and Erika oil tanker accidents to help ensure that maritime passenger and goods transport is safe.

The agency started out in Brussels but moved to Lisbon in 2006. EMSA's main objective is to provide technical and scientific assistance to the European Commission and Member States in the proper development and implementation of EU legislation on maritime safety, pollution by ships and safety on board ships. In addition, the agency has operational tasks in oil pollution preparedness and response as well as vessel traffic monitoring. EMSA cooperates closely with the Member States and the Commission in carrying out its tasks.

EMSA had a budget of 50 million EUR and 145 staff members in 2008<sup>232</sup>.

EMSA activities are organised around 3 main tasks:

1. Inspections and assessments - to provide technical and scientific assistance to the European Commission and Member States in the proper development and implementation of EU legislation on maritime safety, pollution by ships and safety on board ships through inspections and technical analyses;
2. Monitoring of risks - to improve cooperation with, and between, Member States in all key areas of maritime safety, by establishing tools, services and training for the MS;
3. Fight against pollution - operational tasks in oil pollution preparedness, detection and response.

For the purpose of inter-agency comparisons, the evaluation team has categorised the above tasks as follows:

- Tasks 1 and 3: ensuring operational coordination between Member States as to better achieve the objectives of a EU policy<sup>233</sup>;
- Task 2: soft coordination involving European Institutions and Member State policy-makers<sup>234</sup>;

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<sup>232</sup> Financial Statements 2008. It should however be noted that the revised establishment plan for 2008 foresees 181 posts, of which 145 post were filled at the end of the year while total employment at EMSA was at 175 staff members

<sup>233</sup> The logic is similar to that of CFCA, EUROJUST, EUROPOL, and FRONTEX, although EMSA's inspections are compulsory while other agencies achieve coordination through volunteering approaches

<sup>234</sup> Something which is also done by CFCA, EUROPOL, and FRONTEX



<b>EMSA</b>			
<b>Tasks</b>	<b>Task 1</b>	<b>Task 2</b>	<b>task 3</b>
<b>Main objective</b>	<b>Inspections and assessments</b> Assessing (through inspections) whether Member States comply with EU legislation Inspecting maritime training institutes in 3 <sup>rd</sup> countries Inspecting classification societies Preparing technical input for the Commission and MS for the update of legislation	<b>Monitoring of risks</b> Training for maritime administrations Providing tools (databases, applications, guidelines) for Maritime administrations SafeSeaNet - information on a ship and its cargo in case of an incident as well as prior warning to a port on the arrival of ships	<b>Fight against oil pollution</b> Stand-by oil recovery vessel network, CleanSeaNet: Information to MS about oil spills through satellite images
<b>Budget</b> <sup>235</sup> (% per year, 2008)	15%	25%	51%
<b>Dedicated staff</b> (FTE, 2008)	36	48	35
<b>Outputs</b>	Inspection Reports Technical reports Recommendations	Vessel traffic monitoring system for the EU that provides information on a ship and its cargo in case of incident or risk, prior to arrival in port Applications for use by MS and Commission Training for MS	Assistance to MS in terms of pollution monitoring Preparedness to managing disasters
<b>Addressees / Users</b>	The European Commission Member State authorities	Member State maritime authorities	Member State operational services

<sup>235</sup> Operational resources

EMSA			
Tasks	Task 1	Task 2	task 3
Results/ impacts	Application of EC law is verified and improved Awareness and consistency at MS level Certification and quality of seafarers is improved Member States take sound operational decisions EC and Member develop and maintain sound policies Maritime safety is improved	Member States take sound operational decisions Awareness and consistency at MS level Maritime safety is improved	Same as task 2

Inspections to see if MS comply with the legislation are among the key tasks of the agency. EMSA provides technical and scientific advice to the Commission by verifying the implementation of legislation, as MS implement in different manners, as well as disseminate best practice among MS. A new element of operation, pollution preparedness and response, was added to the agency's tasks after the Prestige accident.

Pollution preparedness concentrates a major part of the resources, which makes sense as both the stand-by oil recovery vessel network and the satellite images are located here.

## 15.2. Rationale and relevance

As mentioned, EMSA was created in the aftermath of the Erika and Prestige accidents. The agency was set up to reduce the risk of maritime accidents, marine pollution from ships and the loss of human lives at sea.

In terms of the aforementioned implementation activities which the agency started out with in 2002, these are still highly relevant to the Commission, but EMSA would prefer to not only present a report based on fact-finding but also come up with recommendations and provide horizontal comparisons. The Commission however insists that it has to undertake the assessment itself due to legal and institutional considerations. Seen from EMSA's point of view there is still much unexploited potential in the agency even though their tasks are constantly expanding.

In order to ensure MS confidence, EMSA needed to be active in the operational activities in a manner which would be seen as constructive by the MS. EMSA seems to have succeeded in doing so, as MS are cooperating with EMSA – something that they were not willing to do at the beginning.

It can also be seen from the survey to governing bodies that to most respondents EMSA addresses the needs it was created to address, as 68% of the respondents either strongly agreed or agreed with this statement. However, 16% disagrees.

Today, the agency's tasks have expanded as the needs have changed – both in response to accidents at sea but also at the direct request of the MS and the Commission, as was the case with the Long-Range Identification and Tracking (LRIT) system, which provides for a global identification and tracking

of ships. This assignment was given to EMSA by the EU Council, followed-up later by proper legislation. This shows that the MS are thinking EMSA as a tool for them, and indicates that EMSA is still highly relevant to the needs of the MS today. This is further supported in the survey to governing bodies, as 79% of the respondents either strongly agree or agree with this statement. Also the recent evaluation of EMSA from 2008 states that the Agency has filled a gap in the maritime safety area in the EU, and that EMSA is still highly relevant today, especially in terms of the inspections performed on Classification Societies, Maritime Education, Training and Certification Systems, in MS to ensure a harmonised implementation of the relevant directives. Also assistance and technical backstopping to the Commission in the preparatory work for updating and developing Community legislation, the initiatives CleanSeaNet and SafeSeaNet as well as the coordination among and advice to MS have been highlighted as areas in which EMSA adds value.

When asked about possible alternative scenarios to the creation of EMSA, the Agency's parent DG (TREN) indicated that theoretically the tasks of EMSA could be performed by two different branches; a Commission inspection office (the agency's initial task) and an executive agency implementing a maritime safety programme decided by the EU. This is very much in line with the agency's own feeling of the Commission being reluctant to giving them the freedom of making more than factual reports when doing the inspections. EMSA believes that it could put more flesh on the bone and contribute with horizontal reports when doing inspections, if only it was allowed to do so. DG TREN states that in order for EMSA to ensure its relevance to the needs prevailing today, it should focus its work on its missions and on improving its information systems.

The debates about the respective roles of the agency and the Commission reflects the fact that the agency has to satisfy needs at the level of the EU, and also at the level of the Member States. This means that the agency conducts inspections on behalf of the Commission, thus monitoring the MS (the implementation activities), while simultaneously working together with the MS on for instance reducing oil pollution (the operational activities). When carrying out the implementation activities, EMSA reports to the Commission if the MS are not complying with EU legislation, which in the past has meant that the MS have not trusted EMSA as a cooperation partner. According to the agency, this has however now changed, and the MS are willing to work with EMSA in their operational activities, which EMSA sees as an indication of the agency adding value to the MS.

### **15.3. Agency's input to the work of the EU institutions**

EMSA is mainly a downstream agency which implements EU policies through its operations. However, the agency also contributes to policy-making by providing necessary technical input to the Commission in the drafting of, for example, the aforementioned third maritime safety package and the revision of the marine equipment directive.

As mentioned, EMSA would like to have more freedom in the implementation activities that they carry out for the Commission. The relationship with the parent DG is however a very strong one, further strengthened by the fact that the executive director of EMSA prior to this position was head of unit DG TREN, where he handled the EU response to the Erika and Prestige accidents that triggered the creation of EMSA. Thus, he has close ties to the Commission and in-depth knowledge of their needs and wishes. DG TREN believes that on paper the separation of roles is very good, but believes that there is a structural weakness in the construction of agencies, between autonomy and independence on the one hand, and being part of the EU system and contrib-

uting to policy-making on the other. According to the DG, EMSA wants more visibility and to be recognised as an independent organisation, despite being part of the EU system. EMSA has contacts with other DGs and MEPs which in itself is positive, but DG TREN is concerned that these contacts are not always reported by the agency, meaning that the DG sometimes learns things from third parties instead of directly from the Agency. DG TREN also describes the relationship as tense in some areas.

The work that EMSA carries out was not done by the Commission before the agency was established. The Commission had external experts carrying out inspections – but in a much lighter version than what EMSA is doing today. This is agreed upon both by the agency and DG TREN.

DG TREN is generally satisfied with the agency's work, although there is sometimes disagreement on methodology of inspections. According to DG TREN, EMSA has very good experts, and better experts than the MS, and highlights EMSA's contribution in terms of maritime traffic monitoring, the reinforcement of maritime safety and security in MS as well as the EU Enlargement assistance to two large maritime countries Cyprus and Malta in terms of redressing the maritime administrations of these countries.

#### **15.4. Internal and External Coherence**

The agency's activities are fully aligned with its mandate, which partly has to do with the fact that the founding regulation was drafted very carefully and opens up for including tasks that come up along the way. The broad mandate also has to do with the fact that the agency often has to respond to urgent requests by the Commission or the Member States and revise its focus accordingly. The board members are closely involved in the maritime industry and understand this, according to the agency. Also, EMSA has in the past aligned its priorities with the needed resources – if the agency needs resources in a particular field such as IT it has the possibility to recruit in that field.

In terms of external coherence with other agencies, EMSA has many assignments that are unique to the agency but nevertheless do cooperate with some of the other agencies and with the Commission.

Thus, EMSA shares an internal auditor with the CFCA in Vigo. The two agencies do have a cooperation agreement, but it is not really used apart from sharing the internal auditor. The agency is also in touch with EEA in Copenhagen in some instances – EEA has previously had a project linked to maritime pollution.

The European border control system EUROSUR also involves sea borders, and FRONTEX has shown interest in the monitoring system on maritime traffic operated by EMSA, which FRONTEX wants to use for prevention of illegal immigration, especially on the Mediterranean Sea borders. The type of cooperation the two agencies have today is mainly to see if it is possible for FRONTEX to use EMSA's system (for instance, if there are any legal constraints).

EMSA is also loosely in contact with other transport agencies, but this is more for internal issues, as they report to same DG and can thereby share a working methodology.

EMSA is exchanging working methods for inspection with EASA, as they are inspecting maritime safety and aviation safety, respectively. EMSA has a MoU with the European space agency (ESA) on exchange of information and expertise for improving access to earth observation data, and a MoU with JRC for a support to set up operational capabilities by means of systems, software etc.

In addition to its parent DG, DG TREN, EMSA also collaborates with the following DGs: DG ENV (represented in EMSA board) – EMSA works with them on pollution issues, DG ENTR with respect to the ESA, and DG ELARG – asked EMSA to prepare candidate countries for the introduction to the EU through familiarising them with EU maritime legislation

EMSA's tasks are developed in parallel with EU legislation, thus ensuring good coherence with EU policies in the area., the agency has also started to get tasks which are not explicitly laid down in its founding regulation, such as the aforementioned LRIT. Coherence with EU policies and strategic objectives is also ensured via the Commission's involvement in the drafting of the annual Work Programmes, Staff Policy Plan and the new five-year strategy under development (adoption foreseen for March 2010).

### **15.5. Effectiveness in achieving outputs and customer satisfaction**

The agency has overall achieved all the outputs planned for in the 2008 work programme. In 2009, it initially seems that they are a little bit ahead.

Examples of how EMSA's work has been beneficial to its users include the CleanSeaNet project, where MS get information about possible oil spills through satellite images. This feature is largely used by MS. However, duplication could arise with the national maritime agencies as they are providing a similar national service, but at a higher price than EMSA due to EMSA's ability to achieve economies of scale. The Commission is generally satisfied with EMSA's outputs and services and believe that EMSA has good experts to perform its tasks. This is further supported in the survey to governing bodies, where 78% of the respondents either strongly agree or agree that the outputs of the agency are of high quality, 73% agree that they are timely and 83% agree that they are useful. Furthermore, 72% of the respondents strongly agree or agree that the outputs benefit the European Commission, and 77% agree that the Commission depends on outputs from the agency for certain functions.

The inspections in MS sometimes trigger a revision of existing legislation as recently seen in Italy, where the inspection was taken as an opportunity to propose a revised legislation. However, usually the MS just react to the comments EMSA make, otherwise the Commission will take action. EMSA would rather have the first role (as an enabler to improve legislation) whereas the Commission mainly sees the agency as a "police function" as far as inspections are concerned.

The training on implementation of EU legislation gets good reviews from the participants (the agency collects feedback after the training sessions) and there is a large interest in attending the seminars, both factors indicating user satisfaction.

### **15.6. Efficiency in managing resources and executing the budget**

#### *Influence of the setting up of the agency*

The agency was initially established in Brussels. During a summit meeting held in Brussels on 13 December 2003, the representatives of the EU Member States decided that the permanent location of the Agency should be in Lisbon, although this location is considered by several interviewees as less than ideal - Brussels was and still is preferred over Lisbon as location for EMSA; and London has also been mentioned as a more appropriate location in terms of maritime issues. This is among other things due to the fact that it is costly and difficult to travel to and from Lisbon.

In 2006, EMSA moved to temporary offices in Lisbon. In 2009, the agency will move to new premises, together with EMCDDA

*Budgetary issues and cost-effectiveness increase t*

EMSA's 2008 budget amounted to 50,227,866 EUR. According to the 2008 Financial Statements, 93% of the budget has been executed.

The procedures for financial management are considered effective by 78% of the respondents in the survey to governing bodies, while the same is only true for 44% of the respondents when it comes to effectiveness of the agency's procedures for HR management. 50% of the respondents believe that the amount of agency budget spent on management costs is reasonable.

EMSA is involved in a pilot project for ABB (Activity-based budgeting) which the agency has very recently started.

However, EMSA's legal department believes that in order to apply ABB as the only system, the financial regulations will need to be changed as the agency is currently not allowed to report in this manner. According to the legal department, introducing ABB will mean that EMSA will have to operate two financial systems simultaneously, which can end up being very costly<sup>236</sup>. The issue of having two financial systems has also raised the question in EMSA of what ABB will actually be used for – this is not entirely clear to everybody in EMSA.

The need for a better way of structuring the budget and the costs is however clear from the 2008 evaluation of EMSA, where it is stated that cost-effectiveness of the agency is somewhat impeded by the fact that there is no transparent link between planned activities, budgets, achieved outputs and accounts (i.e., a lack of ABB/Activity Based Costing). The evaluation stated that the absence of activity-based costing (ABC) makes it difficult to monitor the effectiveness and efficiency of the organisation, and that the lack of this management information prevents the Board from exercising an effective supervision of the agency.

*Human resources management*

By the end of 2008, the number of staff was 145, of which 53 were administrative staff<sup>237</sup>.

It is evident both from the interviews with the agency and the 2008 evaluation of EMSA that the Agency has paid and is still paying much attention to the recruitment of staff with the right competences. This is especially due to the fact that EMSA's mandate has been consistently expanding during the lifetime of the agency. However, specialised staff with a maritime background is increasingly a scarcity, and some EMSA managers have expressed concerns that it is difficult to recruit this type of employees, among other things due to the location of the agency.

## 15.7. Main findings

- The rationale for the agency is clearly established (see section 15.2)
- There is an issue of friction between the Commission and the agency in drawing the border lines of the Agency's tasks as the agency wishes

<sup>236</sup> The same issue has been raised in the EMCDDA case

<sup>237</sup> Financial Statements 2008

to play a broader role (see section 15.2)

- Satisfaction with the agency's outputs, despite the above situation (see section 15.3 and 15.5)
- The agency achieves the outputs planned in the work programme (see section 15.5).
- Not much cooperation and/or overlap with other agencies or other bodies – according to the agency, due to the fact that the agency has many unique tasks (see section 15.4)
- The ABB systems doesn't fit with reporting requirements set in the financial regulation (see section 15.6)
- There are some concerns regarding difficulties in recruiting staff with the needed qualifications (see section 15.6)

## 16. ENISA

### 16.1. Introduction

ENISA, the European Network and Information Security Agency, was set up to enhance the capability of the European Union, the EU Member States and the business community to prevent, address and respond to network and information security problems. The agency is located in Heraklion, Greece. It was established with a time-limited (5-year) mandate following the adoption of the founding regulation on 10 March 2004<sup>238</sup> and, following an initial period in Brussels during the start-up phase, operations started in Crete in September 2005. In 2008, ENISA's mandate was extended 'à l'identique' until March 2012<sup>239</sup>.

ENISA has a total staff of 57 and an annual budget of 8 m EUR. It is thus one of the smallest EU agencies.

The objectives of ENISA are stated in the founding regulation<sup>240</sup> as follows:

1. The Agency shall enhance the capability of the Community, the Member States and, as a consequence, the business community to prevent, address and to respond to network and information security problems.
2. The Agency shall provide assistance and deliver advice to the Commission and the Member States on issues related to network and information security falling within its competencies as set out in this Regulation.
3. Building on national and Community efforts, the Agency shall develop a high level of expertise. The Agency shall use this expertise to stimulate broad cooperation between actors from the public and private sectors.
4. The Agency shall assist the Commission, where called upon, in the technical preparatory work for updating and developing Community legislation in the field of network and information security.

The founding regulation identifies 11 specific tasks which basically details the objectives as stated above. These tasks have been transformed in the agency's work programme into three main tasks as summarised in the table below. In addition, it should be mentioned that other important activities include "horizontal activities" such as communication and outreach activities, managing ENISA bodies and groups, managing relations with external stakeholders. The horizontal activities account for 23% of staff resources.

For the purpose of inter-agency comparisons, the evaluation team has categorised the above tasks as follows:

- Tasks 1 and 2: Collecting and disseminating harmonised information to policy-makers in EU & MS as to support an evidence-based policy-making process<sup>241</sup>;

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<sup>238</sup> Regulation (EC) No 460/2004 of the European Parliament and of the Council on 10 March 2004.

<sup>239</sup> Regulation (EC) No 1007/2008, amending Regulation (EC) No 460/2004 establishing the European Network and Information Security Agency as regards its duration.

<sup>240</sup> Regulation (EC) No 460/2004, art. 2.

<sup>241</sup> The logic is similar to that of ECDC, EEA, EIGE, EUROFOUND, FRA



- Task 3: soft coordination involving European Institutions and Member State policy-makers<sup>242</sup>;

ENISA			
Tasks	Task 1	Task 2	Task 3
<b>Main objective</b>	Data collection, analysis and development of good practices for improving resilience of networks	Developing and maintaining MS co-operation models	Identifying emerging risks
<b>Budget</b> (% per year, 2008)	N/A	N/A	N/A
<b>Dedicated staff</b> (FTE %, 2008) <sup>243</sup>	12%	13%	6%
<b>Outputs</b>	Stocktaking Analysis of gaps Good practices and guidelines	Co-operation models in areas such as awareness raising, incident response and NIS capacity building Online dialogue platform Country reports	Establishment of emerging risks network/framework Scenario analysis
<b>Addressees / Users</b>	MS regulatory authorities and governments EU policy makers Industry	MS governments Commission Industry Academia	Public (MS) and private decisionmakers
<b>Results/ impacts</b> <sup>244</sup>	By 2010, the EC and at least 50% of MS have made use of ENISA recommendations in their policy making process By 2010, service providers covering at least 50 m users use ENISA recommendations to improve resilience	By 2010, at least 10 MS have participated in at least 3 different co-operation models	By 2010, at least 30 stakeholders from 15 MS refer to ENISA as point of reference for emerging security challenges

The three tasks identified here are based on the three current multi-annual thematic programmes.

## 16.2. Rationale and relevance

The history of the agency confirms that the need for intervention in the area has been almost unanimously recognised.

The need which ENISA was established to address is related to the increasing dependence on information and communication technologies (ICT) and networks, which means that the security of these networks is crucial to the functioning of society. As formulated in the founding regulation (Art. 1), ENISA was established "for the purpose of ensuring a high and effective level of network and information security within the Community and in order to develop a culture of network and information security for the benefit of the citizens, consumers, enterprises and public sector organisations of the European Union, thus contributing to the smooth functioning of the internal market". Basically, the agency is intended to enhance the capability of the EU and the Member States (and the business community) to manage NIS problems, and to deliver advice to these actors (including contributions to preparation of new Community legislation), based on a high level of expertise .

There is unanimous agreement among all sources that the needs were rational and relevant when it was decided to set up the agency. A 2006 evaluation<sup>245</sup> of ENISA confirmed the validity of the original policy rationale

<sup>242</sup> Something which is also done by e.g. CEDEFOP

<sup>243</sup> Additional activities not included in the table include horizontal (operational activities) 23%, administrative and directorate activities 47%

<sup>244</sup> Only goals specified here.

<sup>245</sup> Evaluation of the European Network and Information Security Agency, Final Report by the Experts Panel IDC EMEA, 8th January 2007. The evaluation was carried out in November 2006. It will subsequently be referred to in the text as the "2006 evaluation".

behind the creation of ENISA and its original goals, and reported that all the main stakeholders share this idea. This is confirmed by interviews carried out for this evaluation both with agency staff and stakeholders.

The need is still present – it is, in fact, growing. In the management board survey<sup>246</sup>, there was total agreement on this question, as 100% of the respondents agreed or strongly agreed that the needs that the agency was set up to address are still relevant today. This is also confirmed in interviews carried out for this evaluation. In a public consultation carried out by the Commission between November 2008 and January 2009 in the context of the extension of ENISA's mandate, key challenges identified included a.o. cyber-threats; a lack of skilled personnel in the area; a lack of expertise and research in the security field in general; and a low level of security awareness among end-users. There was also a lot of support expressed for the extension of the mandate of ENISA after March 2012 and an increase of its resources<sup>247</sup>.

The extension of the agency's mandate for the period 2009-2012 came about after events which questioned the existence of ENISA in its current form. The 2006 evaluation identified problems with ENISA's set-up, including its "organisational structure, the skills mix and the size of its operational staff, the remote location, and the lack of focus on impacts rather than on deliverables"<sup>248</sup>. With reference to this evaluation, the Commission included in its original 2007 proposal for review of the telecoms package a plan to establish a new European authority (European Electronic Communication Market Authority (EECMA)) to serve as its main advisor on all European regulatory affairs<sup>249</sup>. The proposed Authority was to include (take over) the functions of ENISA. However, this part of the proposal was rejected by both Council and Parliament during the autumn of 2007. In 2008, the Council and Parliament adopted the Commission's proposal to extend ENISA's mandate for another 3 years (until 2012) without any changes to its tasks or set-up.

Furthermore, the relevance of the agency and its role are foreseen to be strengthened with the Commission's new (2009) Critical Information Infrastructure Protection (CIIP) policy<sup>250</sup> which focuses on prevention, preparedness and awareness. The need for strengthening ENISA is specifically mentioned in the Communication and the agency is directly referred to in the outline of several of the proposed activities.

Whereas the *needs* for the agency thus remain undisputed, the *adequacy* of the response to these needs can be, and is, questioned. One of the key problems seems to be the *size* of the agency, which is considered too small by many, both inside and outside the agency. One stakeholder interviewee put it this way: "ENISA is getting more important as we become more reliant on networks, I am hoping it may enlarge. There is a danger in taking something

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<sup>246</sup> Survey carried out among members of the Management Board for ENISA in the context of this evaluation. 14 out of 33 board members replied to the survey (response rate 42%).

<sup>247</sup> Public consultation "Towards a strengthened network and information security policy in Europe", Executive summary of contributions, DG Information Society and Media 2009.

<sup>248</sup> 2006 evaluation, p. 4.

<sup>249</sup> COM(2007)699

<sup>250</sup> Communication from the Commission on Critical Information Infrastructure Protection - "Protecting Europe from large scale cyber-attacks and disruptions: enhancing preparedness, security and resilience", COM(2009) 149 final

on and doing it badly. It must live up to its standards to avoid disappointment, and for that it needs more resources.” The 2006 evaluation concluded: “The operational staff is probably under the critical mass needed for effectiveness” (p. 68).

In the management board survey, there is considerable disagreement about whether the agency addresses the needs it was set up to address: Only 50% agree, while more than a third (36%) disagree or strongly disagree (14% neither agree nor disagree). While we cannot know for sure what lies behind these figures, the answers to another question may provide a clue: when asked which factors have a negative influence on the agency, the two factors most frequently pointed to were “insufficient financial resources” and “insufficient human resources” (both indicated by 10 of the 14 respondents).

The extent to which *alternatives* to the agency were explicitly considered before it was set up is not clear. In the survey among management board members, when asked about whether alternatives were considered and analysed before the agency was set up, about half agree that it was, while the other half either disagrees or doesn’t know. One alternative was obviously the proposed EECMA, i.e. a regulatory authority for the telecoms area. This option was, as mentioned above, rejected by the Council and the EP since there was strong Member State opposition to the transfer of regulatory power from the national to the EU level. Agency staff state that another alternative could be private companies or sector organisations (working with standards, awareness raising, analysis etc.) but point to the need for an independent body at EU level.

### **16.3. Agency’s input to the work of the EU institutions**

ENISA’s relationship with the Commission appears to have been somewhat uneasy during the first years of the agency’s existence, but has now improved. Interviewed agency staff members stated that relations were “quite low at the beginning”, and in particular around the time of the EECMA proposal which was not discussed with ENISA beforehand. A Commission stakeholder confirmed this: “Excellent relation with the agency, but it has not always been like that during the learning period. A type of expertise lacking at the agency was knowledge of the EU and knowledge of governance, because many staff members came from the private sector. Now everything goes smoothly, the agency has learnt a lot.” The Commission now foresees a significant role for ENISA in the new CIIP policy mentioned above.

As to the Commission’s current use and benefits from the agency’s services, interviewed Commission staff point to the Member States as being the main beneficiaries and mentions as examples technical papers and other outputs helping the MS (in particular new MS) to establish computer emergency response teams (CERT) which are critical e.g. for responding quickly to cyber attacks, and helping MS with best practices on awareness raising. As regards direct use by the Commission, in total, 6 requests for inputs have been received from the Commission to date. For instance, the agency provided input to the formulation of the CIIP policy (mentioned by stakeholders, staff and annual reports). Other examples of requests from the Commission include preparation of a report on “Developing a trusted partnership for a data collection framework”, and a feasibility study into an EU-wide information sharing and alert system<sup>251</sup>. These requests all resulted in substantial work on the part of ENISA, much of which is still ongoing and now forms a substantial part of the ENISA work programme. Given the small number of requests, it cannot

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<sup>251</sup> ENISA General Report 2007, p. 36.

be determined whether there is an increasing trend in the number of such requests. As to whether the Commission *depends* on the input from ENISA for carrying out some of its functions, this would not (yet) appear to be the case, based on the relatively small number of requests received so far.

In terms of EU added value, it is the assessment of the evaluator that ENISA is still in the process of building up its role. Commission and external stakeholders point to ENISA's role as a platform for discussion between Member States, and among industry and other private stakeholders, as its most important task, and that it does that well. On the other hand, one external stakeholder was of the opinion that the agency has not fully lived up to its role as a platform, and that it focuses too much on "selling" its own expertise to the Member States rather than facilitating co-operation. The agency does however make an effort and has, for instance, set up a network of National Liaison Officers (NLOs) which serves both as ENISA's primary contact points within the MS, as a forum for exchange of information between Member States (e.g. through the network's annual meetings), and for providing input to ENISA's cross-cutting surveys and studies<sup>252</sup>. The previously mentioned CIIP Communication calls for a strengthened role for ENISA in information sharing, in particular the exchange of good practices<sup>253</sup>.

#### 16.4. Internal and External Coherence

As regards the coherence between the agency's activities and its mandate, the 2006 evaluation pointed to "a general unease about the way these objectives [*of the founding regulation*] have been interpreted and implemented by the Agency management, compounded by contrasting views and expectations about ENISA's role among the Member States, all represented in ENISA's large Management Board."<sup>254</sup> This is not supported by the survey among management board members, where 79% agreed that the activities of the agency are consistent with its constituent act (the remaining 21% neither agreed nor disagreed). It should perhaps be kept in mind that the data collection for the evaluation was carried out in late 2006, at a time when the agency had only been operational for a little over a year. Furthermore, as a follow-up to the evaluation, the agency has made an effort to refine its work programme approach and "maximise the effect of its limited resources and increase its impact on key areas"<sup>255</sup>. The work programme is now organised in a 3-year cycle of Multi-Annual Thematic Programmes (MTPs) which began with the 2008 Work Programme. Internal draft documents prepare for a continuation of this approach after the end of the current cycle in 2010<sup>256</sup>. The evaluator's assessment, based on a comparison of the previous thematic-style work programme with the work programme for 2009, is that the work programme is indeed more focused (including on impacts), with smart goals and indicators defined. It also puts more explicit focus on the co-ordinating role by dedicating one of the three MTPs to "Developing and maintaining Co-operation between Member States", thus addressing this important task in a more focused way. On that basis, it is assessed that internal coherence – within the limits posed by the available resources – is reasonably good.

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<sup>252</sup> ENISA General Report 2008, p. 35.

<sup>253</sup> COM(2009) 149 final, pp. 8-9.

<sup>254</sup> 2006 evaluation, p. 4.

<sup>255</sup> ENISA General Report 2008

<sup>256</sup> A Draft Strategy for ENISA – Preparing for the next multi-annual planning cycle. Draft, 23 February 2009 (internal draft document).

In terms of external coherence, ENISA has no “neighbouring agencies”, and thus there are very few interfaces with other agencies. Stakeholders and agency staff do not point to any overlaps. As regards other (international) operators, ENISA participates as a technical expert in various working bodies of international organisations, including OECD’s Working Party on Information Security on Information Security and Privacy, and participates in the work related to the Council of Europe Convention on Cybercrime, and in working groups under the International Telecommunication Union (ITU)<sup>257</sup>. However, their main interlocutors are in Europe and, according to stakeholders, international visibility is not yet very high.

Given the remit of the agency, relations with industry are important. The agency has a Permanent Stakeholders Group composed of 30 individually appointed experts representing (mainly) industry, as well as academia and different user and consumer communities. Interviewed industry stakeholders see ENISA’s work as important (cf. also below, section 16.6).

Regarding coherence with EU policy and strategic objectives, ENISA’s activities are coherent with the overall goal of developing the European Information Society, and more specifically, with the Commission’s strategy on Network Information Security. As previously mentioned, an important role for ENISA is intended in the recent communication on Critical Information Infrastructure Protection.

#### **16.5. Effectiveness in achieving outputs and customer satisfaction**

The 2006 evaluation concluded that “The Agency is respecting its work programme, but its achievements, while adequate or even good so far, appear insufficient to achieve the high level of impacts and value added hoped for. This is a threat because ENISA created high expectations from the start. There is a problem of low visibility beyond the network of inner stakeholders which weakens the ability of ENISA to “make a difference”. More worrying is the lack of consensus about how the Agency is going to ultimately achieve its expected impacts, which are presently considered low”<sup>258</sup>. The evaluation recommended that “since the Agency is small and has limited resources it is important to focus clearly on the environments where it can provide the maximum value and fill existing gaps, avoiding the duplication of efforts which worries some of the stakeholders.”(p. 69). As described above, the agency has made an effort to address these concerns by focusing its work programme to a larger extent than was the case at the time of the 2006 evaluation, and this gives rise to reasonable expectations that impacts, with the given resources, will be more visible in the future.

As for the current status of outputs and users’ satisfaction, the agency’s own reporting on the outputs achieved according to its work programme shows that the planned outputs in relation to the multi-annual work programme (to be completed by 2010) are largely achieved or in good progress, with the exception of activities related to an Awareness Raising (AR) portal which has not yet been established due to the unavailability of a Web Master in 2008 (cf. below on recruitment). As regards quality of the outputs, a Commission stakeholder comments that until now, the agency “Have done everything with ‘good’ quality and now it is time to focus and have ‘outstanding’ quality”. Interviewed external stakeholders, including industry representatives, point to especially ENISA’s work on awareness raising and on CERTs<sup>259</sup> as important

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<sup>257</sup> ENISA General Report 2008, p. 36, and stakeholder interviews.

<sup>258</sup> 2006 evaluation, p. 67.

<sup>259</sup> Computer Emergency Response Teams

and of good quality. They see ENISA's role in bringing together stakeholders (mainly via the Permanent Stakeholders Group) as important, although the dual role of PSG members acting as experts (providing input to ENISA's deliverables) and linking to the wider stakeholder community seems to be not yet fully exploited, or clear.

However, even if the quality of the outputs is satisfactory, impact on the broader circle of stakeholders does not necessarily follow. In terms of reaching the more impact-oriented "Smart Goals", the majority have been achieved or overachieved, although with important exceptions. In addition to the abovementioned non-implementation of the AR Portal, the impacts that have not been achieved are related to the MTP 3: Identifying Emerging Risks for Creating Trust and confidence. Whereas the direct outputs in this area have been produced, the goals related to impact on stakeholders have not (yet), in terms of MS and stakeholders referring to ENISA as a point of reference (reported as "Too early" to assess)<sup>260</sup>. This may be cause for some concern, as it could be an indication that the lack of visibility and impact on external stakeholders, reported by the 2006 evaluation, persists.

## **16.6. Efficiency in managing resources and executing the budget**

### *Influence of the setting up of the agency*

Two issues in relation to the set-up of the agency stand out: the limited size and the location.

In terms of the size of the agency, it has repeatedly, as pointed out above, been stated by various stakeholders and documents that the small size of the agency constitutes a serious constraint to achieving real impact. The problem is aggravated by the fact that a certain minimum amount of resources need to be dedicated to administrative tasks, which is particularly significant in small agencies. According to recent information from ENISA, approx. 35% of staff are currently dedicated to administrative issues, down from 45% in 2007<sup>261</sup>. While this development is positive and illustrative of the learning curve often found in new agencies in terms of working with administrative matters, this still leaves a rather small number of people to carry out operational tasks.

The location is another issue. Geographically, ENISA is the remotest of all agencies measured in distance from Brussels, and the location in Crete means that ENISA has the highest relative travel cost of all agencies (cf. section 2.6.1 in Volume II of this report) – in terms of both direct travel costs and time spent on travelling. Given the limited resources, this constitutes a significant burden on the agency's resources. The situation is offset by the fact that the Greek government covers the cost of the premises in Heraklion. It may be further mitigated by the establishment of an office in Athens, for which funding (also by the Greek government) has now been approved<sup>262</sup>. The location also impacts the staff situation, as discussed further below. It was however stated by the agency that an excellent collaboration between the hosting country and the agency has been achieved.

### *Budgetary issues*

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<sup>260</sup> ENISA General Report 2008, Appendix 2.

<sup>261</sup> Source: Overview of agencies' administrative staff provided to the evaluation team by the European Parliament, based on the European Court of Auditors' annual specific reports on individual agencies. 2007 figures.

<sup>262</sup> According to the 2008 General Report and staff interviews.

The agency's overall budget has remained at around 8 mEUR during the last three years, up from 6.8 mEUR in 2005 and 2006, the first two years of operation. ENISA's execution of the budget in 2007 and 2008 was 98% and 96%, respectively. There are no specific concerns regarding the execution of the budget or the management of resources.

For Management Information purposes ENISA uses ABAC Workflow for budgetary accounting and SAP for General Ledger accounting. Both systems are managed and maintained by the European Commission<sup>263</sup>. According to senior administrative staff, activity-based budgeting is currently used only for ex ante planning, but the plan is from 2010 have detailed ABB for each activity.

#### *Human resources management*

The agency has a total staff of 57, made up of 44 temporary agents and 13 contract agents. Staff turnover is very high, at 17% in 2008. The multi-annual Staff Policy Plan<sup>264</sup> ascribes the reason for this high turn-over as mainly related to the limited mandate of ENISA, and the limited career perspectives (basically, the small size of the agency). However, to this should be added the location which several stakeholders and staff, and the 2006 evaluation, point to as a constraining factor for recruiting and maintaining staff. The location in a distant and relatively small community has several implications<sup>265</sup>:

- Limited career possibilities for spouses
- Distance from personal and professional networks
- Limited international school facilities.

As regards the latter point, a European school was set up at the Agency's seat in order to cover the educational needs of the children of ENISA staff. The school operates a nursery and the first four years of primary cycle, each year adding one additional level in its curriculum<sup>266</sup>. This mitigates the problem for staff with young children.

Several agency staff members and external stakeholders point to the location having an impact on staff attractiveness. Although the agency has generally managed to fill vacant posts with qualified people, the pool of applicants from which they can select is much smaller than normally for this type of posts.

#### *Oversight activities*

Like other agencies, ENISA is audited 3 times a year (by the Court of Auditors and the IAS) which, according to agency staff. According to interviewed agency staff, this constitutes a significant and disproportionate burden given the resources required seen in relation to its small staff. However, the agency has received good audit reports since its first year of operation in 2005. In 2009, ENISA was invited by the IAS to give a presentation of the Mapping Process developed by the agency as an example of good practice<sup>267</sup>.

The agency was evaluated in 2006/2007 which led to some changes in operations, most significantly a different work programme strategy as described above. The use of impact indicators in the new work programme and the annual report for 2008 is quite advanced compared to other agencies. ENISA is one of very few agencies that has succeeded in defining a number of impact-

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<sup>263</sup> Annual accounts 2008.

<sup>264</sup> ENISA Multiannual Staff Policy Plan 2010 -2012, p. 18.

<sup>265</sup> Source: interviews and 2006 evaluation.

<sup>266</sup> Multiannual Staff Policy Plan, p. 20.

<sup>267</sup>E-mail invitation from IAS to ENISA concerning a presentation at the 4th Meeting of Auditnet for Agencies

oriented indicators rather than only output indicators in their monitoring and reporting. This may be considered best practice.

## 16.7. Main findings

### *Main findings*

- There is a clear rationale for the agency's tasks, but the small size of the agency makes it questionable whether it has the critical mass to produce impacts in a meaningful way (see section 16.2).
- The relationship with the Commission was strained during the first years of the agency's existence but is now good. Main addressees of the agency's outputs are the Member States although the Commission also requests input for the policy-making process from time to time (see section 16.3)
- The agency is still building up a role which will allow it to deliver true European value-added (see section 16.3)
- Coherence between the agency's mandate and its activities have been questioned during the agency's existence but recent improvements to its work programme seems to have improved coherence and focus (see section 16.4)
- Planned outputs are generally produced and of good quality, but there are concerns as to whether the agency can produce the expected impacts. This is principally related to the agency's small size but also to a (previous) lack of focus in the work programme (see sections 16.5, and 16.6 regarding size)
- The remote location constitutes a constraint on the efficiency of the agency, causing high costs and relatively low staff attractiveness (see section 16.6)
- The use of impact indicators in the new work programme and the annual report for 2008 is quite advanced compared to other agencies and may be considered best practice (see section 16.6).



## 17. ERA

### 17.1. Introduction

ERA – *The European Railway agency* – is the European agency that provides Member states and the Commission with technical assistance in the fields of railway safety and interoperability.

The agency activities are directly linked with the Common transport policy in particular the Safety Directive, the interoperability Directive and the Driver Licensing Directive<sup>268</sup>. The objective of those directives is to pave the way for gradual establishment of an integrated European railway area, both legally and technically.

The European Railway Agency's role is to manage the development of Technical Harmonisation including the development of Technical Specifications for Interoperability (TSI), the European Rail Traffic Management System (ERTMS), Cross Acceptance of railway vehicles and a common approach to the management of railway safety.

ERA was established<sup>269</sup> in 2004 and became financially independent in 2005 and was fully operational in 2006.

The head office is based in Valenciennes (France). In order to facilitate meetings with experts coming from all over Europe, the agency has its main meeting facilities in Lille. The 2009 programme plans a staff of 124 people and a 21 M€<sup>270</sup> budget.

In 2009, the Agency activities are in two main tasks contributing to respectively: (1) Interoperability and (2) Safety. Among other tasks (3) Traffic Management (ERTMS) is the most important. (4) Cross Acceptance has started by the end of 2008,.

All tasks share the same main logic which is to provide expert advice to policy-makers in EU & MS as to support an evidence-based decision-making process in the area of railway inter-operability and safety<sup>271</sup>. The evaluation team also understands that a part of the second task in the table below consists of contributing to the soft coordination between Member States and European Institutions as to improve and harmonise their respective policies. .

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<sup>268</sup> Directive 2004/49 EC (the safety Directive) and Directives 96/48 and 2001/16 as modified by Directive 2004/50 recast in Directive 2008/57/EC

<sup>269</sup> Regulation (EC) No 881/2004 of the European Parliament and of the Council, amended by Regulation (EC) No 1335/2008 On 13 December 2003 the European Council decided that the seat will be in Lille-Valenciennes (OJ L 29, 3.2.2004, p. 15).

<sup>270</sup> The 2008 work programme planned an 18M€ budget and a staff of 114 people. The budget increase in 2009 can be explained by new roles (in line with the new Directive 2008/57/EC) including the creation of a new Cross Acceptance Unit and the strengthening of the Agency's role in ERTMS.

<sup>271</sup> A similar logic can be found in e.g. EASA, ECDC, ECHA, EFSA, or EMEA.

<b>ERA</b>			
<b>Tasks</b>	<b>Task 1</b>	<b>Task 2</b>	<b>Task 3</b>
<b>Main objective</b>	<b>Interoperability</b> Technical support to the European Institutions in order to promote the interoperability of the trans-European network	<b>Railway Safety</b> Coordination and delivery of recommendations and technical opinions in the field of railway safety	<b>Traffic management</b> Development of the specifications of the European Rail Traffic Management System
<b>Budget<sup>272</sup> (% per year, 2008)</b>	28%	24%	15%
<b>Dedicated staff<sup>273</sup> (FTE %, 2008)</b>	26%	23%	11%
<b>Outputs<sup>274</sup></b>	Technical specification on interoperability; list of indicators; recommendations on certification, conformity, and vocational competences.	Technical opinion and recommendations on safety targets, methods, reporting, and rules  Support to and networking with national safety authorities and investigation bodies	Develop and consolidate specifications, delivery of documents for test, workshops
<b>Addressees / Users</b>	The Commission, Member States	The Commission; Member States, Safety authorities <sup>275</sup> , investigation bodies	The Commission; Member States,

<sup>272</sup> The remaining 33% refers to administrative/governance tasks (28%) and the economic evaluation which is a crosscutting task (5%).

<sup>273</sup> The remaining 40% refer to administrative staff /governing board members (34%) and the economic evaluation which is a crosscutting task (6%).

<sup>274</sup> For drawing up its recommendations the Agency has established a limited number of working parties. These working parties take as a basis, on the one hand, the expertise built up by professionals from the railway sector, nominated by the sector associations (representing Railway Undertakings, Infrastructure Managers, Equipment Suppliers, rail logistics companies and trade unions) and, on the other hand, the expertise of the competent national authorities (normally the National Safety Authorities). Prior to final submission of a recommendation to the Commission the Social Partners and Passengers and Freight users groups are consulted. For activities not covered by formal working parties, such as those involving the facilitation of coordination between National Safety Authorities, the Agency sets up specific "task forces" involving the relevant Actors.

<sup>275</sup> The Agency's relationship with the National Safety authorities is overseen by the Network of National Safety Authorities which meets three times a year and is chaired by the Agency.

ERA			
Tasks	Task 1	Task 2	Task 3
Results/ impacts	Results are transferred into EC decision  Harmonisation of standards throughout Europe	Results are transferred into EC decision  Use of common methods guaranteeing a high level of safety  Harmonisation of standards throughout Europe	Results are transferred into EC decision  Harmonisation signalling standards throughout Europe

The table shows that the resources devoted to the task 1 and 2 are the most important. Producing technical recommendations on interoperability and railway safety issues are the main task of the agency set by the Council regulation. The management of the European Rail Traffic Management System is a specific part of the Interoperability agenda.

Along with those three main tasks, the agency set up also a crosscutting unit focused on economic evaluation and impact assessment to strengthen its technical expertise<sup>276</sup>. Cross Acceptance, the newest of the units, will also get fully under way in 2009. The objective is to facilitate the mutual recognition of vehicle authorisations.

Finally, the table highlights that, in 2008, the main tasks concentrate nearly two third of the resources (both financial and human). The remaining part is mainly dedicated to administrative and management support activities and to the economic evaluation activities.

## 17.2. Rationale and relevance

The first directives on interoperability (96/48 and 2001/16) didn't identify the need to create an agency. From 1996 to 2004, the European directives mandated the sector to participate in the European Association for Railway Interoperability (AEIF). This association gathering the various players of the sector under the auspices of the UIC (the railway companies) and UNIFE (the suppliers) used technical expertise from the sector to develop Technical Specifications for Interoperability.

In 2004, it was decided to create the European Railway Agency in order to draw up and revise Technical specifications on interoperability (TSI), on the basis of work completed or at least commenced by the AEIF<sup>277</sup> and to take on the new role in respect of railway safety. Interviews undertaken among the agency and the European Commission highlighted the following reasons to explain this change of structure:

- Railway safety was a national competence until the Safety directive was adopted in 2004. Therefore, there was a need to create a platform of expertise at the community level in order to carry out the work highlighted in the directive.

<sup>276</sup> The objective of this task is to provide evidence that each Agency Recommendation has undergone an appropriate impact assessment, and that the most viable options have been chosen.

<sup>277</sup> The AEIF stopped its work at the creation of the Agency.

- There was a need of a supranational and independent agency (vis-à-vis the sector and the national authorities) to facilitate the national authorities and the sector working together<sup>278</sup>.
- Considering the work to be achieved, it was necessary to have a significant number of persons working on those issues. The AEIF with a team of ten staff was too small and it was difficult to justify a budget increase for an organisation partially governed and funded by the sector.
- Finally, the AEIF worked on consensus to develop TSI, which showed some limits with regards complex issues. The agency works in consultation with the railway sector but is not bound by their opinions; the agency director has the final decision on the recommendations he forwards to the Commission, which are then turned into legal decisions through a committee procedure requiring the qualified majority of the Member States (see 17.3).

Interviewees (Agency staff and stakeholders) also stressed that those activities couldn't have been carried out by the European Commission itself. Activities undertaken by the agency need a strong technical expertise which can't be found at the Commission. The Agency staff is generally recruited, on a short term contract, among the specialists of the sector. The origin of the agency staff seems to be well received by the sector which sees the agency as a strong technical interlocutor (not as another bureaucratic body).

Our own investigations among the stakeholders confirm that the need of the creation of the agency is widely recognised. The administration board members<sup>279</sup> for instance strongly agree (68%) or agree (32%) that the needs of an EU agency are still relevant today.

The evaluation team has undertaken a review of all agencies carrying out tasks which require some multi-annual strategic thinking, which is the case of ERA's tasks. Such tasks would deserve to be prioritised within a multi-annual work programme, but this is not done in the agency.

### **17.3. Agency's input to the work of the EU institutions**

The task of ERA as a promoter of harmonisation of railway safety and interoperability hasn't been transferred from the Commission. As stated above, the task related to railway safety is new and transferred from the Member States, while the task related to interoperability has been a Community competence since the first Directive on interoperability. In a way, through the agency, the Commission is outsourcing technical works regarding those issues.

The role of the agency and the Commission is clearly stated in the founding Regulation and the safety and interoperability Directives. ERA prepares technical recommendations, the Commission considers them, may introduce modifications and finally transforms them into EC legal acts (regulations, directives, decisions) after having secured the favourable opinion (qualified majority) of a committee of Member States' representatives. For now, several

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<sup>278</sup> One of the main agency activities is to organise workshops with experts from the sector and Member States representatives.

<sup>279</sup> Source: Consortium's online survey to governing board members (ERA: 37 members, 19 answers). The ERA Administrative Board, supervising work of the European Railway Agency, is composed of one representative of each Member State, four representatives of the European Commission and six professionals from the sectors most concerned are also invited without the right to vote.

agency outputs have been transformed into decisions on technical specifications on interoperability and decisions on railway safety.

According to the online survey to governing boards, respondents generally agree that the European Commission depends on outputs from the agency<sup>280</sup> in the field of interoperability and railway safety. However, some interviewees (Agency staff and Stakeholders) highlighted that the related team at DG TREN (agency's parent DG) is relatively small and there was a risk that it can't ensure a follow up of each work done by the Agency.

The Commission is generally seen as the main ordering party. The Agency has no direct relationship with the national ministries. Communication takes place via the Commission who from time to time arrange workshops to brief the ministries on the progress and content of specific recommendations that they will be subsequently asked to give an opinion on at the Railway Interoperability and Safety Committee (RISC) of Member States.

The agency works under the various directives, complemented by detailed mandates and task requests that are delivered by the European Commission from time to time. The Commission approves also the work programme as part of the administrative board. 4 representatives of the Commission are appointed at the administrative board (out of 37 members). The administrative board reviews and approves the work programme, the budget and the multi-annual staff plan but does not concern itself with the detailed content of the work programme.

To that respect, the decision-making process of the administration board was often questioned during our investigation. The online survey to governing boards for instance highlighted that a little majority (52%) of administration board members agree that the procedures for decision-making in the board are effective<sup>281</sup>.

A Memorandum of Understanding has been signed between DG TREN and the Agency in order to establish practical rules on communication and cooperation between the two. On a regular basis, the staff of the agency meets the staff of DG TREN in order to prepare the meetings of the committee on interoperability and security (Member States meetings). This ensures close cooperation between DG TREN and the Agency. However, this close relationship is sometimes seen by the Agency staff as micro-management from the Commission.

#### **17.4. Internal and External Coherence**

The constituent act and the directives are well detailed in terms of tasks to be performed by the Agency. It is clearly stated that the agency must propose recommendations regarding Technical Specifications for Interoperability (TSI) and harmonisation of railway safety. This ensures that the main tasks of the Agency are coherent with the objectives set out in its mandate. Some agency interviewees even stated that the constituent act is so detailed that it can be compared to an annual programme because of its level of detail. On the other hand it doesn't give enough strategic guidelines to the agency.

The work programme is decided in accordance with the Commission which gives little room for any incoherence with the Common Transport Policy. The

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<sup>280</sup> The answers are: 58% strongly agree, 37% agree, 5% don't know.

<sup>281</sup> The answers are: strongly agree (15%); agree (37%); neither agree nor disagree (26%); disagree (12%); strongly disagree (10%). The answers to the "composition of the board is right" are: strongly agree (21%); agree (31%); neither agree nor disagree (15%); disagree (21%); strongly disagree (12%).

agency works also under various mandates delivered from time to time by the Commission.

The online survey to governing boards confirms this analysis. The administration board members generally agree that the activities of the Agency are consistent with its constituent act and with the strategic priorities of the European Union<sup>282</sup>.

Internally, the agency has a manager's steering committee to coordinate all the agency's activities. This is being strengthened as previously there were informal relations between units which didn't ensure enough complementarities and synergies between activities.

In term of external coherence, some recent relationships have been identified with DG Research as there is some research needs for some of the Agency's recommendations. Regarding Safety, some relations have been built with the EASA, EMSA and EUROSTAT (safety statistics). Regarding economic evaluation activities, formal contacts have been set up with the European Investment Bank, EUROSTAT and the Rail Market Monitoring Scheme (RMMS) of the Commission. Apart from that no other relations have been highlighted: ERA activities are highly specific to the EU railway sector. They don't have any equivalence in Europe and in the World..

#### **17.5. Effectiveness in achieving outputs and customer satisfaction**

No external evaluation has been undertaken until now. However, when looking at annual reports, the agency achieved the outputs stated in the various work programmes. Some interviewees (Staff agency and stakeholders) pointed out that from time to time the timeframe to transform a recommendation into a decision was underestimated which induced some delays in the initial programme.

Our own investigations among the stakeholders pointed out that the quality of agency's products was widely recognised. The administration board members for instance consider the output of the agency as of high quality (79%) and useful (100%)<sup>283</sup>. They also consider that the agency met the objectives of its work programme (74%)<sup>284</sup>.

The online survey to governing boards shows also that the outputs of the agency tend to benefit more to the European Commission (89% agree) than institutions at national level (53% agree)<sup>285</sup>. This result is rather normal as the European Commission is the direct user of the agency recommendations.

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<sup>282</sup> The answers regarding the constituent act are: strongly agree (31%); agree (69%). The answers with the strategic priorities of the European Union are: strongly agree (47%); agree (37%); neither agree nor disagree (10%); disagree (6%).

<sup>283</sup> The answers to the question "the outputs of the agency are high quality" are: strongly agree (26%); agree (53%); neither agree nor disagree (15%); disagree (6%). The answers to the question "the outputs of the agency are useful" are: strongly agree (21%); agree (79%).

<sup>284</sup> The answers to the question "the agency constitutently meets the objectives of its work programme" are: strongly agree (21%), agree (53%), neither agree nor disagree (16%); disagree (10%).

<sup>285</sup> The answers to the question "the outputs of the agency benefit other institutions at national level" are: strongly agree (10%); agree (43%); neither agree nor disagree (26%); don't know (16%) disagree (5%). The answers to the question "the outputs of the agency benefit the European Commission" are strongly agree (37%); agree (53%); neither agree nor disagree (5%); no answer (5%).

Agency interviewees also pointed out that the activities have contributed to disseminate and clarify the EU legislation among the national authorities and the sector. This is a positive role that will increase in content as the number of recommendations that have been adopted increases

## **17.6. Efficiency in managing resources and executing the budget**

### *Influence of the setting up of the agency*

The agency suffers from a location problem. First the Valenciennes located headquarters is difficult to reach from other EU MS. As one of the main agency activities is to organise meetings and workshops with European experts, ERA's main conference facilities are located in Lille which is better connected. But this double site location induces transport costs, higher building related costs and wasting working hours for the agency staff. Secondly, as of today, no seat agreement could be arranged with the French government. According to some interviewees (Agency Staff and Stakeholders), compensation of the additional direct and indirect costs caused by the double site could be part of this agreement.

Our own investigations among stakeholders confirm this analysis. A majority of Administration board members for instance agrees that the geographic location has a negative influence on the agency activities (63% agree).

### *Budgetary issues*

The agency is financed through a subsidy of the European Commission. Some interviewees (Agency Staff and Stakeholders) pointed out that the overall requirements of the Directives and the Regulation, the sum of the mandates together with the expectations of the stakeholders are generally not in line with the resources available. The decision making processes in respect of budget, regulation and mandates are independent of each other. To manage this situation, the Agency has to determine the most appropriate course of action consistent with its objectives and draft the Work Programme accordingly.

### *Human resources management*

The Agency experiences regular human resources difficulties, due to a combination of several factors: 1- high expertise required in each domain and strong competition for such expertise; 2 - type of contract (four years contract renewable up to a total period of eight years), 3-the location of the agency (no international school in Valenciennes for instance).4- the protracted planning and budget process and long timescales between the authorisation of a post budget and the starting of work. Typically the budget for a new post will be authorised in December of the preceding year but will not be filled until the summer.

This is a serious difficulty, because for each requirement there is a need for an expertise that cannot be easily transferred between tasks. Experts in wagon maintenance for instance, cannot realistically be expected to be also sufficiently qualified to work on the signalling system (ERTMS). According to the agency, the result is at the moment a chronic deficit of 20% staff according to work programmes.

### *Oversight activities*

The Internal Service Audit carried out in 2006 an audit<sup>286</sup> which strongly criticised the management of the Agency. Following this report, a post of internal

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<sup>286</sup> The IAS audit was focused on the functioning of the overall internal control system of the Agency. Management criteria for assessing the adequateness of the internal con-

auditor was created in order to implement the recommendations of this audit. All the recommendations are now closed out.

The Agency interviewees generally pointed out that this audit was badly received by the Staff of the agency. Indeed, the Agency would have expected to receive from the Commission more management support instead of a severe in-depth audit just after a year of activity. The agency started pragmatically by delivering technical recommendations with technical staff that didn't have any experience with the internal control standards used by auditors. It was noted that the Commission could have provided more guidelines and management support to help the agency with the implementation of those standards before undertaking the in-depth audit.

During 2008, the Administrative board of the Agency has adopted an equivalent version of those Internal Control Standards in order to streamline and enhance the development of the Agency's internal control system.

#### *Cost-effectiveness increase*

According to some interviewees (agency, stakeholders), the weight of the financial procedures (recruitment, procurement...) which the agency has to comply with is a weakness in terms of cost-effectiveness, since it involves a significant share of the budget and staff dedicated to administrative tasks. Within the online survey, for instance, the administration board members are a majority to consider that the large proportion of administrative staff reduces the efficiency of the agency.

It is generally said that the agency was created to be more flexible but the obligation to comply with the EC financial rules is perceived as involving high administration cost and longer procedures (e.g. recruitment). In order to reduce this administrative burden, the Agency is introducing electronic.

### **17.7. Main findings**

- The rationale for the Agency is clearly established by directives and recognised by involved parties (see section 17.2).
- The Commission is seen as the main ordering party which tends to question the role and the decision making process of the administrative board (see section 17.3).
- There is a clear coherence between the activities of the agency, its mandate and the strategic priorities of the European Union (see section 17.4).
- There is a clear added value of the agency, due to its technical expertise, and direct benefits accrue at European level rather than national level (see section 17.5).
- The double site location and the subsequent problems in hiring experts affect the agency efficiency in a negative way (see section 17.6)
- The need to comply with the administrative and financial procedures of EU bodies is considered as a burden reducing the cost-effectiveness of the agency, but high quality standards are set in terms of sound financial management and transparent use of public money (see section 17.6)

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trol system were the 24 Internal Control Standards adopted by the European Commission.





## 18. ETF

### 18.1. Introduction

The European Training Foundation (ETF), created in 1990<sup>287</sup>, became operational in 1994 in Turin, Italy. Initially created to support implementation of the vocational training component of the PHARE program, the ETF's scope was extended, through successive constitutional amendments, to include the TA-CIS, CARDS and MEDA programs<sup>288</sup>.

In 2008, a recast took into account developments in the EU external policy and granted the agency a more cohesive regulatory framework. The new regulation extended ETF's thematic remit to cover all matters related to Human Capital Development issues, and granted more flexibility to the geographical scope.

ETF focuses primarily on accession and neighbouring countries through the Instrument for Pre-accession (IPA) and the European Neighbourhood and Partnership Instrument (ENPI). It has recently started to operate in other regions, through the Development Cooperation Instrument (DCI). The agency employed 119 staff members at the end of 2008<sup>289</sup>, for an annual budget of about 17.8 million €<sup>290</sup>.

In the past, ETF provided technical assistance to the European Commission for the Tempus Programme. This activity has been transferred to the Executive Agency for Education and Culture.

The table below presents the four tasks describing ETF's activity, which have been identified in line with the internal ABB process. ETF presently undertakes two major tasks. The first is geographically discriminated but it includes the same activities representing a unique task, "Support to education and training reform", and therefore produces the same outputs. Nevertheless, they are presented separately in order to fully reflect the agency's external reporting.

The last task is a cross-cutting one: the development of evidence to support EU policy making and implementation in human capital development in the context of partner countries.

For the purpose of inter-agency comparisons, the evaluation team has categorised the agency activities in a few clusters (see Vol II, 2.1.3). These categories often refer to informing EU policy-makers, advising EU decision-makers, and applying soft coordination instruments within the EU. In terms of political logic, ETF cannot be related to these categories since there is quite a large logical difference between EU policy-makers and third country authorities, between EU decision-makers and co-operating governments, between Member States and partner countries.

Candidate countries are a case 'in-between' in the sense that they can be seen as future Member States and that the enlargement policy can be seen as both an internal and external policy. The share of candidate countries has however dropped to about one third of the agency activities.

Considering these points, the evaluation team understands that the current rationale of ETF is to contribute to the EU external policy (plus enlargement

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<sup>287</sup> Council Regulation No. 1360/90

<sup>288</sup> Amendments in 1994, 1998 and 2000 to extend the geographical scope, in 2003 to bring it into line with the Financial Regulation.

<sup>289</sup> By this year, the volume of "authorised staff" was 96.

<sup>290</sup> Draft ETF Annual Activity Report 2008, p. 30.

policy to a lesser extent), by providing support and services to third country governments and stakeholders<sup>291</sup>.

ETF				
Task	Task 1.a	Task 1.b	Task 1.c	Task 2
Main Objective	Support to education and training reform			Supporting the European partner country policy de innovation and learning.
	Contributing to the EU enlargement process by supporting human capital development (IPA).	Contributing to the Neighbourhood process through cooperation and partnership in human capital policy development and implementation (ENPI).	Contributing to development cooperation in human capital development in Central Asia (DCI).	
Budget (% 2008)	19,35	29,81		5,75
Dedicated Staff (FTE % 2008)	20,45	29,88		4,9
Outputs	Policy review and analysis, Capacity Building, Collaboration with international organisations and donor meetings, Support to sector programming and project cycle, Networking and dissemination.			Capacity Building for poli Collaboration with interr exchange among relevan Learning research project
Addressees/Users	EC, National governments of New Member States, civil society stakeholders	EC, National governments of Neighbour Partner countries, civil society stakeholders	EC, International Organisations, National governments of Central Asia Partner countries, civil society stakeholders	EC, National government States, civil society stake
Results/Impacts	Education and employment become priority sectors for national and IPA programming; Capacities are developed in national agencies for VET as well as among stakeholders; Increased understanding of how to implement and develop qualification systems.	Better VET programming and employment policy at national level; Improved co-ordination and information exchange in relation with skills for migrants.	Improved quality of HRD reforms and policy desing; Co-ordination is ensured among local actors and international donors; Dissemination of information and best practices among local stakeholders.	Increased dialogue and in Development of strategie Stakeholders are identifi contracts built to support

As some interviewees pointed out, a far reaching expectation is that supported countries will (1) improve the matching of demand and supply on their home labour markets and (2) make the best use of the skills and experience gained by migrants as returnees to their home countries.

## 18.2. Rationale and relevance

The rationale behind the creation of ETF was the need to assist Central and Eastern European countries in their accession process. The recast of 2008 while reaffirming this argument, extended the scope of ETF "to improving human capital development" in the neighbour countries.

Another shift in the ETF activities occurred gradually over the years, from an implementing agency dedicated to projects management, notably TEMPUS, to become a centre of expertise, providing support to policy formulation and capacity building. In 2008, the TEMPUS programme was removed from the ETF's activities: DG EAC decided to re-internalize the programme because it was regarded as completely detached from the rest of the agency's activity.

As regards ETF's relevance, it must be noted that the agency has seen a significant increase in requests from the Commission (+18% since 2006). That amount remained stable through 2008<sup>292</sup>.

<sup>291</sup> Similar activities have been identified in CEPOL (second main activity) and to a marginal degree in several other agencies (e.g. CPVO). In this respect, the evaluation team has a lasting disagreement with ETF and DG EAC which consider that ETF should be compared with CEDFOP on the ground that both agencies provide similar advice to governments, respectively inside and outside the EU. Similarly, it is said that ETF contributes to the "externalised" part of the EU education policy rather than to the EU external policy.

Both founding texts and recast decision do not provide an explicit justification for the creation of an agency against other possible alternatives, namely relying upon Commission's internal expertise possibly complemented by external experts. Two main reasons are said to lie behind the existence of an agency in this specific policy area:

- The necessity of independence, vis-à-vis particular national interests as well as the authority of the Commission; the legitimacy of an independent organisation facilitates acceptance of ETF interventions in countries outside the EU;
- The need of a strong credibility, achieved through the lack of commercial interest, and granted by the frequent evaluations that characterise the EU agency system.

At present ETF provides tailored support to third countries with an aim to help building their capacity to design vocational education and training reforms. This contributes to achieving the objectives of several EU policies (enlargement, neighbourhood, and development aid) in a way which is consistent with internal education and training policies. The same kind of support is delivered by EC internal experts, sometimes with the support of external experts in other policy domains, such as trade, transports, or rural development. Considering this point, the main alternative to ETF would be a mix of internal and ad hoc external expertise.

### **18.3. Agency's input to the work of the EU institutions**

The evaluation team has done a systematic analysis of governance arrangements across all agencies by looking at the various needs that have to be addressed and how these needs are reflected in the balance of powers. The main needs to be addressed are related to the EU external policy and to the third countries. However the Board is made of the EU education authorities chaired by DG EAC and representatives of Education Ministries from the 27 Member States.

DG EAC is ETF's parent DG but the majority of ETF's activities belong to the logic of external policy, and most requests come from DG Relex. The agency activities involve up to ten different DGs (Enlargement, Aidco, Justice, Enterprise, Ecofin...).

This situation generates a number of issues within the governance system: the different DGs might face some coordination problems. Nevertheless, the general feedback is that ETF is said to be helpful to coordination and ready to go into the Commission's requests. ETF's contribution to the Commission's activities as a unique centre of expertise for Vocational Education and Training (VET) and labour market reforms in developing countries can be testified by:

- Increasing involvement in the Commission's policy design phase: for example, the agency recently sent part of its staff as specialist working in the policy group used by DG Education to draw their external relations policy.
- Institutional outcomes of ETF's outputs: for example, managing the movement of labour to prevent illegal migration (with DG Justice).
- Growing demand from DG RELEX, EAC, Enlargement and Enterprise for recurring and ad hoc production of information: country analysis, analysis of human capital development, yearbooks [...].

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<sup>292</sup> ETF Activity Report 2007 and Draft ETF Activity Report 2008.

- Stronger recognition of the EU as an external actor thanks to the role of ETF as an “ambassador” of the EU values in the partner countries.

In addition, interviews within different DGs confirmed that ETF has to take initiative to suggest projects since the Commission is not used to react to the bottom-up demands.

The added value accruing to the EU from outsourcing to a single entity encompasses:

- corporate learning fostered by continuity of intervention;
- policy-orientation expertise built on cross cutting analysis in the context of innovations and learning projects.

In an effort to improve its accountability, ETF has put in place ad hoc surveys for client satisfaction which all produced very positive conclusion.

#### **18.4. Internal and External Coherence**

As a background to the present ETF mandate are the new EU foreign policy instruments in the areas of enlargement, neighbourhood and development. ETF carefully aligns its strategic objectives with the DG Relex and the other concerned DGs through a “structured dialogue” which precedes the drafting of the annual Work Programme.

ETF has proved able to follow the evolution of Commission’s thinking, as traditional vocational training has evolved into lifelong learning. The whole concept of society of knowledge within Lisbon has been effectively incorporated in the agency’s activities.

According to interviewees, coordination with DG RELEX and AIDCO does not yet run totally smoothly. There is a wish to be more systematically informed about ETF’s operations, especially when this involves cooperation with international organisations in areas outside the mandate of the agency.

Many interviewees also claimed that the ETF has experienced some difficulties in prioritizing their activities vis-à-vis the overall objectives since:

- Strategic planning has been little developed in the past and it is still questionable whether the latest recast will bring some improvements in that respect since the priorities are not clearly weighted<sup>293</sup>.
- The demands from EC were often criticized for not being realistic in terms of duration: short term requests or very long term general assignments.
- The process of resource allocation is still mostly bottom-up, i.e. operational rather than strategic driven.

Another crucial point that might hinder internal coherence is that the majority of the Governing Board members still have little insight on the core of ETF’s expertise according to several ETF staff interviewed. To uphold such scarce involvement, the return rate from the Board members on the survey questionnaire was particularly low (33%<sup>294</sup>).

The enlargement and neighbourhood policy gave an opportunity for CEDEFOP and ETF to develop closer cooperation: in the Copenhagen process, CEDEFOP

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<sup>293</sup> At the time of finalising this evaluation, a new mid-term perspective 2010-13 has just been issued

<sup>294</sup> Thus ranking as the 6th lowest return rate from Board members out of the 25 agencies to whom the survey was addressed.

coordinated the 27 Member States reports and ETF did the same for pre-accession countries' reports.

The EU qualification framework has relevance for candidate and neighbour countries as well: CEDEFOP has been responsible with the EU for drawing up the framework, and ETF is leading on promoting that domestic tool for surrounding countries. The planning of common activities is outlined in a joint annex to the annual Work Programme of both agencies and interactions between the two agencies are facilitated by sharing the same parent DG. In that respect ETF interviews revealed a strong demand to work more closely with CEDEFOP in order to spread EU experience into other neighbouring countries (e.g. the agencies could share a pool of VET experts and rotating among the two agencies to favour cross-fertilization).

ETF has explored cooperation with EU-OSHA (Bilbao) and EUROFOUND (Dublin), but little coordination was developed so far<sup>295</sup>. The ETF exchanges information with other Agencies working in the same thematic and geographical fields, in particular multilateral agencies like the OECD, the ILO, UNESCO, UNDP, the World Bank, the Asian Development Bank etc. The Agency also exchanges information with leading bilateral agencies from the Member States like GTZ, British Council, Agence française de développement, etc..

### **18.5. Effectiveness in achieving outputs and customer satisfaction**

The Interim Evaluation of ETF carried out in 2006 found that short-term impacts is generally positive on immediate beneficiaries on one hand and, on the other hand, there is "little evidence of project impact on systems and government institutions more widely"<sup>296</sup>.

"The evaluators found it challenging to assess the specific results and impacts achieved by ETF given the nature of the sector, the scale of ETF's activities and the range of different stakeholders"<sup>297</sup>. As a consequence, not much empirical evidence was collected to assess ETF's effectiveness within the reform processes in the partner countries.<sup>298</sup>

ETF recently acquired the potential to develop expertise in other sectors, as the regulation presently leaves the door open for them to work in new regions. Some interviewees within the Commission were quite sceptical about this: tackling different education systems and institutional settings brings on the risk of dispersing expertise too far out. The recast regulation defines mechanisms for approving any extension of ETF's thematic and geographical mandate, which must be validated by the Commission and the Governing Board

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<sup>295</sup> ETF has MoU with Eurofound.

<sup>296</sup> EAC/06/05 Final Report 25th May 2006.

<sup>297</sup> Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee - The European Training Foundation, COM(2006) 832

<sup>298</sup> The evaluation reported perceptions about services and not about impacts: "From the perspective of both the Commission Services in Brussels and the Delegations, the contribution of ETF is perceived as very positive as it brings value to its users through provision of expertise in VET and Human Resource Development (HRD) cross a range of services."

## **18.6. Efficiency in managing resources and executing the budget**

### *Influence of the setting up of the agency*

No relevant information could be retrieved as to efficiency considerations in the setting up of the agency. However, in 2008, the ETF started to count the number of outputs in terms of the categories corresponding to the new functions included in the recast regulation<sup>299</sup>. This is expected to further improve the oversight activities. For example, in 2008, the actual number of outputs has increased, given the increased number of lower labour intensive and budget consuming services requested by the Commission.

### *Budgetary issues*

In 2009, ETF faced the challenge of adapting to the new EU financial regulation framework in a cost effective manner, while at the same time striving to harmonise practices among EU agencies. For example, ETF recently switched from SI2 to ABAC, the centralised EC system for financial transaction management and accounting.

### *Human resources management*

The year 2007 was particularly significant for the evolution of internal managerial practices. In particular, ETF adopted:

- New human resources management to ensure that staff expertise and skills are developed
- Mapping of all relevant business processes as part of a risk self-assessment exercise
- Activity Based Budgeting, starting from the 2007 Work Programme.

The Agency's flat hierarchy and its team-work approach have made it difficult in the past to monitor accurately ex-post the work time devoted to a specific project. In May 2008, the IAS conducted an audit on ETF human resources management. The results of the audit confirmed that the internal control system in place within ETF provides reasonable assurance on the adequacy and effectiveness of human resources management, but the IAS also recommended:

- the improvement of ETF human resources planning and reporting processes,
- the integration of time recording into the framework of annual planning and budgeting and
- a stronger alignment of objectives for individual staff members with the annual strategic objectives of ETF.

An action plan was readily set up by ETF to address these issues. ETF introduced a time-tracking system enabling staff to record the actual time spent on the different activities in which they are engaged and enabling the Agency to make accurate estimates of the cost per activity on the basis of real time evidence rather than planning assumptions. This has significantly improved the system of activity based management.

### *Oversight activities*

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<sup>299</sup> Output categories in the ETF 2008 Activity report: Policy reviews and analysis, Capacity building actions, Support to programming cycle, Dissemination and networking, Effectiveness analysis, Innovation and learning.

The ETF has a well established system to ensure adequate management supervision covering both legal and regularity aspects as well as operational performance. The main tools for management supervision in place at ETF are the following<sup>300</sup>:

- Weekly round up on ETF budget consumption: live links to budget execution across all funds (internal and external) is sent to management providing the possibility to monitor the estimated targets for budget consumption at different levels of granularity;
- Quarterly reporting system, which includes:
  - financial and procurement reporting;
  - information on audits and other assessments;
  - quarterly reports on the progress of all WP activities, measured against planned outputs and objectives, with the identification of any risks and or delays in implementation as well as aggregated data on human resources investment deriving from time recording system.
- Weekly Management meetings organised following an annual running business plan.

*Cost-effectiveness increase*

Among ETF's innovation and learning activities, the knowledge management project was set up in 2008 to increase the efficiency of usage of existing system supportive informatics tools and knowledge bases. This project further developed knowledge management and sharing tools (such as the Guidelines for ETF Virtual Communities) and resulted in the creation of the ETF data library<sup>301</sup>.

Referring to the Court of Audit reports, ETF claims to rank amongst the most efficient EU agencies. The interviewees state that the organisation is much more flexible than academic entities and with reduced overhead costs as compared to the private sector. ETF has taken a rather conservative approach towards contracting out, since the management believes that the value of the agency resides in its field expertise and their ability to capitalize on it.

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<sup>300</sup> ETF Annual Activity Report 2008

<sup>301</sup> Ibidem



### **18.7. Main findings**

- The agency's rationale has considerably evolved through successive developments in its mandate (see section 18.2);
- ETF has a strong added-value in partner countries, but a risk was identified in the geographical and thematic expansion of its mandate (see section 18.3 and 18.4);
- ETF and its "sister" agency, CEDEFOP, are developing cooperation and joint activities (see section 18.4);
- The evaluation team questions the fact that the structure of the agency's board is totally in line with the EU internal education and training policy while all its activities take place in the context of the external policy (see section 18.4);
- The main driver of effectiveness is the strong credibility of ETF, built on a reputation of quality and independence (see section 18.5);
- Recent improvements in human resource management and budgeting still have to be fully implemented, but they show a positive trend towards internal efficiency (see section 18.6).

## 19. EU-OSHA

### 19.1. Introduction

Safety and health at work constitutes one of the EUs most concentrated and most important social policy sectors. As early as 1951, the European Coal and Steel Community set about improving the safety of work, a concern which the Treaty of Rome extended to all employees. As a result, a substantial corpus of legislation aimed at raising standards has been developed since the late 1970s<sup>302</sup>. Following this development, and with an increased focus on prevention, the need for additional measures such as raising awareness, spreading of technical knowledge and exchange of good practices became evident.

The European Agency for Safety and Health at Work (EU-OSHA) was established by Council Regulation (EC) No. 2062/94 of 18 July 1994<sup>303</sup>, further amended by Regulations No. 1643/95<sup>304</sup>, 1654/2003<sup>305</sup> and 1112/2005<sup>306</sup>, with the primary aim to provide the Community institutions, the Member States and the stakeholders in the field with technical, scientific and economic information about safety and health at the workplace through collecting, analysing and sharing knowledge and information, and promoting a culture of risk prevention.

The agency is located in Bilbao in Spain and was set up in 1996. It has a budget of EUR 14 million and employs 59 people. The agency is headed by a Director appointed by the Governing Board comprising of 84 members from government, employers and employees organisations in each Member State as well as Commission representatives.

The Agency carries out three main tasks: (1) Communication and awareness rising (2) Identification of new and emerging risks and (3) Networking.

The evaluation team understands the logic of EU-OSHA's activities as:

- Task 1: Communicating towards employers, workers, and other stakeholders in order to raise awareness of and promote good practice in safety and health at work<sup>307</sup>;
- Task 2: Collecting, analysing and disseminating information on emerging risks as to support the making of evidence-based policies at EU and Member State levels<sup>308</sup>;
- Task 3: Facilitating Member State cooperation in order to better achieve the objectives of the EU policy.

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<sup>302</sup> Adapting to change in work and society: a new Community strategy on health and safety at work 2002-2006, COM (2002)118 final, 11 March 2002.

<sup>303</sup> OJ L 206, p 1, 20 August 1994.

<sup>304</sup> OJ L 156, p 1, 7 July 1995.

<sup>305</sup> OJ L 245, P 38, 29 September 2003.

<sup>306</sup> OJ L 184, p 5, 15 July 2005.

<sup>307</sup> Same logic as FRA's second task.

<sup>308</sup> Same logic as that of the main task of EMCDDA, EUROFOUND, and FRA, as well as secondary tasks of CEDEFOP, ECDC, EFSA, and EIGE.

<b>EU-OSHA</b>			
<b>Tasks</b>	<b>Task 1</b>	<b>Task 2</b>	<b>Task 3</b>
<b>Main objective</b>	<b>Communication and awareness raising</b> To ensure a broad and targeted dissemination of information about occupational safety and health	<b>New and emerging risks</b> To identify new and emerging risks in order facilitate preventive action	<b>Networking and exchange</b> To develop and maintain networks of organisations involved in occupational safety and health in Europe, including exchange of good practices in OSH
<b>Budget</b> (% per year, 2008)	23,9%	14,2%	8,4%
<b>Dedicated staff</b> <sup>309</sup> (FTE%, 2008)	22,4%	16,8%	16%
<b>Outputs</b>	Campaigns; Promotion material; Communication activities; Publishing activities	Thematic Reports Forecasts Surveys Seminars and workshops	Meetings; Information exchange; Case studies reports; factsheets; practical risk management tools; campaign info materials
<b>Addressees / Users</b>	Employers, workers, safety representatives, practitioners, preventive services	Policy-makers and stakeholders in the policy-making process; researchers	Public authorities; social partners and other relevant national actors; European Commission  Employers, workers, safety representatives, OSH practitioners, preventive services, intermediaries
<b>Results/ impacts</b>	Stakeholders are informed and convinced  Changes in the European and national political agendas	Information reaches target groups  Stakeholders are informed and convinced  New and emerging risks are better handled	Mutual information, learning, and engagement of stakeholders  Use of information  Better prevention of OSH risks

Regarding the primary task of the agency *Communication and awareness raising*, the overall aim is to be Europe's first reference point for information on

<sup>309</sup> The remaining 30% refer to administrative staff /Governing Board members

safety and health at work, and to ensure a broad and targeted dissemination of information produced by the agency. The second main task of agency is the *New and emerging risk*. Part of this task relates to the European Risk Observatory (ERO) and is a relatively new feature of the agency, as this was added to its remit in 2005, due to the changing nature of occupational safety and health at work. Moving away from heavy industry towards the service sector meant less focus on work accidents and increased focus on prevention of work related diseases posing new challenges such as stress or muscular problems.

## 19.2. Rationale and relevance

Prior to the establishment of the agency discussions took place regarding whether the numerous legislative measures and common standards adopted were sufficient to impact the safety and health at the workplaces across Europe. At the same time, long-term diseases began to surface which resulted in workers being put on disability benefits, with little prospect of return to the labour market. This led to discussions about prevention of these situations.

The overall aim of the agency was therefore to raise awareness and exchange good practices in the field and to promote and spread technical information on how to prevent work-related diseases and accidents. Occupational safety and health is perhaps one of the most regulated areas in the EU Social Policy and OSHA has developed a global strategy for the field, acknowledging that standard setting and regulation are not sufficient to improve health and safety at work and prevent work related diseases and accidents.

Over the past years there has been a gradual change in Europe from an industrial economy towards a service or technology economy, and thus the risks have changed and are still changing. Focus has moved towards long-term and sometimes hidden diseases such as cancers and stress and thus the need for prevention and assessments of new and emerging risks are greater. This was also reflected in the inclusion of the European Risk Observatory (ERU) in the scope of the Agency in 2005<sup>310</sup>.

In the course of its work, the evaluation team has undertaken to review all "small agencies"<sup>311</sup>, and to identify EU agencies offering potential synergies. EU-OSHA and EUROFOUND are part of the six identified "pairs" of agencies (see 19.4 and 20.4)<sup>312</sup>.

## 19.3. Agency's input to the work of the EU institutions

There is a clear division of tasks between the Agency and the Commission as the latter is responsible for initiating the Community legislative process for the adoption of EU Health and Safety at Work legislation and for monitoring the transposition of legislation in the Member States, whereas the Agency provides information and channels to exchange best practices and engages networks with the MS. These two tasks are completely different which justifies the autonomous work of the Agency.

The Agency is not involved in the inter-institutional decision-making process, however the agency has over the years and on an ad hoc basis been asked by the Commission to contribute to their work, by helping to identify OSH research priorities, contributing with good practice information for guidelines, replying to EP questions or carrying out small pre-studies ahead of the revi-

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<sup>310</sup> Council Regulation (EC) No. 112/2005 of 24 June 2006 (OJ L 184, p 5, 15 July 2005)

<sup>311</sup> "Small" being defined as agencies with a 'less than one hundred' staff' in a foreseeable future.

<sup>312</sup> This issue is discussed in more detail in Volume I of this report.

sion of existing legislation. The agency contributes indirectly to the inter-institutional decision making process through the collection and dissemination of relevant information on health and safety at work and thus facilitating debate between policy makers and experts.

The agency also supports policy implementation by coordinating awareness raising actions with the Commission. For instance, a campaign on noise was scheduled just before the Directive on noise came into force and the agency thus provided information to the relevant stakeholders on how to tackle the issue in practice.

A majority of interviewees among agency's staff do not consider the agency only as an "upstream" information provider; rather, they see its role as two-fold, due to the large awareness raising tasks they also undertake.

EU-OSHA provides inputs to among others SLIC (Senior Labour Inspectors Committee), the Sector Social Dialogue Committees, DG EMPL, DG SANCO and international organisations such as WHO and ILO.

#### **19.4. Internal and External Coherence**

Ahead of the adoption of the EU-OSHA Strategy 2009-2013<sup>313</sup> (which was adopted in December 2008) an internal Impact and Outcome assessment<sup>314</sup> with external quality assurance was carried out, looking at both the internal and external coherence to ensure that desired outcomes are aligned with the priorities of the stakeholders. The impact assessment concluded that there was a high degree of both external coherence (especially in relation to the Community Strategy) and internal coherence (between different levels of objectives in the strategy)

Focal points representing various national stakeholders (social partners) have been directly involved in a consultation process of the EU-OSHA Strategy 2009-2013 which began in March 2007 and ended in December 2008.

The Annual Activity Report 2008<sup>315</sup> provides evidence of the achievements by activity areas linking the specific objectives to the results achieved. There seems to be full consistency between the mandate of the agency and EU strategic priorities within the field. The EU-OSHA Strategy 2009-2013 and its activities and the work programme of the agency reflect the Community Strategy on OSH 2007-2012<sup>316</sup>.

There are a number of agencies which carry out similar networking activities or operate in a way which is similar to that of EU-OSHA, however their outputs are somewhat different and complement the work of EU-OSHA. For instance, the newly established Helsinki ECHA has received advice from EU-OSHA and adopted similar methodologies on risk assessments. EUROFOUND is the agency with the most potential overlaps. Its mandate is however much broader, and a MoU has been signed in order to avoid any duplication of functions. Furthermore, work programmes are exchanged, and EUROFOUND does not seem to be involved with the more technical issues requiring specialized OSH knowledge (see 20.4).

In terms of contents there could also be potential overlaps with the Maritime Agency (EMSA), the Railway and the Aviation Agency (ERA and EASA) dealing

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<sup>313</sup> EU-OSHA Strategy 2009-2013, Bilbao, December 2009

<sup>314</sup> Impact and Outcome Assessment of the EU-OSHA Strategy 2009-2013, December 2008 (working document)

<sup>315</sup> Authorising Officers Annual Activity Report 2008, EU-OSHA, February 2009

<sup>316</sup> Improving quality and productivity at work: Community strategy 2007-2012 on health and safety at work, COM (2007)62 final, 21 February 2007.

with health and safety issues in those areas. For instance, next year, the EU-OSHA will launch a campaign on health and safety in the field of maintenance which is closely linked to those fields. However, the agency has approached them for cooperation in order to avoid duplication and provide synergies.

The nearest EU policies are enterprise and industry policy, public health policy and environmental policy and there generally seem to be good cooperation in particular with DG ENTR which is involved in the campaigns of the agency, and DG SANCO.

The focus on new and emerging risks that goes on within the European Risk Observatory is also a means to ensure coherence and that the work and priorities of the agency is constantly aligned with national priorities and EU strategic objectives. The agency's previous work in this respect was recognized by giving the Risk Observatory a number key tasks in the Community Strategy 2007-2012.

### **19.5. Effectiveness in achieving outputs and customer satisfaction**

The agency has implemented Activity Based Management and monitors very closely the achievement of out-puts and services achieved. The web-site and communication campaigns are the outputs most closely monitored in terms of user satisfaction and of external evaluation although their *impacts* on end-users are rarely established. This being said, workplace OSH improvements or prevention of diseases can be hard to assess. According to the most recent External Evaluation<sup>317</sup>, the Agency could do more to develop tools to assess the impact of its initiatives on target groups. However, feedback from the External Evaluation "suggests that the activities of the Agency and its Focal Points networks are achieving positive impacts". The External Evaluation concluded that "EU-OSHA is very highly regarded as a source of information in Europe on OSH issues." To illustrate, the European Campaign 2007 on Lighten the Load (on preventing work-related musculoskeletal disorders) shows that 194.000 participants took part in campaign activities and events; 207.000 nationally produced publications and other materials were disseminated. In addition, according to external evaluation the information materials produced by the Agency were seen by the stakeholders and target groups as useful.<sup>318</sup>

Publications - one of the main outputs of the work of the Agency - are monitored in terms of press clippings and possible media attention/interviews. The Agency also monitors the publications' popularity or relevance by the number of conferences or events in which they are invited to present the publication. A user panel has been set up to improve customer satisfaction.

The only criticism expressed by interviewees on effectiveness of the outputs was the organization of three National Focal Points meetings a year in Bilbao, requiring a lot of administrative effort which some interviewees felt did not balance the outcome of these meetings (this was also the conclusion of the external evaluation). It should however be noted that the organisation of the annual focal point meetings is a small activity seen in relation to the other activities of the agency.

A specific Action Plan on how to follow up recommendations from external evaluations is being implemented. Following the specific evaluation of the

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<sup>317</sup> External Evaluation of the European Agency for Safety and Health at Work carried out by Centre for Strategy and Evaluation Services 2006/2007.

<sup>318</sup> *Evaluation of European Campaigns and Healthy Workplace Initiative 2006 & 2007*  
[http://osha.europa.eu/en/publications/evaluation\\_reports/evaluation\\_of\\_european\\_campaigns\\_and\\_healthy\\_workplace\\_initiative\\_2006-2007.pdf](http://osha.europa.eu/en/publications/evaluation_reports/evaluation_of_european_campaigns_and_healthy_workplace_initiative_2006-2007.pdf)

European Campaigns the agency decided to set up a user panel to improve its “delivery” of publications.

## **19.6. Efficiency in managing resources and executing the budget**

### *Influence of the setting up of the agency*

The location of the agency did not pose problems, except for the lack of a Seating Agreement with the Spanish Government, which means the agency has to rent offices on the open real estate market, which is rather expensive.

### *Budgetary issues*

In 2008, 95.1% of EU-OSHA’s 14.9 mill EUR budget was executed.

The agency is financed through a subsidy of the EU budget. From 2008 to 2009 the budget was cut back approximately 4%<sup>319</sup>.

### *Human resource management*

There has previously been a high turn-over of staff, but this has been overcome by bringing the Agency’s contract policy into line with that of other agencies and thereby providing more security for those settling with their families in Spain. Generally, the agency are of the opinion that they have enough candidates for the available positions (4 were vacant at the time of the interview) although the reserve lists have tended to be very limited, partly due to lengthy procedures. The latter problem has been addressed by the agency which has reduced the time needed for recruitments considerable.

### *Oversight activities*

EU-OSHA carries out periodic external overall evaluations. Its main tasks (i.e. the European Campaigns) are systematically submitted to specific external evaluations at the initiative of the agency.

Interviewees in the agency state that the preparation and servicing the auditing processes (Commission’s Internal Audit Service and Court of Auditors) is a heavy burden for such a small agency and is not proportionate with the risk involved.

The double reporting (annual report and authoring officers report) is also perceived by agency staff as a burden, since a lot of the same material is reproduced several times for different purposes and thus not a very efficient use of time.

### *Cost-effectiveness increase*

EU-OSHA aimed to increase efficiency in particular by improving administrative services and applying good administration principles.

Activity Based Management is implemented according to the Annual Management Plan. Recently a timesheet system has been discontinued, and the Agency is currently considering what to put in its place.

Service Level Agreements exists: with PMO (payment of salaries) and on translation services as well as a system for financial management (ABAC) and with OPOCE for publishing and distribution services. The agency uses these agreements to the extent possible to save time and increase efficiency.

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<sup>319</sup> It should be noted that the cut was not linked to the performance of the Agency but part of a general series of cuts to help financing the Galileo project.

The implementation of the Activity Based Budgeting system (developed in 2008 and fully operational in 2009) helped to compare efficiency and to provide transparency.

As a way of improving efficiency, EU-OSHA carries out tight financial monitoring through a monthly reporting system.

#### *Governance*

Interviewees state that the size and complexity of the 84 member Governing Board (tripartite) does generally not pose problems, although some point to a low degree of active involvement by board members in the past due to lack of individual influence.

Some steps have been taken to remedy this situation: First of all, a Bureau of 11 members of the Governing Board was established a number of years ago. The Bureau comprises of 3 representatives of government, employers and employee organisations, respectively, and two representatives of the Commission. The Bureau meets 4 times a year. Secondly, to improve involvement and ensure advice and feed-back on the agency's activities, Advisory Groups have been established for each of the three main activity areas; Communication and promotion; European Risk Observatory; and Working Environment Information.

Another issue, which is now resolved, was that for a number of years Member State governments (National Focal Points) both sat on the Board and were granted subsidies by the agency. This is no longer the case as the Focal Point subsidy scheme was discontinued in 2008.

### **19.7. Main findings**

- The rationale of EU-OSHA is clearly established and the mandate has changed according to changing needs i.e. through the inclusion of the European Risk Observatory in its remit in 2005( see section 19.2)
- Monitoring and evaluation of output, results and impacts is carried out on a regular basis and provides evidence of EU-OSHA's high value in terms of results and impact achieved and stakeholders' satisfaction. An effective governance system providing both a large and fair representation of all stakeholders and an effective decision making capacity through a Bureau (see section 19.6).
- High turn-over of staff has been overcome by reforming the contracts of the staff in 2006 thus providing more security for those settling with their families in Spain (see section 19.6)



## 20. EUROFOUND

### 20.1. Introduction

The European Foundation for the Improvement of Living and Working Conditions (EUROFOUND) was set up in Dublin in 1975, under Council Regulation No. 1365/75 of 26 May 1975, with the mandate to 'contribute to the planning and establishment of better living and working conditions through actions designed to increase and disseminate knowledge likely to assist this development'<sup>320</sup>. It currently has 101 posts<sup>321</sup>, and operates on an annual budget of EUR 20 million (2009)

Today, EUROFOUND covers all Member States and, to different degrees, Turkey, Croatia, Norway, Iceland and Switzerland, collecting quantitative and qualitative survey data in the fields of observations of working conditions, quality of life and working time. It includes a network of established observatories for the collection of qualitative data, such as the European Industrial Relations Observatory (1995) and the European Monitoring Centre on Change (2000).

EUROFOUND presents its activities in two distinct tasks: (1) Research, and (2) Dissemination. It is however the evaluation team's view that these two tasks are part of the same logic i.e. collecting harmonised information and disseminating it to support an evidence-based policy-making process at EU and Member State levels<sup>322</sup>.

EUROFOUND		
Tasks	Task 1	Task 2
<b>Main objective</b>	<b>Research</b> To develop and to pursue ideas on the medium - and long-term improvement of living and working conditions in the light of practical experience and to identify factors leading to change.	<b>Dissemination</b> Advise the Community institutions on emerging issues and guidelines by forwarding in particular scientific information and technical data.
<b>Budget</b> (% per year, 2008)	58%	26%
<b>Dedicated staff</b> (FTE %, 2008)	43%	26%
<b>Outputs</b>	Datasets (e.g. European Quality of Life Survey), information packs, publications;	Web site publications / resources, event participation / organisation, exhibitions, Seminars, Visitor programme, Press activities

<sup>320</sup> Council Regulation 1365/75 of 26 May 1975

<sup>321</sup> Not all posts are, however, currently filled, cf. section 20.6.

<sup>322</sup> Same logic as that of the main task of EMCDDA, and FRA, as well as secondary tasks of CEDEFOP, ECDC, EFSA, EIGE, and EU-OSHA

<b>Addressees / Users</b>	European Institutions / policy makers, European and national social partners and public authorities	European Institutions / policy makers, European and national social partners and public authorities
<b>Results/ impacts</b>	Policy-makers and other stakeholders are better informed about developments and research findings  Results are transferred into policy/practice	Policy-makers and other stakeholders are better informed about developments and research findings  Results are transferred into policy/practice

Firstly, the foundation collects information and data through surveys and observatories, corresponding to 58% of their total budget in 2008. Secondly, the foundation dedicates extensive resources (26% of total budget in 2008) to the dissemination of the collected information, both through their web site, online tools and library as well as through events, seminars, visitors programmes and general press activities.

## 20.2. Rationale and relevance

When established, the purpose of the foundation was to respond to a need for inter-disciplinary scientific data as a basis for Community action in the field of living and working conditions<sup>323</sup>. The Community was found not to be in a position to undertake analyses, studies and research in this field systematically and scientifically. The Foundation was also set up to challenge the lack of social partner involvement in common actions at Community level. For this reason, the Governing Board gathers the European and national social partners, MS and the European Commission.

The reasons for creation are assessed by the evaluator as relevant, rational and adequate with respect to the needs at the time. This is supported by both stakeholder and agency staff interviews.

The evaluation team understands that an alternative would have been some kind of expert network involving specialists from national agencies and the academic world<sup>324</sup>. Both agency staff and stakeholders assessed the agency option as more effective in terms of exploring the future information needs of all stakeholders in the EU policy-making process. In this respect, it is the assessment of the evaluator that the relevance of EUROFOUND's work owes a lot to its governance system, and to its close ties with EU policy-makers (liaison office in Brussels, monitoring of the political agenda), cf. sections 20.5 and 20.6, below.

The relevance of the agency today is generally undisputed, as suggested by both individual interviews and survey results, where 90% of survey respon-

<sup>323</sup> Council Regulation 1365/75 of 26 May 1975

<sup>324</sup> The role of the European observatories could in theory be replaced with national public administrations reporting data to EUROFOUND or another central coordinator (e.g. DG STAT). Employers are for example required to report job loss under the collective dismissal directive. However, several risks were highlighted for this option. Firstly, compliance may vary across the countries, and could result in lack of data. Furthermore, this runs the risk of being subject to political bias. The independence of the national network partners was emphasised by the research community as particularly important for the legitimacy of the outputs in stakeholder interviews. Replacing the central coordinator with for example DG STAT was not recognised as a viable option, neither by stakeholders nor agency staff, particularly as activities are based on work programmes that have buy-in from social partners as well as the Commission.

dents (members of the Governing Board)<sup>325</sup> agreed that the needs for the agency are still relevant today. In the ex-post evaluation of the previous work programme 87% of respondents (academics and representatives of EU institutions) stated that the outputs of the Foundation were either effective or very effective in addressing their needs<sup>326</sup>. Hence, the reasons for EUROFOUND's creation appear to be still relevant and adequate with respect to the needs which exist today.

### **20.3. Agency's input to the work of the EU institutions**

The European Commission is one of the most important end-users of EUROFOUND expertise, with an annual average of 45 quotations of EUROFOUND work in its policy papers since 2006<sup>327</sup>. The performance monitoring system of the agency also showed that the Commission's use of Eurofound output has increased since the system was introduced in 2005. Furthermore, the agency interviews showed that the European Parliament is the biggest requester of work that requires a quick turnaround. Other users include social partners (e.g. the European Trade Union Confederation, BusinessEurope), Member States, media, NGOs / think tanks, researchers and companies.

Interviews with agency staff and stakeholders showed that benefits to users include timely and up to date information on high interest topics, such as job loss / job creation across Europe under one common methodology. The Foundation is currently supplying DG Employment, its parent DG, with monthly reports on European labour market developments, such as job creation and losses, industry sector developments and unemployment levels. Responding to stakeholder needs, the Foundation is increasingly focusing on in-house capacity for timely analysis and editing of outputs.

The establishment of the agency did not involve a transfer of tasks previously carried out by the Commission. Thus, the existence of the agency cannot be said to relieve the Commission of work that it would otherwise have to carry out. As an 'upstream' information provider, the Foundation regularly produces publications or resources that inform decision-making between institutions. A recent example includes the role of the Foundation in the development of the directive for equal treatment of temporary workers, where the Foundation presented the research to the Commission during the drafting process and to the European Parliament at its first hearing.

Introducing new common methodologies for data collection, such as for the European Restructuring Monitor, the Foundation also brings about EU wide harmonisation of data which allows comparisons and syntheses across MS. This is supported by the survey results, where 90% of the respondents agreed that the agency produces comparative cross-cutting analyses which are not available from any other source. Although the interviews showed that methodologies have at times been contested (e.g. representativeness, methodology), there is general agreement among stakeholders that these activities are based on harmonised data collection tools and research methods. Furthermore, the stakeholders agree that EUROFOUND adds community value by providing timely data with relevance to European policy makers, e.g. published datasets on quality of life. All of these data sets are openly available to

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<sup>325</sup> Survey carried out among agencies' management board members as part of this evaluation. 55% of EUROFOUND's board members answered the survey.

<sup>326</sup> Ex-post evaluation of the 2001-2004 programming period, PriceWaterhouseCoopers 2007

<sup>327</sup> Statistics issued by the Brussels Liaison Office (updated figures can be found in draft Annual Report for 2008).

any user on the Foundation website and through a public archive, the Economic and Social Data Service of the UK Data, where the user can run specific analysis on cross-European datasets on simple variables such as age, gender and geography. Additionally, there is specific community added value in facilitating and encouraging debate and dialogue between European social partners through the structure of the Governing Board and through stakeholder consultations in developing work programmes.

#### **20.4. Internal and External Coherence**

Comparing the tasks and activities of the agency with the mandate as set out in the founding regulation, it is the assessment of the evaluator that there is good coherence.

Members of the Governing Board generally agree<sup>328</sup> that the agency consistently meets the objectives of its Work Programmes. Furthermore, stakeholders are well represented and consulted, e.g. 7 consultation meetings with Governing Board / Bureau for the development of the 2009-2012 work programme<sup>329</sup>. Interviewees emphasised how this has achieved invaluable buy-in from all social partners and added to the legitimacy of the outputs. Consequently, interviewed stakeholders consider that outputs are more likely to be used in policy-making and debate.

External coherence is ensured via different types of co-operation agreements with a number of other EU agencies and other key stakeholders including, among others, EU-OSHA (see section 20.4), CEDEFOP, FRA, and ETF, as well as the European Economic and Social Committee and the International Labour Organisation (ILO). The structure of these agreements is a combination of a general framework agreement and an annual co-operation programme. The recent ex-post evaluation concluded that there is no duplication or inconsistencies between the foundation and other EU agencies<sup>330</sup>. However, it is worth emphasising that around 10 % of survey respondents disagree that activities are coordinated with those of other agencies working in the same policy areas.

Coherence with EU policy and strategic objectives is achieved through the alignment of the annual and multiannual work programmes with those of the Commission, and is supported by the Brussels Liaison Office (BLO) providing timely and up-to-date information on policy developments, key issues and significant developments within the EU policy environment. A 'hot spot' database managed by the BLO allows Eurofound to monitor potential opportunities for pro-active contributions and identify emerging themes in the EU and Member State debates. The database informs monthly Strategic Communication Meetings as well as other foundation documents, such as the work programme, the annual report and 'Impact Tracking' Reports. Other examples include monitoring the updated work programme of the European Parliament on a monthly basis, giving the BLO the opportunity to contact the Parliament rapporteur 2-3 months in advance. The evaluator's overall assessment that coherence with EU policies and priorities is good is supported by the survey

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<sup>328</sup> 89% of respondents in the survey agreed or strongly agreed.

<sup>329</sup> Ex-ante evaluation: Europe at work, better life and opportunities for all – Four-year work programme 2009–2012, EUROFOUND 2009

<sup>330</sup> Ex-post evaluation of the 2001-2004 programming period, PriceWaterhouseCoopers 2007. It should be mentioned that an ex post evaluation of the 2005-08 Eurofound work programme is currently underway (due early 2010).

results, where a large majority of respondents (91%) agree that the agency's activities are aligned with the strategic priorities of the European Union.

With other agencies and key operators, coordination activities are case by case and not formalised in procedures or programmes, e.g. the Foundation has undertaken analysis on Eurobarometer data on mobility (2005-2006), but there is no memorandum of understanding or formalised links with Eurobarometer, nor DG STAT. This could be infringing on external coherence in terms of Europe wide data collection / data coordination and availability of data to the public.

Finally, interviewed stakeholders agreed that there is limited duplication with national agencies, particularly because of the tripartite governing structure of the Foundation, that duplication of roles with international agencies is not an issue, and that the activities of EUROFOUND are considered complementary to that of e.g. the OECD and the ILO.

## **20.5. Effectiveness in achieving outputs and customer satisfaction**

The previous evaluation of the agency, covering the period 2001-2004, showed that planned outputs were effectively achieved to high customer satisfaction<sup>331</sup>. A large majority of respondents to the survey agreed that the outputs of the agency are achieved to high quality (83% agreed) and that they are both timely (86%) and useful (86%).

Effectiveness is monitored through defined indicators, and recent data suggests that outputs have been effectively achieved. Indicators are both output and impact indicators (e.g. monitoring the number of presentations made by EUROFOUND staff and EUROFOUND quotations in EC policy respectively)<sup>332</sup>. The majority of the survey respondents agreed that the agency consistently receives positive feedback from stakeholders, and that the outputs of the agency benefit both the European Commission and other institutions in Europe. Furthermore, respondents generally agree that the agency's activities support new policy development in their organisation.

It is worth mentioning that the agency has shifted emphasis from the general public to specific target groups since 2006, particularly to a focus on strengthening tripartite relationships. However, external interviews showed that this has not necessarily been communicated to the stakeholder groups, some of which see the general public as an important stakeholder group for the agency.

There is a strong dissemination and communication emphasis with both overall and output specific communication plans and strategies, with the aim to ensure effective dissemination, pro-active press strategy, and synergies with high-level events and forums. Communication activities have raised awareness of the key target audience, as documented in the previous ex-post evaluation<sup>333</sup>. The Foundation's dissemination emphasis was raised by some interviewees as a minor concern, where the proportionality of activities were questioned.

The role of the Brussels Liaison Office (BLO) adds to the effective delivery of achieving outputs and customer satisfaction, e.g.:

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<sup>331</sup> Ex-post evaluation of the 2001-2004 programming period, PriceWaterhouseCoopers 2007

<sup>332</sup> E.g. draft Annual Report for 2008

<sup>333</sup> Ex-post evaluation of the 2001-2004 programming period, PriceWaterhouseCoopers 2007

- the “Hot Spot” database monitoring potential opportunities for EUROFOUND to direct pro-active contributions, e.g. to policy making processes, and identifying emerging thematic issues in the EU and Member States debates.
- bi-monthly internal updates on strategic developments with EU stakeholders and highlights of EU policy papers and developments (including impact tracking, overviews of forthcoming events and official documents, nominations, relevant data sets / research)
- participation at a number of events, liaising with key stakeholders, and being particularly pro-active in networking with the key target audience in Brussels.

## 20.6. Efficiency in managing resources and executing the budget

### *Influence of the setting up of the agency*

The agency is located in Dublin and the location is generally not seen as being problematic. No specific issues influencing current operations were reported by agency staff, stakeholders or documents in relation to the process of establishing the agency; EUROFOUND has signed a 99 year free lease with the Irish Government.

*Budgetary issues* Particular efforts have been placed on performance and business process development, leading to activity based budgeting since 2007, strategic action plans since 2006, and explicit performance goals. Systems include: performance monitoring, project management and customer relationship management. These new steps have been criticised by some stakeholders and by the 2007 evaluators for being rather weak<sup>334</sup>, but it should be noted that, according to the agency, development has continued since the 2007 evaluation with new procedures and computer based tools and systems e.g. for project management. The evaluation team also assesses that EUROFOUND is ahead of most other similar agencies in terms of meaningful performance indicators. These indicators are currently used for operational assessment on a monthly basis. Other initiatives have also improved the efficiency of the agency, such as joint event organisations (e.g. with European Parliament, presidency Member States).

With regards to financial management, it is worth noting that 10% of survey respondents disagreed that procedures for financial management are effective.

### *Human resources management*

Nearly 15% of survey respondents disagree that human resource procedures are effective. This was supported by individual interviews, where questions were raised about the number of vacant positions and staff turnover. Detailed data from the Foundation showed that staff turnover is only at 2%, but that the agency has had some recruitment challenges (e.g. open positions, imbalance between research and administrative staff) which are however currently being addressed. According to the agency, 19 new staff has been recruited as of September 2009, while 14 positions were still vacant. Stakeholder feedback linked recruitment challenges to the location (e.g. expensive living costs) and staff regulations (lack of retirement prediction for temporary staff).

### *Governance*

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<sup>334</sup> Ex-post evaluation of the 2001-2004 programming period, PriceWaterhouseCoopers 2007

The size and complexity of the 84-member governing (management) board might be seen as posing a certain threat to the efficient management of resources. EUROFOUND is one of the three EU agencies with a so-called “tripartite” governing board with three representatives from each Member State (representing the social partners), and three Commission representatives. However, the 2007 ex-post evaluation concluded that concerns about the “unwieldy nature” of the Board were balanced by board members generally feeling satisfied with their involvement in the development of the Foundation<sup>335</sup>. The results of the governing board survey carried out for the present evaluation showed that over half of the respondents agreed that the size of the board is appropriate compared to the agency, although just over 10% (6 respondents) disagreed with this statement. The role of the Bureau was emphasised by interviewees as an efficient and satisfactory model in managing the size and complexity of the governing board, along with reducing the frequency of meetings of the full governing board. The tripartite character of the board is considered an added value of the Foundation, although the size of the board means that it is a costly governance model in terms of meeting costs and working time<sup>336</sup>. However, there seems to be little discussion about alternative tripartite models, e.g. rotating membership or increased role of European organisations such as ETUC and BusinessEurope.

Only around half of the survey respondents agreed that the agency is proactive in complying with good governance and less than half agreed that the appointment of the Executive Director was managed transparently<sup>337</sup>. It is worth noting that the other respondents generally did not have a specific opinion on these matters.

#### *Oversight activities*

There was little reported with regards to oversight activities. The Commission did emphasise the positive results of a Court of Auditor’s report from 2008, where the EUROFOUND management system was selected as best practice.

The board regularly reviews audits and evaluations, a finding that was validated by survey results. *Cost-effectiveness increase*

Interviewees did point to a need for benchmarking (e.g. procurement procedures) between agencies, as well as cross agency access to Commission framework contracts, such as ICT, stationary and other practical arrangements. Other suggestions for improving efficiency included specific guidelines with regards to various structured procedures, such as data protection and seat agreement with local government.

An important driver of external efficiency is the balance between internal expertise and outsourcing, and the sharing of roles with national and international agencies. Interview feedback ensured that the current balance is considered appropriate both internally and externally and that the level of outsourcing ensures a flexibility of the agency to follow emerging issues on the political agenda.

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<sup>335</sup> Ex-post evaluation of the 2001-2004 programming period, PriceWaterhouseCoopers 2007

<sup>336</sup> Cf. Volume II of this report, where the costs of management boards is discussed in more detail.

<sup>337</sup> The selection of the Executive Director is the responsibility of the Governing Board and the European Commission and the agency’s staff are not involved.

## 20.7. Main findings

- The agency was relevant, rational and adequate with respect to the needs at the time of creation, and is still relevant today.
- According to interviews and survey carried out for this evaluation, the agency provides timely, quality and up to date information on high interest topics and keeps in line with EU strategic priorities.
- The agency meets the objectives of the Work Programme and planned outputs are effectively achieved as evidenced by interviews and monitoring data from the agency.
- Internal management systems and initiatives are being developed with the aim to ensure efficiency in delivering planned outputs and sound financial management
- A performance monitoring system is in place, and results are reported to the Governing Board.
- The tri-partite composition of the Governing Board contributes to the agency's effectiveness through stakeholder involvement. The large size of the Governing Board is costly but efficiency is ensured through a bureau which reduces the required frequency of full meetings of the Governing Board (see section 20.6)
- The agency has low staff turn-over, but some recruitment challenges which are currently being addressed.



## 21. EUROJUST

**CAVEAT: The agency has not provided substantiated comments on this chapter.**

### 21.1. Introduction

In 2000, the Council established Pro-EUROJUST, a provisional judicial co-operation Unit with the objective of bringing together prosecutors from all Member States to study the creation of a body for judicial cooperation. EUROJUST, formally set up by a Council Decision in 2002<sup>338</sup>, is the first permanent body for judicial cooperation in Europe and in the world. Its mission is to stimulate and improve the coordination of investigations and prosecutions between the competent authorities in the Member States, and to improve the cooperation between those authorities, in particular by facilitating the execution of international mutual legal assistance and the implementation of extradition requests. Eurojust supports the competent authorities of the Member States to render their investigations and prosecutions more effective when dealing with cross-border crime. The body's focus is on terrorism, trafficking in human beings, narcotics offences and serious fraud. EUROJUST is located in Den Haag, the Netherlands. It had a budget in 2008 of EUR 20 million.

Eurojust's competence covers the same types of crime and offences for which Europol has competence, such as terrorism, drug trafficking, trafficking in human beings, counterfeiting, money laundering, computer crime, crime against property or public goods including fraud and corruption, criminal offences affecting the European Community's financial interests, environmental crime and participation in criminal organisations. For other types of offences, Eurojust may assist in investigations and prosecutions at the request of a Member State.

EUROJUST presents its activities in two categories: (1) Judicial coordination and (2) Judicial cooperation. It is the evaluation team's view that both belong to the same logic which is to facilitate operational coordination of judicial bodies in the Member States as to better achieve the objectives of the EU<sup>339</sup>.

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<sup>338</sup> Council Decision 2002/187/JHA of 28 Feb. 2002, amended by Council Decision 2003/659/JHA of 18 June 2003, and the "New Eurojust Decision", Council Decision 2009/426/JHA of 16 Dec. 2008 on the strengthening of Eurojust.

<sup>339</sup> Same logic as CFCA, EMSA, EUROPOL, FRONTEX

<b>EUROJUST</b>		
<b>Tasks</b>	<b>Task 1</b>	<b>Task 2</b>
<b>Main objective</b>	<b>Judicial coordination</b>	<b>Judicial cooperation</b>
<b>Budget</b> (% per year, 2008)	N/A <sup>340</sup>	N/A
<b>Dedicated staff</b> (FTE %, 2008)	N/A	N/A
<b>Outputs</b>	Coordination meetings (218) Coordinated cases	Assistance to competent authorities in investigation and cooperation
<b>Addressees / Users</b>	MS implementing bodies	MS implementing bodies
<b>Results/ impacts</b>	Joint investigations Prosecutions, arrests	Surrender/extradition, mutual legal assistance, coordinated judicial cooperation on e.g. telephone taps, house searches, freezing, coordinated arrest, mediating, when possible, conflicts of jurisdiction etc.

EUROJUST engages in judicial coordination and cooperation activities between relevant Member State judicial bodies. The objective of coordination meetings is to lead to joint investigations of cross-border crime whereas judicial cooperation aims to support MS in investigations (e.g. with extradition requests). The body is set up as a college of national representatives, funded by the Member States, which is in charge of both EUROJUST's main operations and management. In this dual role as part of the management board and operational representatives of their home MS, the members of the college are supported by an administrative structure funded by the Commission.

## 21.2. Rationale and relevance

EUROJUST is an EU agency as far as budgetary resources are concerned, but it has many features of an intergovernmental body. It was set up to deal with complex cross-border cases requiring multilateral coordination meetings. At present, the body mostly deals with bilateral cases where coordination is less imperative than for cases involving more than 2 countries and where there is some overlap with the remit of the European Judicial Network (EJN).

However, a large majority of management board survey<sup>341</sup> respondents (i.e. members of the college) as well as other interviewed internal and external stakeholders indicated that there continues to be a need for EUROJUST in supporting national judicial systems in the field of cross-border crime<sup>342</sup>.

<sup>340</sup> According to EUROJUST, a distinction in the budget and dedicated staff between the two tasks cannot be made.

<sup>341</sup> In the survey carried out among management board members for this evaluation, 8 of the 27 board (college) members replied, giving a response rate just below 30%. This is rather low and results for this agency should thus be treated with some caution. .

<sup>342</sup> Original statement in the survey questionnaire was "The needs the agency was created to address are still relevant today" (3 respondents strongly agreed, 4 agreed, 1 neither agreed nor disagreed)

However, disagreements between Member States, Commission and EUROJUST exist on the process through which this should be achieved.

The President of EUROJUST acts as *primus inter pares* within the college, which means that he has no additional powers over and above those of other college members. There is no Commission representation on the management board and the college structure is meant to ensure that the operations of EUROJUST remain apolitical. This is seen as important to safeguard the legitimacy and acceptability of the institution among Member States.

According to some internal stakeholders within college and administration, EUROJUST's governance structure undermines the transparency and relevance of its decision-making. Specifically, the dual role of college members as management board and operational representation of their home MS does not favour long-term strategic planning in terms of operational targets or resource requirements (for instance in the area of IT support systems) and it has impeded the emergence of a common identity as a European body and an operational vision within the management board. For instance, strong political differences between college members remain about the need for a European public prosecutor (EPP)<sup>343</sup>.

As a result of some of these concerns, EUROJUST is currently undergoing a 2-year organisational structure review with a focus on role distributions within the college, including the powers of the President and effectiveness of decision-making. In addition, there is a feeling on the part of some internal stakeholders within EUROJUST's administrative structure that the Commission could provide support services to agencies and promote lessons learnt across the agency system that could help control the costs of IT systems and administrative burdens.

According to an interview with agency staff, the body's two main challenges are the full implementation of the 2002 Council Decision which laid the foundation for the creation of EUROJUST and the implementation of the 2007 Decision which expands its remit and clarifies relations with MS. The interviewed staffmember noted that less than 50% of MS have passed legislation to adapt national legislation to the EUROJUST decision of 2002.

The new Council decision of 2008 might lead to the first major reorientation of EUROJUST's activities including three-person national desks and greater powers to enforce prosecution in the MS. According to college members, the speed with which this decision was passed (6 months) is evidence of a recognised need for a new legal framework for EUROJUST.

### **21.3. Agency's input to the work of the EU institutions**

EUROJUST cannot be said to provide input to the work of the European Institutions. Its tasks cover co-ordination and co-operation between Member States and, as mentioned above, EUROJUST functions rather like an intergovernmental body.

### **21.4. Internal and External Coherence**

It is the assessment of the evaluator that EUROJUST's management structure makes it difficult to see who is driving decisions and what strategic development priorities are. College members are appointed and funded by their home MS which affects their political mandate and their commitment to EUROJUST

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<sup>343</sup> The Lisbon Treaty (whose future is still not known) foresees that EUROJUST should give rise to such an EPP.

as a European body. For example, some college representatives earn less than their Community funded secretary and some national delegates (e.g. Sweden) can make decisions on behalf of their country whereas others cannot.

Internal coherence is also affected by the dual mandate of the college as an operational arm of the MS and the management board of a European body. Ideally, the college would only be involved in strategic aspects such as budget and work plans. However, the EUROJUST Council decision states that the college is responsible for the operation of EUROJUST and representatives with smaller operational caseloads have, according to interviewed stakeholders, interpreted this as a mandate to involve themselves deeply in the management of the EUROJUST administration.

In terms of external coherence, there is no clear division of responsibilities for 3<sup>rd</sup> pillar bodies in Europe. Half of management board survey respondents indicated that EUROJUST did not coordinate its activities with those of other agencies in similar policy fields. According to interviewees within EUROJUST, greater coordination with other agencies in terms of support staff (security, policing, IT) could be beneficial.

However, interviews with internal and external stakeholders provide evidence of relationships with agencies in similar fields:

- With EUROPOL there is a common framework for multi-annual work programming though disagreements persist about the extent of information exchange between EUROPOL and EUROJUST.
- At the same time there is some competition and overlap with the European Anti-Fraud office (OLAF) and the European Judicial Network (EJN) even though they should have a very different set of tasks. For instance, there seems to be a lack of clarity and common understanding around whether OLAF's investigations should or should not go through EUROJUST. This could be important given that the Lisbon treaty designates EUROJUST as a potential seed ground for a European public prosecutor. The inter-agency dialogue might gain from greater clarification of the respective roles of EUROJUST and OLAF within the system of Community institutions.
- EUROJUST is also required to work with FRONTEX although some internal stakeholders within EUROJUST felt that there had not been a real need for this.

Despite differences between college members in their role as national delegates of their Member State and the Commission, internal stakeholders found that relationships with DG JLS were good.

### **21.5. Effectiveness in achieving outputs and customer satisfaction**

The objective of EUROJUST is to enhance the efficiency of the national investigating and prosecuting authorities and to bring cross-border cases to justice quickly and efficiently.

According to interviewees, one of the biggest impacts of EUROJUST is that it – through its sheer existence – has created a platform for producing discussion about judicial coordination. For instance, in the field of counterterrorism, EUROJUST is engaged in networking with the MS, EUROPOL and third countries (US, Switzerland) to streamline procedures across Europe.

Half of the respondents of the management board survey deemed that EUROJUST consistently achieved the objectives of its work programme, whereas 3

of the 8 respondents disagreed<sup>344</sup>. There was, however, more of a general consensus among management board members that EUROJUST produced satisfactory outputs with 88% stating that these outputs were useful<sup>345</sup> and 63% indicating that the body consistently received positive feedback from stakeholders<sup>346</sup>. While EUROJUST interviewees confirmed these survey findings, it is difficult to give due weight to this overall positive response given the dual role of the board itself and the weakness of available monitoring data.

One of the main challenges for EUROJUST in highlighting its added value is that there are few quantifiable results and no performance monitoring system or indicators beyond anecdotal evidence and occasional feedback from stakeholders. A user satisfaction monitoring system also does not yet exist. Potential indicators for such a monitoring system could for instance revolve around speed of coordination and resolution of cases.

EUROJUST's stakeholders are individual prosecutors and its core business is very demand driven because it relies on prosecutors in the MS referring relevant cases to EUROJUST. As a demand driven business, EUROJUST's core areas of activity reflect the areas where prosecutors need help and this may not be completely in line with political priorities. For instance, the terrorist attacks of September 11 led to the creation of an anti-terror team in the college but this was not followed by a large number of bottom-up referrals.

There has been a lack of multilateral cases being referred up because, according to senior staff at EUROJUST, the link between the MS and their representatives in the college is in most cases limited. Also, EUROJUST interviewees indicated that prosecutors tended to consider most cases as national in scope by default. As a result, the areas where EUROJUST has most of its powers (i.e. Art 6a) or Art 7 of the Council decision) are very little used. As interviewees within EUROJUST confirmed, in a vast majority of cases, its involvement today is limited to supporting national authorities and booking coordination meetings without further involvement in cases or ensuing joint investigations.

To elicit more relevant referrals, the college has engaged in conferences and marketing events in MS. In addition, the new Council decision of 2007 has established national contact points to facilitate outreach and it requires prosecutors to refer some types of relevant cases to EUROJUST<sup>347</sup>.

## **21.6. Efficiency in managing resources and executing the budget**

### *Influence of the setting up of the agency*

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<sup>344</sup> 4 out of 8 respondents agreed with the following statement "The agency consistently meets the objectives of its Work Programme"

<sup>345</sup> 4 respondents strongly agreed, 3 respondents agreed and 1 respondent neither agreed nor disagreed with the following statement: "The outputs of the agency are useful"

<sup>346</sup> 5 respondents agreed with the following statement: "The agency consistently receives positive feedback from stakeholders"

<sup>347</sup> Cases involving at least three Member States and for which requests for judicial cooperation have been transmitted in at least 2 Member States and where one of the following applies: a) there are factual indications that a criminal organisation is involved b) the case may have a serious cross-border dimension, or c) the offence involved is one of the following: trafficking in human beings, sexual exploitation of children and child pornography, drug trafficking, trafficking in firearms, corruption, fraud affecting the financial interests of the European Communities, and counterfeiting of the Euro.

EUROJUST is centrally located in Europe and relatively easily accessible. High costs of living are however referred to by agency staff as one of several aspects affecting recruitment possibilities (cf. below).

#### *Budgetary issues*

The Community subsidy (for EUROJUST's administrative structure) has risen steadily every year since 2002, but with only a small increase from 2008 to 2009 (with a Community subsidy of EUR 22.24 million in 2008 and EUR 22.5 million in 2009). It is, however, foreseen to increase significantly from 2010<sup>348</sup> (cf. below).

According to interviewees within EUROJUST, the short-term nature of funding (annual budgets) makes multi-annual project planning (e.g., the organisational review) difficult. According to some internal stakeholders, the decision-making structure within EUROJUST with a large college and without a clear leadership role for the President of the college has contributed to an under-spend on the body's core business in favour of less controversial support services (e.g. security, IT). Records of services provided and activities carried out vary across EUROJUST units and they are not linked to performance indicators.

At the same time, lack of coordination between EUROJUST's annual budget and its four-year work programme has led to tensions between EUROJUST, the Commission and the Council. According to agency interviewees, the current (2009) budget of EUR 22.5 million is of similar scale to some municipal prosecution services in the MS, and greater resources would be required for EUROJUST to fulfil its role of information provider and coordinator to the MS more effectively, including EU funding for national representatives. It should, however, be noted that developments have taken place since the agency interviews were carried out in the spring of 2009. EUROJUST's budget for 2010 has now been proposed to be increased by about a third, since the Commission in its preliminary draft budget proposes to increase the Community subsidy by EUR 7.1 million in 2010 so that the agency can take up new tasks as defined in the recent Council Decision<sup>349</sup>.

It is the assessment of the evaluator that there is room for improvement in EUROJUST's resource management processes. EUROJUST's budget is not yet activity based and there are no clear links between resources and work plan. For instance, the budget has a EUR 100 thousand provision for teleworking but there do not currently seem to be any concrete plans to implement this.

#### *Management, incl. human resources management*

There is a general feeling among interviewed staff that EUROJUST's efficiency has suffered from internal governance issues, especially in terms of the composition and the dual role of the management board and in terms of human resource management. These interview findings are corroborated by the survey results. 65% of board members thought the body did not manage its human resources effectively, 50% indicated the board's decision-making procedures were not effective and 50% thought EUROJUST did not proactively comply with principles of good governance. In addition, half of respondents indicated that the operational/administrative staff ratio was not efficient and that EUROJUST did not manage performance effectively. As one college member noted, while the body has contributed to strengthening the fight against

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<sup>348</sup> Preliminary Draft General Budget of the European Commission for the Financial Year 2010.

<sup>349</sup> Ibid.

terrorism and organised crime, this could have been done more efficiently and more could have been achieved.

According to internal stakeholders, the Commission's staff regulations make it difficult for EUROJUST to recruit higher-end managers (e.g. in IT). Combined with high costs of living in The Hague, EUROJUST's low profile and (until recently) a lack of internal appraisal procedures, are said to be behind recruitment and turnover problems. For instance, at the time of the visit, human resources, administration and facilities/service were being led by interim heads.

#### *Oversight activities*

EUROJUST did not have a requirement for evaluation in its original constituent act, but the New Eurojust Decision from December 2008<sup>350</sup> introduced a new article which requires the EUROJUST College to commission an independent external evaluation by 4 June 2014 and every five years thereafter. Each evaluation shall assess the agency's impact and performance in terms of achieving its objectives, as well as the effectiveness and efficiency of EUROJUST.

### **21.7. Main findings**

- Set up to deal with complex multilateral cases but deals more with bilateral cases due to the input from the Member States (see section 21.2) ;
- Set up of board and role of college members as operational and management body impedes strategic decision-making and may lead to conflicts of interest (see section 21.2);
- Internal and external coherence are negatively affected by the split in funding between the MS, which fund the college and management board, and the Commission, which funds EUROJUST's administration (see section 21.3);
- Lack of indicators, measurement of user satisfaction and coordination between budget and work programme make evaluation of performance difficult (see sections 21.3, 21.5);
- Regarding coordination with other European bodies in similar fields, (OLAF, EJM, EUROPOL) both a clear framework and information exchanges are lacking (see section 21.4);
- A feeling among internal and external stakeholders that EUROJUST produces useful outputs. However, there are discrepancies between user's requests and EUROJUST's priorities. Furthermore, the low visibility of EUROJUST hinders effectiveness (see section 21.5);
- Human resource management and internal governance are considered as serious problems (see section 21.6).

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<sup>350</sup> Council Decision 2009/426/JHA of 16 Dec. 2008, Art 41a

## 22. EUROPOL

### 22.1. Introduction

The European Police Office (EUROPOL) is a Third Pillar European law enforcement organisation<sup>351</sup> that handles information and criminal intelligence. It is being transformed into a decentralised EU agency as of 1 January 2010.

EUROPOL's core objective is preventing and combating serious international organised crime and terrorism by matching and analysing information and supporting Member States' investigations.

EUROPOL commenced its full activities in 1999 and is based in The Hague, The Netherlands. The 2009 budget is EUR 68 million. As of June 2009, EUROPOL employs 418 staff<sup>352</sup>. In addition, it benefits from the presence of around 118 National EUROPOL liaison officers<sup>353</sup>.

EUROPOL activities are presented in the form of four categories: Exchange of information and intelligence; Collection, storage, processing and analysis of information and intelligence; Coordination and support of investigations; and Knowledge sharing.

For the sake of simplicity, the evaluation team has clustered the three first categories into one activity (Task 1 below) since they have almost the same logic, i.e. facilitating operational coordination of law enforcement authorities in the Member States as to better achieve the objectives of the EU policy<sup>354</sup>. The logic of the activities falling under Task 2 consists of contributing to the soft coordination of law enforcement authorities as to better achieve the objectives of the EU policy<sup>355</sup>.

EUROPOL		
Tasks	Task 1	Task 2
<b>Main objective</b>	<b>Operational coordination</b> Collection, exchange, storage, processing and analysis of information and intelligence Coordination and support of investigations	<b>Knowledge sharing</b> On organised crime threats and terrorism
<b>Budget<sup>356</sup> (% per year, 2009)</b>	83%	17%
<b>Dedicated staff (FTE %,</b>	84%	16%

<sup>351</sup> The third pillar covers police and judicial co-operation in criminal matters.

<sup>352</sup> Numbers provided by EUROPOL via email.

<sup>353</sup> Numbers provided by EUROPOL during interviews with in-house staff, April 2009.

<sup>354</sup> Same logic as CFCA, EMSA, EUROJUST, FRONTEX

<sup>355</sup> Same logic as that of the main task of CEDEFOP, CEPOL, and EIGE, as well as secondary tasks of CFCA, EMSA, EU-OSHA, and FRONTEX

<sup>356</sup> Operational costs



EUROPOL		
Tasks	Task 1	Task 2
2009)		
Outputs	Analysis work files, notifications to Member States Coordination meetings	Reports on threat assessment and trends Press releases
Addressees / Users	Member States law enforcement authorities	Policy-makers at Member State and European levels, academics, law enforcement authorities
Results/ impacts	Improved effectiveness in tackling cross-border criminality	Informed decision making and agenda setting

## 22.2. Rationale and relevance

The rationale for creating a European body dedicated to fighting cross-border organised crime and terrorism within the EU was clear at the outset of EUROPOL. According to a survey of Management Board members<sup>357</sup>, 90% of respondents either “strongly agree” or “agree” to both questions that the need for the Agency was clearly defined by the founding Convention and that it was addressed when EUROPOL became operational.

There is clear and demonstrable European added value in the Agency’s ability to and analyse information available and identify connections between criminal offences committed across borders and to inform relevant MS as and when appropriate. The relevance and European Added Value has grown since the inception given developments such as the terrorist bombings in London and Madrid. The continuous high priority of these areas is reflected in national agendas as well as in the EU’s Common Foreign and Security Policy (CFSP) and ESDP police missions. EUROPOL’s relevance is also reflected in increases in MSs’ contributions to the operational Analysis Work Files (AWFs) and the information exchange sent via the EUROPOL’s SIENA (Secure Intelligence Exchange Network Application) System. The Management Board survey supports this continuing relevance. 50% of respondents “strongly agree” and 40% “agree” that the needs “are still relevant today”.

At the time of creation, EUROPOL was set up as an inter-governmental agency for which a convention<sup>358</sup> served as the legal basis of the organisation. Over time, this organisational set-up has increasingly been regarded as less than optimal by in-house staff as well as some external stakeholders in several respects. One issue has been that the convention did not cover all areas that needed tackling in a collective manner at European level. A more practical issue was about the decision making process with the requirement of unanimity and subsequent ratification by each signatory member, for even small changes in direction. Such structural rigidity started to render the legal basis

<sup>357</sup> The survey was answered by 10 out of the Board’s 27 members (37%). It should be mentioned that the Board of Europol could not be contacted directly by the evaluation team since Europol did not want to provide the names of the members for security reasons. Instead, questionnaires were distributed via the agency to the Management Board members and returned the same way.

<sup>358</sup> OJ C 316, 27.11.1995, p. 1. EUROPOL Convention, <http://www.EUROPOL.europa.eu/index.asp?page=legalconv#TITLE%20I>.

of the organisation too inflexible in order to effectively support a dynamic organisation even during the first years of EUROPOL's operations.

These perceived 'barriers of daily business' led to a needs assessment in 2000 and 2003 in order to review whether EUROPOL's legal basis was still sufficiently adequate to carry out effective actions in fighting serious international crime. It was recommended that the scope of EUROPOL's tasks should be extended to all forms of serious crime, to ensure more flexibility and transparency of cooperation. If so, EUROPOL could for example become active in providing analysis in the run-up to and coordinating measures for major sports events or at large-scale demonstrations such as G8 summits.

The Convention has been amended three times by protocols, all of which entered into force in 2007. The first protocol, signed in 2000, substantially expanded EUROPOL's mandate to money laundering offences. This led to EUROPOL creating a more efficient network on asset tracing and providing information leading to asset freeing procedures. The second protocol, from 2002, established the basis for EUROPOL's participation in joint investigation teams. The third (Danish) protocol, signed in 2003, allowed for third states with an operational cooperation agreement with EUROPOL to become associated to Analytical Work Files (AWFs).

In 2007, the Justice and Home Affairs Council agreed that a Council Decision should replace the EUROPOL Convention. On 5 January 2007 the Commission brought out a Proposal for a Council Decision establishing EUROPOL. Negotiations on the proposal lasted a year, but a political agreement was reached on 18 April 2008. The Decision was adopted in April 2009 and will enter into force on 1 January 2010. Hence, from 1 January 2010, EUROPOL will be an EU agency<sup>359</sup> financed from the Community budget and subject to the Agency Financial and Staff Regulations. The move towards an EU-financed Agency is intended to enable EUROPOL greater room for flexibility both in terms of scope and structure. This also implies that Europol will be under greater public scrutiny through the instatement of a discharge procedure by elected officials in the European Parliament.

At the point of evaluation, the organisation is working towards full compliance with EU staff and financial regulations in time for the official transition in January 2010, a process which provides some insight into the process for setting up an agency. Feedback from EUROPOL interviewees seems to indicate some gaps in the written guidance around how to set up an agency from a practical perspective either in the form of a guide or handbook<sup>360</sup>. It also seems to indicate that the Commission services have limited capacity to provide Agencies hands-on support in this process.

### **22.3. Agency's input to the work of the EU institutions**

The European Commission's Directorate-General for Justice, Security and Freedom (JLS) is the parent DG for EUROPOL. From a governance perspective, the Commission currently has one observer seat on the Management Board with no voting rights. With the upcoming amendment of EUROPOL's legal status to becoming an EU agency, the Commission will become a full voting member. Although this legal change may influence the Commission's positioning vis-à-vis the MS and align it to other bodies and agencies in the

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<sup>359</sup> Council Decision 2009/371/JHA of 6 April 2009, OJ L 121, 15.05.2009, p. 37-66.

<sup>360</sup> Further written guidance in the form of a roadmap is now being prepared by the Secretariat-General (cf. Volume II of this report)

Justice and Home Affairs Area, EUROPOL will remain an agency over which most powers lie with the MS authority.

In order to prepare for the transformation into an EU agency, EUROPOL have requested advice from the parent DG regarding necessary administrative adjustments starting back in 2008. Substantial advice on staff and financial regulations is now provided via a DG JLS-financed staff member at DG ADMIN. According to DG JLS, the Commission has done everything within its capacity to assist in this process and considers that the process is on track, and that Europol will meet the requirements by 1 January. From the point of view of the agency, however, there is still some concern that the timely adoption of legislative and other instruments will be difficult to achieve before 1 January 2010.

The Management Board survey confirms that the Agency's main target group is the MS and to a much lesser extent the Commission or other EU institutions. In this context it should be noted that the Commission is not the main recipient of the core products and services of Europol but MS' law enforcement authorities – i.e., it is not the role of EUROPOL to provide policy inputs to the Commission. However, when asked about the benefits of EUROPOL products to the Commission, 40% of management board members surveyed "agree" and 20% "disagree" that EUROPOL outputs "benefit the European Commission"<sup>361</sup> while 80% "strongly agree" or "agree" that other institutions in the European Union benefit<sup>362</sup>. Interviews with Commission stakeholders<sup>363</sup> confirm that it uses EUROPOL core publications such as the Organised Crime Threat Assessment (OCTA) and the EU Terrorism Situation and Trend Report (TE-SAT) for agenda setting and for empirical input to its work. These two publications help to fill a unique information gap within the Commission in that they provide cross-country intelligence at European level, which would otherwise not be compiled.

#### **22.4. Internal and External Coherence**

According to its mandate, EUROPOL contributes to an improvement of the "effectiveness and cooperation of the competent authorities in the MS in preventing and combating serious international crime" through the following four main activities: i) facilitating information and intelligence; ii) processing information into intelligence; iii) supporting operations and iv) sharing knowledge. These activities are in line with the EU Third Pillar's policies on Police and Judicial Cooperation in Criminal Matters (PJCC). The Management Board survey seems to confirm this finding. 90% of respondents "strongly agree" or "agree" that EUROPOL's activities are aligned with the strategic priorities of the European Union<sup>364</sup>. Regarding internal coherence, the survey showed that 80% of respondents "strongly agree" or "agree" that EUROPOL consistently meets the objectives of its Work Programme<sup>365</sup>.

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<sup>361</sup> See Management Board survey, Question 16. The outputs of the agency benefit the European Commission.

<sup>362</sup> See Management Board survey, Question 17. The outputs of the agency benefit other institutions in the European Union.

<sup>363</sup> Face-to-face and phone interviews, June 2009.

<sup>364</sup> See Management Board survey, Question 39. The activities of the agency are aligned with the strategic priorities of the European Union.

<sup>365</sup> See Management Board survey, Question 14. The agency consistently meets the objectives of its Work Programme.

EUROPOL's Management Board is chaired by the Presidency. The Management Board itself is composed of one representative from each EU27 Member State. Each member has one vote. The European Commission is invited to attend the board meetings but does not have a vote. In January next year when EUROPOL becomes an agency the EC will be given one vote on the board.

EUROPOL's core business is delivered by three main departments: Information Management and Technology (IMT), Serious Crime (SC) and Corporate Governance (CG).

Agency interviews provided evidence of good working relations between departments both in terms of attitudes towards other departments and through examples of cross-departmental working. Often interviewees cross-referenced to other departments in relation to topics under their responsibility. Tangible examples of joint activities included the IMT department developing a system to allow for more efficient intelligence entry and search facilities in collaboration with the Serious Crime (SC) department in order to free up analyst resources in the latter.

The establishment of EUROPOL did not entail a transfer of responsibilities neither from MS nor from the European Commission to EUROPOL. In fact, EUROPOL heavily relies on MS inputs and cooperation for its daily operations<sup>366</sup>.

EUROPOL's external relationships are regulated by strategic (exchange of knowledge) and operational cooperation agreements (exchange of personal data). Besides third countries, EUROPOL's cooperation partners are EUROJUST (agreement signed), Interpol, CEPOL (cooperation agreement signed), FRONTEX (cooperation agreement signed), OLAF (administrative arrangement) and EMCDDA (cooperation agreement signed).

There are clearly areas for which EUROPOL's activities are of interest to other EU decentralised and executive Agencies, and vice versa. This includes OLAF and FRONTEX in the areas of fraud and serious organised crime. Whether working relationships are good was reported, by internal stakeholders, to depend on the 'goodwill' of the Directors involved rather than on a systematic understanding of complementarities or clearly defined areas (or boundaries) of responsibility between the agencies involved. The latter could be a legacy of bottom-up, vertical growth of agencies in the law enforcement area.

In practice, EUROPOL is actively working on having good relationships with other relevant agencies although it is clear from staff feedback that greater clarity and coordination at the systems level might render more efficiency and reduce overlaps in areas where these may exist<sup>367</sup>.

Inter-agency cooperation can also be challenged by structural issues. In the case of EUROJUST and EUROPOL, a number of issues come in the way of effective collaboration although through mutual commitment and the proximity

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<sup>366</sup> For instance, EUROPOL central information systems and work files rely on inputs from Member State authorities and Member States are treated as the owners of this information so that information can only be shared between country A and B if country A has vetted B for access to its information. In addition, the ELOs and the National liaison offices form the link between National Law Enforcement Agencies and EUROPOL. This is currently being reviewed in order to provide National Law Enforcement Agencies' direct access to EUROPOL and vice versa.

<sup>367</sup> EUROPOL interviewees perceived the fact that FRONTEX is in the process of setting up its own information system as a potential 'lost opportunity' in that access to EUROPOL's systems could be negotiated in order to reduce the risk of duplication. EUROPOL interviewees reported that there could be some overlap between EUROPOL and OLAF although they seemed to perceive this as being limited to Euro counterfeiting.

of location, both organisations make an effort to share information and cooperate. One issue is the difference in organisational structures between the two organisations where EUROJUST effectively lacks the equivalent of the EUROPOL Director meaning that the EUROJUST Colleague President would need to liaise with 27 magistrates to get sign-off on something as the EUROJUST President cannot act on behalf of the others. Another issue is that EUROJUST don't merely see their role as facilitators of links between joint operational teams and national magistrates on EUROPOL's Analytical Work Files (AWF) but would like to be directly involved. This is not possible given the fact that national authorities vet the involvement of countries and authorities that can partake in an operation. If country A does not want country B to have access to certain data it would undermine their position to provide information to EUROJUST as country B's magistrate would then have access to restricted information through the 'back-door'. Another issue is that prosecution is done by national authorities in any case, not EUROJUST.

Other EU agencies with which EUROPOL collaborates include CEPOL, the European Police College. Given the key expertise held by EUROPOL experts and analysts, they are substantially involved in the delivery of CEPOL training. Likewise, CEPOL training topics seem to be sufficiently linked to ongoing EUROPOL activities to be pertinent. However, it is possible that CEPOL training could be more effectively targeted in MS to ensure synergies with EUROPOL's AWF work where there is a need for training members of joint investigation teams. No data could be found to compare whether the persons involved in CEPOL training are more or less prone to then participate in EUROPOL supported joint operations.

The Management Board survey results reflect the challenge faced by EUROPOL and other Justice and Home Affairs agencies regarding external coherence. 20% of respondents "strongly agree", 40% "agree", 30% "neither agree nor disagree" and 10% "disagree" that EUROPOL's activities are "coordinated with those of other agencies working in the same policy areas"<sup>368</sup>.

## **22.5. Effectiveness in achieving outputs and customer satisfaction**

Through interviews with key players within the organisation, it seems that EUROPOL perceives its greatest strength to lie in the area of Euro counterfeiting where it believes it is regarded as the EU authority with unrivalled in-house expertise. In other areas, its role is more to act as a facilitator and catalyst of MS-driven operations. This is also where it faces the greatest challenges. The effectiveness of EUROPOL is clearly depending on its relationship with MS and the extent to which the latter are able and willing to share information and to use expertise that EUROPOL can provide.

The Management Board survey indicates overall satisfaction of the Member States with EUROPOL products and services. 100% of respondents either "agree" or "strongly agree" that EUROPOL "produces comparative cross-cutting analyses that are not available from other sources". 90% of respondents "agree" or "strongly" agree that outputs are both of "high quality" and "useful" while 70% of respondents "agree" that the outputs are "timely".

The SIENA (Secure Intelligence Exchange Network Application), and the OASIS<sup>369</sup>, are unique and ensure secure communication and exchange of intelligence between EUROPOL and Member States.

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<sup>368</sup> See Management Board survey, Question 38. The activities of the agency are coordinated with those of other agencies working in the same policy areas.

<sup>369</sup> Overall Analysis System for Intelligence and Support, completed in 2007.

In relation to the Commission, contacts between DG JLS and Europol are close and frequent at all levels but both EUROPOL and DG JLS acknowledge that there is a potential for DG JLS to liaise even more closely with EUROPOL. There is however already evidence that EUROPOL's two main publications on organised crime and terrorism are contributing to the development of EU policy<sup>370</sup>.

Planning and performance monitoring of activities are well developed in EUROPOL and substantial efforts are made to follow-up with client groups on an annual basis. Objectives and sub-objectives are set for each business area and a set of indicators developed to measure their performance. For instance, the OCTA findings feed into the development of the annual work programmes, and the annual survey reports (cf. below) feed into the work programme for the following year.

EUROPOL has developed an annual client survey to address clients' satisfaction in terms of image, expectations, product quality, service quality and perceived value. This survey is directed to users, selected by Europol or Europol National Units of the Member States and all approved by Europol National Units. As of 2008 users in partner organisations (such as Interpol) and countries with cooperation agreements (such as Norway) are also invited to participate, the results of which are separated from the Member States. The users are selected on the basis of having used EUROPOL products and services in the previous 12 months (1516 users were selected in 2008). Nominations for the survey are solicited through National EUROPOL Liaison Offices in MS and EUROPOL Liaison Officers (based on The Hague).

The 2008 survey found that customer satisfaction reached 63.1 %. This figure had increased over time since 2004 with a small 2% dip in 2005 compared to the year before. Similarly, the score for loyalty decreased between 2004 and 2005 but had since steadily increased to 77.9 % in 2008.

The satisfaction with the product and service quality was the highest at around 73 %, while image and Value for Money satisfaction were the lowest around 63% in 2008<sup>371</sup>.

The Management Board survey indicates a certain degree of division in opinion on EUROPOL's performance management system. Although half of the respondents "agree" (40 %) and "strongly agree" (10 %) that EUROPOL "manages performance effectively", the other half "neither agree[s] nor disagree[s]" (40 %) or outright "disagree[s]" (10 %).

In the first half of 2009, a feedback analysis took place in order to identify core areas on how to meet users' needs and expectations more precisely. One element is that MS' law enforcement authorities indicate to also have a product which goes beyond the public format of the TE-SAT. Similarly, adjustments of OCTA are being discussed, e.g. on whether it would profit from a trend perspective or scenario component in addition to descriptions of the current situation and whether more operational implications would add value to the

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<sup>370</sup> The European Commission's DG JLS Annual Work programme has been influenced by both OCTA and TE-SAT. Several policies such as the EU Drugs Action Plan for 2009-2012 are based on OCTA, and a series of proposals dealing with the criminalization of terrorist training, recruitment and public provocation to commit terrorist offences, the prevention of the use of explosives by terrorists and the use of airline passenger information in law enforcement investigations have been developed under consideration of the TE-SAT.

<sup>371</sup> EUROPOL Client Survey 2008 presentation 3/04/2009. A fully copy of the report write-up was not provided to the researchers despite repeated requests.

strategic perspective. Additionally, it was acknowledged by the internal team undertaking the analysis that EUROPOL should focus on:

1. Building trust to enhance the commitment by the MS;
2. Ensure flexibility in EUROPOL responses to MS requests;
3. Focus on added value for MS;
4. Leadership and vision.

## **22.6. Efficiency in managing resources and executing the budget**

### *Influence of the setting up of the agency*

The decision to be transformed into an EU agency by 1 January 2010 was driven by the need to be more flexible both in terms of scope of activities and in structure. The Convention that served as a legal basis for EUROPOL as an inter-governmental agency at the time of creation did not cover all areas that need tackling in a collective manner at European level. A more practical issue was about the decision making process with the requirement of unanimity and subsequent ratification by each signatory member, for even small changes in direction. Such structural rigidity started to render the legal basis of the organisation too inflexible in order to effectively support EUROPOL's operations.

### *Budgetary issues*

The total budget of EUROPOL decreased from 2007 to 2008 from €67m to €65m but increased again to €68m in 2009. The execution rate was 80% in 2007 and increased to 85% in 2008. Staff numbers raised over the last years. While there were 7 staff members permanently employed in 2007 this number has been increased to 13 in 2009. Similarly, the number of contract agents rose from 370 in 2007 to 405 in 2009.

### *Human resources management*

As of June 2009, EUROPOL employs 418 staff out of which 13 on a permanent basis<sup>372</sup>. In addition, it benefits from the presence of about 118 National EUROPOL Liaison Officers (ELOs). There are also other experts, trainees, security and/or local personnel located at the EUROPOL headquarters for which the overall number was not reported to the study team.

More than two thirds of both budget and staff is dedicated to Tasks 1 and 2, collecting, storing, analysing and exchanging intelligence information. The Management Board survey indicated some scepticism regarding the efficiency of the EUROPOL staff. Only 30% "agree" (no one "strongly agree[s]") that the ratio of operational to administrative staff maximises efficiency<sup>373</sup>. Further, during interviews with external stakeholders a need for more analysts were expressed to ensure timely responses to MSs' request at the high quality EUROPOL delivers<sup>374</sup>.

### *Oversight activities*

EUROPOL is used to a high degree of scrutiny by its Management Board which meets six times a year and for which the organisation needs to prepare detailed inputs and follow-ups. The involvement by its Management Board in

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<sup>372</sup> Numbers provided by EUROPOL, June 2009.

<sup>373</sup> See Management Board survey, Question 32. The ratio of operational staff to administrative staff maximises efficiency.

<sup>374</sup> Phone interview, June 2009.

decision-making appears to be high<sup>375</sup>. This may be the consequence of the funding structure where MS require a high degree of insight into budget use and planning in order to put forward funds. The frequent meetings of the Management Board are resource-intensive, not only in terms of the travel and subsistence costs associated with the participants but also in the preparation of inputs and follow-up<sup>376</sup>. Feedback from EUROPOL interviewees indicated that the time spent on feeding information into the board meetings is considerable.

The results of the Management Board survey indicate that 40 % of the respondents “disagree” that “procedures for decision-making in the Board are effective” although 80% “agree” or “strongly agree” that Board’s composition is right and 90% “agree” and “strongly agree” that its size compared to EUROPOL is appropriate.

According to interviewed external stakeholders, EUROPOL is “slightly over-managed and over-controlled” and its Management Board is advised to rather concentrate on strategic decisions than on staff matters.

#### *Cost-effectiveness increase*

Additionally to the Management Board, various expert groups meet on a periodical basis. This includes the Heads of EUROPOL’s National Units (HENU) who meet six times a year. Five additional governance, advisory bodies and/or ad hoc committees also hold several meetings a year. The total amount of expenditure for meetings in 2008 amounted to €710,000.<sup>377</sup>

From 1 January 2010 EUROPOL has to comply with the EU Agency staff and financial regulations and will be subject of regular audits. Therefore it approached its parent DG in mid-2008 to seek assistance for necessary changes in the management system. Meanwhile EUROPOL receives support by a staff member at DG ADMIN paid by DG JLS. However, the assistance started about one year later than anticipated, and EUROPOL believes to face a risk to be not fully prepared for the regulatory requirements by the beginning of next year.

## **22.7. Main findings**

- The rationale for setting up EUROPOL is still relevant (See section 22.2);
- There is a risk of overlaps between activities carried out by EUROPOL and other bodies active in the Justice and Home Affairs area, e.g. OLAF, FRONTEX, EUROJUST and CEPOL. Competencies need to become clear-cut and there scope for more Inter-Agency coordination (See section 22.4);
- Member States, rather than the Commission, are EUROPOL’s main users. They are overall satisfied with the quality of EUROPOL products and services. Still, expectations regarding efficiency and flexibility need to be taken into account to ensure higher commitment by the MS to joint operations and sharing of information (See section 22.5)
- EUROPOL’s governance structure has the potential of working more

<sup>375</sup> The EUROPOL convention foresees two meetings a year for the Management Board, which would be largely in line with other EU agencies.

<sup>376</sup> An estimate of this cost was put at €150,000 per meeting by a EUROPOL interviewee.

<sup>377</sup> EUROPOL Annual Budget 2008.



efficiently i.e. concentrating the Management Board on more strategic rather than practical issues (See section 22.6);

- EUROPOL's recent experience with the agency set-up process indicate that there are still weaknesses with regards to the transparency of the process (e.g. who does what), the availability of practical guidance (e.g. in the form of guidelines and templates), and structured support from Commission services. Although EUROPOL preparations are fully on track, according to the Commission, the agency is still concerned that these weaknesses in the procedure bear the risk that the Agency is not fully prepared to meet all requirements by 1 January 2010 (See section 22.6);

## 23. FRA

### 23.1. Introduction

The Fundamental Rights Agency (FRA), located in Vienna, Austria, began its work on 1 March 2007<sup>378</sup> following Council Regulation No. 168/2007 of 15 February 2007<sup>379</sup>. FRA succeeded the European Monitoring Centre on Racism and Xenophobia (EUMC), which worked between 1997 and February 2007, to provide the Community and the Member States with objective, reliable and comparable information and data on racism, xenophobia and anti-Semitism in the EU. When the FRA was created, its scope was further broadened and now covers fundamental rights. The objective of the agency is to provide the relevant institutions and authorities of the Community and Member States when implementing Community law with assistance and expertise relating to fundamental rights. In 2009, FRA has a budget of EUR 17 million and currently 59 employees (61 authorised).

FRA activities are organised around three main tasks: (1) data collection and research, (2) development of opinions and cooperation, and (3) communication. The evaluation team considers that the logic of these tasks is:

- Task 1: Collecting harmonised information and disseminating it as to support an evidence-based policy-making process at EU and Member State levels<sup>380</sup>.
- Task 2: Providing expert advice to policy-makers in EU & MS as to support an evidence-based decision-making process<sup>381</sup>.
- Task 3 (which is in fact the second main task in terms of allocated resources): Communicating towards civil society organisations and other stakeholders so as to raise awareness on fundamental rights<sup>382</sup>.

FRA			
Tasks	Task 1	Task 2	Task 3
<b>Main objective</b>	<b>Data collection and research</b> About the situation of fundamental rights within the Member States with a view to provide evidence for policy making and advice	<b>Development of opinions and cooperation</b> As to exchange experience, provide opinions on specific thematic topics, and cooperate with civil society	<b>Communication</b> As to raise awareness and support an informed debate about fundamental rights issues

<sup>378</sup> FRA is a relatively new agency and thus it remains difficult to fully evaluate its results and impacts.

<sup>379</sup> OJ L 53, p 1, 22 February 2007.

<sup>380</sup> Same logic as that of the main task of EUROFOUND and EMCDDA, as well as secondary tasks of CEDEFOP, ECDC, EFSA, EIGE, and EU-OSHA.

<sup>381</sup> Same logic as that of e.g. EFSA.

<sup>382</sup> Same logic as EU-OSHA's main task.

<b>FRA</b>			
<b>Tasks</b>	<b>Task 1</b>	<b>Task 2</b>	<b>Task 3</b>
<b>Budget</b> (% per year, 2008)	63%	8%	29%
<b>Dedicated staff</b> <sup>383</sup> (FTE %, 2008)	52%	22%	23%
<b>Outputs</b>	Studies; annual reports; surveys; online database; conferences and publications; input to debates in Council, European Parliament and Member States	Publications, conferences, meetings  Opinions	Press release, newsletter, website, online database, promotion items, events
<b>Addressees / Users</b>	Policy-makers at national and EU level and stakeholders in the policy-making process	Same as task 1	Same as task 1, plus media and citizens
<b>Results/ impacts</b>	Improved, harmonised, and informed policy-making  Civil society organisations have improved their ability to advocate in the field	Same as task 1	The importance of fundamental rights is better recognised in the society at large

The main task of the agency consists of data collection and research, which consumes more than 2/3 of the operational budget of the agency and which was also the main task of the agency's predecessor, EUMC. With the new mandate of FRA, the second task of providing opinions on specific thematic topics for the EU institutions and the Member States when implementing Community law now has a more prominent role in the work of the agency.

### 23.2. Rationale and relevance

The agency was created due to an increased emphasis on fundamental rights across the EU during the 1990s, which called for improving the implementation of fundamental rights in the Member States as well as at the EU level.

<sup>383</sup> The remaining 3% refer to administrative staff /governing board members.

There was a need for an independent public institution that could inform policy with data at the Community level. Another consideration was, according to interviewees, to legitimise the criticism the EU offers to countries not living up to fundamental human rights outside the Community. This rationale was also confirmed by the impact assessment undertaken ahead of FRA establishment, which underlined that the maintaining and further securing of fundamental rights, as safeguarded by the Union law, depends on a more thorough knowledge and widespread awareness of fundamental rights issues in the Union<sup>384</sup>. It is considered by the evaluator that this rationale is still relevant today given the very recent establishment of the agency.

When FRA was created, it was decided that it should continue and integrate the work of EUMC into its new mandate, which was then extended to, for example, formulate conclusions and issue opinions to the EU's institutions, bodies, agencies and Member States on the situation of fundamental rights in the implementation of EU policies and regulations.

As opposed to the Council of Europe, the agency is not a monitoring or standard-setting institution, nor is it empowered to examine individual complaints or have regulatory decision making power. According to its Director, however, it is able to dig deeper to examine the development in Member States at a comparative level, as well as point out problems and provide advice from an independent viewpoint.

The pre-existing expert network was set up for a limited period of three years. The alternative to creating an agency might have been to extend the life-span of the expert network. However, according to DG JLS, providing the network with a legal basis would, in effect, be very similar to creating an agency. It is furthermore the assessment of the evaluator that the agency, and its well-thought governance arrangements, is however much more likely to produce the kind of public trust which is particularly needed in the politically challenging context where information is produced on disputed issues.

The relevance is also demonstrated by the fact that FRA is carrying out a number of tasks which it is better placed to deal with as an independent institution.

Firstly, even if the agency is not formally part of the inter-institutional legislative decision-making process, according to interviewees the agency can play an important and distinct role in this process by issuing opinions on specific legislative proposals, which was the case with the PNR opinion<sup>385</sup>. On the other hand, the agency takes part in the initial preparatory phases of legislation only indirectly by shedding light on specific problematic issues through analysis or research (e.g. the Homophobia report<sup>386</sup> which was widely referred to in hearings and debates).

Secondly, as concerns adopted legislation, the Commission is fully responsible for checking the compatibility with Community law and for the transposition of legislation in the Member States (infringement procedures), whereas the role of FRA is to collect information and analyse data in a comparative way about the situation in the Member States, which may be helpful in pinpointing needs for amendments or problematic issues.

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<sup>384</sup> Impact Assessment Report, Commission Staff Working Paper, SEC(2005)849, 30 June 2005.

<sup>385</sup> Fundamental Rights Agency Opinion on the Proposal for a Council framework decision on the use of Passenger Name Record for law enforcement purposes.

<sup>386</sup> Report on Homophobia and Discrimination on Grounds of Sexual Orientation in the EU Member States.

Thirdly, FRA is, according to the agency, able to engage in a more flexible way with stakeholders, experts, and policy-makers than the Commission. This is because the Commission is organised in functional departments, whereas human rights is a cross-cutting issue relevant within many different policy fields FRA can address. Therefore, this ability is important in carrying out its role as policy advisor. In addition, the agency plays an important role in preparing the ground for stakeholder engagement through the numerous stakeholder networks the agency hosts or takes part in.

### **23.3. Agency's input to the work of the EU institutions**

The usability of FRA's work to the European Commission and the EU as a whole is demonstrated by the use of FRA's work and expertise. This is for example evidenced by references to FRA publications by the European Human Rights Court in Strasbourg<sup>387</sup> and the European Parliament in its resolution of 14 January 2009 on the situation of fundamental rights in the EU.

The main task of FRA is data collection and research and according to interviews with Commission services and external stakeholders, the output of this work is highly appreciated and valued by the Commission as well as the stakeholders. For example there has been a severe lack of data on minorities and discrimination in many countries and with the implementation of the EU-MIDIS project, which aim to survey selected ethnic minority and immigrant groups in all of the 27 Member States and examine their experiences of discriminatory treatment, the agency has very timely fulfilled an important task and the research is seen by the Commission as ground-breaking. Also both stakeholders and the Commission mentioned the Annual Reports produced by FRA on the fundamental rights situation in the Member States as very useful and of increasing quality. Other examples of quality and usability of outputs is provided in section (23.5)

### **23.4. Internal and External Coherence**

The evaluator assesses that there is good coherence between FRA's mandate as expressed in the founding regulation and the relevant EU strategic objectives, an assessment which was confirmed by several interviewees. Moreover, the overview of the tasks (cf. the introduction to this chapter) shows that the strategy and overall activities of the agency are fully aligned with the mandate. There is an important focus on the consistency between the activities carried out and the mandate, in particular due to the fact that the Council of Europe carries out complementary work. However, some interviewees highlighted that the division between the 1<sup>st</sup> and the 3<sup>rd</sup> pillar tends to be artificial in the field of human rights and does not always make sense in practice since, for example, the issue of racist violence belongs in principle to the 3<sup>rd</sup> pillar, yet when undertaking research on racism and xenophobia, it is difficult to completely avoid this issue.

With respect to external coherence, the agency is still under construction and trying to create synergies and cooperation with other key stakeholders (Memoranda of Understanding are underway with FRONTEX and EUROFOUND). In this respect, the cooperation with the Council of Europe has been the top priority. The Council of Europe takes part in Executive Board meetings, and a specific agreement has already been signed. There is also a current dialogue between FRA and FRONTEX concerning the possibility for the agency to contribute to human rights training of border guards. Cooperation also takes place on various issues with the Organization for Security and Co-operation in

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<sup>387</sup> Case of D.H. and Others v. the CZ, Judgment, 13 November 2007.

Europe (OSCE), the UN High Commissioner for Human Rights (OHCHR), the UN Refugee Agency (UNHCR), the United Nations Educational, Scientific and Cultural Organisation (UNESCO), and the International Organisation for Migration (IOM).

With respect to the coherence with other EU policies, it should be highlighted that FRA is – as opposed to other agencies - an institution which is value-driven and a beacon of the EU. The FRA's overall mandate relates to most EU policies, since fundamental human rights is a cross-cutting issue which has a bearing on many policies and, in particular, new policies when they develop.

Alignment with the nearest policy areas was part of the process of adopting the current Multiannual Framework and generally takes place through the annual programming exercise.

### **23.5. Effectiveness in achieving outputs and customer satisfaction**

The agency has been in a process of (re-)building and developing the annual work programmes, setting priorities, etc. for the future, and expect to adopt its work programmes for 2010 and 2011 during 2009. According to interviewees, FRA is very concerned with the fact that its work has to be fed into ongoing policy processes or debates to ensure the reports are used in a meaningful way. Thus, investment is made in the start-up phase of any new research to avoid duplications and to ensure communication strategies are part of the project from the outset. Moreover, the Fundamental Rights Platform (open-ended NGO platform) is consulted on the work programme with a view to bring civil society organisations closer to the policy making. The FRA work programme (as opposed to EUMC) also contains indicators. Generally, the agency monitors when its work is mentioned in reports, in the media, etc. and when they are requested to present their work in conferences, etc. (relevance and satisfaction). According to interviewees, there is a wish to establish quality indicators too, as it is highly important to the agency to deliver only high quality products. All contractors carrying out data collection are demanded to report monthly and this is precisely to enable the agency staff to interact and ensure quality remains high.

Activities included in the 2008 work programme (which is the first work programme of FRA) have been started, but little had been finalised at the time of data collection for this evaluation, thus it is difficult to estimate the impact of the output produced. This being said, two examples can be mentioned. The Homophobia report is an example of an output which, according to several interviewees, was a great success in the sense that it covered new ground, it created debate and was quoted several times, it was taken up by several civil society organisations in their advocacy work, and it underpinned the need for the Commission to present the new anti-discrimination proposal. Moreover, the European Parliament adopted on the 14 January 2009 a resolution on the situation of fundamental rights in the European Union 2004 to 2008<sup>388</sup>, which included several references to the agency's work and proposals in line with the report. Another example is the PNR-opinion<sup>389</sup> issued the 28 October 2008 on the request of the French Presidency, and which was referred to in the European Parliament resolution of 20 November 2008 on the proposal for a Council framework decision. In fact, the Opinion led to several amendments

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<sup>388</sup> European Parliament Resolution of 14 January 2009 on the situation of fundamental rights in the European Union 2004-2008 (2007/2145(INI)).

<sup>389</sup> Opinion on the Commission's proposal for a Council framework decision on the use of Passenger Name Record (PNR) data for law enforcement purposes the opinion (COM (2007) 654).

to the proposed Council framework decision on the use of Passenger Name Record for law enforcement purposes.

### **23.6. Efficiency in managing resources and executing the budget**

#### *Influence of the setting up of the agency*

The agency is located in Vienna, which also hosts other international organisations. Thus the location is generally not seen as problematic. A Seating Agreement exists with the Austrian Government. Following the change of the EUMC into FRA, an agreement was made with the Austrian Government to raise the support when the size of the agency passes 100 employees to cover 50% of its rent, compared to 30% currently.

#### *Budgetary issues*

The agency is financed through a subsidy of the EU budget. In 2007, despite transition from EUMC to FRA, almost all of its appropriations were committed (98%). From 2006 to 2007, the budget increased by 1/2 to EUR 14.2 million.

According to the discharge from the European Parliament, the EUMC received some observations on the procurement procedures (for 2005 and 2006), although the Declaration of Assurance from the Court of Auditors was positive on legality and regularity. In 2008, FRA concluded 420 contracts, which is equivalent to approximately 20 calls for tenders. The agency closely monitors the tender process with a view to further optimization.

#### *Human resources management*

As an organisation primarily based on human capital services, FRA's impact depends heavily on the capacity, quality and stability of its human resources. The occupation rate of the establishment plan is 97% (2008) and the agency experiences, on average, four resignations a year (about 5%). This percentage has been significantly reduced compared to the period between 1997 and 2004. No problems with human resource management, including recruitments, were reported and it is the evaluator's assessment that the agency is well-functioning and is able to attract highly qualified staff. *Oversight activities*

The Court of Auditors comes twice a year and the Commission Internal Audit Service at least once a year. Evaluation is not systematic, but FRA has implemented performance indicators which is part of its sound management system and helps them ensure that the objectives are reached and the budgets are spent. The indicators are a result of the Court of Auditors' recommendations, but were also a part of an internal process of improving the agency's ability to better demonstrate their work and its value. The indicators mainly focus on outputs, user satisfaction and relevance, as the agency finds outcomes or results indicators related to policy inputs too difficult to handle. The indicators are developed by Finance within the Administration Department, and a new Quality Manager is being recruited who will have, among his or her tasks, the responsibility of helping with the development of indicators and the monitoring of projects.

#### *Cost-effectiveness increase*

FRA aims to increase efficiency, especially by improving administrative services and applying good administration principles.

Activity Based Budgeting (ABB) is being implemented and the staff currently being trained in using it. The agency has created their own software to register the hours of each employee. Implementation of time registration was tried some years ago without success, and the agency is now determined to have success this time around under the full support of the Director.

The project management tool “Matrix” is used in planning and executing projects. It was purchased after inspiration from EUROFOUND. Even though the use of the system has been compulsory since January 2009 and the agency offers training, not all employees use it. The system ensures that a project automatically links up with all of the “sub-routines” such as tenders and payments, and it creates transparency since all employees can follow how a project is progressing.

It is the general policy of FRA to try to be part of all inter-institutional Service Level Agreements or framework contracts, as they find they relieve the agency of a lot of work. For example, when FRA recently moved to a new location, they did not have to do any tendering procedures. Everything, the move, the purchase of new furniture, etc. was launched based on existing inter-institutional or agency framework contracts.

The overall accountability lies with the Director, and a Budget Committee has been established that consists of four representatives of the management board (one of them is from the Commission). The committee follows up the financial matters and raises questions to the draft budgets. Every three months they are provided with an “info-point” which explains the state of play in terms of work carried out. During their meetings, they are also informed on the implementation of the budget. The Executive Board receives this information on a monthly basis and meets on an average six times per year. All of the information is on the Intranet and all staff members have access to it.

#### *Governance*

The agency is governed by a Management Board of independent persons appointed by Member States (and two representatives of the Commission and one of the Council of Europe), and thus in this way differentiates itself from other agencies by having a professional management board which, according to interviewees, can be considered as a good practice. The Executive Board consists of five members. The Council of Europe also takes part in these meetings to avoid the two institutions from overlapping, which according to several interviewees was one of the major concerns from the Member States when creating FRA. With a view to overcome some of the difficulties encountered by the EUMC, a Scientific Committee has also been established to enhance credibility and reliability of the agency’s work.

### **23.7. Main findings**

- FRA’s rationale is considered relevant and pertinent to the needs identified.
- FRA is governed by a Management Board of independent persons appointed by the Member States and thus, in this way, differentiates itself from other agencies by having a highly effective professional management board (see section 23.6).
- FRA is not formally part of the inter-institutional decision making process but can play an important and distinct role in this process by issuing opinions on specific legislative proposals.
- FRA is – as opposed to the other agencies - an institution which is value-driven. It has a bearing on most policies and, in particular, on new policies when they emerge as fundamental human rights as a cross-cutting issue
- FRA is performing its distinct tasks, i.e. issuing opinions or evidence based reports highly effective.
- FRA’s impact depends heavily on the capacity, quality and stability of



its human resources (a majority of which is composed of fundamental rights experts) and with few resignations a year and no problems reported with respect to attracting high qualified staff, the human resource management is assessed by the evaluator as being well-functioning.

## 24. FRONTEX

### 24.1. Introduction

The European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union, FRONTEX, was established in 2004<sup>390</sup> and became operational in October 2005. As its name indicates, FRONTEX coordinates the operational cooperation between the Member States at the external borders of the EU by for example facilitating and rendering more effective the application of existing and future Community measures relating to the management of external borders and ensuring the coordination of Member States' actions when implementing these<sup>391</sup>. The Agency has grown rapidly since its establishment and currently has 206 employees, all of whom are detached national experts and temporary agents. The Management Board of FRONTEX is composed of one representative per EU Member State and Schengen Associated Countries, i.e. Iceland and Norway, and two representatives of the Commission. Ireland and UK which are not taking part in the Schengen acquis related to the external borders, also participate in the meetings of the Management Board. FRONTEX is based in Warsaw, Poland. The Headquarters agreement is still under discussion with the Polish Government.

FRONTEX carries out its mandate through three main tasks: (1) Joint operations at land, sea and air borders, and return operations, (2) Risk Analysis, and (3) Training. In addition FRONTEX undertakes Research and Development, a task which is not displayed in the table below for the sake of simplicity.

The evaluation team understands the logic of FRONTEX' activities as follows:

- Tasks 1 and 3 - Facilitating operational coordination of the competent authorities in the Member States as to better achieve the objectives of the EU security and immigration policies<sup>392</sup>
- Task 2 - Contributing to the soft coordination of relevant authorities in the Member States and European Institutions with the same purpose<sup>393</sup>.

FRONTEX			
Tasks	Task 1	Task 2	Task 3

<sup>390</sup> Council Regulation (EC) No 2007/2004 of 26 October 2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union.

<sup>391</sup> As stated in the Mission of FRONTEX, see for example Programme of Work 2009.

<sup>392</sup> Same logic as CFCA, EMSA, EUROJUST, EUROPOL

<sup>393</sup> Same logic as that of the main task of CEDEFOP, CEPOL, and EIGE, as well as secondary tasks of CFCA, EMSA, EU-OSHA, and EUROPOL

<b>FRONTEX</b>			
<b>Tasks</b>	<b>Task 1</b>	<b>Task 2</b>	<b>Task 3</b>
<b>Main objective</b>	<b>Operations</b> To contribute to an efficient, high and uniform level of control on persons and surveillance of the EU external borders	<b>Risk Analysis</b> To produce appropriate and timely intelligence products which provide the foundation for FRONTEX overall planning and operational action  To support the Commission and the Council <sup>394</sup>	<b>Training</b> To assisting Member States on training of national border guards including the establishment of common training standards.
<b>Budget</b> <sup>395</sup> (% per year, 2009)	54%	2%	8%
<b>Dedicated staff</b> <sup>396</sup> (FTE %, 2008)	30%	16%	8%
<b>Outputs</b>	Joint operations (including sea borders, land borders, air borders and return operations)	Risk Analysis Reports Expert advice to MS and Commission	Capacity building, development of training manuals, development and follow-up of a common core curriculum
<b>Addressees / Users</b>	Member States	Policy-makers at EU and Member State levels, Border guard authorities in the Member States	Border guards in the Member States
<b>Results/ impacts</b>	More illegal immigrants are detected; more false documents are detected	Better knowledge of displacements; overview of European border weaknesses; more information on relevant third countries  Improved and informed policy-making	Unified practices and mutual learning among the border guards of the different Member States

All tasks of FRONTEX are closely interlinked. The operations are based on the knowledge received through Risk Analysis, and the border guards participating in joint operations have often participated in FRONTEX training activities. The R&D unit keeps the Agency up-to-date on research and can in this way make the latest research knowledge available to the relevant parts of the Agency as well as to the competent authorities of Member States.

These tasks do however not cover the whole of FRONTEX' activities as both the FRONTEX Situation Centre (FSC) and Pooled resources are missing from the list. FSC coordinates the flow of operational information, through which

<sup>394</sup> FRONTEX Management Board Decision 1 /2008 of 29 January 2008 on the Programme of Work 2008.

<sup>395</sup> The remaining 35% include for example the FRONTEX Situation Centre, Pooled resources, miscellaneous operational activities, staff expenditure and other administrative expenditure.

<sup>396</sup> The remaining 40,6% refer to the FRONTEX Situation Centre, Pooled Resources, Administration, Finance and Procurement, and Directorate and Executive Support.

the follow-up on operations is more structured, and pooled resources administrate the resources and equipment that the MS can give to the Agency's use and issue handbooks on their management and use.

Furthermore, the Agency may also cooperate with the competent authorities of third countries and with relevant international organisations (and with other EU agencies) in matters covered by its activities. It has signed a number of working arrangements to that effect.

## 24.2. Rationale and relevance

FRONTEX was set up in response to the need to improve integrated management at the European Union's External borders, which became necessary after the signing of the Treaty of Amsterdam, incorporating the Schengen acquis into EU law. Checks at all the common borders of the EU Member States were abolished and external border checks were strengthened. To begin with, the management of operational cooperation at the external borders was the responsibility of the "External borders practitioners' common unit" (the Common Unit), which was an intergovernmental unit, based at the Council. It was however the conclusion of the Greek Presidency in 2003 that, especially with regard to pilot projects and joint operations, the Common Unit lacked a monitoring mechanism, a method for independent and thorough evaluation, and a means of processing and utilizing results. Also the Commission concluded that the Common Unit showed structural limitations with regard to the coordination of operational cooperation at the external borders, and proposed therefore that some of the more strategic co-ordination tasks should remain with SCIFA<sup>397</sup>, whereas the more operational tasks should be entrusted to a new permanent Community structure able to exercise day-to-day management and co-ordination tasks and to respond on time to emergency situations. FRONTEX was thus founded as a successor of the Common Unit and its ad hoc centres situated in several EU MS. According to internal stakeholders consulted and the rationale as outlined in Commission publications, the establishment of an Agency was the only appropriate way to coordinate operational cooperation between the Member States<sup>398</sup>. According to a stakeholder, FRONTEX supports the MS in need; illegal immigration and the sharing of burden through solidarity are some of the politically most difficult questions for the MS and support is needed.

It is the assessment of the evaluator that the relevance of the Agency has not changed since its establishment, but rather become clearer. With respect to the growing political importance of the question of immigration and the continuous flow of illegal immigrants to the EU, the need for operational cooperation at the external borders is, if possible, even more relevant now than it was upon establishment of the Agency. The Commission has also concluded that the "the reasons for setting up the Agency remain fully valid"<sup>399</sup>. Furthermore, the Commission states that the political expectations towards the Agency are very high and this has led to a need for FRONTEX to become

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<sup>397</sup> Strategic Committee on Immigration, Frontiers and Asylum.

<sup>398</sup> This chapter is based on the interview with an Agency representative and on documents from the European Commission: Establishing a European Agency for the management of the operational cooperation at the external borders, IP/03/1519, 11 November 2003; and European Commission: Proposal for a Council Regulation establishing a European Agency for the Management of Operational Cooperation at the External Borders, 2003.

<sup>399</sup> Commission staff working document. Accompanying document to the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. Report on the evaluation and future development of the FRONTEX Agency. *Impact assessment*. SEC(2008)148, 13.2.2008, p. 7.

operational and expand its activities very rapidly. The surveyed members of the Management Board agree that the needs for the Agency to be established are still relevant today.<sup>400</sup> The development is going rather towards the Agency gaining a stronger role. According to a Commission representative, the Commission is planning to present a proposal to amend the Constituting Act in order to strengthen the role of the Agency. This will be done by strengthening the role of joint operations, redefining the precise role of FRONTEX, and increasing FRONTEX' relations with 3<sup>rd</sup> countries.

The evaluation team has undertaken a review of all agencies carrying out tasks which require some multi-annual strategic thinking, which is the case of FRONTEX' second task. Such tasks would deserve to be prioritised within a multi-annual work programme. This has not been the case previously, but the Management Board of Frontex adopted its first Multiannual Plan (2010-2013) in August 2009.

### **24.3. Agency's input to the work of the EU institutions**

FRONTEX is a downstream Agency that implements EU policies instead of contributing to policy-making. However, FRONTEX can provide policy-makers with a current picture of the situation at the external borders of the Union, provide risk assessments and present the recent developments in new technologies making it possible for policy-makers to take more informed decisions concerning the management of external borders.

According to interviews at the Agency and with Commission representatives, most outputs of FRONTEX are not specifically directed at the Commission, but the Commission uses the outputs from FRONTEX when drafting for example communications. The Commission, who is responsible for managing the external borders fund, receives analytical information from the FRONTEX Risk Analysis Unit, and can use this when assessing the need for new policy developments. 79% of the members of the FRONTEX Management Board who answered the survey also agree that the outputs of the Agency benefit the Commission. Generally, the separation of roles between the Commission and FRONTEX is considered to be good by the interviewees.

With respect to the timeliness, usability and quality of the outputs, the Management Board members consider them to be useful whilst to a lesser extent timely and of high quality<sup>401</sup>. The views of other stakeholders support the finding on usefulness, but no additional findings exist concerning the views of the other stakeholders on the timeliness and quality of the outputs. The main reason for this, as expressed by several stakeholders, is that the quality of the outputs is difficult to measure.

FRONTEX has not taken over any tasks from the Commission and all its tasks were either new or transferred from MS. According to an Agency representative, it is however foreseen that the management of the Information and Coordination Network ICONet could be transferred from the Commission to FRONTEX. The point of view of a Commission representative is that FRONTEX has at times been too much directed at policy-making, making the relationship between the Commission and FRONTEX somewhat complicated. This has however improved significantly during the past two years. The Commission it-

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<sup>400</sup> All 14 representatives of the Management Board (47% of the total) who answered the survey carried out in connection with this evaluation either strongly agree or agree with the statement "The needs the Agency was created to address are still relevant today".

<sup>401</sup> Whereas 12 members of the Management Board (out of 14 respondents) strongly agree or agree that the outputs of the Agency are useful, nine agree (not strongly) that the outputs are of high quality, and similarly nine agree that the outputs are timely.

self has deemed that there are gaps and shortcomings in the mandate of FRONTEX, and the Commission and several Member States have proposed to broaden the scope of the Agency to produce more mid- to long-term deliverables.

According to one internal stakeholder, the transfer of some tasks from the MS (ad hoc centres) to FRONTEX was not seen as a loss by the MS, particularly since they are all represented on the Management Board of the Agency.

#### **24.4. Internal and External Coherence**

It is the assessment of the evaluator that the activities of the Agency are well in coherence with its mandate. A relatively high share of the resources is used for joint operations at sea borders, but this is explained by the high costs associated with this type of operations. During the years of operation, it has however become clear that the terms "joint operations" and "pilot projects", envisioned in the Constituent act, do not sufficiently cover the needs that exist for FRONTEX activities. In many cases there is a need for more long-term approaches in the form of on-going or recurring activities. The Commission and several Member States have proposed to broaden the scope of the Agency to produce more mid- to long-term deliverables. This has been introduced in the 2009 Programme of Work<sup>402</sup>.

Being a downstream agency, FRONTEX' task is to implement existing EU policies in its own field. As recalled by the Commission, "The Community policy in the field of the EU external borders aims at an integrated management ensuring a uniform and high level of control and surveillance, which is a necessary pre-condition to the free movement of persons within the European Union and a fundamental component of an area of freedom, security and justice"<sup>403</sup>.

When looking at FRONTEX' objectives in comparison to the relevant strategic EU objectives, FRONTEX' tasks and objectives are, according to several interviewees, in coherence with the strategic objectives of the EU policies on integrated border management. In practice, however, the field of border management is rapidly changing and several Council and European Council conclusions call for FRONTEX to take actions.<sup>404</sup> This means that even though the objectives are coherent, for example the Commission has deemed that there are gaps and shortcomings in the mandate of FRONTEX.<sup>405</sup> According to an Agency representative, the Agency is trying to balance between its official mandate and where the political and strategic interests lie at any given moment. FRONTEX attempts to respond to the political requests for example by actively adapting its Work Programme to match the Council Conclusions on the management of the external borders of the MS.<sup>406</sup>

The general opinion expressed by most interviewees was that FRONTEX' activities are not overlapping with any other Agency or key operator. Some concerns were however expressed concerning the sharing of roles between FRONTEX and EUROPOL. In general the activities of the two Agencies reinforce each other in particular in the fields of illegal immigration, but according

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<sup>402</sup> FRONTEX Programme of Work 2009, p. 17.

<sup>403</sup> Commission staff working document. Accompanying document to the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. Report on the evaluation and future development of the FRONTEX Agency. *Executive summary of the impact assessment*. SEC(2008)149, 13.2.2008, p. 2.

<sup>404</sup> Ibid.

<sup>405</sup> Ibid, p. 8.

<sup>406</sup> See FRONTEX Programme of Work 2009, pp. 31-32.

to a stakeholder, the sharing of roles is not clear for example when it comes to human trafficking. There are however important differences between the two Agencies that usually keep their mandates from overlapping with each other (i.e. EUROPOL belongs to the 3<sup>rd</sup> pillar whereas FRONTEX is a 1<sup>st</sup> pillar Agency). However, this may well change as a result of EUROPOL's revised status from January 2010 when it becomes a decentralised agency funded through the Community budget.

In addition, the activities of FRONTEX are complementary to those of for example OLAF (security at the external borders, fighting fraud) and DG TAXUD (customs cooperation at the borders – border officers and customs officers are often working in close cooperation at the external borders). FRONTEX has also signed an agreement with CEPOL regarding experience exchange and harmonisation of the training of police officers and border guards. An interesting aspect, pointed out by one stakeholder, is that the equipment used by FRONTEX in its sea operations might be similar to that used by the Community Fisheries Agency, CFCA, and the European Maritime Safety Agency, EMSA, in their operations. According to FRONTEX, close cooperation through signed agreements have been put in place by these agencies.

The mandate and activities of FRONTEX are in coherence with the nearest EU policies (in particular integrated border management). FRONTEX is continuously exploring new areas to work on, within the boundaries of its mandate, particularly in monitoring of emerging trends in illegal migration. The Agency ensures coherence with the Council conclusions for example by clearly responding to the conclusions of the Council in the field of the management of the external borders of the EU in its Programme of Work 2009. The requests of the Council are presented one by one with a subsequent description of how the Agency expects to fulfil these requests<sup>407</sup>.

#### **24.5. Effectiveness in achieving outputs and customer satisfaction**

It is the assessment of the evaluator that when compared to the Programme of Work, the Agency has achieved most of its outputs. Some of the activities have changed during implementation so as to better match them with current needs, which are continuously changing in an intelligence-led area. This ability to be flexible is important for FRONTEX to allow it to react to changing needs at the external borders. According to one Agency representative, the Programme of Work is deliberately loosely formulated to allow for flexibility for example with respect to the exact timing or duration of an operation. This flexible approach has resulted in some difficulty in measuring effects. As a result, interviews at the Agency reveal that it has been proposed that the operations should be evaluated on an on-going basis and that plans for future phases and operations should be adapted so as to better take on recommendations from the evaluations that have been carried out on previous phases or earlier operations.

An external evaluation of the Agency, carried out in 2008, concluded that when it comes to the effectiveness of joint operations, it is difficult to make an assessment since they are not addressed in the annual reports. In numerical terms the goals have been achieved, but when no other goals have been set, the effectiveness cannot be evaluated. The 2008 evaluation concludes however that the degree of consistency between the Programme of Work and the Annual Reports has improved year by year.<sup>408</sup> The Programme of Work has

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<sup>407</sup> FRONTEX Programme of Work 2009, pp. 30-32.

<sup>408</sup> External evaluation of the European Agency for the Management of Operational cooperation at the External Borders of the Member States of the European Union. Final Report, January 2009. COWI A/S, p. 42.

followed the recommendation of setting clear indicators and more detail. One difficulty is finding indicators that accurately reflect the contribution of FRONTEX (e.g. to use broad indicators such as flows of illegal immigration may be difficult since it is not established what the effects of FRONTEX are on these vis-à-vis other factors such as Member States policies, the general economic climate, problems in third countries such as wars or famine, etc). FRONTEX has now contracted consultants to propose key performance indicators to address this concern and this work will be completed in December 2009.

The main users of FRONTEX' outputs are the MS whose operational cooperation FRONTEX coordinates. The MS participate in FRONTEX-led operations to various degrees, but in general it seems that they see the cooperation as both necessary and rewarding. Financially, it is a good deal for the MS to participate in FRONTEX coordinated operations, as their participation, apart from the salary costs, is reimbursed by FRONTEX. As one external stakeholder points out: "The financial regime for co-financing is so generous that it is foolish not to participate." Another stakeholder reported that MS nowadays are more connected than ever before, thanks to FRONTEX. The overarching view of the stakeholders interviewed is that of satisfied customers, who get from FRONTEX what they expect.

The agency representatives agree that when FRONTEX was established, it could not be foreseen how far the cooperation would go. Hence, operational cooperation is getting close to the limit of what Member States can do to increase operational cooperation further whilst using their own vessels. FRONTEX is however still facing difficulties in getting all the needed resources from the MS: some do not agree to sending out their staff and equipment to FRONTEX operations in other parts of Europe.

#### **24.6. Efficiency in managing resources and executing the budget**

##### *Influence of the setting up of the agency*

Both the Agency visit and interviews with stakeholders have indicated some problems with respect to the setting up of Frontex. One of the main challenges is related to the lack of a seating agreement with the Polish government. Whereas some informal agreements have been closed with the Polish government, the issue of an official seating agreement is still pending. Interviews at the Agency reveal that the lack of a seating agreement makes the status of the Agency and its employees unclear in the host country. The unclear status of the employees in the eyes of the Polish administration makes it difficult for the employees to organise administrative questions related to registration and IDs.

Another challenge identified by internal and external stakeholders concerns the support that the Commission offers to Agencies in the process of establishment. According to an Agency representative, more support would have been beneficial in relation to the practical set-up of the Agency, in addition to the substance related support received from the Commission. Similarly, additional support was hoped for with respect to recruitment of new staff. This view was contested by a stakeholder within the governance structure, according to whom the support that the Agency received from the Commission (during the establishment) had been sufficient and adding that if anything, Member States had not been sufficiently supportive.

##### *Budgetary issues*

The fast development of FRONTEX has led to some challenges with respect to its efficiency in managing resources and executing its budget. The operational



activities and their strengthening have consciously been given priority over resource management, including HR<sup>409</sup>. The Agency has been in a continuous stage of expansion since its establishment and for example in 2008 the number of staff increased from 130 to 185<sup>410</sup>.

The increase in the budget (and consequently the number of staff and operations) has in general taken place on the initiative of the budgetary authority, rather than that of the Agency. For example in 2008, FRONTEX received an additional €30M from the budgetary authority, above the original budget of app. €40M. In 2007 nearly 70% of the appropriations available, although committed, were not paid over the same financial year. The Court of Auditors concluded that many commitments that were carried over to 2008 were based on excessive cost estimations. According to FRONTEX, an important reason for the carry-overs is the difficulty to plan budgets on an annual basis when the operational activities often continue into the following year. The Agency has thus expressed the wish for the annual subsidies to be considered as dissociated credits that would allow for multi-annual programming. Moreover, budgetary commitments have in many cases been made after legal commitments as the operations that demand rapid response are, according to the Agency, not always in coherence with the administrative requirements that delay signing of contracts. The current situation is reflected in the survey responses of the members of the Management Board: four out of 14 respondents disagree or strongly disagree with the statement that the "Agency's procedures for financial management are effective"<sup>411</sup>. According to an external stakeholder FRONTEX suffers at times from the complexity of the European Community's financial rules and regulations.

The Agency uses a functional rather than an Activity Based approach for the allocation and management of resources. Total costs are not defined per activity but per general area, such as operations, administration, etc. The Agency is however currently in the process of developing an IT programme which will provide it with tools to better estimate the total cost of activities. MS are also being pushed to improve the planning of their activities. Furthermore, FRONTEX has just adopted its first multi-annual plan which will allow for a more long-term, strategic planning of activities.

#### *Human resource management*

The 2008 external evaluation identified several issues to be improved in the human resource management of the Agency. While the focus of the Agency has been to get the operations up and running, the rapid growth need a rapid expansion of staff numbers. Staff vacancies have often been filled through recruitment of a high number of seconded national experts. While doing so, less attention has been paid to the internal human resource management procedures. For example, according to the external evaluation report, the rules of the Staff Regulation have not been fully applied<sup>412</sup>. Also, according to an Agency representative, the introduction process to new employees has not been optimal, in particular in 2007-2008 when the number of staff increased from 130 to 200. This was also the impression gained by the evaluator during the Agency visit and from stakeholder interviews. The agency representatives agree with the need to consolidate the situation and to get appropriate human resource management systems up and running. It is the evaluator's assessment that the Agency is well under way towards doing so.

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<sup>409</sup> Interviews at the agency and COWI evaluation report.

<sup>410</sup> Numbers provided by the FRONTEX HR for the agency profile.

<sup>411</sup> 2 strongly agree, 4 agree, 3 neither agree nor disagree.

<sup>412</sup> COWI evaluation report, pp. 68-69.

The views of the Management Board concerning the effectiveness of the human resource management are rather neutral: seven respondents agree that the procedures are effective, but four respondents neither agree nor disagree. According to Agency representatives, the above-mentioned lack of a seating agreement with the Polish government is also hindering recruitment. Several Agency representatives also consider the location of the Agency to be problematic and unattractive for potential employees. This view is however neither shared by all interviewees at the Agency, nor by the Commission. It can nevertheless clearly be seen that the majority of applicants to open positions come from Poland.

#### *Oversight activities*

Several interviewees at the Agency explained that the Agency is lacking a culture of formulating SMART objectives and performance/achievement indicators, as most of its personnel have a background in the operational sector and are not trained in project management. General objectives are often presented, but assessment of performance is done on an output rather than result or impact level. Moreover, the cost-efficiency of the activities is not measured, as it is deemed very difficult to define what cost-efficiency is when it comes to joint operations. The 2009 Programme of Work is however showing a change in an improved direction, with formulated objectives, outputs and indicators for the projects, products and services of the Agency. More focus on targets is important to determine the added value of FRONTEX activities in a more tangible and consistent way. As mentioned previously, work is ongoing to propose new targets and indicators.

#### *Cost-effectiveness increase*

Whereas measuring the cost-effectiveness of FRONTEX activities is in general very challenging, due to the difficulty in assessing the effectiveness of for example FRONTEX operations, an increase in cost-effectiveness could however be identified in some FRONTEX activities. Activities that are low in cost, that create sustainable results and that have long-term impact are in general deemed to be cost-effective. In the case of FRONTEX these activities include for example joint operations, which consist of cooperation between border guards in different countries, without the use of surveillance or other equipment. The joint operation FOCAL POINTS has created contact points at different external border crossing points. The only costs include the deployment of border guard officers, and as they gain knowledge through participation, the results and impacts can be expected to be long-term.

### **24.7. Main findings**

- The rationale and relevance are clearly established and agreed upon by all respondents (see section 24.2).
- The activities of FRONTEX are coherent with its mandate and with EU policies. Some gaps have however been identified between the mandate of the Agency and the rapidly evolving strategic objectives in the field. The activities of FRONTEX are generally coherent with and complementary to those of other EU agencies, although there is some risk of overlap with EUROPOL activities (see section 24.4)
- The fast development of the agency has led to difficulties in executing the budget over a single financial year (see section 24.6).
- The human resource management is in the process of being consolidated (see section 24.6)

- Lack of Headquarters agreement with the host country remains problematic (see section 24.6)

## 25. GSA

### 25.1. Introduction

GSA – GNSS<sup>413</sup> Supervisory Authority was established as an EU agency in June 2004. Initially, the purpose of the agency was to ensure that essential public interests were adequately defended and represented<sup>414</sup>. The agency was therefore put in charge of managing GALILEO and EGNOS<sup>415</sup>, the two cornerstones of the European radio-navigation policy.

The GSA officially took over all tasks previously assigned to the GSA's predecessor, the GALILEO Joint Undertaking (GJU) on 1 January 2007. The GJU was set up in May 2002 by the European Community and the European Space Agency to manage the development phase of the GALILEO Programme<sup>416</sup>.

Although the agency's main task was the management of the EGNOS and GALILEO systems, the termination of the GALILEO concession on 20 June 2007 led to a redefinition of GSA's tasks based on a new division of responsibilities between the Commission, GSA and ESA.

The new governance of the GNSS Programmes was laid down in the GNSS Regulation<sup>417</sup> adopted in 2008 which introduces two major changes

- The deployment of the GALILEO system is done through a public procurement approach fully funded by the Community budget instead of concession contracts.
- The management of European GNSS programmes is entrusted to the Commission.

As a consequence of these changes, many of the GSA's technical staff moved to the dedicated unit of DG TREN (30 staff members transferred out of 52).

In line with an overall review of governance of the GNSS Programmes, the role of the agency is now to ensure the security accreditation of the GNSS systems and the operation of the Galileo security centre and to contribute to the preparation of the commercialisation of the systems with a view to smooth functioning, seamless service provision and high market penetration, as well as any other tasks that the Commission may entrust to it, in particular to promote applications and services and ensure the certification of components of the system.

The market development activities started in 2007 and were boosted in 2009 with the promotion of EGNOS, the first operational European satellite-navigation system. The GSA is actually carrying out marketing activities for EGNOS, which is probably a first for a Community body.

The table below presents the two main tasks of the agency, together with dedicated staff and budget. It may however be noted that the agency is responsible for the management of specific R&D programmes delegated by the

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<sup>413</sup> Global Navigation Satellite Systems

<sup>414</sup> See Constituent Act, Council Regulation (EC) No 1321/2004 of 12 July 2004 on the establishment of structures for the management of the European satellite radio-navigation programmes (5).

<sup>415</sup> European Geostationary Navigation Overlay Service programme, the European satellite navigation system which aims at correcting and improving GPS data. EGNOS is to deliver services based on GPS and Glonass signals, providing augmentation signals re-transmitted by geostationary satellites and a network of ground stations.

<sup>416</sup> [Regulation \(EC\) No 876/2002](#).

<sup>417</sup> Regulation 683/2008 of the EP and Council on the further implementation of the European satellite navigation programmes (EGNOS and Galileo), OJ L196, 24.7.2008

Commission and amounting to € 215 m of commitment appropriations in 2009.

The evaluation team understands that both tasks have the same logic which is to provide a highly specific technical service to DG TREN as to better achieve the objectives of the corresponding EU policy<sup>418</sup>.

GSA		
Task	Task 1	Task 2
Main Objective	Security: Ensure the security of the programmes.	Market Development: preparation of the commercialisation of the system.
Budget <sup>419</sup>	1 300 000 €	1 430 000 €
Dedicated Staff <sup>420</sup>	9	8
Outputs	Security procedures, guidelines and minimum standards; Consolidated list of certification requirements; In-depth risk assessment studies.	Market Analysis, opportunity study, Market monitoring tool; Cooperation opportunities, workshops, demonstrations and trials; Management of FPs projects, coverage extension studies.
Addressees/Users	ESA, Member States	EU, SMEs, Third countries
Results/Impacts	The operability and reliability of the systems is ensured through certification of activities and risk management.	The systems are operational and economically viable thanks to the development of applications and GNSS promotion.

## 25.2. Rationale and relevance

At the time of its establishment, GSA was meant to<sup>421</sup>:

- Contribute to the management of public-private EU programmes in the area of intelligent transport and navigation by satellite systems;
- Ensure that essential EU public interests are adequately defended and represented by other means than alternative radio navigation systems which can give no guarantee of uninterrupted service.

According to the interviewees, the main reasons for handling these tasks through an agency were the following:

- Very operational tasks which require flexibility,
- Negotiation capacities with the private sector,
- Highly qualified specialized staff.

<sup>418</sup> The same logic can be found in several other agencies (e.g. CEPOL, ETF, and the former EAR), but the type of services provided are quite different.

<sup>419</sup> Staff assigned in 2009 to the security department and the market development department. Horizontal activities gather 15 posts (GSA AB 19-03-19-04)

<sup>420</sup> As presented in Budget 2009 (AB 08-03-15-08 rev.1)

<sup>421</sup> Constituent Act, Council Regulation (EC) No 1321/2004 of 12 July 2004

According to one of the GSA managers, externalising to the private sector was not possible because of -1- the conflicting economic interests and -2- the security of information managed by the agency.

The recast put into question the main justification for setting up GSA, i.e. managing EU programmes. The rationale of the agency includes the remaining three issues:

- Security issues<sup>422</sup>,
- And market development issues which require strong commercial and economic capacities.

The agency staff argues that their organisation is playing an important role to promote EU interests efficiently despite the political pressures from national lobbies. The agency is under restructuring in order to handle potential market development which will become more and more important in the future.

The evaluation team has done a systematic analysis of governance arrangements across all agencies by looking at the various needs that have to be addressed and how these needs are reflected in the balance of powers. GSA belongs to the agencies where discrepancies have been found.

The agency contributes to providing services to the European Commission. It will also serve the interests of the economic stakeholders. If compared to the services provided, the GSA governance system seems to allocate too much power to the individual Member States, and not enough to the Commission and economic stakeholders.<sup>423</sup>

### **25.3. Agency's input of the work of the EU institutions**

The drastic changes in the agency missions and tasks have affected the nature of the relationships that the agency has with the Commission and the other EU institutions and particularly with the European Space Agency. A period of uncertainty has been experienced by GSA as regards the ownership of the financial assets of the Global Landing Unit<sup>424</sup>.

During this period of uncertainty however, the agency has proved to be proactive in its own reform, by assisting the Commission in the preparation of the technical elements<sup>425</sup> of the proposals to the Council and European Parliament after the concession contract system was abandoned. The agency also assisted the Commission in its new role of programme manager, especially on

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<sup>422</sup> Through the security monitoring centre, GSA will be dealing with the encryption keys required for the utilisation of the so-called public regulated service (PRS), one of the five services to be offered by Galileo. The PRS is intended for use by public authorities including Member States, but the agency will not be involved with the applications that Member States wish to make of the PRS signal.

<sup>423</sup> As an illustration, only few Administrative Board members responded to the survey and they generally agreed on the fact that its governance provisions (in the founding regulation and subsequent amendments) have a negative influence on GSA.

<sup>424</sup> See Annual Activity Report 2008, mentioning "*the long period of uncertainty regarding the GSA's mission, activities and employment contracts*" (p9). In addition, the European Parliament report on GSA stipulates: "*The ECA's observations cover the Authority's budget implementation, the uncertainties as regards the accounts, which concerned in particular the Galileo and EGNOS project assets and issues related to the takeover of the activities and assets of GJU by the Authority.*" (C6-0446/2008 – 2008/2273(DEC))

<sup>425</sup> See: Work Programme 2009 and Annual Activity Report 2008

the full operational capability (FOC<sup>426</sup>) preparations, the EGNOS Delegation Agreement to ESA and the EGNOS Agreement with the EOIG<sup>427</sup>.

#### **25.4. Internal and External Coherence**

The agency tasks and mandate have significantly changed twice (before 2006 and after 2007), and GSA is in a transition period. It may therefore be too early to assess internal coherence.

The closest other key operator is the European Space Agency. Both agencies signed a cooperation agreement in June 2007 on the EGNOS and GALILEO programmes. However this agreement is probably not relevant anymore following the 2008 recast. The European organisations whose original mission statements are most comparable to that of the GSA are EU-TELSAT and EUMETSAT

Since GSA is contributing to a programme which will generate development in a large number of sectors, there are undoubtedly plenty of potential relationships with other EU agencies (such as EASA, CFCA, EMSA) and EU policies (RTD, ENTR, AGRI, FISH, JLS, RELEX).

Here again the revised format of GSA's activities changed profoundly the position of the agency against its environment since the responsibilities are now very limited: none of the other bodies are in charge of security issues (1<sup>st</sup> task). The market development activities started in 2007 and were boosted in 2009 with the promotion of EGNOS, the first operational European satellite-navigation system. The GSA is actually carrying out marketing activities for EGNOS, which is probably a first for a Community body.

It seems that GSA's potential overlapping and coherence issues have been transferred to DG TREN together with the management of the GALILEO programme.

#### **25.5. Effectiveness and efficiency**

As for internal coherence, it is too early to conclude on the effectiveness or efficiency of GSA in the current transition period, especially since independent information available to the evaluation team mainly relate to the year 2007 which was characterised by the transfer of a high number of activities.

#### **25.6. Main findings**

- The agency was set up in 2004. It took over all tasks previously assigned to the GALILEO Joint Undertaking in 2007, and most of these tasks were further transferred to the Commission in 2008.
- Among the remaining activities of GSA is the market development which was boosted in 2009. The agency is currently carrying out marketing activities for EGNOS, the first operational European satellite-navigation system, something which is probably a primer for a Community body.
- As the agency tasks and mandate have changed so significantly and so rapidly over the last years that the evaluation consider that it is too

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<sup>426</sup> The Full Operational Capability was one of the GSA strategic objectives regarding Galileo. It should have been reached by 2012.

<sup>427</sup> EGNOS Operations and Infrastructure Group, a consortium of EU aviation administrations.

early to assess internal coherence, effectiveness and efficiency.

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## 26. OHIM

### 26.1. Introduction

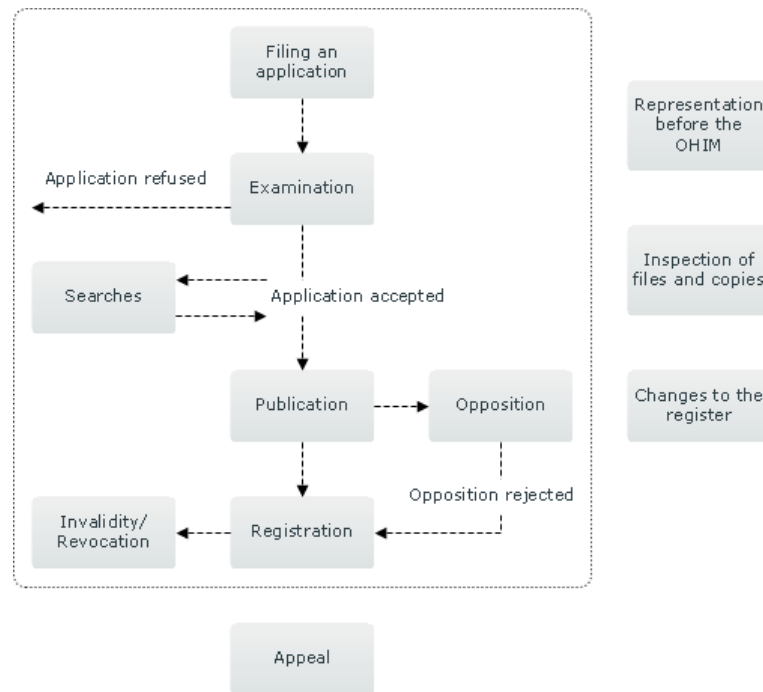
*The Office for Harmonisation in the Internal Market (OHIM)* is the official trademarks and designs registration office of the European Union. The Community trade mark (CTM) and registered Community design (RCD) are the gateway to the European single market – providing protection for Industrial Property Rights throughout the European Union.

Created in 1994, OHIM is an independent, self-financing European agency. Based in Alicante in Spain, the Office has an annual income in the region of EUR 200m and currently employs around 660 people including 140 teleworkers. Employees come from every part of the EU and have five working languages - English, French, German, Italian and Spanish – the Office handles applications in 22 languages in all.

OHIM, unlike many other European agencies, implements one single main task (registration) on two close types of products: trademarks and designs, and then concentrates the majority of its resources on it. The logic of this task is to deal with individual applications of enterprises as to ensure a secure functioning of the EU internal market.

OHIM	
<b>Main task</b>	<b>CTM or RCD registration /administration</b>
<b>Main objective</b>	To implement the Community legislation on trademarks and designs
<b>Budget allocated to the task (% per year, 2008)</b>	80%
<b>Dedicated staff (FTE %, 2008)</b>	71%
<b>Outputs</b>	Registered community trademarks and designs
<b>Addressees / Users</b>	Proprietors of TM and designs. 80% of the direct users are proprietors representatives, i.e. attorneys and agents
<b>Results/ impacts</b>	Comprehensive protection of industrial property rights throughout the entire area of the European Union Reinforced combat against counterfeiting Contribution to a fair and fluent EU internal market

The registration process is illustrated in the following figure.



From the introduction of the Community trade mark in 1996 until the end of 2008, a total of 507,000 CTMs have been registered for proprietors from all over the world.

## 26.2. Rationale and relevance

In the 1960's, the need for an "EU"-wide protection of trademarks appeared as a typical internal market issue. 30 years of discussion were however necessary to set up a Community Trade Mark (CTM) system, coexisting with the national systems. It was indeed considered that the Community law relating to trade marks should not replace the corresponding laws of the Member States, as national trade marks continue to be necessary for those undertakings which do not want or need protection of their trade marks at Community level.

The rationale for registering single EU titles (CTM and RCD) through a decentralised agency (Agency added value) rather than something else (e.g. some intergovernmental arrangement, an executive agency or a Commission unit) was not clearly explained at the time of creation. The reflexion was rather focused on the rationale of doing these tasks at EU level (European added value).

The Council Regulation<sup>428</sup> provides the detailed policy background and justification for the creation of the Office for Harmonisation in the Internal Market.

*"In order to [...] make it increasingly a single market, not only must barriers to free movement of goods and services be removed and arrangements be instituted which ensure that competition is not distorted, but, in addition, legal*

<sup>428</sup> Council Regulation (EC) No 207/2009 of 26 February 2009

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:078:0001:0042:EN:PDF>  
[http://oami.europa.eu/ows/rw/resource/documents/CTM/regulations/4094\\_cv\\_en.pdf](http://oami.europa.eu/ows/rw/resource/documents/CTM/regulations/4094_cv_en.pdf)

*conditions must be created which enable undertakings to adapt their activities to the scale of the Community, whether in manufacturing and distributing goods or in providing services; [...] for those purposes, trademarks enabling the products and services of undertakings to be distinguished by identical means throughout the entire Community, regardless of frontiers, should feature amongst the legal instruments which undertakings have at their disposal.”*

The office was set up in 1994 to administer the Community trade mark (CTM), which became available two years later in 1996. The registered Community design (RCD) was introduced in 2003.

No real evolution of the nature of the needs has occurred since the creation of the Office. The aim remains the implementation of an internal market policy. On the other hand, the demand for CTM constantly rose. The initial expectations were 15,000 applications per year. But 30,000 applications were received from the first year (1996) and the office currently deals with more than 87,000 applications per year.

### **26.3. Agency's input to the work of the EU institutions**

OHIM is a very business oriented agency. The European Commission is not as such the user of OHIM's work and thus receives few direct inputs from the agency. The main users are companies from MS and from all over the world, often represented by their agents. According to interviewed stakeholders, the office nevertheless provides advice about legislation to DG MARKT and experts to DG TRADE, for instance when programmes with Asia or other parts of the world are concerned. The Commission may also ask for expertise or contributions of OHIM for court cases a couple of times a year.

OHIM did not make many specific inputs into the inter-institutional decision-making process concerning the preparation or development of policies neither<sup>429</sup>. However through its strong contribution to the quick development of CTM and RCD, the agency does contribute to the internal market development and thus to the implementation of DG MARKT policies.

OHIM has legal, administrative and financial autonomy. The Commission supervision is limited, according to Art. 122 of the founding regulation, to legal conformity and the Parliament has no direct say on financial decisions. The Council decides on the appointment of the President and the Vice President of the Office and the President and Chairpersons of the Boards of Appeal. The financial aspects are controlled by the Court of Auditors (in addition to the Budget Committee and internal auditor controls).

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<sup>429</sup> The agency has now more opportunity to provide inputs to the decision making process. The new Council Regulation (EC) No 207/2009 of 26 February 2009 on the Community trade mark specifies (Art 124 2 b) indeed that “[...] the President may place before the Commission any proposal to amend this Regulation, the Implementing Regulation, the rules of procedure of the Boards of Appeal, the fees regulations and any other rules applying to Community trade marks after consulting the Administrative Board and, in the case of the fees regulations and the budgetary provisions of this Regulation, the Budget Committee;”.

## 26.4. Internal and External Coherence

### *Internal coherence*

It is the assessment of the evaluator that the agency activities are fully coherent with the objectives set out in its mandate. OHIM has one task (registration) and 2 products (CTM and design). The allocation of resources is aligned.

In a way, OHIM is very similar to CVPO. Both are 100% financed by the so-called users (clients in reality), providing the users with a single service linked to private interest: protection of their economic rights. The two agencies are highly consensual since they are not related to any political or social issues. Finally both are also amongst the oldest EU decentralized bodies. One might question the necessity for maintaining two distinct agencies while their *raison-d'être* is so close.

OHIM is also close but to a lesser extent to EASA, ECHA, and EMEA since in these cases the agency protects the safety of consumers and citizens rather than that of the applicants.

### *External coherence*

The agency's task is not particularly complementary with that of other neighbouring European agencies. OHIM is nevertheless bound by law to work with the translation Centre (CdT) - OHIM is its largest client providing a major part of CdT's activity<sup>430</sup>. The lack of flexibility in that respect<sup>431</sup> is considered by the agency as well as by the users associations as a hindrance to efficiency.

OHIM takes part in a wide range of cooperation activities with the national trade marks offices of EU member states. These activities include technical cooperation, training, seconded staff, the organisation of seminars (for judges for instance), and work on common databases designed to make searching for trademarks and classifications easier. According to agency and stakeholder interviews, an important underlying thread for many of these activities is the desire to harmonize practice in order to make things easier for users. The establishment of the Cooperation fund recently agreed (cf. section 26.6) will provide substantially increased funding for these cooperation activities in future years.

OHIM works in parallel with international intellectual property (IP) offices (WIPO<sup>432</sup>, US, Japan, China, etc.) in a cooperative effort to try and make IP rights protection more transparent and consistent on the global stage.

## 26.5. Effectiveness in achieving outputs and customer satisfaction

Customers are in general satisfied with the quality of service, transparency and swiftness of the Office's work. In particular, the examination phase is considered by professionals as of high quality level and transparent. Decisions are generally deemed as very detailed and consistent by the users.

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<sup>430</sup>OHIM translations represent more than 60% of CdT's activity, cf. chapter 1.4 on CdT.

<sup>431</sup> The agency is legally barred from outsourcing translation requests elsewhere than to CdT.

<sup>432</sup> The World Intellectual Property Organization (WIPO, Geneva) is a specialized agency of the United Nations, dedicated to developing a balanced and accessible international [intellectual property](#) (IP) system.

Major progress has been registered in terms of quality and rapidity in the last years<sup>433</sup>. In spite of increased volumes of CTM applications, processing times have fallen steadily, with the average time to registration for straightforward applications falling by 50% from 16 months to eight months between 2004 and 2008<sup>434</sup>.

Almost all internally set performance objectives<sup>435</sup> are considered to be met, except for the time necessary to take decision on opposition, on which major progress is still needed.

According to agency and users interviews, administrative burdens remain limited when compared with national systems in Europe and even with “advanced” systems such as the American or Australian ones. The increase in demand (+45% between 2004 and 2008) for CTMs and RCDs, partly due to this relative speed and simplicity of registration, constitutes another indicator of the clients’ satisfaction.

Large companies, SME’s agents and users associations have been interviewed in the framework of the case studies<sup>436</sup> conducted specifically for the present evaluation. They all agree on the “protection effect” of the Community trade marks (CTM) and registered community designs (RCD). They explain that safety is reinforced as a single court judgement (e.g. on invalidity) in one EU country will be respected in all other EU MS. They feel that products are better protected against counterfeiting and custom authorities more invested in control, in all member states and at EU borders.

According to the case study findings, the community system seems to deal equally and fairly with large and small companies’ demands and needs. Each company category finds its interest in the community protection system and is aware of the economic value conveyed by CTMs and RCDs.

Through their contribution to greater confidence in equal protection in every MS, OHIM’s activities contribute to the internal market completion and to slow but progressive harmonisation of the practices in registration (shared classification databases or notions such as “likelihood of confusion”, convergence of jurisprudences, etc.).

## **26.6. Efficiency in managing resources and executing the budget**

### *A high level of productivity*

A combination of higher volumes, faster processing speed and efficiency measures, and only small changes in staff numbers, has resulted in real productivity improvement. Productivity measured in terms of registrations of trademarks and designs per member of staff has grown by 70% between 2004 and 2008.

### *Drivers for efficiency*

OHIM cost-effectiveness is mainly due to 4 key factors:

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<sup>433</sup> Cf. OHIM user satisfaction survey, Feb. 2008; interviews with users associations; interviews with agents and companies.

<sup>434</sup> In October 2008, the Office introduced a ‘fast-track’ registration for Community designs, which should result in around 30% of applications being registered in 10 days. The 2008 average time for registration of designs was 6 weeks up until October 2008.

<sup>435</sup> Cf. OHIM service charter  
<http://oami.europa.eu/ows/rw/pages/OPLUS/serviceCharter/serviceCharter.en.do>

<sup>436</sup> Cf. OHIM case study and sub case studies

- client and performance orientation (Quality management system, close performance monitoring<sup>437</sup>, specific process of “listening” the users<sup>438</sup>)
- technical tools development (automation, paperless office)
- strong effort on training (12 days a year for each staff member, large training catalogue)
- cuts in costs (translation, search reports, electronic invoicing, bank costs, travelling, building, etc.) and use of outsourcing (i.e. IT and telephone services or data inputting)

The move towards e-filing was strongly supported by OHIM through continued investment in its electronic services. E-filing continues to grow in popularity and is now the preferred route for many users<sup>439</sup>.

Efficiency improvements have led to reduced costs. In less than five years the fee for registration of a Community trade mark has halved from just over EUR 2,000 to around EUR 1,000 (mid-2009).

#### *Governance issue*

Due to the choice to set up a Community Trade Mark (CTM) system coexisting with the national systems (no political intention to replace the national systems with the Community one), the agency was established with an uncommon double governance system<sup>440</sup>:

- an Administrative Board (to advise the President and to prepare lists of candidates for President and Vice-Presidents of the Office, President and chairpersons of the Boards of Appeal and to appoint members of the Boards of Appeal);
- and a Budget Committee (to adopt the budget and internal financial provisions, give discharge to the President in respect of the implementation of the budget and determine the amounts to be paid to national offices for search reports).

A conflict of interest issue appears as the MS representatives come from national trade mark offices and not from the policy making bodies (ministries). It was particularly visible in the last years during the negotiation of the fee reductions proposed by the Commission (cheaper CTM could render the national trademarks less attractive). Long negotiations took place, which finally led to an agreement in September 2008 on a 40% fee reduction but also on a EUR 50m amount to be invested by OHIM in a Cooperation Fund aimed at the MS national IP offices, and on a share of future CTM renewal fees.

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<sup>437</sup> A Monthly Operational Report helps the agency’s Management Committee to carry out a close follow-up of its most important performance indicators (such as incoming business, timeliness standards, stock levels, quality error rates, e-business tools, efficiency tools and front office performance). And a set of these indicators (accessibility, timeliness and quality of decisions) are combined in OHIM’s Service Charter and published on-line on a quarterly basis.

<sup>438</sup> This process takes a variety of forms ranging from working with user groups, carrying out surveys, visiting key users, and carefully analysing both complaints and information requests.

<sup>439</sup> At present, around 83% of CTM applications, excluding those that come via the WIPO, and around 18% of oppositions use the online route. For RCDs, e-filing accounts for around 40% of designs received.

<sup>440</sup> Both bodies are composed of one representative of each Member State and one representative of the Commission (without voting right) and their alternates. The role of each body is specified in Art. 126 of the founding regulation.

The evaluation team assesses this compromise as far from efficient, and as a direct consequence of a governance system in which the balance of powers does not reflect that of the needs which have to be addressed. In fact, the agency contributes to achieving objectives at EU level (internal market), it serves the interests of enterprises (underrepresented in the governance system), and it cooperates with national agencies in the Member States. These three categories of interests are not balanced in the agency governance.

#### *Budgetary issues*

Over time, the agency has come, partly because of the governance issue discussed above, to a very uncommon budgetary situation. According to its mandate, OHIM is supposed to have a balanced budget<sup>441</sup>. However, as the office improved its productivity and could not reduce the fees, it has been generating consequent amounts of surpluses (by the end of 2008, the total financial surplus accumulated over several years had risen to EUR 350m). In 2008, for instance, OHIM had an income of around EUR 217m against an expenditure of EUR 143m.

#### *Human resources management*

As the need for human resources very rapidly grew from the beginning, recruitments had to be quick and numerous and attractive conditions were offered, amongst these permanent rather than temporary contracts. This has led to today's specific (experienced by no other European agency) and paradoxical situation. With strong automation and productivity efforts, the Office needs less numerous and different staff but lacks flexibility (70 to 80% of the staff is made of permanent officials and the staff turnover is very low). Any attempt to solve the issue leads to significant tension with the staff.

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<sup>441</sup> Cf. Art.139 b. "The revenue and expenditure shown in the budget shall be in balance."

## 26.7. Main findings

- The objectives of the Agency are clearly established and still relevant (see section 26.2);
- The quality of service, transparency and swiftness of the Office's work is broadly recognised. The only exception concerns the time necessary to take decision on opposition, on which major progress is still needed (see section 26.5);
- OHIM's activities are fully coherent with the objectives set out in its mandate (see section 26.4);
- OHIM is a business oriented agency that generates customers' satisfaction and contributes to reinforced protection and fair internal market (see sections 26.3 and 26.5);
- The agency has clearly improved its cost-effectiveness ratio in the last years, thanks to reinforced quality and performance monitoring, technical tools development, cuts in costs and outsourcing (see section 26.6.2);
- OHIM belongs to the agencies where the balance of powers is not aligned with various needs that have to be addressed. The governance system suffers in addition from a conflict of interest issue (see section 26.6.3);
- The agency has come over time to a very uncommon and inappropriate budgetary situation (generation of consequent amounts of surpluses, see section 26.6.4).



## **Appendix 1: Comparative information**

This appendix displays comparable items of information across agencies. It is structured in seven sections:

- Creation
- Rationale
- Relevance
- Tasks
- Related EU policies
- Organisational settings
- Governance
- Budget
- Staff
- Management
- Accessibility
- Location package
- Overall evaluation
- Evaluation of tasks
- Audit and discharge
- Monitoring
- Annual report

This systematic information has been produced per agency mainly through agency visits and documentary analysis.

**Table 1 - Creation**

Agency	Short name	Country	Location	Constituent act in ...	Settled host country in	Latest amendment(s)	Latest impact assessment	Stage in lifecycle	Pillar
<b>CdT</b>	Translation	LU	Luxembourg	1994	n/a	2003	None	Cruise speed	1st
<b>CEDEFOP</b>	Training	GR	Thessaloniki	1975	1995 (previously in Berlin)	2004	None	Cruise speed	1st
<b>CEPOL</b>	Police college	UK	Bramshill	2000	n/a	2005	None	Cruise speed	3rd
<b>CFCA</b>	Fisheries	ES	Vigo	2005	2008	None	2004	Growing	1st
<b>CPVO</b>	Plant	FR	Angers	1994	1997	2008	None	Cruise speed	1st
<b>EAR</b>	Reconstruction	GR	Thessaloniki	2000	n/a	None	None	Cruise speed	1st
<b>EASA</b>	Aviation	DE	Köln	2002	n/a	None	None	Cruise speed	1st
<b>ECDC</b>	Diseases	SE	Stockholm, Solna	2004	2005	None	None	Cruise speed	1st
<b>ECHA</b>	Chemicals	FI	Helsinki	2006	2007	None	None	Growing	1st
<b>EEA</b>	Environment	DK	Copenhagen	1990	1994	2003		Cruise speed	1st
<b>EFSA</b>	Food	IT	Parma	2002	2005	2002/2006/ 2008	None	Cruise speed	1st
<b>EIGE</b>	Gender	LT	Vilnius	2007	n/a	None	None	Start up	1st
<b>EMCDDA</b>	Drugs	PO	Lisboa	1993	1993	2006	None	Cruise speed	1st
<b>EMA</b>	Medicines	UK	London	1993	1995	2004	2000	Cruise speed	1st

<b>Agency</b>	<b>Short name</b>	<b>Country</b>	<b>Location</b>	<b>Constituent act in ...</b>	<b>Settled host country in</b>	<b>Latest amend-ment(s)</b>	<b>Latest impact as-essment</b>	<b>Stage in lifecycle</b>	<b>Pillar</b>
<b>EMSA</b>	Sea	PO	Lisboa	2002	2006	None	None	Cruise speed	1st
<b>ENISA</b>	Information	GR	Heraklion	2004	2005	None	None	Cruise speed	1st
<b>ERA</b>	Railway	FR	Lille - Valenciennes	2004	2005	2008	None	Cruise speed	1st
<b>ETF</b>	Training	IT	Torino	1990	1994	2008	2006	Changing	1st
<b>EU-OSHA</b>	Safety at work	ES	Bilbao	1994	1996	2005	none	Cruise speed	1st
<b>EUROFOUND</b>	Working conditions	IE	Dublin	1975	1975	2003	2009	Cruise speed	1st
<b>EUROJUST</b>	Justice	NL	Den Haag	2002	n/a	2009	None	Cruise speed	3rd
<b>EUROPOL</b>	Police	NL	Den Haag	1995	1999	2000, 2002, 2003	None	Cruise speed	3rd
<b>FRA</b>	Rights	AU	Wien/AT	2007	2007	None	2005	Cruise speed	1st
<b>FRONTEX</b>	Borders	PL	Warszawa	2005	n/a	2007	None	Cruise speed	1st
<b>GSA</b>	Galileo		Brussels	2005		2006	None	Changing	1st
<b>OHIM</b>	Trade marks	ES	Alicante	1993	n/a	2004	None	Cruise speed	1st
<b>Comments</b>									
- Short name chosen by the evaluation team									
<b>Sources</b>									
- Documents and agency visits									

**Table 2 - Rationale**

Agency	Rationale for an agency	If yes, which one primarily?				Alternative (at the time of creation)	Other information	
		Independence, conflict of interest	Intergovernmental tasks	Dialogue with stakeholders	Specific expertise / capacity		New policy instrument	EC's staff constraint
<b>CdT</b>						Private sector		
<b>CEDEFOP</b>	X			X		Expert network		
<b>CEPOL</b>	X		X			Intergovernmental arrangement	X	
<b>CFCA</b>	X	X				Commission	X	
<b>CPVO</b>						Intergovernmental arrangement	X	
<b>EAR</b>	X				X	Commission		
<b>EASA</b>	X				X	Intergovernmental arrangement	X	
<b>ECDC</b>	X				X	Expert network		
<b>ECHA</b>						Commission	X	X
<b>EEA</b>	X				X	Commission		
<b>EFSA</b>	X	X				Commission		
<b>EIGE</b>						Commission		
<b>EMCDDA</b>	X				X	Expert network	X	
<b>EMEA</b>	X				X	Expert network	X	
<b>EMSA</b>	X		X			Intergovernmental arrangement	X	
<b>ENISA</b>	X				X	Commission		
<b>ERA</b>	X				X	Expert network	X	
<b>ETF</b>						Commission		

Agency	Rationale for an agency	If yes, which one primarily?				Alternative (at the time of creation)	Other information	
		Independence, conflict of interest	Intergovernmental tasks	Dialogue with stakeholders	Specific expertise / capacity		New policy instrument	EC's staff constraint
<b>EU-OSHA</b>	X			X		Commission		
<b>EUROFOUND</b>	X			X		Expert network		
<b>EUROJUST</b>	X		X			Intergovernmental arrangement	X	
<b>EUROPOL</b>	X		X			Intergovernmental arrangement	X	
<b>FRA</b>	X	X				Expert network		
<b>FRONTEX</b>	X		X			Intergovernmental arrangement	X	
<b>GSA</b>	X				X	Private sector	X	
<b>OHIM</b>						Intergovernmental arrangement	X	
<b>Comments</b>								
<ul style="list-style-type: none"> <li>- Rationale for an agency: X if the founding regulation and other sources display the reasons why an agency was needed rather than something else                             <ul style="list-style-type: none"> <li>... and the main reason was:                                     <ul style="list-style-type: none"> <li>o to ensure independence from or to avoid conflict of interests with the Commission</li> <li>o to implement tasks of an intergovernmental nature</li> <li>o to implement tasks in the framework of social dialogue</li> <li>o to build a specific expertise or capacity which could not be available otherwise</li> </ul> </li> </ul> </li> <li>- Alternative: how was the main task implemented at the time of establishment, or how could have it been implemented</li> <li>- New policy instrument: the agency was created at the same time as the EU was given a new competency and / or established a new instrument</li> <li>- Staff ceiling: it is likely that in the absence of the agency, the Commission would have had to do the task and would have faced staff problems</li> </ul>								
<b>Sources</b>								
<ul style="list-style-type: none"> <li>- Evaluation team's assessment on the basis of agency chapters in this volume</li> </ul>								

**Table 3 – Relevance issues**

<b>Agency</b>	<b>Relevance issues</b>	<b>Types of relevance issue</b>	<b>Action taken to date</b>
<b>CdT</b>	New needs envisaged (services to international organisations)	New needs	none
<b>CEDEFOP</b>	Context changed (considerable strengthening of EU policies, OMC) since creation and objectives changed accordingly	Context changed	Mandate adapted
<b>CEPOL</b>	Context changed by the new status of EUROPOL	Context changed	none
<b>CFCA</b>	None		
<b>CPVO</b>	New needs covered (oversea protection of EU plants, awareness rising)	New needs	none
<b>EAR</b>	Needs satisfied	Needs satisfied	Closure
<b>EASA</b>	New needs covered (airworthiness of aircrafts)	New needs	Mandate adapted
<b>ECDC</b>	New needs envisaged (research)	New needs	none
<b>ECHA</b>	None		
<b>EEA</b>	None		
<b>EFSA</b>	None		
<b>EIGE</b>	None		
<b>EMCDDA</b>	None		
<b>EMEA</b>	New needs envisaged (pricing and reimbursement)	New needs	none
<b>EMSA</b>	New needs covered (Long-Range Identification and Tracking system)	New needs	Mandate adapted

<b>Agency</b>	<b>Relevance issues</b>	<b>Types of relevance issue</b>	<b>Action taken to date</b>
<b>ENISA</b>	Critical mass	Critical mass	none
<b>ERA</b>	None		
<b>ETF</b>	New needs covered (non-candidate countries, technical assistance)	New needs	Mandate adapted
<b>EU-OSHA</b>	New needs covered (risk assessment)	New needs	Mandate adapted
<b>EUROFOUND</b>	None		
<b>EUROJUST</b>	None (identified problems pertain to effectiveness)		
<b>EUROPOL</b>	New needs covered (money laundering, terrorism)		Mandate adapted
<b>FRA</b>	None		
<b>FRONTEX</b>	New needs envisaged (relation to 3rd countries)	New needs	none
<b>GSA</b>	Context changed (main task now taken over by the Commission)	Context changed	Mandate adapted
<b>OHIM</b>	New needs covered (designs)	New needs	Mandate adapted
<b>Sources</b> - Evaluation team's assessment on the basis of agency chapters in this volume (based on documents and interviews)			

**Table 4 – Tasks**

<b>Agency</b>	<b>Main task</b>	<b>Information</b>	<b>Com- munication</b>	<b>Soft co- ordination</b>	<b>Expert ad- vice</b>	<b>Operational coordination</b>	<b>Individual applications</b>	<b>Specific support / service</b>
<b>CdT</b>	Providing translation services to Agencies, Bodies and Institutions							<b>1</b>
<b>CEDEFOP</b>	Research and support to policy developments	<b>2</b>	<b>3</b>	<b>1</b>				
<b>CEPOL</b>	Training of senior police officers			<b>1</b>				<b>2</b>
<b>CFCA</b>	Joint Deployment Plans			<b>2</b>		<b>1</b>		
<b>CPVO</b>	Granting of plant breeders' rights						<b>1</b>	
<b>EAR</b>	CARDS programme management							<b>1</b>
<b>EASA</b>	Delivery of certificates in the field of airworthiness				<b>2</b>		<b>1</b>	
<b>ECDC</b>	Surveillance of Communicable diseases	<b>1</b>		<b>3</b>	<b>2</b>			
<b>ECHA</b>	Registration, evaluation and classification of chemical substances				<b>2</b>		<b>1</b>	
<b>EEA</b>	0	<b>1</b>	<b>2</b>					
<b>EFSA</b>	Independent scientific advice and support for EU legislation/policies	<b>2</b>	<b>3</b>		<b>1</b>			
<b>EIGE</b>	Promote networking, dialogue and awareness	<b>1</b>		<b>2</b>				



Agency	Main task	Information	Communication	Soft co-ordination	Expert advice	Operational coordination	Individual applications	Specific support / service
<b>EMCDDA</b>	Information on and understanding of trends in drug use in Europe	<b>1</b>						
<b>EMA</b>	Scientific evaluation of medicinal products				<b>2</b>		<b>1</b>	
<b>EMSA</b>	Monitor the overall functioning of maritime safety legislation			<b>2</b>		<b>1</b>		
<b>ENISA</b>	0	<b>1</b>		<b>2</b>				
<b>ERA</b>	Development of technical specifications for railways interoperability			<b>2</b>	<b>1</b>			
<b>ETF</b>	Provide assistance in the definition of training needs and priorities <sup>442</sup>							<b>1</b>
<b>EU-OSHA</b>	Promotion of a safe working environment	<b>2</b>	<b>1</b>	<b>3</b>				
<b>EUROFOUND</b>	Increase and disseminate knowledge aimed at establishing better living and working conditions	<b>1</b>						
<b>EUROJUST</b>	Judicial cooperation					<b>1</b>		
<b>EUROPOL</b>	Facilitating the exchange of information between MS			<b>2</b>		<b>1</b>		
<b>FRA</b>	Research and information on the situation of fundamental rights within the EU	<b>1</b>	<b>2</b>		<b>3</b>			

<sup>442</sup> There is a lasting disagreement about the categorisation of ETF activities (see footnote 291, section 18.1)

Agency	Main task	Information	Communication	Soft co-ordination	Expert advice	Operational coordination	Individual applications	Specific support / service
<b>FRONTEX</b>	Operational cooperation at the external borders of the EU			<b>2</b>		<b>1</b>		
<b>GSA</b>	Secure essential public interests in the framework of the European satellite radio-navigation system							<b>1</b>
<b>OHIM</b>	Registration of trademarks and community designs						<b>1</b>	
<p><b>Comments</b></p> <ul style="list-style-type: none"> <li>- Information = Collecting and disseminating harmonised information to policy-makers in EU &amp; MS as to support an evidence-based policy-making process</li> <li>- Communication = Communicating towards a targeted public at EU level as to raise awareness on a given issue</li> <li>- Soft coordination = Contributing to the soft coordination between Member States and European Institutions as to better achieve EU objectives<sup>443</sup></li> <li>- Expert advice = Providing expert advice to policy-makers in EU &amp; MS as to support an evidence-based decision-making process</li> <li>- Operational coordination = Facilitating operational coordination between Member States as to better achieve the objectives of a EU policy</li> <li>- Individual applications = Dealing with individual applications of firms as to ensure a secure functioning of the EU market</li> <li>- Specific support / service = Delivering a highly specific service or support to targeted bodies or institutions as to better achieve the objectives of a given EU policy</li> </ul> <p><b>Sources</b></p> <ul style="list-style-type: none"> <li>- Evaluation team's assessment on the basis of agency chapters in this volume (based on documents and interviews)</li> </ul>								

<sup>443</sup> This type of activity is close to the 'Open Method of Coordination'. It aims at improving the making of Member State policies through advice, mutual learning, transfer of good practices, capacity building, and the monitoring of progress towards common targets.

**Table 5 – Related EU policies**

Agency	Main related EU policy	Objectives of the EU policy	Other related EU policies	Other related DGs	Other related agencies	Other related bodies	Liaison office Brussels
<b>CdT</b>	Multilingualism	Provide translation services to the Agencies, Bodies and Institutions that have signed a cooperation agreement. Interinstitutional cooperation in the field of translation.	None	DG Employment with whom they have a 'service level agreement'	All agencies, including executive agencies	EU Institutions: EP - Council of Ministers	NO
<b>CEDEFOP</b>	VET and life-long learning	To contribute to excellence in VET and strengthen European cooperation in developing, implementing and evaluating European VET policy.	Social and employment policy	EMPL, ENTR, Eurostat, Enlarg; Taxud	Agreement with DG Empl	CRELL, Eurostat, OECD, ILO, ETUC, BusinessEurope and UEAPME	YES
<b>CEPOL</b>	Justice, freedom, security	To increase knowledge of the national police systems and structures of other Member States and of cross-border police cooperation within the European Union	None	None	EUROPOL, EUROJUST	EU Task Force of Chiefs of Police	NO
<b>CFCA</b>	Common Fishery Policy	The objective of the Common Fisheries Policy should therefore be to provide for sustainable exploitation of living aquatic resources and of aquaculture in the context of sustainable development, taking account of the environmental, economic and social aspects in a balanced manner	None	DG Research	FRONTEX, EMSA	FAO, international fisheries organisation, Regional Advisory Council	NO
<b>CPVO</b>	Internal market	no particular objectives, except taking care of the task given	Agriculture	DG Admin, OPOCE	DG Admin, OPOCE	UPOV ; examination offices	NO
<b>EAR</b>	Enlargement	To foster institution-building and good governance, to promote the development of a market economy and essential infrastructure and to consolidate civil society.	Wide range of policies	AIDCO, JLS, TAXUD...		UNDP, UNMIK, OSCE, WHO, IFI, EBR, Third countries donors	

Agency	Main related EU policy	Objectives of the EU policy	Other related EU policies	Other related DGs	Other related agencies	Other related bodies	Liaison office Brussels
<b>EASA</b>	Transport and energy	The European Aviation Safety Agency promotes the highest common standards of safety and environmental protection in civil aviation in Europe and worldwide. It is the centre piece of a new regulatory system which provides for a single European market in the aviation industry	Environment	TREN, ENV			NO
<b>ECDC</b>	Health and consumer protection	Help make Europe's citizens healthier, safer and more confident	Research, Environment	RTD		WHO	NO
<b>ECHA</b>	Internal market	Registration, evaluation, authorisation and restriction processes for chemical substances to ensure consistency across the European Union. To improve the protection of human health and the environment through the better and earlier identification of the intrinsic properties of chemical substances. To improve the market access and to reduce the cost to the industry through reduced testing and harmonised registration and classification and labelling. To reduce animal testing through improved data sharing and automated risk assessment tools.	REACH and CLP Regulations chemicals	DG Environment	Non	OECD; the United Nations Economic Commission for Europe, the UN Economic Social Council; Stockholm Convention on Persistent Organic Pollutants	NO
<b>EEA</b>	Environment	To protect, preserve and improve the environment for present and future generations. The Commission's environment priorities for the period 2002-2012 are formulated in the 6th EAP which has four priority areas: climate change; nature and biodiversity; environment and health; natural resources and waste.	Agriculture, transport, energy, regional planning, maritime, health, sustainable development, green taxation.	TREN, AGRI, STAT, JRC, ENTR, ENV, SANCO		None	YES

Agency	Main related EU policy	Objectives of the EU policy	Other related EU policies	Other related DGs	Other related agencies	Other related bodies	Liaison office Brussels
<b>EFSA</b>	Health and consumer protection	As responsible for policies and laws, DG SANCO aims to (1) increase consumer welfare through greater empowerment and effective protection (2) ensure the practical application and enforcement of Consumer protection rules (3) provide a single, simple set of rules to ensure markets are open, transparent and fair (4) protect and improve human health (5) ensure food is safe and wholesome (6) protect the health of animals and plants (7) promote the humane treatment of animals.	consumer protection, internal market, environment	ENV, RTD, ENTR, JRC, AGRI	JRC	National agencies, Parliament, Council	NO
<b>EIGE</b>	Equality between women and men	To ensure equal opportunities and equal treatment for men and women and to combat any form of discrimination on the grounds of gender. This is done by combining specific measures and gender mainstreaming.	Non-discrimination and equal opportunities for all; Health and consumer protection	None	EU-OSHA, FRA, EUROFOUND, CEDEFOP	None	NO
<b>EMCDDA</b>	Justice, freedom, security	To provide the Community and its Member States with factual, objective, reliable and comparable information at European level concerning drugs and drug addiction and their consequences	Health and consumer protection	SANCO, RTD, Eurostat, ELARG, RELEX		ADCO, Pompidou Group, UNODC, WHO, WCO, Interpol, SICAD	NO
<b>EMA</b>	internal market	Scientific evaluation of applications for European marketing authorisation for medicinal products	Health and consumer protection	SANCO		US Food and Drug administration, Canadian, Japanese regulatory authorities.	NO
<b>EMSA</b>	Maritime Transport Safety	To provide the Commission and Member States with support in applying and monitoring compliance with Community law and in assessing the effectiveness of the measures in place	Environment, safety	ENVR, to a lesser extent ENTR, ELARG		Members States (ministries, agencies), Port authorities, EC, JRC (MoU)	NO

Agency	Main related EU policy	Objectives of the EU policy	Other related EU policies	Other related DGs	Other related agencies	Other related bodies	Liaison office Brussels
<b>ENISA</b>	Innovation and SMEs	Enhancing the security of the information society through strengthening the Network and Information Security (NIS) policy in Europe. Recently, the Critical Information Infrastructure Protection (CIIP) policy proposed by the Commission focuses on prevention, preparedness and awareness.	Research, ICT	JLS, IT		Bodies in the Member States	NO
<b>ERA</b>	Transport and energy	to develop economically viable common technical standards and approaches to safety, working closely with railway sector stakeholders, national authorities and other concerned parties, as well as with the European institutions.	Research	DG Research, EUROSTAT			NO
<b>ETF</b>	External policy		Education, Employment	ELARG, RELEX, EMPL, AIDCO, ENTR		ILO, OCDE, EC delegation in partner countries, few cooperation with DG EAC, WB, Italian ministry of foreign affairs	NO
<b>EU-OSHA</b>	Social policy and employment	Health and safety is one of the most developed policy fields within the employment and social field, a large body of Community laws exists on working conditions with the general aim of prevention of absenteeism, workplace accidents and occupational illnesses and disability affecting growth and competitiveness of business across EU.	Health and consumer protection, environment, industry and maritime regulation.	SANCO, EUROSTAT, ENTR, ENV, RTD	EUROFOUND	ILO, WHO	YES

Agency	Main related EU policy	Objectives of the EU policy	Other related EU policies	Other related DGs	Other related agencies	Other related bodies	Liaison office Brussels
<b>EUROFOUND</b>	Working conditions, social dialogue, labour market trends, quality of life, social inclusion, anticipation of change	The aim of the Foundation shall be to contribute to the planning and establishment of better living and working conditions through action designed to provide information, advice and expertise for key actors in the field of EU social policy on the basis of comparative information, research and analysis.	Health and consumer protection, Social sciences research, Enterprises, migration policies	RTD, ENTR, SANCO		International Labour Organisation, OECD, Eurostat, Eurobarometer	YES
<b>EUROJUST</b>	Justice, freedom, security	help to provide a high level of safety in a narea of freedom justice and security	-	OLAF		EJN	NO
<b>EUROPOL</b>	Justice, freedom, security	facilitate the exchange of information between MS, collate and analyse information and intelligence, support joint investigation	International cooperation supporting the fight against and prevention of serious forms of international crime and terrorism	INFSO	n/a	OLAF, Interpol, WCO, UNODC, other third countries (e.g Russia)	NO
<b>FRA</b>	Justice, freedom, security	To collect data, information and analyses, to undertake scientific research with a view to inform the public	International cooperation, social and employment policy, educational policy, gender equality	EMPL, RELEX, ELARG, STAT	No	Office of the high commissioner for Human Right, UNHCR, UNESCO, Council of Europe, ECRI, OSCE	NO

Agency	Main related EU policy	Objectives of the EU policy	Other related EU policies	Other related DGs	Other related agencies	Other related bodies	Liaison office Brussels
<b>FRONTEX</b>	Justice, freedom, security - Integrated Border Management	Integrated management of the external borders for the progressive establishment of an area of freedom, security and justice.	International cooperation	RELEX, AID-CO, ENTR, TAXUD	-	JRC, General Secretariat of the Council, IOM, UNHCR, Interpol ICMPD, OLAF	YES
<b>GSA</b>	European Space Policy	providing Europe with intelligent transport and navigation by satellite systems (GNSS) with a view to optimising traffic management, whether road, waterborne or aerial	European Transport Policy, Framework Programmes for Research and Technical Development (FPs),	RTD, ENTR, AGRI, FISH, JLS, RELEX		European space agency	NO
<b>OHIM</b>	internal market	To implement the Community legislation on trade marks and designs, which gives undertakings the right to uniform protection throughout the entire area of the European Union.	Unification Geographical Indications (Regulation 1992)	TRADE, TAXUD, ADMIN, BUDGET		None	YES
<p><b>Comments:</b></p> <ul style="list-style-type: none"> <li>Liaison office Brussels: The agency maintains one or more members of staff working in Brussels (not necessarily in an independent office as such, as agency representatives are often physically placed within the parent DG)</li> </ul> <p><b>Sources</b></p> <ul style="list-style-type: none"> <li>Agency visits and documentary analysis</li> </ul>							



**Table 6 – Settings**

Agency	Board members	... of which EC	Term (years)	Bureau	Bureau members	Director's term (years)	Nomination	Scientific network	Stakeholders	Focal points
<b>CdT</b>	64	2	3	No		5	Board and Commission	No		
<b>CEDEFOP</b>	89	3	3	Yes	8	5 renewable	Board and Commission	Yes	Represented in Management Board	In all MSs
<b>CEPOL</b>	27		No	No		3	Board and Commission	Yes		
<b>CFCA</b>	33	6	5	No		5 renewable	Board and Commission	No	Permanent committee	In some MSs
<b>CPVO</b>	29	2	Unlimited (normally until retirement)	no		Not relevant	Board and Commission	No	Annual consultation	
<b>EAR</b>	29	2	2,5	No			Board and Commission	No		
<b>EASA</b>	52	1	5	Yes	5	5 renewable	Board and Commission	No		
<b>ECDC</b>	32	3	4	no		5	Board and Commission	Yes	Permanent committee	In all MSs
<b>ECHA</b>	35	3	4	No		5+5	Board and Commission	Yes	Permanent committee	In all MSs
<b>EEA</b>	36	2	3 (only Chair and Vice-chairpersons)	Yes	7	5	Board and Commission	Yes	Annual consultation	In all MSs
<b>EFSA</b>	15	1	4	No		5 years	Board and Commission	Yes	Permanent committee	In all MSs
<b>EIGE</b>	19	1	3	No	-	5	Board and Commission	Yes		
<b>EMCDDA</b>	31	2	N/A	Yes	7	5	Board and Commission	Yes		In all MSs
<b>EMEA</b>	35	2	3	No		5+5	Board and Commission	Yes	Permanent committee	In all MSs

Agency	Board members	... of which EC	Term (years)	Bureau	Bureau members	Director's term (years)	Nomination	Scientific network	Stakeholders	Focal points
<b>EMSA</b>	38	4	5	Yes	2	5	Board and Commission	No		
<b>ENISA</b>	33	3	2,5	No		5	Board and Commission	No	Permanent committee	In all MSs
<b>ERA</b>	37	4	5	No		5 renewable	Board and Commission	No	Annual consultation	
<b>ETF</b>	31	4	5 renewable	No		5	Board and Commission	Yes		
<b>EU-OSHA</b>	84	3	3	Yes	11	5 (+ 5)	Board and Commission	No	Annual consultation	In all MSs
<b>EUROFOUND</b>	84	3	3	Yes	11	5	Board and Commission	Yes	Annual consultation	In some MSs
<b>EUROJUST</b>	27	-		No		5	Board only	No		In all MSs
<b>EUROPOL</b>	27	1 observer	no limit	No		4	Board and Council	No		In all MSs
<b>FRA</b>	30	2	5	Yes	5	5	Board, Parliament, Council	Yes	Annual consultation	In all MSs
<b>FRONTEX</b>	29	2	4	No		5 renewable	Board and Commission	No	Annual consultation	
<b>GSA</b>	28	1	5	No		5	Board and Commission	Yes		
<b>OHIM</b>	28	1	no limit	No		5	Board and Council	No	Annual consultation	
<b>Sources</b>										
- Agency visits and documentary analysis										

**Table 7 – Governance**

Agency	Board members with voting rights				Profession- al board	Needs to be addressed	Unbalanced interests
	Individual Member States	European Institutions	Users	Other stakeholders			
<b>CdT</b>	X	X	X			EU, MS, users	
<b>CEDEFOP</b>	X	X		X		EU, MS, other interest groups	
<b>CEPOL</b>	X					EU, MS	
<b>CFCA</b>	X	X				EU, MS, other interest groups	Stakeholders
<b>CPVO</b>	X	X				EU, MS, users	EU, users
<b>EAR</b>							
<b>EASA</b>	X	X				EU, MS, users, other interest groups	Stakeholders
<b>ECDC</b>	X	X				EU, MS, other interest groups	Stakeholders
<b>ECHA</b>	X	X				EU, MS, users, other interest groups	Users, stakeholders
<b>EEA</b>	X	X				EU, MS, other interest groups	Stakeholders
<b>EFSA</b>	X	X		X	X	EU, MS, other interest groups	
<b>EIGE</b>	X	X				EU, MS, other interest groups	Stakeholders
<b>EMCDDA</b>	X	X				EU, MS, other interest groups	Stakeholders
<b>EMEA</b>	X	X		X		EU, MS, other interest groups	
<b>EMSA</b>	X	X				EU, MS, other interest groups	Stakeholders
<b>ENISA</b>	X	X				EU, MS, other interest groups	Stakeholders

Agency	Board members with voting rights				Profession- nal board	Needs to be addressed	Unbalanced interests
	Individual Member States	European Institu- tions	Users	Other stake- holders			
ERA	X	X				EU, MS, other interest groups	Stakeholders
ETF	X	X				EU, MS, other interest groups	Stakeholders
EU-OSHA	X	X		X		EU, MS, other interest groups	
EUROFOUND	X	X		X		EU, MS, other interest groups	
EUROJUST	X					EU, MS	EU
EUROPOL	X	X				EU, MS	
FRA	X	X			X	EU, MS, other interest groups	
FRONTEX	X	X				EU, MS	
GSA	X	X				EU, MS, users	Users
OHIM	X	X				EU, MS, users	EU, users
<b>Comments</b> <ul style="list-style-type: none"> <li>- Balance of powers takes stock of votes in the board, nomination of director, budgetary power, background of professional members</li> <li>- Unbalanced interests <ul style="list-style-type: none"> <li>o (-) needs to be assessed and which are not allocated significant power</li> </ul> </li> </ul>							
<b>Sources</b> <p>Evaluation team's assessment on the basis of agency chapters in this volume (based on documents and interviews)</p>							

**Table 8 – Budget<sup>444</sup>**

			Budget overall (M€)			EU subsidy (M€)			Fees (M€)			Execution		Outturn (M€)	
Agency	Budget size	Budget line	2009	2008	2007	2009	2008	2007	2009	2008	2007	2008	2007	2008	2007
<b>CdT</b>	Medium	31 01 07 02	50-51	42,5	34,75										
<b>CEDEFOP</b>	Small	15 02 25 01 - 02	17	18	17	17	17	17				97%	92%	-0,4	0,7
<b>CEPOL</b>	Small	18 05 05 01 - 02	9	9	7	9	9	7							6,3
<b>CFCA</b>	Small	11 08 05 01 - 02	10	9	5	8	7	5	2	1		88% <sup>445</sup>	65%	1,1	1,7
<b>CPVO</b>	Small	17 04 05	13	13	13				12	9	9	93%	91%	0,7	1,6
<b>EAR</b>	Small	22 02 05 02		20			20								
<b>EASA</b>	Large	06 02 01 01 - 02	122	102	72	33	30	27	56	54	43	99%	98%	1,3	2,4
<b>ECDC</b>	Medium	17 03 03 01 - 02	51	40	29	51	40	29				96%	98%	0,1	1,6
<b>ECHA</b>	Large	02 03 03 01 - 02	72	66		66	63	0	4	4	0			8,7	
<b>EEA</b>	Medium	07 03 09 01 - 02	40	37	35	35	32	29				98%	96%	5,0	5,0
<b>EFSA</b>	Large	17 04 08 01 - 02	73	66	52	73	66	52				97%	91%	4,0	2,3
<b>EIGE</b>	Small	04 04 02 01 - 02	7	7	5	7	7	5							
<b>EMCDDA</b>	Small	18 07 01 01 - 02		14	14	0	13	14							
<b>EMEA</b>	Large		189	183	163	42	46	46	139	126	109	95%	98%	15	5,0
<b>EMSA</b>	Medium	06 02 02 01 - 02 - 03	54	50	48	53	50	48					90%		
<b>ENISA</b>	Small	09 02 03 01 - 02	8	8	8	8	8	8				96%	98%	0,3	0,8
<b>ERA</b>	Small	06 02 08 01 - 02	21	18	13	21	18	13				96%	92%		-0,4

<sup>444</sup> Information provided by agencies.

<sup>445</sup> This budget execution figure just takes into account EU subsidies

			Budget overall (M€)			EU subsidy (M€)			Fees (M€)			Execution		Outturn (M€)	
Agency	Budget size	Budget line	2009	2008	2007	2009	2008	2007	2009	2008	2007	2008	2007	2008	2007
<b>ETF</b>	Small	15 02 27 01 - 02	20	19	21	20	18	20				99%	91%	1,2	1,9
<b>EU-OSHA</b>	Small	04 04 04 02 - 03	14	15	15	13.9	14	14				96%	93%	0,5	0,3
<b>e</b>	Medium	04 04 03 01 - 02	20	21	20	20	21	20				98%	97%	0,4	0,6
<b>EUROJUST</b>	Small	18 06 04 01 - 02	23	20	18	23	20	18				97%	95%	1,7	0,9
<b>EUROPOL</b>	Large	Not in the EC budget	68	65	67							85%	80%	7,8	7,8
<b>FRA</b>	Small	18 04 05 01 - 02	17	15	14	17	15	14				98%			13,9
<b>FRONTEX</b>	Large	18 02 03 01 - 02	83	70	42	80	68	41	3	2	1		31%		22,0
<b>GSA</b>	Small	06 02 09 01 - 02	7	11	8	7	11	8				94%	93%		
<b>OHIM</b>	Large	12 03 01 02 - 02	338	318	276				204	181	173	89%	91%	149	182
<b>Comments</b>															
<b>Sources</b> Agency visits and documentary analysis															

**Table 9 – Staff<sup>446</sup>**

Agency	Staff total authorised			Staff total actual			Staff of which permanent			Staff contract			Staff other temporary			Staff of which expatriates
	2009	2008	2007	2009	2008	2007	2009	2008	2007	2009	2008	2007	2009	2008	2007	2008
<b>CdT</b>	233	233		233	189		64	42			18		169	140		
<b>CEDEFOP</b>	101	99	97	97	122	89	23	23	23	26	25	33	74	74	66	69
<b>CEPOL</b>	23	23	23		32						13	11		13	5	9
<b>CFCA</b>	55	49	38	47	47	25				5	7	8	42	40	17	37
<b>CPVO</b>	46	43	42	46	45	43	12	12	11				34	33	32	25
<b>EAR</b>																
<b>EASA</b>		452			440						27			363		
<b>ECDC</b>	170	130	90	255	195	131					48	42		101	80	118
<b>ECHA</b>	324	220			219						9					140
<b>EEA</b>	133	123	116	167	167	167	4	3	4	31	30	35	114	107	107	123
<b>EFSA</b>	355	335	300		395	310		5	1		63	29		313	272	258
<b>EIGE</b>	23	20	15	1	N/A											
<b>EMCDDA</b>		82	73		99			17	17					65	56	
<b>EMEA</b>	530	481	441		547	421								469	421	362
<b>EMSA</b>	192	165	153		179		6	4	10		8		186	117	143	
<b>ENISA</b>	44	44	44	57	57	53				13	13	11	44	44	42	35
<b>ERA</b>	124	114	98		113						9	4		105	94	100

<sup>446</sup> Information provided by agencies in connection with agency visits during spring 2009.

Agency	Staff total authorised			Staff total actual			Staff of which permanent			Staff contract			Staff other temporary			Staff of which expatriates
	2009	2008	2007	2009	2008	2007	2009	2008	2007	2009	2008	2007	2009	2008	2007	2008
<b>ETF</b>	96	96	100	96	124	91				33	31	33	3	3	3	1
<b>EU-OSHA</b>	44	44	42	39	64	39	39	41	39	21	18	13	3	3	12	35
<b>EUROFOUND</b>	101	101	94	101	87	94	95	78	84	6	9	10				1
<b>EUROJUST</b>	185	175	147		172						5			110		
<b>EUROPOL</b>	444	433	406	418	408	377	13	11	7	405	397	370				331
<b>FRA</b>	61	49	46	59	55	39				56	35	34	3	12	5	
<b>FRONTEX</b>	257	219	133	206	185	130				116	110	78	90	75	52	115
<b>GSA</b>				23	52	47				5	2	6	18	49	39	
<b>OHIM</b>	658	643	647		705			424	426		13	21		182	194	528
<b>Comments</b>																
- Permanent staff may have a status of functionaries (e.g. OHIM) or permanent contract (e.g. EU-OSHA)																
<b>Sources</b>																
Agency visits and documentary analysis																



**Table 10 – Management**

<b>Agency</b>	<b>Multiannual programme</b>	<b>EC's say on annual programming</b>	<b>Structured quality management</b>	<b>Activity based management</b>	<b>Result based management</b>	<b>EC assistance on Human resources</b>
<b>CdT</b>	Yes	Coordination	Yes	No	No	Yes
<b>CEDEFOP</b>	Yes	Approval	Yes	Yes	Yes	Yes
<b>CEPOL</b>	Yes	Approval	No	Rather yes	Rather yes	Yes
<b>CFCA</b>	No	Approval	Rather yes	Rather yes	No	Yes
<b>CPVO</b>	Yes	No	Rather yes	Yes	Yes	Yes
<b>EAR</b>	No	Approval	Yes	Yes	Yes	Yes
<b>EASA</b>	Yes	Approval	Yes	Yes	Yes	Yes
<b>ECDC</b>	yes	Coordination	Rather yes	Rather yes	No	Yes
<b>ECHA</b>	Yes	Coordination	Yes	Rather yes	Rather yes	Yes
<b>EEA</b>	Yes	Coordination	Yes	Yes	No	Yes
<b>EFSA</b>	Yes	Coordination	Yes	Yes (since 2007)	Yes (since 2007)	Yes
<b>EIGE</b>	No	Coordination	?	?	?	Yes
<b>EMCDDA</b>	Yes	Approval	No	Rather yes	Yes	Yes
<b>EMEA</b>	Yes	Coordination	Yes	Yes	Yes	Yes
<b>EMSA</b>	No	Coordination	No	Rather yes	No	Yes
<b>ENISA</b>	Yes	Coordination	Rather yes	Rather yes	Rather yes	Yes
<b>ERA</b>	No	Approval	No	Yes	No	No
<b>ETF</b>	No	Approval	Yes	Yes	Rather yes	Yes
<b>EU-OSHA</b>	Yes	Coordination	Yes	Yes	Rather yes	Yes
<b>EUROFOUND</b>	Yes	Approval	Yes	Yes	Yes	Yes
<b>EUROJUST</b>	No	No	N/a	No	No	Yes
<b>EUROPOL</b>	Yes	No	Yes	Yes	Yes	No
<b>FRA</b>	Yes	Coordination	Rather yes	Yes	Rather yes	Yes
<b>FRONTEX</b>	No	Coordination	Rather yes	No	Rather yes	Yes
<b>GSA</b>	No	Coordination	No	Rather yes	No	Yes

<b>OHIM</b>	No	No	Yes	Rather yes	Yes	No
<p><b>Comments</b></p> <ul style="list-style-type: none"> <li>- EC assistance on human resources means that there is a 'service level agreement'</li> </ul> <p><b>Sources</b></p> <ul style="list-style-type: none"> <li>- Evaluation team's assessment on the basis of agency chapters in this volume (based on documents and interviews)</li> </ul>						



**Table 11 – Accessibility**

Agency	Airport	Hours to the airport	Travel cost (index)	Travel time (index)	Accessibility (index)	Remoteness	Travel needs	Remoteness problem
<b>CdT</b>	Luxembourg	00:30	61	97	79			
<b>CEDEFOP</b>	Thessaloniki	00:30	81	107	94		Yes	
<b>CEPOL</b>	London	00:45	66	64	65		Yes	
<b>CFCA</b>	Vigo	00:30	176	179	177	XX	Yes	XX
<b>CPVO</b>	Nantes	00:45	123	150	136	X		
<b>EASA</b>	Koeln	00:30	79	103	91			
<b>ECDC</b>	Stockholm	00:30	69	67	68		Yes	
<b>ECHA</b>	Helsinki	00:30	133	74	103			
<b>EEA</b>	Copenhagen	00:30	80	63	71		Yes	
<b>EFSA</b>	Milano	01:30	134	100	117	X	Yes	X
<b>EIGE</b>	Vilnius	00:30	125	155	140	X	Yes	X
<b>EMCDDA</b>	Lisboa	00:30	106	113	110	X	Yes	X
<b>EMEA</b>	London	00:30	58	60	59			
<b>EMSA</b>	Lisboa	00:30	106	113	110	X	Yes	X
<b>ENISA</b>	Heraklion	00:30	169	175	172	XX	Yes	XX
<b>ERA</b>	Lille <sup>447</sup>	00:30	79	75	77		Yes	
<b>ETF</b>	Torino	00:30	101	115	108			
<b>EU-OSHA</b>	Bilbao	00:30	109	76	92			
<b>EUROFOUND</b>	Dublin	00:30	89	67	78		Yes	

<sup>447</sup> The agency is seated in Valenciennes and all meetings with stakeholders take place in Lille, which is at about one hour distance by road. Lille is relatively accessible from many capitals but the staff faces harder accessibility constraints

Agency	Airport	Hours to the airport	Travel cost (index)	Travel time (index)	Accessibility (index)	Remoteness	Travel needs	Remoteness problem
<b>EUROJUST</b>	Amsterdam	00:30	63	68	66		Yes	
<b>EUROPOL</b>	Amsterdam	00:30	63	68	66		Yes	
<b>FRA</b>	Wien	00:30	85	86	86		Yes	
<b>FRONTEX</b>	Warszawa	00:30	82	76	79		Yes	
<b>OHIM</b>	Alicante	00:30	165	150	157	XX		
<p><b>Comments</b></p> <ul style="list-style-type: none"> <li>- Travel cost and time indexes based on a return travel from five European capital cities (Brussels, Dublin, Riga, Athens, Lisbon) to the agency headquarters for a meeting on Sept 2009, 9<sup>th</sup> (10:30 to 17:00 local time).</li> <li>- Accessibility = average of time and cost indexes</li> <li>- Remoteness <ul style="list-style-type: none"> <li>o X = the eight agencies with highest indexes</li> </ul> </li> <li>- Travel needs <ul style="list-style-type: none"> <li>o X = the main task of the agency involves significant networking</li> </ul> </li> <li>- Remoteness problem if remoteness and travel needs</li> </ul> <p><b>Sources</b></p> <ul style="list-style-type: none"> <li>- Research by a travel agency. August 2009 – Full explanation in CDRom</li> </ul>								

**Table 12 – Location package**

Agency	Problem with ...				Inefficiency rate
	Remoteness	Attrativeness	Cost of premises	VAT exemption	
CdT					
CEDEFOP					
CEPOL		X			X
CFCA	XX	XX			XXXX
CPVO		XX		X	XXX
EASA			?		
ECDC					
ECHA			X		X
EEA					
EFSA	X				X
EIGE	X		?		X
EMCDDA	X		X	X	XXX
EMEA			X		X
EMSA	X			X	XX
ENISA	XX	X			XXX
ERA		X		X	XX
ETF					
EU-OSHA		X	X		XX
EUROFOUND					
EUROJUST					
EUROPOL					
FRA					

Agency	Problem with ...				Inefficiency rate
	Remoteness	Attractiveness	Cost of premises	VAT exemption	
FRONTEX				X	X
OHIM		XX	?	X	XXX
<p><b>Comments</b></p> <ul style="list-style-type: none"> <li>- Remoteness as explained in the previous table</li> <li>- Attractiveness for staff: the agency is assumed to have problems in attracting international staff if(1) it has a poor accessibility, and / or (2) there is no international school, and /or (3) staff does not benefit from any tax exemption. The overall attractiveness score is the aggregation of the three items, accessibility being weighed twice as the other items. It ranges from XXX to Null. Attractiveness is considered to be a problem if the overall score is XX or more.</li> <li>- Annual cost of premises, less host country support, divided by actual staff. Year 2008. Cost of premise is considered as problematic if the index overpasses twice the average.</li> <li>- In principle, all agencies are exempted from VAT as other EU bodies. VAT exemption is considered as a problem if the agency has mentioned some limitation</li> </ul> <p><b>Sources</b></p> <ul style="list-style-type: none"> <li>- Previous table plus declarations of agencies in the framework of the evaluation. Full explanation in CDRom</li> </ul>					





**Table 13 – Evaluation (overall)**

Agency	Every		Responsibility		Coverage up to ...		Steering group		Follow up		Dissemination	
	Requirement	Actual practice	Requirement	Actual practice	Requirement	Actual practice	Requirement	Actual practice	Requirement	Actual practice	Requirement	Actual practice
<b>CdT</b>	Every 3 years	1998, 2001, 2005	Agency	Agency, EC	Coherence	Actual results and external efficiency	Closed	Closed (Agency)				Internal
<b>CEDEFOP</b>	Every five to six years	1992, 1995, 2001, 2007	Commission	Commission	Coherence	Actual results and external efficiency	Closed	Closed (EC)	Formal action plan	Formal action plan	external	external
<b>CEPOL</b>	Every 5 years	2010	Agency		Coherence	Satisfaction	Open	Open	No	No	external	external
<b>CFCA</b>	Every 5 years	2012	Agency	N/A	Actual results and external efficiency	N/A	N/A	N/A	Rather structured	N/A	external	N/A
<b>CPVO</b>	Every 6 years	2001, 2004, 2009	Agency	Agency	Coherence	Satisfaction	Open	Open	No	Formal action plan		Internal
<b>EAR</b>		2004		EC		Actual results and external efficiency		Closed (EC)				Web
<b>EASA</b>	Every 5 years	2008	Agency		Internal efficiency			Semi-open				
<b>ECDC</b>	5	2008	Agency	Agency	Coherence	Coherence		Semi-open	Formal action plan	Formal action plan	external	external
<b>ECHA</b>	N.A.	N.A.	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
<b>EEA</b>	Every 5 years	2003, 2008	Agency	Agency		Internal efficiency		Semi-open		Rather structured		external
<b>EFSA</b>	Every 6 years	2005	Agency	Agency	Internal efficiency	Internal efficiency	Semi-open	Semi-open	Formal action plan	Formal action plan	external	external

	Every		Responsibility		Coverage up to ...		Steering group		Follow up		Dissemination	
Agency	Requirement	Actual practice	Requirement	Actual practice	Requirement	Actual practice	Requirement	Actual practice	Requirement	Actual practice	Requirement	Actual practice
<b>EIGE</b>	2010		Agency		Actual results and external efficiency							
<b>EMCDDA</b>	Every 6 years	2000, 2007	EC	EC	Coherence	Coherence		Semi-open	No			external
<b>EMEA</b>	Every 10 years	More frequent	Commission	Commission		Actual results and external efficiency		Semi-open	NO	Rather structured		external
<b>EMSA</b>	No	2008	Agency	Agency	Coherence	Internal efficiency		Semi-open		Rather structured		external
<b>ENISA</b>		2007	Commission	EC		Coherence	Closed	Closed (EC)	No	Formal action plan		external
<b>ERA</b>	Every 5 years		Commission		Actual results and external efficiency		Semi-open		Rather structured		external	
<b>ETF</b>	Every 3 years	1997, 2002, 2006	EC	EC	Coherence	Coherence	Closed	Closed	Formal action plan		external	Web
<b>EU-OSHA</b>	None	2001, 2007	N/A	Agency	N/A		N/A		N/A		N/A	external
<b>EUROFOUND</b>	Every 4 years	2007, 2010	Agency	Agency	Actual results and external efficiency	Actual results and external efficiency		Open	Formal action plan	Formal action plan	external	external
<b>EUROJUST</b>	Every 5 years	2014	Agency, Commission		Actual results and external efficiency			Semi-open				
<b>EUROPOL</b>	Every 1 year	Every year	Agency	Agency		Actual results and external		No		Rather structured		Internal

	Every		Responsibility		Coverage up to ...		Steering group		Follow up		Dissemination	
Agency	Requirement	Actual practice	Requirement	Actual practice	Requirement	Actual practice	Requirement	Actual practice	Requirement	Actual practice	Requirement	Actual practice
						efficiency						
<b>FRA</b>	Every 5 years	2002, 2008	Agency, EC	EC	Coherence	Coherence		Semi-open	Rather structured		external	internal
<b>FRONTEX</b>	Every 5 years	2008	Agency	Agency	Actual results and external efficiency	Actual results and external efficiency	Closed	Closed	Rather structured	Rather structured	external	external
<b>GSA</b>	no formal rules	2008										
<b>OHIM</b>												
<b>Comments</b>												
<b>Sources</b>												
Agency visits and documentary analysis												

**Table 14 – Evaluation (tasks)**

Agency	Evaluator		Coverage up to ...		Follow up		Dissemination	
	Requirement	Actual practice	Requirement	Actual practice	Requirement	Actual practice	Requirement	Actual practice
<b>CdT</b>								
<b>CEDEFOP</b>	external	external	Actual results and external efficiency	Closed	YES	Formal action plan	external	external
<b>CEPOL</b>		external				No		external
<b>CFCA</b>								
<b>CPVO</b>	external	external	Coherence	Open	YES	Formal action plan	internal	internal
<b>EAR</b>								
<b>EASA</b>	external							
<b>ECDC</b>								
<b>ECHA</b>		N.A.	Actual results and external efficiency	N.A.	N.A.	N.A.	external	N.A.
<b>EEA</b>	external	external				Rather structured		internal
<b>EFSA</b>		internal				Formal action plan		internal
<b>EIGE</b>								
<b>EMCDDA</b>								
<b>EMEA</b>		external			YES			
<b>EMSA</b>		internal				No		internal
<b>ENISA</b>		external						external
<b>ERA</b>								
<b>ETF</b>		external				YES		external

Agency	Evaluator		Coverage up to ...		Follow up		Dissemination	
	Requirement	Actual practice	Requirement	Actual practice	Requirement	Actual practice	Requirement	Actual practice
<b>EU-OSHA</b>		external		coherence	YES	Formal action plan	external	external
<b>EUROFOUND</b>		external			YES	Formal action plan	external	external
<b>EUROJUST</b>								
<b>EUROPOL</b>	internal	internal				Rather structured	internal	internal
<b>FRA</b>		external				Rather structured		internal
<b>FRONTEX</b>		internal	Actual results and external efficiency			No		internal
<b>GSA</b>								
<b>OHIM</b>		External		Internal efficiency		Yes		external
<p><b>Comments</b></p> <ul style="list-style-type: none"> <li>- Coverage is assessed on a scale including the following successive items: Satisfaction; Internal efficiency; Coherence; Actual results and external efficiency</li> </ul> <p><b>Sources</b></p> <p>Agency visits and documentary analysis</p>								

**Table 15 – Audit and discharge**

Agency	Latest EP's discharge	Main remark(s)	Main action(s) taken
<b>CdT</b>			
<b>CEDEFOP</b>	Full approval		Design and implementation of a performance measurement system
<b>CEPOL</b>	Comments	Non compliance to the Financial Regulation	New accounting system, new internal procedures and workflows
<b>CFCA</b>	Full approval		Last december the internal audit service conducted a rather limited review considering the recent set up of the agency. Three recommendations have been issued
<b>CPVO</b>		EP is not competent for discharge. Discharge given by the administrative council; full approval	
<b>EAR</b>			
<b>EASA</b>			
<b>ECDC</b>			
<b>ECHA</b>	N/A	N/A	Following audit from the IAS a recommendation on need for transparency in the procurement planning. To this effect the annual work plan now includes a procurement plan.
<b>EEA</b>	Comments	Recruitment procedures; procurement procedures; management of grant agreements with ETCs	
<b>EFSA</b>	Full approval	5 remarks from the court of auditor, main remarks are : budget programming; Carry forward reduction from one year to another; procurement improvement	80% of recommendations closed, main remark implemented : strategic planning and monitoring through the RAW monitoring system.

Agency	Latest EP's discharge	Main remark(s)	Main action(s) taken
<b>EIGE</b>			
<b>EMCDDA</b>	Full approval	Comments were on IT needs (noting that they had increased) and the fact that the move to premises with EMSA was welcomed. Nothing major, therefore I picked "full approval"	Not needed
<b>EMEA</b>	Full approval		
<b>EMSA</b>	Comments	Procedures for establishing the budget not sufficiently rigorous; Unduly move of EUR 25 million from normal appropriations to assigned revenue; Call on agency to step up training and communication efforts; Weaknesses in recruitment procedure - agency to ensure that they are transparent and non-discriminatory; Welcomes the fact that EMSA will share buildings with EMCDDA and make joint use of infrastructure and services	
<b>ENISA</b>	Full approval	None	
<b>ERA</b>	Full approval		Following the creation of a post of internal auditor (IAC) at the end of 2007, the IAC, as being inter alia the interface with the Internal Audit Service of the European Commission, was responsible for coordinating the implementation the 36 recommendations contained in the Final Report issued by the Internal Audit Service of the European Commission.
<b>ETF</b>	Full approval		
<b>EU-OSHA</b>	Full approval		An action plan on how to deal with the 5 recommendations was adopted by the Board in March 2009
<b>EUROFOUND</b>	Comments	Main comments relating to carry-overs. Explanations provided for long-term projects covering more than budget year	Action plan in place with regular reportin to Bureau of Governing Board
<b>EUROJUST</b>	Comments		Audit HRM follow-up (Januay 2009): Recruitment Head of HR underway; Reduction Interims; correction of recruitment procedures flaws
<b>EUROPOL</b>	Full approval		

Agency	Latest EP's discharge	Main remark(s)	Main action(s) taken
<b>FRA</b>	Comments	Large carry over due to change of mandate. Cancellation of appropriations. Weakness in procurement procedures.	IAS 2008 report was a follow-up audit on the 2007 report - 2 out of 3 recommendations have now been implemented. 1 remain in progress.
<b>FRONTEX</b>	Comments	Discharge 22.4.2008. For the financial year 2006 the rate of commitment was 85%; the rate of carry-over was more than 70 % overall and nearly 85 % for operating expenditure; transfers of appropriations between chapters or titles during the year exceeded the total ceiling of 10% provided for in the Financial Regulation; therefore, the budgetary principle of specification was not strictly observed; called on the Agency to improve its financial management, especially as regards the increase in its budget for the financial years 2007 and 2008;	Audited are always requested to develop an action plan following internal audit.
<b>GSA</b>	Comments	Last discharge on the implementation of budget 2007 in April 2009	The work programme 2008
<b>OHIM</b>	Comments	See document sent on discharge (There is no discharge from the EP. OHIM's budget authority is the budget committee. 2006) Risk of double discharge	
<b>Comments</b>			
<b>Sources</b> Agency visits and documentary analysis			



**Table 16 – Monitoring**

Agency	Coverage up to ...	Scope	Monitoring meetings	Nb per year
<b>CdT</b>				
<b>CEDEFOP</b>	Performance	All activities	Agency level	10
<b>CEPOL</b>	Outputs	Most activities	Agency level	between 5 and 6
<b>CFCA</b>	Outputs	All activities	No	NO
<b>CPVO</b>	Outputs	All activities	Agency level	30-40
<b>EAR</b>				
<b>EASA</b>	Results	All activities	Agency level	
<b>ECDC</b>	Outputs	Some activities	No	
<b>ECHA</b>	Performance	All activities	Agency level	Several in the MB and the Committees.
<b>EEA</b>	Performance	All activities	Agency level	4
<b>EFSA</b>	Outputs	All activities	Agency level	12
<b>EIGE</b>	Results			
<b>EMCDDA</b>	Outputs	All activities		
<b>EMEA</b>	Results	All activities	Agency level	
<b>EMSA</b>	Results			
<b>ENISA</b>	Outputs	Most activities	Agency level	
<b>ERA</b>	Outputs	All activities	No	
<b>ETF</b>	Satisfaction	Some activities	Activity level	3
<b>EU-OSHA</b>	Results	Most activities	Activity level	
<b>EUROFOUND</b>	Performance	Most activities	Agency level	10
<b>EUROJUST</b>	Outputs	Some activities	No	
<b>EUROPOL</b>	Performance	Most activities	Agency level	4 per year
<b>FRA</b>	Satisfaction	All activities	Activity level	
<b>FRONTEX</b>	Outputs	Most activities	No	
<b>GSA</b>	Outputs	Most activities	Activity level	
<b>OHIM</b>	Results	All activities	Agency level	52 (weekly)
<b>Comments</b>				
<b>Sources</b> Agency visits and documentary analysis				

**Table 17 – Annual report**

Agency	Coverage up to ...	Activity based	Dissemination
<b>CdT</b>			
<b>CEDEFOP</b>	Performance	Yes	Wider public
<b>CEPOL</b>	Satisfaction	Rather yes	Wider public
<b>CFCA</b>	Outputs	Rather yes	Wider public
<b>CPVO</b>	Outputs	Yes	Wider public
<b>EAR</b>			
<b>EASA</b>	Outputs	Yes	Wider public
<b>ECDC</b>	Outputs	Rather yes	Wider public
<b>ECHA</b>	Performance	Rather yes	Wider public
<b>EEA</b>	Performance	Yes	Wider public
<b>EFSA</b>	Outputs	Yes	Wider public
<b>EIGE</b>	Results		
<b>EMCDDA</b>	Results	No	Wider public
<b>EMEA</b>	Results	Yes	Wider public
<b>EMSA</b>	Outputs	Yes	Wider public
<b>ENISA</b>	Outputs	Rather yes	Wider public
<b>ERA</b>	Outputs	Rather yes	Wider public
<b>ETF</b>	Outputs	Rather yes	Wider public
<b>EU-OSHA</b>	Results	Yes	Administrative
<b>EUROFOUND</b>	Performance	Yes	Wider public
<b>EUROJUST</b>	Outputs	Rather yes	Wider public
<b>EUROPOL</b>	Outputs	Yes	Wider public
<b>FRA</b>	Outputs	No	Wider public
<b>FRONTEX</b>	Outputs	Yes	Wider public
<b>GSA</b>	Outputs	Rather yes	Wider public
<b>OHIM</b>	Performance	Rather yes	Wider public
<b>Comments</b>			
<b>Sources</b>			
Agency visits and documentary analysis			

