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DELEGATING IMPLEMENTING
TASKS TO **EXECUTIVE AGENCIES:**
A SUCCESSFUL OPTION?



EN



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DELEGATING IMPLEMENTING TASKS TO EXECUTIVE AGENCIES: A SUCCESSFUL OPTION?

(pursuant to Article 248(4), second subparagraph, of the EC Treaty)

EUROPEAN COURT OF AUDITORS
12, rue Alcide De Gasperi
1615 Luxembourg
LUXEMBOURG

Tel.: +352 4398-1
Fax: +352 4398-46410
E-mail: euraud@eca.europa.eu
Internet: <http://www.eca.europa.eu>

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REPLY OF THE COMMISSION

ABBREVIATIONS AND GLOSSARY

AAR: annual activity report

AWP: annual work programme

CBA: cost–benefit analysis

COBU: Committee on Budgets of the European Parliament

CREA: Regulatory Committee for Executive Agencies

DG: Directorate-General (of the European Commission)

DG BUDGET: Directorate-General for the Budget

DG ECFIN: Directorate-General for Economic and Financial Affairs

DG ENTR: Directorate-General for Enterprise and Industry

DG ENV: Directorate-General for the Environment

DG INFO: Directorate-General for the Information Society and Media

DG SANCO: Directorate-General for Health and Consumers

EACEA: Education, Audiovisual and Culture Executive Agency

EACI: Executive Agency for Competitiveness and Innovation (formerly IEEA)

EAHC: Executive Agency for Health and Consumers (formerly PHEA)

ERC: European Research Council

ERCEA: European Research Council Executive Agency

Framework Regulation: Council Regulation (EC) No 58/2003 of 19 December 2002 laying down the statute for executive agencies to be entrusted with certain tasks in the management of Community programmes (OJ L 11, 16.1.2003, p. 1)

IEEA: Intelligent Energy Executive Agency (became EACI in 2008 after extension of its mandate)

MFF: multiannual financial framework — contains the financial perspectives of the EU budget divided into expenditure 'headings'. The MFF for the current period (2007–13) contains the following headings: 1. Sustainable growth and employment, 2. Preservation and management of natural resources, 3. Citizenship, freedom, security and justice, 4. The EU as a global partner, 5. Administration, 6. Compensations

Parent DG: The Commission department responsible for the Community programmes the management of which is delegated to the agencies

PHEA: Public Health Executive Agency (became EAHC in 2008 with the extension of its mandate to new programmes)

REA: Research Executive Agency

TAO: Technical Assistance Office

TEN-T EA: Trans-European Transport Network Executive Agency

EXECUTIVE SUMMARY

I.

Executive agencies are Community bodies with legal personality established by the Commission in order to implement by delegation all or part of EU spending programmes. The Commission remains responsible for the policy tasks and the supervision of the activities delegated.

II.

Executive agencies are a relatively recent phenomenon in the EU institutional landscape. Since 2003, six executive agencies have been created, responsible for managing a financial envelope of around 32 billion euro for the period until 2013. The number of personnel authorised for 2009 is 1 339. They are mainly contract staff.

III.

The Court's audit aimed at assessing whether the delegation of management tasks to the executive agencies had proved to be a successful option for implementing the European budget.

IV.

To this purpose, it examined in particular:

- (i) whether the decision to create an executive agency was supported by an adequate analysis of the needs and the potential gains;
- (ii) what benefits have been achieved in terms of financial savings, improved service and other efficiency gains;
- (iii) whether the Commission has effectively carried out its supervisory role over the agencies' activities.

V.

The Court found that:

- (i) the initiative of setting up the executive agencies was mainly driven by constraints on employment within the Commission rather than being based on the intrinsic features of the programmes themselves;
- (ii) the cost-benefit analyses (CBAs) required by the legislation in order to support the decision to create the agencies took little account of non-financial aspects and omitted some important factors on the side of costs. The picture provided, though undeniably positive from a financial point of view, was not entirely accurate. The contribution of the CBAs to the decision-making process was rather limited;
- (iii) in terms of benefits achieved, there are clear cost savings stemming from the prevalence of lower paid contract staff, even when one considers the additional costs of the new posts created for supervision and support at both the Commission and the agencies. However, the actual amount of the savings depends on the redeployment of the Commission staff who were previously doing the work taken over by the agencies, and on the suppression of the contract staff posts within the corresponding programme areas at the Commission. The lack of reliable information on the *ex ante* situation at the Commission does not allow the extent of the savings to be verified;

EXECUTIVE SUMMARY

- (iv) as a result of their specialisation in identifiable and specifically defined tasks, the agencies provide better service delivery in terms of reduced time for contracting, more rapid approval procedures for technical and financial reports and lower payment delays. Other qualitative improvements are the simplification of processes as well as increased external communication and dissemination of results, which contribute to enhance the visibility of the EU. On the other hand, the expected flexibility in hiring staff is not demonstrated;
- (v) the Commission's supervision of the agencies' work is quite limited: the annual work programmes (subject to the Commission's approval) are scarcely used for setting targeted objectives; the monitoring is mainly focused on indicators related to how the tasks are carried out rather than to the results produced; the reports are usually confined to budgetary execution and omit to measure progress made on a multi-annual basis and identify corrective actions for the future.

VI.

The Court's main recommendations are that the Commission should:

- (i) reconsider its procedures for identifying the potential for externalisation and for considering the establishment or the extension of agencies;
- (ii) improve the quality of the cost-benefit analyses to allow them to contribute fully and effectively to the decision-making process;
- (iii) ensure that it has relevant, reliable data on workload and productivity related to the implementation of the delegated tasks, both before and after externalisation;
- (iv) identify the success factors which have led to better results at the executive agencies and apply similar factors to programmes which continue to be managed in-house;
- (v) supervise the agencies by setting results-oriented and targeted objectives, using a limited number of relevant performance indicators which form the basis for next years' objectives.

INTRODUCTION

1. Executive agencies are Community bodies with legal personality established by the Commission in order to implement all or part of EU programmes on its behalf and under its responsibility.
2. Delegating the day-to-day management of spending programmes to specialised agencies has been a leitmotiv of public service reform at national level over the last two decades¹. This had essentially two aims: improving service delivery (through reduced red tape, increased specialisation and enhanced commitment to specific results) and enabling central authorities to concentrate on 'core functions' such as policy design and supervision.
3. The setting-up of executive agencies in the EU context became an issue in 1999, when the Commission undertook a major review of its externalisation policy as part of a package of overall administrative reform². This was in response to the Parliament's concerns about the management of spending programmes by more than one hundred bodies, known as technical assistance offices (TAOs), operated by private contractors³.
4. In 2000, the White Paper on reform⁴ affirmed the need for the Commission to refocus on its core tasks by externalising some of the administrative work when externalisation:
 - (a) is a more efficient and cost-effective means of delivering the services or goods concerned;
 - (b) does not involve the exercise of discretionary powers (i.e. it does not imply political choices);
 - (c) is justified on its own merits rather than being a mere substitute for compensating for Commission staff shortages.

¹ This has been part of the modernisation agenda for better governance in the UK, Canada and New Zealand since the early 1990s. More recently, other European countries (Sweden, France, Germany and Italy) have followed these examples.

² 'Orientations for the Commission's externalisation policy', Communication from Mrs Schreyer and Mr Kinnock, SEC(1999) 2051/7, 14 December 1999.

³ TAOs were criticised in particular for the vague definition of the tasks, the poor control exercised by the Commission over their activities, the threat to budget transparency due to the use of operational appropriations to fund administrative costs borne by the TAOs, and non-compliance with the relevant accountability requirements. See European Parliament, 'COBU Working Documents 10, 11 and 12 on the future of the TAOs: supervision or dismantling?', 4 November 1999.

⁴ 'Reforming the Commission' — A White Paper — Part I, COM(2000) 200 final/2, 5 April 2000.

5. Furthermore, the White Paper required that the decision to externalise should be taken on a consistent basis across the European Commission, so that similar instruments are used in similar cases⁵. The externalisation of management tasks would include 'testing a new type of implementing body headed by Commission staff'⁶; i.e. the executive agencies.
6. The use of TAOs was therefore phased out. The management of some programmes (mainly related to external aid) was taken over by the Commission, through significant recourse to contract staff; some programmes were discontinued and others were entrusted to executive agencies⁷.
7. The 2002 Financial Regulation makes provision for creating executive agencies⁸. Their statute is defined by a common legal framework⁹. They are established by the Commission, after endorsement by the Member States under the comitology regulatory procedure¹⁰. The European Parliament is also associated in the decision: it gives its opinion on the need for any proposed agency.
8. Six executive agencies have been established since 2003 (see **Table 1**).
9. At the time of the Court's audit, four of the six agencies were operational (EACI, EAHC, EACEA and TEN-T EA, the latter since April 2008).

⁵ 'Reforming the Commission', cit., p. 11.

⁶ 'Reforming the Commission', cit., p. 11.

⁷ Six out of 126 TAOs existing in 2000 were replaced by executive agencies (three by EACEA, one by EAHC, two by EACI).

⁸ Articles 54(2)(a) and 55 of Council Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.9.2002, p. 1).

⁹ Regulation (EC) No 58/2003.

¹⁰ This is done through the Regulatory Committee for Executive Agencies (CREA), provided for in Article 24 of the Framework Regulation, which is composed of the representatives of the Member States and chaired by the representative of the Commission.

TABLE 1

EXECUTIVE AGENCIES ESTABLISHED SINCE 2003

| Executive agencies | Total budget managed under the MFF 2007–13 (billion euro) | Initial and final term | Number of staff (full-time equivalent units) Budget 2009 | Programmes managed (*) | Logo |
|--|---|---|--|--|---|
| Executive Agency for Competitiveness and Innovation (EACI), former IEEA | 1,7 | 1.1.2004–31.12.2008 (extended until 31.12.2015) | 147 | Implements part of the 'Competitiveness and innovation' framework programme and Marco Polo II |  |
| Executive Agency for Health and Consumers (EAHC), former PHEA | 0,5 | 1.1.2005–31.12.2010 (extended until 31.12.2015) | 50 | Implements EU 'public health' programme, 'Consumer policy' programme and 'Better training for safer food' initiative |  |
| Education, Audiovisual and Culture Executive Agency (EACEA) | 3,7 | 1.1.2005–31.12.2008 (extended until 31.12.2013) | 394 | Implements programmes and actions in the fields of education and training, active citizenship, youth, audiovisual and culture |  |
| Trans-European Transport Network Executive Agency (TEN-T EA) | 8,0 | 26.10.2006–31.12.2008 (extended until 31.12.2015) | 99 | Implements the 'Trans-European transport network' (TEN-T) programme |  |
| Research Executive Agency (REA) | 6,5 | 1.1.2008–31.12.2017 | 349 | Implements the 'People' programme and parts of the 'Capacities' and 'Cooperation' programmes under FP7. Carries out support services for a large part of FP7 |  |
| European Research Council Executive Agency (ERCEA) | 7,5 | 1.1.2008–31.12.2017 | 300 | Implements the 'Ideas' programme under FP7 |  |
| | 27,9 | | 1 339 | | |

(*) More detailed information on the programmes managed by the agencies can be found in **Annex I**.

10. In several cases the original duration or mandate of an agency has been extended:

- (a) EACEA mandate has been extended four times to deal with the new generation of programmes 2007–13 and to add new programmes in the field of education;
- (b) PHEA has become EAHC by adding the ‘Consumer policy’ programme 2007–13¹¹ and the ‘Food safety training’ programme to the new ‘Health’ programme 2008–13¹², and
- (c) IEEA has become EACI, by adding parts of the CIP and the Marco Polo II programme to the ‘Intelligent energy’ programme.

¹¹ Decision No 1926/2006/EC of the European Parliament and of the Council (OJ L 404, 30.12.2006, p. 39).

¹² Decision No 1350/2007/EC of the European Parliament and of the Council (OJ L 301, 20.11.2007, p. 3).

¹³ Article 7 *et seq.* of the Framework Regulation (EC) No 58/2003.

¹⁴ The Court has recently issued a special report on the performance of regulatory agencies. See *Special Report No 5/2008 — The European Union's agencies: Getting results.*

11. Executive agencies implement EU spending programmes totalling around 27,9 billion euro for the current multiannual financial framework (MFF 2007–13). Taking into account also the tasks managed under the previous MFF, the total amount is around 32 billion euro.

12. The administrative budget of the executive agencies is drawn from the financial envelope of the programmes under their management. The corresponding appropriations are therefore outside the ceiling on resources set by heading 5 of the MFF, which refers to the ‘general’ administrative expenditure of the EU institutions.

13. The Commission is responsible for supervising the executive agencies’ activities. The agencies’ directors are officials appointed by the Commission; the members of the steering committees are also appointed by the Commission¹³. The agencies’ annual activity reports are annexed to the reports of their parent DGs.

14. Executive agencies differ in various ways from the so-called ‘regulatory agencies’, which have been mainly developed since the 1990s, to deal with tasks of regulation at EU level related to the expansion of the internal market¹⁴. The main differences are that executive agencies implement spending programmes and are directly dependent on the Commission, whereas regulatory agencies mainly provide common rules and services and operate under a management board composed of Member States’ representatives (for more details see **Annex II**).

AUDIT OBJECTIVE AND APPROACH

- 15.** The overall objective of the audit was to assess whether the delegation of operational tasks to executive agencies had proved to be a successful instrument for implementing the EU budget.
- 16.** This was done by addressing the following questions:

 - (a) Were the decisions to create the executive agencies supported by adequate analyses of the needs and the potential gains?
 - (b) What benefits have been achieved in terms of cost savings, improved performance and other efficiency gains?
 - (c) Has the Commission effectively carried out its supervisory role?
- 17.** The audit was carried out from April to November 2008. Audit evidence was collected through documentary analyses, file reviews and interviews at all executive agencies and at the Commission. National good practices were used as a benchmark in the areas of objective-setting and performance measurement.

AUDIT OBSERVATIONS

THE CREATION PROCESS

INITIATIVE TO SET UP THE EXECUTIVE AGENCIES MAINLY DRIVEN BY CONSTRAINTS ON EMPLOYMENT WITHIN THE COMMISSION

- 18.** As reflected in the Framework Regulation¹⁵, the rationale for outsourcing implementation tasks to executive agencies was for them to provide better service and efficiency gains and for the Commission to focus primarily on its institutional tasks such as policy-making and strategic management. Specific reasons for setting up an executive agency should be established through a needs assessment based on these principles.

¹⁵ See especially the preamble (Whereas 4 to 6) of the Framework Regulation (EC) No 58/2003.

- 19.** More recently, the general guidance issued by DG BUDG¹⁶ spelled out the essential factors on which a needs assessment should be based:

¹⁶ SEC(2006) 662 final, 31 May 2006, 'Guidelines for the establishment and operation of executive agencies financed by the general budget of the European Communities'.

- (a) the need for the Commission to focus on legislative and strategic tasks in policy formation and monitoring, including those connected with Community programmes;
- (b) a clear separation between policy programming (the Commission's core business) and implementation of technical projects, where no discretionary powers implying political choices are involved;
- (c) the need for a high level of technical expertise throughout the project cycle;
- (d) the possibility of economies of scale through a high level of specialisation or the regrouping of similar programmes or activities within one agency;
- (e) the need to carry out certain activities with increased visibility.

- 20.** The Court assessed how the Commission had put these principles into practice and how it had identified possible drivers for devolution of tasks based on the nature and specificities of the programmes, such as the level of technical expertise required, the possibility of reaching standardisation of time-consuming tasks and the grouping of similar activities, leading to synergies.

21. The Court found that the initiative to set up agencies was mainly taken by the Commission in response to practical problems, in particular the need to compensate for discontinuing TAOs and to allow for the continuation of the programmes they managed when no new resources were made available under the ceiling on the Commission's administrative budget set by the MFF (paragraph 12). Despite the intentions set out in the White Paper and the guidance documents, staff shortages (in number and specialisation) at the Commission were the main driver for externalisation (see **Box 1**). Recent documents confirm that it continues to be the Commission's practice to explore the option of creating new executive agencies when faced with a shortage of resources¹⁷.

¹⁷ SEC(2007) 530 'Planning and optimising Commission human resources to serve EU priorities', p. 15, and COM(2008) 135 final 'European agencies — The way forward', p. 3. The screening did not report a need for new executive agencies in the near future. However, externalisation of a limited number of other programmes to existing agencies was envisaged.

BOX 1

- The CBA for the Marco Polo programme (implemented by EACI) explicitly states that the reason for delegating implementation to an executive agency was the absence of sufficient human resources at the Commission.
- The creation of PHEA followed considerable implementation problems and increasing payment delays related to the need for additional resources within DG SANCO after the dismantling of the former corresponding TAO. As a consequence of those problems, when they came to adopt a new 'Public health' programme in 2002, the Council and the European Parliament insisted that 'appropriate structural arrangements' should be made to carry out the programme. This was the argument to support the establishment of PHEA.
- The focus on staff shortages has also produced a wide range of implementation modes within the same programme. The three specific programmes within the 'Competitiveness and innovation' framework programme (CIP) are managed in various ways: the 'Intelligent energy Europe' programme continues to be managed largely by EACI. For the 'Information and communication technology — policy support' programme, the Commission opted to continue direct management by DG INFSO. Regarding the 'Entrepreneurship and innovation' programme (EIP), DG ENTR delegated major parts of its share to EACI and DG ENV delegated the EIP eco-innovation projects. For the EIP parts of DG ECFIN, the CIP legal base stipulated the continuation of the implementation of the CIP financial instruments by the European Investment Fund.

LIMITED CONTRIBUTION FROM COST-BENEFIT ANALYSES TO THE DECISION-MAKING PROCESS

22. The Framework Regulation requires that the setting-up of an executive agency should be based upon a cost-benefit analysis (CBA)¹⁸, providing justification for the outsourcing and taking into account a number of factors such as the costs of coordination and checks, the resulting impact on human resources at the Commission, possible financial savings, the benefits afforded by additional efficiency and flexibility in the implementation of outsourced tasks, simplification of the procedures used, proximity of outsourced activities to final beneficiaries, visibility of the Community as promoter of the Community programme concerned and the need to maintain an adequate level of know-how inside the Commission¹⁹.
23. The Court assessed the quality of the CBAs supporting the decisions to set up the agencies, analysing whether all relevant factors had been adequately considered.
24. It found that, in general, the CBAs were restricted to the financial aspects and took little account of other factors justifying the outsourcing as set out in paragraph 22. Emphasis was placed on the savings deriving from employing cheaper contract staff rather than permanent officials²⁰. The aspects of improved performance and efficiency gains were scarcely considered, though including such elements in the analysis might have strengthened the case for the creation of agencies. As such, the analyses were mainly cost comparisons, rather than CBAs in the proper sense of the term.
25. On the side of costs, some elements related to the functioning and the winding-up of the agencies are missing. Thus, the costs of the additional staff needed at the Commission to supervise the agencies and at the agencies for horizontal functions were not or not accurately included (except for TEN-T EA); nor were the costs of running the programmes beyond the established life-cycle of the agency.

¹⁸ The cost-benefit analysis compares all the relevant costs and benefits over time to determine whether the benefits outweigh the costs, and if so, by what proportion.

¹⁹ Article 3 of the Framework Regulation (EC) No 58/2003. Article 25 of the Framework Regulation provides for such analyses to be repeated every three years in the framework of the external evaluation reports to be drawn up on the operations of each agency.

²⁰ Following an earlier indication from the European Parliament, the personnel of executive agencies should be composed of 75 % contract agents and 25 % officials seconded from the Commission and temporary staff (see COBU Working Documents 10, 11 and 12, 4.11.1999, cit., p. 25). For TEN-T EA, however, the CBA assumed that the composition would be 55 % contract staff and 45 % officials and temporary staff. A staff composition of 60 % contract staff and 40 % officials was taken into account in EACEA CBA for programme strands relating to external relations (EMECW, Tempus, EM II Action 2).

- 26.** Moreover, the time needed to set up a new agency was underestimated and the transition costs of the overlapping Commission/agencies were not included in the analyses, even though it was known that it took about two years before an agency reaches its full operational autonomy²¹. For PHEA, the transition costs were included in the analysis but the initial forecast of three to six months for the start-up of the agency was significantly over-optimistic²².
- 27.** In addition, there are some elements of uncertainty in the analyses. First, the comparison is generally made using a single average unit cost for the various categories of contract staff whereas in practice they vary in grade and therefore in cost²³. This average is based on the Commission's staff composition, which shows a prevalence of lower grades compared to the (specialised) personnel to be recruited by the agencies and leads to an understatement of the costs for the agencies option.
- 28.** Second, the estimates used to calculate the staff needs of the agencies and the resulting impact on the Commission's human resources (in terms of permanent posts saved and re-allocated and contract posts suppressed) were not backed up by reliable data on workload and productivity (except for the TEN-T EA). Not only does this compromise the accuracy of the process, but it also hinders an effective *ex post* evaluation of the actual level of the benefits (as explained in paragraph 37 below).
- 29.** In most cases, correcting the CBAs to take account of the weaknesses set out above would not affect the conclusion in favour of setting up an agency (given the large margin of savings on staff costs): the exception is the smallest agency (PHEA — now EAHC), where the balance of purely financial arguments could have cast doubt on the recommendation to proceed. Nonetheless the CBAs are open to the criticism that they do not give a satisfactory overall picture of the financial consequences and other benefits in terms of efficiency and effectiveness.

²¹ In 2005 the Commission recognised that: 'The most important lesson is that the time needed to plan and set up an executive agency should not be underestimated. The first agencies established point to a lead time of about two years from the Commission decision creating the agency to the moment when the agency is fully operational' (Issue paper ref. SG.C.2 D (2005) 11582, part 4).

²² It took an average of almost two years from the decision to establish an agency and its full operation. In particular, this period was 24,5 months for PHEA; 24 months for EACI, 18 months for TEN-T EA; 12 months for EACEA. REA and ERCEA are expected to be operational by mid-2009, which is after a period of 19,5 months.

²³ Only EACEA used several rates to take into account the distribution of the personnel by grade.

- 30.** In practice, the Court did not identify any case of CBAs advising against setting up an executive agency. However, not all cases of positive recommendations were followed by the creation of an agency²⁴ as the final decision was based on a more comprehensive evaluation of the arguments for and against. Therefore, the CBAs brought little added value to the process and did not provide an adequate basis to allow decision-makers to form an opinion about different alternatives.

²⁴ This was for instance the case for the envisaged Eurostat agency.

²⁵ See footnote 20. This percentage is applied to all the agencies, with the exception of TEN-T EA, for which a composition of 65 % contract and 35 % temporary and seconded staff has been authorised.

THE BENEFITS ACHIEVED

SAVINGS FROM LOWER STAFF COSTS BUT OVERALL QUANTIFICATION DIFFICULT

- 31.** Concerning the financial benefits, the Commission's assumption is that savings are achieved by recruiting a 75 % proportion of contract staff instead of permanent officials at the agencies²⁵.
- 32.** In fact, a total of 1 339 posts were authorised for the agencies in the budget for 2009, of which 1 227 were newly created: 941 contract staff, 256 temporary staff and 30 national experts²⁶. This represents a real proportion of 70 % contract staff. Assuming a post-per-post average salary difference of about 50 %, it is clear that considerable benefits stem from the outset from the prevalence of lower paid staff compared to the staff who would have been hired at the Commission.

²⁶ Source: General Budget 2009. The remaining 112 posts (technically known as full-time equivalent (FTE)) are Commission staff seconded to the agencies (the so-called 'frozen' posts): they generate a corresponding reduction of the Commission's budget administrative appropriations, so they have no impact on the benefits. As regards the temporary posts, it can be assumed that the costs would be the same whoever the employer (the Commission or the agencies), so their impact on benefits can also be considered neutral. This calculation does not take into account the people previously employed by the TAOs.

33. However, there are some elements of uncertainty which make the exact amount of the savings difficult to quantify. Firstly, even assuming that the Commission would have hired exactly the same number of people as the agencies, the 'all Commission permanent officials' hypothesis does not consider that (at least some) contract staff might also have been recruited. Secondly, actual data on staff costs available for one agency show that the average cost for contract staff is around 10 % higher than that used by the Commission for general purposes (see **Box 2**)²⁷. This is due to the fact that agencies' contract staff are mostly high grade whereas the Commission's average cost reflects the composition of its personnel, with prevalence of contract staff in mainly low grades. In view of a more satisfactory comparison, it would be necessary to have average staff costs differentiated by category of personnel²⁸.

²⁷ See the recent Interim evaluation report of the EACEA (paragraph 64).

²⁸ See also paragraph 27.

²⁹ The parent DGs have staff specifically devoted to the supervision of the agencies. On the other hand, all executive agencies have a director, a data protection supervisor, an internal auditor and an accountant.

³⁰ This percentage has decreased with the increase in size of the agencies, which has allowed for economies of scale.

34. In addition, the staff savings need to be reduced by the additional costs of the new supervisory functions performed by the parent DGs and the overhead costs related to the horizontal functions in each agency²⁹. The Commission reports that the proportion of staff assigned to such supervisory and support functions is around 13–14 % of the total staff of the agencies³⁰.

³¹ Article 13(6)(c) of Framework Regulation (EC) No 58/2003.

35. On the other hand, for those programmes previously managed directly by the Commission services, any saving is dependent on the effective redeployment of the staff previously assigned to the work that has been transferred to the agencies and on the suppression of the contract staff posts within the corresponding programme areas at the Commission³¹.

BOX 2

For legislative proposals, DG BUDG uses the following average unit costs, estimated for the Commission as a whole:

- 122 000 euro per year for permanent/temporary officials, and
- 64 000 euro for contract staff.

Recruiting contract staff instead of permanent officials would therefore allow for per capita theoretical savings of about 50 %.

- 36.** Following the creation of the six executive agencies, the Commission planned to free 267 staff (159 permanent posts + 108 contract agents) within the corresponding DGs. Of these staff, 209 (131 permanent posts + 78 contract agents) had been actually freed as of 1 January 2009 (see **Table 2**). For ERCEA, no staff are planned to be freed as the activities delegated are totally new.
- 37.** However, the adequacy of these plans cannot be verified as there is no reliable information on the *ex ante* situation at the Commission concerning the staff allocated to the programmes taken over by the agencies or on the split in the workload between policy tasks (which remain with the Commission) and implementation tasks. Nor does the Commission have such figures for staff who currently carry out similar tasks within its Directorates-General.
- 38.** In this respect, the Court notes that the separate presentation of the operating budgets of the agencies in the Community general budget has increased transparency. Indeed, this provides relevant information about the resources (and related costs) needed for running programmes which is not necessarily available when the Commission runs them itself.
- 39.** Even including the impact of the uncertainties above, the savings margin still remains significant.

TABLE 2

FREED POSTS

| | Total number of staff to be freed by 2012 | | Staff actually freed as of 1.1.2009 ⁽¹⁾ | |
|--------------|---|-----------------|--|-----------------|
| | Permanent posts | Contract agents | Permanent posts | Contract agents |
| EACEA | 15 | 18 | 30 | 18 |
| IEEA/EACI | 28 | 5 | 30 | 0 |
| PHEA/EAHC | 22 | 0 | 15 | 0 |
| TEN-TEA | 56 | 6 | 56 | 6 |
| ERCEA | 0 | 0 | 0 | 0 |
| REA | 38 | 79 | 0 | 54 |
| Total | 159 | 108 | 131 | 78 |

⁽¹⁾ Source: Working Document — Part III to the 2010 PDB — COM(2009) 300.

BETTER SERVICE DELIVERY

40. Better service delivery is one of the benefits expected from concentrating limited and well-defined tasks in a single agency (the specialisation factor).
41. The Court assessed the management aspects of programme implementation using quantitative indicators to compare the performance of the agencies with that of the Commission prior to the externalisation. This concerned the evaluation of proposals and contracting, the monitoring of contractors' performance and the payment procedures. Other aspects of a qualitative nature were also considered.
42. The audit showed that the executive agencies generally perform better than their parent DGs before. This is demonstrated by (see **Box 3**):
 - (a) a shorter time-to-contract (evaluation and negotiation of proposals);
 - (b) more rapid approval procedures for both technical and financial reports on the projects; and
 - (c) shorter time-to-payments (from the payment request to payment).

BOX 3

As an example, the contracting time for the 'Public health' programme was reduced from 345 days when the programme was managed by the parent DG to 219 days; the payment period went down from 503 to 91 days; and the time required for approving the technical and financial reports was shortened from 90 to 42 days.

43. In addition, the agencies simplified the management procedures, thereby reducing the administrative burden for applicants and project promoters (see **Box 4**).
44. The audit also noted that the agencies enhanced communication with potential applicants and ensured the dissemination of results to a wider public, thus providing more visibility for EU actions. The agencies organise several events (Infodays, information sessions, workshops), either directly or through 'national contact points', to inform potential beneficiaries about new programmes, guiding them through the procedures and providing data on previous programmes (see **Box 5**).
45. Further examples are shown in **Annex III**.

BOX 4

As an example, EACEA simplified the call for proposals and the application forms, moved to online submission, clarified the selection criteria, reduced the number of contract annexes, extended the use of flat rate and lump sums and simplified the reporting obligations.

BOX 5

All EACI activities are supported by a communication plan that defines, for each of the programmes, which activity is planned in which period of the year. A website, a logo, leaflets and news alerts are designed for each programme. In a previous report (*Special Report No 7/2008 — Intelligent Energy 2003-2006*) the Court observed that these initiatives had a positive impact on the degree of applicants' satisfaction.

- 46.** As regards extending the mandate of existing agencies, synergies were achieved by using tools already developed for similar programmes. This concerns in particular the communication tools used for sending out calls and informing potential applicants, the procedures to find and manage experts and the contract management.

³² This was a key milestone, as the director is in charge of recruiting the rest of the staff.

³³ Article 30 of Commission Regulation (EC) No 1653/2004 of 21 September 2004 on a standard financial regulation for the executive agencies (OJ L 297, 22.9.2004, p. 6), amended by Commission Regulation (EC) No 1821/2005 (OJ L 293, 9.11.2005, p. 10): the accountant may now be recruited on the private market.

LIMITED EFFICIENCY GAINS FOR RECRUITMENT

- 47.** Executive agencies were also supposed to provide efficiency gains through more flexibility in hiring staff, the capacity to attract highly qualified personnel and more staffing stability.
- 48.** On the first point, the recruitment of contract staff can by definition adjust more easily to agencies' specific needs. However, the process of selecting adequate personnel proved to be more difficult than the Commission had assumed. Problems in hiring the staff are the main reason for the agencies' slow start-up (see paragraph 26).
- 49.** The appointment of the directors was a lengthy enterprise and finding a suitable candidate took an average of eight months³². For the post of accountant, the rule that the accounting officer should be an official seconded by the Commission had to be amended³³ because no suitable candidates were found for EACI and PHEA.
- 50.** Hiring staff with specialised expertise also proved to be a more time-consuming task than expected. The agencies make use of the same lists of candidates as the Commission and the establishment plans are also subject to the approval of DG ADMIN (besides the approval of the parent DG). Moreover, recruitment at the agencies is made at lower grades for temporary posts and more years of experience are requested for contract staff compared to contract staff with similar tasks at the Commission. This reduces the attractiveness of the job positions, despite the offer of renewable contracts, in contrast to the three years' maximum applicable to Commission contract staff.

- 51.** The agencies can also use employment agency staff. Such staff are used extensively at EACEA, which has hired an average of 55 interim units per year. While this solution provided greater flexibility in coping with peak period problems, the high number of such staff reflects more fundamental problems of recruitment and conflicts with the expectations of experienced and stable staff.

³⁴ Article 20 of the executive agencies' Framework Regulation. More in general, Article 54(1) of the Financial Regulation applicable to the general budget of the European Communities (Council Regulation (EC, Euratom) No 1605/2002), 'The implementing tasks delegated must be clearly defined and fully supervised as to the use made of them'.

THE COMMISSION'S SUPERVISION OF THE AGENCIES

A FOCUS ON BUDGETARY EXECUTION

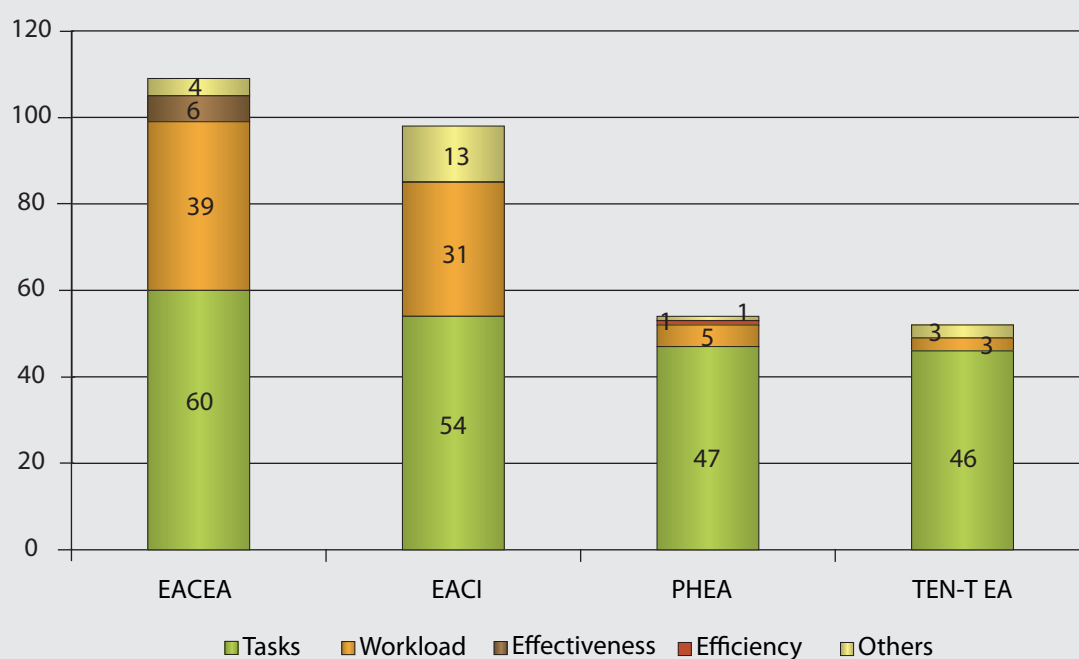
- 52.** As mentioned above (paragraph 13), the Commission retains a supervisory role in respect of the executive agencies' activities³⁴. This should include the definition of clear priorities and result-oriented goals in the annual work programmes (AWPs) approved by the Commission and an assessment of the activities carried out by the agency through the annual activity reports (AARs)³⁵.
- 53.** The Court assessed the use that was made of the agencies' AWP as a tool for objective-setting, the appropriateness of the performance indicators established for 2006 to 2008, as well as the quality of the reporting for the years 2006 and 2007.
- 54.** The timing of the AWP does not enable the Commission to make use of them to define the agencies' priorities and objectives. The executive agencies' Framework Regulation requires the adoption of the agencies' AWP no later than the beginning of each year³⁶, whereas the AWP of the Community programmes delegated to the agencies, according to the Financial Regulation, are only adopted by the first quarter of the year. This calendar is not suitable for ensuring consistency. As a matter of fact, except for EAHC, the AWP were approved by the Commission late in the middle of the year (EACI, 2008), at the end of the year (EACEA, 2007 and 2008), or not at all (EACEA, 2006).

³⁵ Article 9(2) of the executive agencies' Framework Regulation requires the annual work programme to entail detailed objectives and indicators. In its Opinion No 8/2001 (OJ C 345, 6.12.2001, p. 1) on the executive agencies, the Court had already stressed that 'when the work programme is adopted at the beginning of the year, clear objectives should also be adopted for the agency together with performance indicators to assess how well the agency is carrying out its tasks'. The Court had also pointed out that the annual activity reports 'should contain sufficient information and analysis for an appreciation of the extent to which the objectives of the agency concerned have been met, and of the efficiency of the agency's management'.

³⁶ Article 9(2) of the executive agencies' Framework Regulation.

- 55.** With regard to the content of the AWP, the executive agencies have generally been assigned tasks without results-oriented objectives and related targets.
- 56.** The agencies' AWP set out too many indicators (from 52 to 109 for 2008, see **Chart 1**) whereas good national practices suggest using only a limited number of key indicators.
- 57.** Moreover, the indicators used are mostly related to the management activities (tasks and workload) rather than to the results of the programmes managed. Only a limited number of indicators aim at measuring delivery against objectives (effectiveness) and there are no indicators to measure the relationship between the resources employed and the results achieved (efficiency).

CHART 1

NUMBER AND TYPE OF INDICATORS IN AWP_s

- 58.** As regards reporting, this is usually confined to the budgetary data (e.g. the consumption of commitment appropriations and payment delays). The AARs are not always consistent with the indicators of the AWP, make no systematic comparison with all the targets set in the AWP and make no reference to progress achieved from year to year, or to corrective actions required for the future.
- 59.** Due to the weaknesses set out in paragraphs 54 to 58, the Commission's control over the agencies' activities is not fully effective. On an operational level, there are informal contacts on a regular basis between staff at the Commission and the agencies (facilitated by their geographical proximity). If this ensures communication on day-to-day management issues, it does not take the place of well-structured relationships based on clear performance measurement instruments and reports.
- 60.** This is also crucial in the longer term for the Commission's strategic functions (its 'core business'), which require knowledge of project implementation on the ground (especially for policy domains that rely heavily on evidence-based project results to develop new initiatives).

CONCLUSIONS AND RECOMMENDATIONS

61. The Court's audit showed that the initiative to set up the six executive agencies created since 2003 was mainly driven by the need to compensate for staff shortages at the Commission.
62. The Commission made pragmatic use of the ability to set up executive agencies, responding to problems as they arose. On the other hand, the Commission's own guidance suggests a more systematic approach to the creation of agencies; and it is suboptimal to consider setting up agencies only when forced to do so by staff shortages or other external constraints.
63. The cost-benefit analyses accompanying the decisions to create the agencies focused on cost comparisons, took little account of other relevant benefits, and were not backed up by reliable data on workload and productivity. In addition, some of the costs were incorrectly estimated. The CBAs brought limited added value to the decision-making process.

RECOMMENDATION 1

The Commission should reconsider its procedures for identifying the potential for externalisation and for considering the establishment or the extension of agencies.

The Commission should ensure that the CBAs are more complete to allow them to contribute fully and effectively to the decision-making process.

64. Financial savings clearly result from recruiting contract staff at lower grades compared to the Commission's officials. However, the precise amount of the savings cannot be accurately quantified. Moreover, the adequacy of the plans concerning the posts needed by the agencies and the posts to be freed at the Commission as a consequence of the externalisation cannot be assessed in the absence of reliable data available on the *ex ante* situation at the Commission.

- 65.** As a result of their specialisation in well-defined tasks, the executive agencies are delivering better service than their parent DGs did before. They conclude contracts, make payments and approve technical and financial reports on the projects more rapidly. They have also improved the processes and increased external communication and dissemination of results, thus contributing to enhance the visibility of the EU. On the other hand, the Court found that elements of rigidity in the recruitment of staff can hinder the attainment of the expected efficiency gains.

RECOMMENDATION 2

In order to fully evaluate the benefits produced by the executive agencies, the Commission should ensure that it has relevant, reliable workload and productivity data related to the implementation of the delegated tasks, both before and after externalisation. This is also essential to ascertain the capacity of the existing agencies to cope with additional tasks.

The Commission is also invited to identify the success factors which have led to better results at the executive agencies and to apply similar factors to programmes which continue to be managed in-house.

The Commission should reflect upon measures to simplify the recruitment of the agencies' staff.

- 66.** The Commission's supervision of the executive agencies' activities is not fully effective. The timing of the annual work programmes does not enable the Commission to make use of them to define the agencies' priorities and objectives. The executive agencies have generally been assigned tasks without results-oriented and targeted objectives. Monitoring, whilst making use of a large number of indicators, is restricted to the management activities and does not cover the key aspects of effectiveness and efficiency. The reporting requirements do not extend beyond simple budgetary data.

RECOMMENDATION 3

The agencies should be supervised more specifically on a results basis. The timing for the adoption of the annual work programmes should be made more consistent. The Commission should set SMART objectives and monitor their achievement by a limited number of key performance indicators which form the basis for next years' objectives. This is also crucial in the longer term for the Commission's strategic functions (its 'core business'), which require knowledge of project implementation on the ground and evidence-based results.

This report was adopted by the Court of Auditors in Luxembourg at its meeting of 15 and 16 July 2009.

For the Court of Auditors



Vítor Manuel da Silva Caldeira
President

ANNEX I

DETAILED OVERVIEW OF PROGRAMMES AND BUDGETS MANAGED BY EXECUTIVE AGENCIES

| Executive agency | Parent DG | Programmes | Amount managed by the EA in the MFF 2007–13 (million euro) |
|--|-----------|--|--|
| Executive Agency Competitiveness and Innovation (EACI, previously IEEA) | DG TREN | CIP (IEE 2007–13) | 690,60 |
| | DG ENTR | CIP (EIP) | 375,80 |
| | DG ENV | CIP (EIP: Eco-innovation) | 181,00 |
| | DG INFSO | CIP (ICT) not managed by EACI | 0,00 |
| | DG TREN | Marco Polo II | 450,00 |
| | | Total 2007–13 | 1 697,40 |
| Education, Audiovisual and Culture Executive Agency (EACEA) | DG EAC | Lifelong learning | 728,66 |
| | DG EAC | Youth in action | 130,13 |
| | DG EAC | Culture | 320,88 |
| | DG EAC | Europe for citizens | 177,18 |
| | DG INFSO | Media 2007 | 696,97 |
| | DG AIDCO | Erasmus Mundus 2004–08 | 182,34 |
| | DG EAC | Erasmus Mundus 2009–13 (Actions 1 and 3) | 467,01 |
| | DG AIDCO | Erasmus Mundus 2009–13 (Action 2) | 336,00 |
| | DG RELEX | Erasmus Mundus 2009–13 (Action 2) | 19,00 |
| | DG ELARG | Erasmus Mundus 2009–13 (Action 2) | 57,00 |
| | DG ELARG | Erasmus Mundus — IPA windows 2009–13 | 37,50 |
| | DG AIDCO | Erasmus Mundus external cooperation window Asia–Latin America DCI 2008 | 47,82 |
| | DG AIDCO | Cooperation in Central Asia and Middle Eastern countries DCI 2007–08 | 15,39 |
| | DG AIDCO | European neighbourhood and partnership financial cooperation with Mediterranean and eastern European countries | 61,99 |
| | DG EAC | USA–EU cooperation in higher education and vocational education and training 2006–13 | 38,53 |
| | DG EAC | Canada–EU cooperation in higher education and vocational education and training 2006–13 | 16,50 |
| | DG RELEX | ICI bilateral educational projects | 13,67 |
| | DG ELARG | Erasmus Mundus Balkan window IPA 2007 | 4,00 |
| | DG ELARG | Erasmus Mundus external cooperation window IPA 2008 | 6,00 |
| | DG AIDCO | Tempus IV action | 204,20 |
| | DG ELARG | Tempus IV action | 94,50 |
| | | Total | 3 655,27 |

| Executive agency | Parent DG | Programmes | Amount managed by the EA in the MFF 2007–13 (million euro) |
|--|-----------|--|--|
| Executive Agency for Health and Consumers (EAHC, previously PHEA) | DG SANCO | Public health programme 2008–13 | 325,20 |
| | DG SANCO | Consumer policy programme 2007–13 | 101,50 |
| | DG SANCO | Better training for safer food initiative | 70,80 |
| | | Total | 497,50 |
| | | | |
| Trans-European Transport Network Executive Agency (TEN-T EA) | DG TREN | Trans-European networks — transport | 8 013,00 |
| | | | |
| Research Executive Agency (REA) | DG RTD | People programme (including Marie Curie fellowships) and parts of the Capacities programme (research for the benefit of SMEs) under FP7 | 6 500,00 |
| | DG ENTR | Cooperation programme, themes ‘Space’ and ‘Security’ (multi-partner projects) under FP7 | |
| | | FP7 support services for the four research DGs (RTD, ENTR, INFSO, TREN): proposal submission and evaluation, payment of experts, validation of legal and financial documentation submitted by applicants, helpdesk for enquiries about FP7 | |
| | | | |
| European Research Council Executive Agency (ERCEA) | DG RTD | Ideas programme under FP7 2007–13 | 7 510,00 |
| | | | |
| Total amount of programmes managed by EAs under the MFF 2007–13 | | | 27 873,17 |

DIFFERENCES BETWEEN EXECUTIVE AND REGULATORY AGENCIES

| | Executive agencies | Regulatory agencies |
|--------------------|--|--|
| Setting up | Created by the Commission under the regulatory procedure | Created by the Council or by the Council and the Parliament |
| Legal basis | Basic act of the programme Commission decision under Council Regulation (EC) No 58/2003 | Regulation of the Council or regulation of the Parliament and the Council |
| Control | Under the control of the Commission | Under the control of a board, consisting of representatives of the Member States, the Commission and sometimes other interested parties |
| Seat | Brussels/Luxembourg (close to Commission headquarters) | Seat decided by the Council |
| Scope | Executive and operational tasks related to a specific spending programme | Assistance to Member States and the Commission in various forms (e.g. adoption of common binding rules, issuing of technical/scientific opinions, establishment of inspection reports, networking and exchange of information) and help in implementing Community regulation |
| Life/time | Limited | In general, unlimited, but depends on the legal base |
| Budget | Fully subsidised as a part of the programme financial envelope | Combination of EC subsidies and self-financing |
| Discharge | Subject to individual discharge for their administrative budget while the operational expenditure is part of the general discharge given to the Commission | Subject to individual discharge for their own budget (administrative and operational expenditure) |

ANNEX III

MEASURES TAKEN IN RESPECT OF SIMPLIFICATION, COMMUNICATION, VISIBILITY AND DISSEMINATION OF RESULTS

| | EACI | EACEA | EACH |
|-------------------------------------|---|--|---|
| Simplification of procedures | <p>Simplification measures were mainly aimed at the final beneficiaries:</p> <ul style="list-style-type: none"> • Reduction of bank guarantees required • Extension of reporting period for technical reports • Revision of threshold for audit certificates for non-public bodies • Electronic submission of proposals • Simplification of forms, guidelines and selection criteria • Second pre-financing instead of interim payment based on verified incurred costs • Use of flat rates • Creation of specific databases for experts and projects | <p>Simplification measures were taken at various phases of the project cycle, such as:</p> <ul style="list-style-type: none"> • Simplification of forms, guidelines and selection criteria • Reduction in the number of application forms and of requested documents • Use of declarations on honour instead of extensive financial documentation • Use of standard grant calculation forms in Excel • Introduction of multiannual calls and permanent programme guides (Youth, Citizenship, Culture) • Extended use of decisions rather than bilateral grants agreements • Gradual shift toward online applications and submission (already in use for Citizenship); target: extension to LLP in 2008 and to all EACEA programmes by 2009–10 • Simplification of the final reports and of the beneficiaries' obligations in the reporting phase • Extended use of flat-rate financing and lump sums, mainly in Citizenship and Youth areas of activity | <p>Simplification measures were taken on the internal side:</p> <ul style="list-style-type: none"> • Centralised organisational structure based on the Commission standard Financial circuit model 4 (Full centralisation of financial transactions) • More streamlined and coordinated selection procedure bringing in more quality • Creation of specific databases for experts, projects, and applicants • Detailed handbooks with clear rules and well explained criteria |
| Communication | <ul style="list-style-type: none"> • Functional mailboxes to reply to queries • Communication plan defining the activities planned during the year for each programme and for the network • Website, logo, poster leaflets and news alerts designed for each programme | <ul style="list-style-type: none"> • Functional mailboxes to reply to queries • Publications on the website and in the calls for proposals of phone numbers to receive feedback and guidance • Cooperation with national contact points to provide information on the programmes | <ul style="list-style-type: none"> • Dedicated helpdesk to provide guidance to potential applicants (250 e-mails and 80 phone calls in 2008) • Cooperation with the national focal points to provide information on the programmes • Dedicated website to inform on the calls for proposals and forms to use • Production of info-packages, CDs and posters |

| | EACI | EACEA | EACH |
|--|--|--|--|
| Visibility of the Community as promoter of the Community programmes | <ul style="list-style-type: none"> • More than 30 Infodays/year • Dedicated website with about 200 000 hits on the call for proposal section • Organisation of national Infodays in addition to European Infodays in Brussels | <ul style="list-style-type: none"> • Several Infodays/information sessions/workshops organised (eg. Infodays for LLP, culture; media festivals; kick-off meetings with LLP project promoters, annual meetings of Erasmus Mundus consortia) • Support to events organised by national contact points • Dedicated website with more than 300 000 hits in 2008 | <ul style="list-style-type: none"> • 16 Infodays all over Europe in 2008 with 2 400 participants • Dedicated website with an ever increasing number of hits • 23 technical meetings with expert groups organised in 2007 (1 600 persons invited) • Creation of a dedicated network (national focal points) to exchange information on the programmes |
| Dissemination of results | <ul style="list-style-type: none"> • Publication of projects' fact sheets on the website • Publication of project brochures and video reports on selected subjects • Presentation of examples of projects during the Infodays | <ul style="list-style-type: none"> • Publication of selection results on the website immediately after selection decisions, followed by individual notification of results • Individual information on the reasons for non-selection • Publication on the website of best practices and compendia • Information collected from project reporting used for dissemination to a wider public • Involvement of the agency in the development of dissemination tools (EVE project) | <ul style="list-style-type: none"> • Substantial improvement of feedback sent to successful and unsuccessful applicants • Guidelines for applicants • Guidelines for beneficiaries on how to prepare a final payment |

REPLY OF THE COMMISSION

EXECUTIVE SUMMARY

I.

The Commission welcomes the report of the Court of Auditors.

II.

Externalisation was part of a global response to face the challenges which appeared in the 1990s with the multiplication of the Community programmes. Externalisation intended to reach the concentration of the Commission services on their core tasks; the improvement of the management of the Community programmes often involving recurrent administrative tasks related to the management of multiple and relatively small grants, and the specificities of the organisation; and the development of synergies between the various programmes and rationalisation of their management.

The need to create an executive agency was clear in the areas where Technical Assistance Offices had to be dismantled and no new resources were made available by the Budgetary Authority for the internalisation of the relevant tasks see point 21.

V.

(i)

Executive agencies are the outcome of an externalisation policy of the Commission that was triggered mainly by two factors: the end of the collaboration with so-called Technical Assistance Offices (TAOs) which assisted the Commission in the management of some Community programmes; and the need for the Commission to re-focus on its institutional tasks such as policy-making and strategic management.

REPLY OF THE COMMISSION

Against the backdrop of expanding Community programmes, and taking account of the suggestion of the European Parliament (Budget Committee), the Commission proposed the legal framework for delegating some of its management tasks to executive agencies.

The creation of executive agencies was seen as key for managing Community programmes both more *efficiently*, i.e. at lower cost by comparison to the Commission and more *effectively* through a high degree of specialisation or the regrouping of similar programmes and activities within one agency so as to achieve economies of scale.

Indeed, efficiency gains and synergies prove the benefits of this form of externalisation.

(ii)

Executive agencies are set up by a decision of the Commission, with the assistance of the Regulatory Committee for Executive Agencies and in close cooperation with the Budgetary Authority. The CBAs were regularly examined as part of the decision-making process. They remain a relevant part of the supporting documents for the Commission, the Budgetary Authority and the Regulatory Committee for Executive Agencies.

The Commission has set up six executive agencies and has permanently enriched the analysis carried out with previous experiences. It is a learning process shared with the Regulatory Committee for Executive Agencies (CREA) and the Budgetary Authority. It has always focused on quantitative aspects, since these were the aspects the European Parliament and Member States have insisted on the most. However, qualitative aspects were also looked at. Following the joint statement of the European Parliament and the Council of 13 July 2007, the Commission provided, for subsequent creation and extensions of executive agencies, explanations on the benefits of delegating programme management tasks as compared to direct management by the Commission services.

The Commission believes that the CBAs have now improved as far as relevant and measurable costs are concerned.

(iii)

While some benefits are difficult to quantify, the CBAs showed the clear positive effect of creating an executive agency.

In addition, some executive agencies were created for programmes which were either completely new or had been substantially extended in scope or financial volume. Therefore, reference to the in-house *ex ante* situation was not available in all cases.

REPLY OF THE COMMISSION

(iv)

The tasks being delegated to executive agencies are clearly defined in the Commission decision delegating those tasks and relate to the implementation of programmes. This allows specialisation and synergies. One of the major benefits of an executive agency is the staff selection process, which allows for more flexible recruitment of specialised staff.

(v)

The Commission will consider how to follow the Court's recommendation aiming at a better measurement of the executive agency's multiannual performance. The Commission sees its supervision responsibility as a broader task which it fulfils with due diligence. The combination of regular formal meetings and the detailed reporting requirements allow the supervisory DGs to closely monitor the performance of the agencies. A revision of the number of indicators and the development of new indicators should allow the supervisory DGs to improve the performance measurement of the agencies.

The annual work programme (AWP) of the executive agency is but one element. Reporting on the achievements towards the objectives of the programme itself is performed by the DG responsible in its annual activity report.

VI.

(i)

The Commission continuously adjusts its overall approach to externalisation and its needs assessments. Possible future extensions of the existing executive agencies' lifespan or tasks will provide the Commission with an opportunity to assess these improvements in detail, drawing on experience gained with the operation of the agencies.

(ii)

The Commission believes that the CBAs have continuously been improved. CBAs have always had an important role in the decision-making process for establishing new executive agencies, or extending the mandate of existing ones.

(iii)

The Commission acknowledges that initial CBAs and financial statements did not always provide all possible workload and productivity indicators before externalisation.

Improvements have been made in the more recent cost-benefit analysis and the Commission will in the future go deeper into the assessment of workload and productivity.

(iv)

The success of the executive agencies rests on their capacity to recruit flexibly and to target specific skills, as well as to specialise on recurrent executive tasks.

These advantages are inherent to the concept of the executive agencies.

REPLY OF THE COMMISSION

(v)

The revision of the number of indicators and the development of new indicators should allow the supervisory DGs to improve the performance measurement of the agencies, and to improve the consistency between the specific objectives and indicators of the programmes and the reporting by the agency on the results of its work in terms of expenditure-related outputs delivered by specific objective.

Moreover, following the distribution of roles between the Commission services and the executive agencies, the indicators set up by and for the agencies should primarily concern the management activities (inputs, processes, outputs, performance) for which they are responsible. Result or impact indicators of programmes are only to a very limited extent influenced by agencies.

INTRODUCTION

1. to 2.

The rationale behind the externalisation to executive agencies is the need for efficiency gains and improved performance in the implementation of the Community programmes, whilst preserving within the Commission the policy tasks and ensuring the monitoring of the operation of the agencies. Executive agencies are a tool to address the increased number of new or revamped programmes and the need for the Commission to focus on its political and institutional prerogatives as well as the lack of resources within the Commission that have the specific qualifications necessary for managing the programmes. Their operational tasks are simply executive and do not entail political choices.

3. to 7.

Executive agencies are the outcome of an externalisation policy of the Commission that was triggered mainly by two factors: the end of the collaboration with so-called Technical Assistance Offices (TAOs) which assisted the Commission in the management of Community programmes; and the need for the Commission to refocus on its institutional tasks such as policy-making and strategic management.

Against the backdrop of expanding Community programmes, and taking account of the suggestion of the European Parliament (Budget Committee), the Commission proposed the legal framework for delegating some of its management tasks to executive agencies.

The creation of executive agencies was seen as key for managing Community programmes both more *efficiently* and more *effectively* through a high degree of specialisation or the regrouping of similar programmes and activities within one agency so as to achieve economies of scale. Furthermore, executive agencies, in comparison with the Commission, can deliver these results at lower costs. This is mainly due to the number of contract staff executive agencies can employ and the duration of their contracts.

8. to 10.

All six executive agencies created so far will have become operational by the end of 2009.

The Commission has decided not to create any additional executive agencies unless there are new Commission competencies up to 2013, and instead to make use of the possibility to extend the mandate of existing agencies.

REPLY OF THE COMMISSION

12.

It is specified in Council Regulation (EC) No 58/2003 that the executive agencies are financed from the programme they contribute to implement (this was also the case for the TAOs).

Each programme has two components¹, an operational part and a part devoted to administrative and technical support. Both of them are part of the overall indicative envelope of the programme. The administrative part can finance, for instance, technical assistance or executive agencies. The administrative budget item for an executive agency is linked in the remarks to the corresponding operational budget line of the programme. The executive agency hires and manages its resources as a legal entity separate of the Commission. The Commission publishes full information on all administrative expenditure and accounts specifically for administrative expenditure financed outside Heading 5 of the multiannual financial framework in the annual statement of estimates².

The budget is approved by the budgetary authority based on full knowledge and information, all data are available, audited, controlled and published thereby guaranteeing full transparency.

13.

The Commission receives discharge for the implementation of the general budget, including the operational appropriations implemented by the agencies.

¹ Article 12(3) of Council Regulation (EC) No 58/2003 states that 'The executive agency's revenue shall include a subsidy entered in the general budget of the European Union, without prejudice to other revenue determined by the budgetary authority, drawn from the financial allocation to the Community programmes which the agency is involved in the management of'.

² See *Statement of estimates of the European Commission for the financial year 2010*, first part dedicated to expenditure analysis by multiannual financial framework headings, page 82 (of the EN version).

The director of each agency receives discharge for the implementation of its operating budget.

The executive agencies contribute to implement the programme under the direct supervision of the Commission in conformity with Council Regulation (EC) No 58/2003.

AUDIT OBSERVATIONS

21.

The rationale underpinning externalisation to executive agencies is to achieve efficiency and monetary gains, and improved performance in the implementation of the relevant Community programmes. The delegation of management tasks to executive agencies has reduced costs but more importantly, it has significantly improved the implementation of the programmes concerned.

In its 'Screening' report of April 2007, the Commission explicitly opted for an extension of the mandate of existing executive agencies to add new programmes in order to achieve synergies and economies of scale³. This was for example the case for the eco-innovation part of the competitiveness and innovation framework programme (see Box 1 for full details).

The Financial Regulation, amended for the last time in 2007, specifies other possible forms of delegation of executive tasks in Article 54.

³ SEC(2007) 530, Screening, point 2.1. : '...However, a limited number of programmes might be — subject to the results of cost-benefit analysis, the opinion of the Regulatory Committee for Executive Agencies and of the European Parliament — externalised to existing agencies (for instance, the Consumer programme to the Public Health Executive Agency and Progress, Tempus to EACEA).'

REPLY OF THE COMMISSION

Box 1

The CBA for the Marco Polo programme refers to insufficient human resources in the Commission but equally to cost-effectiveness and lists a number of qualitative advantages such as a higher flexibility in staffing, a better quality of project management or a more efficient project management cycle.

The creation of the PHEA was linked to the disappearance of the TAO (45 staff less to manage approximately the same number of projects and a rather comparable amount of budget). But there were other reasons. In particular, as explained in the communication of 2004 the main objectives in creating the PHEA were the refocusing of tasks on policy-making and strategic activities, as well as on valorisation of the outputs of the programme; dealing with a more ambitious 2003–08 'Health' programme, which provided a more global approach to health issues, hence needing specialised staff to manage it; and the possibility of recruiting in PHEA experienced and specialised financial and technical staff (which was both a Council and EP requirement when negotiating the programme) in a more flexible environment (adapting to evolving needs).

In the case of the competitiveness and innovation framework programme, the Commission after having assessed the need as well as the possibility to externalise management tasks, has come to the conclusion that it will continue with direct management of some parts of the CIP. The reason for this was that, according to Article 6 of the regulation, executive agencies can be entrusted with any task, with the exception of tasks requiring discretionary powers.

24.

The Commission has set up six executive agencies and has permanently enriched the analysis carried out with previous experiences. It is a learning process shared with the Regulatory Committee for Executive Agencies (RCEA) and the Budgetary Authority. It has always focused on quantitative aspects, since these were the aspects the European Parliament and Member States have insisted on the most. However, qualitative aspects were also looked at. Following the joint statement of 13 July 2007, the Commission provided, for subsequent creation and extensions of executive agencies, explanations on the benefits of delegating programme management tasks as compared to direct management by the Commission services.

25.

The Commission believes that the format used in the latest CBAs has now improved as far as relevant and measurable costs are concerned.

The costs of the additional staff needed at the Commission to supervise the agencies and at the agencies for horizontal functions were included in the CBA on the prolongation of the mandate of EACEA for the period 2009–15. These costs were also included in the subsequent CBAs for the extension to specific programmes (Tempus and Erasmus Mundus 2009–13).

REPLY OF THE COMMISSION

26.

The setting up of executive agencies has been a learning process. Whereas some delays have indeed occurred in the actual setting up of individual agencies, the overall conclusion remains positive, both in terms of better service delivery and in terms of cost savings. The transition costs were deemed to be not significant in relation to the overall cost savings achievable over the period of the agency's lifetime.

In the case of PHEA, the initial optimistic forecast for the start-up of the agency was mainly due to the fact that PHEA was among the first agencies created by the Commission and therefore no reliable experience on the transition deadlines were available.

27.

The average costs used in CBAs are differentiated by categories of personnel (officials, contract agents, seconded national experts). They are indeed not differentiated by grade. Applying average costs by categories of personnel is the methodology agreed with the Budget Authority for any document involving Commission human resources.

Given the impact of mobility, it is debatable that using actual costs by grade would have given a more reliable projection.

28.

The Commission acknowledges that initial CBAs and financial statements did not always provide all possible workload and productivity indicators before externalisation. Improvements have been made in the more recent CBAs, and the Commission will in the future continue to improve these elements of the CBAs.

As regards *ex post* evaluation Council Regulation (EC) No 58/2003 foresees evaluations every three years.

29.

The methodology used for cost-benefit analyses has been further developed over the years, based on experience gained with this exercise. The Commission believes that the CBAs have now improved as far as relevant and measurable costs are concerned.

30.

The cost-benefit analyses have informed the decision-making process, as foreseen in Article 3 of Council Regulation (EC) No 58/2003, and brought added value in order to form an opinion about different alternatives.

However CBAs are only one element in the process of deciding whether to establish executive agencies.

31.

The mix of personnel considered for an executive agency (25 % temporary agents and a maximum of 75 % external personnel) is different from the current mix of personnel in the Commission services. One of the major benefits of an executive agency is definitely the recruitment of specialised staff. This is a direct consequence of the staff selection process, which is more flexible and amenable to highly specialised profiles than that used by the Commission for officials.

REPLY OF THE COMMISSION

33.

The average costs used in CBAs are differentiated by categories of personnel (officials, contract agents, seconded national experts). They are indeed not differentiated by grade. Applying average costs by categories of personnel is the methodology agreed with the Budget Authority for any document involving Commission human resources.

Given the impact of mobility, it is debatable that using actual costs by grade would have given a more reliable projection.

34.

While initial CBAs did not take into account the additional costs of supervisory functions performed in the parent DGs, these additional costs have more recently been taken into account in the legislative financial statements related to the latest creations and extensions of executive agencies⁴.

37.

The Commission acknowledges that initial CBAs and financial statements did not always provide all possible workload and productivity indicators before externalisation. Improvements have been made in the more recent CBAs, and the Commission will in the future go deeper into the assessment of workload and productivity.

⁴ See for example: The supervisory functions executed by the parent DG have been included in the 'Interim evaluation of EACEA' (chapter on cost-benefit analysis). Their level of significance is low (a total of 4,5 FTE covering the three parents DGs of EACEA), against the total EACEA staffing of approximately 400 persons).

It is true that information on the allocation of staff is not available by programme but by policy area or title of the budget, in accordance with the applicable activity based budgeting (ABB) nomenclature, which imposes that all administrative appropriations be voted under Chapter 01 of each title of the budget. The Commission is of the opinion that this degree of detail already imposes enough constraints on the vote of the budget and its implementation. Furthermore, the Commission must underline that the split of workload between policy and implementation tasks is often difficult to assess in terms of human resources as the same personnel often carry out both functions for obvious reasons of specialisation and efficiency, especially under a constraint of stable human resources.

41.

The Commission welcomes this finding, which confirms the benefits of externalisation towards executive agencies.

46.

The Commission over the last few years has chosen to extend the scope of existing executive agencies in order to cover new or additional programmes to reap synergies in terms of expertise and reduced overhead costs.

47.

The Staff Regulations impose strict conditions on the Commission, which may employ contract agents (except for function group I) for a maximum duration of three years only. These restrictions do not apply to executive agencies.

REPLY OF THE COMMISSION

As a result thereof, a Commission 'in-house' solution for the implementation of programmes would have resulted in a high turnover of contract agents entailing a considerable loss of knowledge and lesser quality and performance.

48.

Delays in recruitment of contract agents are due to the creation of this category of staff as of 1 May 2004, precisely at the time when the first executive agency was created.

These delays were also encountered by Commission services. There is no particular additional delay from the perspective of executive agencies (other than those relating to inevitable delays when faced with massive recruitment at start-up phase).

49.

With regard to the duration of filling specific posts, the Commission would like to recall that there are only a few directors' posts and recruitment of senior managers is a delicate process.

50.

The attractiveness of temporary and contract posts in the executive agencies lies not only in the recruitment grades but also in the possibility of career development (i.e. obtaining a permanent contract and being upgraded).

Differences in the grade of recruitment of staff between Commission and agencies also reflect differences in the nature of their tasks.

51.

Executive agencies recruit employment agency staff (*intérimaires*) to face peaks in workload and to replace temporary or external personnel during a limited period (e.g. maternity leave). In past years, some agencies had to recruit more employment agency staff than planned, while awaiting the availability of lists of laureates.

52.

The tasks of an executive agency are defined in the decision of delegation. They are mostly 'multiannual' and recurrent. The tasks, which are elaborated in more detail in the annual work programmes, are all related to the multiannual programme management cycle.

54.

Bearing in mind the legal obligations set up by Regulation (EC) No 58/2003, a pragmatic approach has been implemented to reduce the time lag between the adoption of the Commission services' annual management plans and the executive agencies' annual work programmes. Now that the executive agencies have reached full operational capacity, it is expected that the adoption of the AWP will intervene much earlier in the year.

As regards the past, delays in the adoption of the AWP occurred mainly during the first years of the agencies, and were linked to their start-up phases or extensions.

REPLY OF THE COMMISSION

However, the lack of a formal adoption does not mean that there has been a lack of guidance and monitoring of agency performance, as the draft documents have been examined by the Steering Committee. Therefore, progress can be monitored and continuity is ensured.

For the EACI, the timing of the final adoption of the AWP in 2008 was due to special circumstances: the extension of the agency's activities following the transformation of the IEEA into the EACI. The first draft of the AWP is prepared within the EACI and presented to the Steering Committee during the third quarter of year $n - 1$, as was the case for the 2009 AWP, which was adopted in the first half of March 2009. For the EACEA, the 2006 AWP was endorsed by the Steering Committee of EACEA on 22 February 2006.

55.

The tasks and targets of the agencies' AWP, in fact, 'mirror' the Commission decision delegating the tasks to the agency. These are the actual 'executive' tasks of an executive agency, as mentioned in Article 6(2) of Council Regulation (EC) No 58/2003. These should be distinguished from the objectives, targets and indicators of the Community programmes.

The AMP guidelines for 2010 will be adapted accordingly in order to better reflect the different roles and to define a harmonised content for the two management instruments.

56.

The Commission is in the process of improving the executive agency indicators. A working group was established in autumn 2008 to reflect on how the consistency can be improved between the specific objectives and indicators of the programmes as defined in the annual management plan of the parent DG and the reporting by the agency on the results of its work in terms of expenditure-related outputs delivered by specific objective.

The Commission considers that the indicators should be selected on the basis of their relevance and pertinence to the work of the agencies and that they should remain stable over time, which pleads for a reduction in the overall number of indicators retained.

57.

The Commission considers that it is appropriate that indicators used are mostly related to the management activities.

Following the distribution of roles between the Commission services and the executive agencies, the monitoring and the evaluation of the programmes' effectiveness and efficiency remain the responsibility of the Commission services.

58.

The structure of the agencies' AAR corresponds to the standards and guidelines laid down by the Commission which are the 'standing instructions' also for the Parent DGs.

REPLY OF THE COMMISSION

59.

The Commission sees its supervision responsibility as a broader task which it fulfils with due diligence. The combination of regular formal meetings and the detailed reporting requirements allow the supervisory DGs to closely monitor the performance of the agencies. A revision of the number of indicators and the development of new indicators should allow the supervisory DGs to improve the performance measurement of the agencies.

60.

As stated under 59. the Commission is supervising the agencies through a variety of formal mechanisms, including formal reporting requirements pursuant to Article 9(7) of Council Regulation (EC) No 58/2003, and its day-to-day contacts with the agencies.

CONCLUSIONS AND RECOMMENDATIONS

61. to 62.

Executive agencies are the outcome of an externalisation policy of the Commission that was triggered mainly by two factors: the end of the collaboration with so-called Technical Assistance Offices (TAOs) which assisted the Commission in the management of Community programmes; and the need for the Commission to refocus on its institutional tasks such as policy-making and strategic management.

Against the backdrop of expanding Community programmes, and taking account of the suggestion of the European Parliament (Budget Committee), the Commission proposed the legal framework for delegating some of its management tasks to executive agencies.

The creation of executive agencies was seen as key for managing Community programmes both more *efficiently*, i.e. at lower costs by comparison to the Commission, and more *effectively* through a high degree of specialisation or the regrouping of similar programmes and activities within one agency so as to achieve economies of scale.

63.

The Commission has set up six executive agencies and has permanently enriched the analysis carried out with previous experiences. It has always focused on quantitative aspects, since these were the aspects the European Parliament and Member States have insisted on the most. However, qualitative aspects were also looked at as the CBAs have gradually become more comprehensive.

The Commission believes that the CBAs have now improved as far as relevant and measurable costs are concerned.

The cost-benefit analyses have informed the interinstitutional decision-making process, as foreseen in Council Regulation (EC) No 58/2003, Article 3), and brought added value in order to form an opinion about different alternatives.

Recommendation 1

The Commission continuously adjusts its overall approach to externalisation and its needs assessments. Possible future extensions of the existing executive agencies' lifespan or tasks will provide the Commission with an opportunity to assess these improvements in detail.

REPLY OF THE COMMISSION

The Commission decided not to create new agencies under the current financial framework and to only externalise a limited number of programmes to existing executive agencies, unless there are new competencies attributed to the Commission.

The Commission believes that the CBAs have continuously been improved and now include relevant and measurable costs. CBAs have always been taken into account in the interinstitutional decision-making process.

65.

The Commission welcomes this core finding of the report about the efficiency in terms of costs and delivery of the programme brought about by the executive agencies.

The recruitment process is governed by the Staff Regulation (e.g. transparency, publicity and equal treatment).

Recommendation 2

The Commission acknowledges that initial CBAs and financial statements did not always provide all possible workload and productivity indicators before externalisation. Improvements have been made in the more recent CBAs, and the Commission will in the future go deeper into the assessment of workload and productivity.

The success of the executive agencies lies on: their capacity to recruit extensively contractual agents (up to 75%) with contracts of much longer duration than in the Commission; to target their recruitment to specific skills; and to specialise on recurrent executive tasks. These advantages are inherent to the concept of the executive agencies and can therefore not be reproduced within the Commission. Firstly, the Commission has to maintain the overall current balance of staff which includes predominantly permanent officials and may only employ contractual agents for a maximum of three years. Secondly, in order for the Commission to focus on its strategic and policy tasks as an institution, it must hire a high number of generalists.

As regards recruitment of contract staff, the selection mechanism with EPSO has generally worked to the satisfaction of the agencies, and the proposed reform of the process in the EPSO development plan will shorten the delays even further. Isolated difficulties may be the case for specialised staff with an academic background which is not readily available on the lists.

For temporary staff recruited outside the Commission, procedures for recruitment may indeed be time-consuming, but this could be improved through stricter eligibility and selection criteria set by the agencies themselves.

REPLY OF THE COMMISSION

66.

The Commission sees its supervision responsibility as a broader task which it fulfils with due diligence. The combination of regular formal meetings and the detailed reporting requirements allow the supervisory DGs to closely monitor the performance of the agencies. A revision of the number of indicators and the development of new indicators should allow the supervisory DGs to improve the performance measurement of the agencies.

Recommendation 3

A pragmatic approach will be sought in order to speed up the adoption of the executive agencies' annual work programmes through earlier adoption of the DGs' financing decisions which contain the annual programmes of grants and procurements of the DG. This should allow more time for the executive agencies to elaborate their annual work programmes which are intrinsically linked with the DG's financing decisions.

Following the distribution of roles between the Commission services and the executive agencies, the indicators set up by and for the agencies should primarily concern the management activities (inputs, processes, outputs, performance) for which they are responsible.

Result or impact indicators of programmes are only to a very limited extent influenced by agencies. The monitoring and the evaluation of the programmes' effectiveness and efficiency remains a responsibility of the Commission. The parent DGs design the programmes, the agencies implement them.

The revision of the number of indicators and the development of new indicators should allow the supervisory DGs to improve the performance measurement of the agencies, and to improve the consistency between the specific objectives and indicators of the programmes and the reporting by the agency on the results of its work in terms of expenditure-related outputs delivered by specific objective.

European Court of Auditors

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EXECUTIVE AGENCIES ARE COMMUNITY BODIES ESTABLISHED BY THE EUROPEAN COMMISSION IN ORDER TO IMPLEMENT, BY DELEGATION, ALL OR PART OF EU SPENDING PROGRAMMES. THEY ARE A RELATIVELY NEW PHENOMENON IN THE EUROPEAN INSTITUTIONAL LANDSCAPE. THE AUDIT ASSESSED WHETHER THE SIX EXECUTIVE AGENCIES WHICH HAVE BEEN CREATED SINCE 2003 HAD PROVEN TO BE A SUCCESSFUL INSTRUMENT FOR IMPLEMENTING THE EUROPEAN BUDGET.

THE REPORT ANALYSES THE DECISION-MAKING PROCESS FOR CREATING THE AGENCIES AND THE BENEFITS ACHIEVED IN TERMS OF COST SAVINGS, SERVICE DELIVERY AND EFFICIENCY GAINS. THE COMMISSION'S SUPERVISION OF THE AGENCIES' ACTIVITIES IS ALSO EXAMINED.



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