

# The proposed European Labour Authority: Profile and Governance

## KEY FINDINGS

The European Labour Authority's (ELA) added value would lay in its ability to set up a platform for information provision (also to individuals and business) and exchange and to strengthen the cooperation between national authorities and structures, hereby replacing a myriad of bilateral agreements by one common EU action and a variety of institutional structures. The fact that the Commission and the Member States are involved in its institutional design (typifying ELA as an 'in-betweenner'), is essential for the achievement of these tasks.

With the creation of ELA, the Commission's proposal improves the complicated institutional setting in this field. Yet, the institutional setting remains complex. It is not clear in the proposal how tasks are precisely delineated between ELA and other committees. Moreover, it is not defined how the proposal links in a complementary way to existing and planned initiatives in the field, such as the EESSI, IMI and the Your Voice Europe portal and the single digital gateway proposed by the Commission.

From a general institutional law and agency perspective, this analysis hence reveals that the main challenge will be to deal with the institutional patchwork and to simplify the intricate institutional setting in the field of cross-border labour mobility and social security. The most important weakness of the proposal seems that it has not been able to come up with a clear-cut model for one coherent institutional structure. This holds particularly true for the relation between ELA and the Administrative Commission for the coordination of social security systems. In view of the history and the successful operation of the Administrative Commission in the past decades this can be understood. Yet, it is time to rethink the entire institutional landscape.

Moreover, another weakness relates to the lack of defining what precisely should be the role of the social partners, which social partners (only EU-level or also nationally-based partners) and for which tasks within the remit of ELA.

It may be asked whether more (overlapping) tasks from other committees (Advisory Committee on the free movement and the Advisory Committee for the coordination of social security) could or should be shifted to ELA. Whilst it is recognised that in view of the history and the importance of the Administrative Commission, the continued existence of the Administrative Commission (and not handing over tasks to ELA) seems logical and desirable, from the perspective of transparency, participation and accountability, this may be questioned. From a legal perspective it would be possible to put this task under the umbrella of ELA (with several organisational adaptations). Alternatively, one may consider the option to transform the Administrative Commission into an EU agency and grant it some of the tasks that are currently conferred upon ELA (one would need to consider whether also the management of the EURES coordination office could be transferred). Or, one could also consider to limit the mandate of ELA and restrict it to inspection and enforcement.



## Introduction

This briefing discusses the implications of the proposed Regulation for a European Labour Authority on the work of EURES, the European network of Employment Services and supporting services for mobility.

It forms part of a series of notes having been prepared in the context of a Workshop on the European Labour Authority held at the extra-ordinary meeting of the Employment and Social Affairs Committee on 24 May 2018. Other briefings cover the following topics:

- European Labour Authority and Enhanced Enforcement by J. Cremers
- European Labour Authority and Support for Labour Mobility (EURES) by V. Ludden/ A. Jeyarajah
- European Labour Authority and Social Security Coordination by St. Giubboni
- European Labour Authority, EU structures and tools by S. Kraatz
- European Labour Authority: Workshop Summary Report by S. Kraatz

## Agencification of EU executive Governance

With its proposal to create a European Labour Authority (ELA), the Commission strengthens the upsurge of EU agencies in the EU's institutional landscape. The resort to agencies has been considered attractive as they would be able to deal with complex technical and scientific issues by providing expertise, introduce more, and more flexible, administrative capacity and efficiency, facilitate, coordinate and strengthen cooperation between national authorities. Moreover agencies have been praised as a means to (re)gaining trust and credibility, to improving implementation, to carrying out supervision and to increasing networking and participation of more actors, such as stakeholders and citizens and to increase transparency and accountability. European agencies were in particular seen in the 2000s as an appropriate response to various crises and solution for problems of lack of trust in, and credibility of, the EU and its regulation. Yet, today also challenges to the agencification have been revealed, such as EU agencies' position in the constitutional framework, their legal basis and delegation of powers to them, their independence and accountability.<sup>1</sup> In terms of institutional design, finances and operational activities agencies have been intricately connected to their principals.

ELA's creation foremost responds to the needs of **increased cooperation and exchange of information between the national authorities** and the **provision of accurate** information to individuals and business. The fact that the Commission and the Member States are involved in its institutional design (typifying ELA as an 'in-betweenner'),<sup>2</sup> is helpful for the achievement of these tasks.

## Profile of the European Labour Authority

In comparison with other EU agencies, a few points can be mentioned. As to its **name**, ELA allies with the European Food Safety Authority and the three Supervisory Authorities in the financial sector. Herewith it does not follow the agreement made in the Common Approach to EU decentralised agencies that states that the standard term used for future agencies should be **agency** 'to avoid confusion among citizens and stakeholders.'<sup>3</sup>

According to a **functional typology**, EU decentralised agencies can be classified according to four main tasks conferred upon agencies: 1) expertise; 2) information and cooperation; 3) provision of services; 4) supervision, inspection and enforcement. Increasingly though these agencies carry out a plurality of

functions.<sup>4</sup> As to its **tasks**, ELA can be classified as a **mixed agency**, that foremost provides information and coordinates and supervises information and networks, but also, to a lesser extent, is concerned with inspection and enforcement. This means that Juncker's plan to set up ELA as a new European inspection and enforcement body, to make sure that 'all EU rules on labour mobility are enforced in a fair, simple and effective way'<sup>5</sup> has been watered down to some extent, whilst at the same time broadening considerably the scope and tasks of ELA. In this manner, ELA is similar to Eurojust, that is an agency with a strong operational profile, with an emphasis on facilitation and improvement of cooperation and coordination of (activities of) national authorities. Supervision is the key mandate of the three agencies EBA (European Banking Authority), EIOPA (European Insurance and Occupational Pensions Authority) and ESMA (European Securities and Markets Authority), see list of abbreviations in the end. On the other hand, inspection tasks are conferred upon EASA (European Aviation Safety Agency), EMA (European Medicines Agency) and EFCA (European Fisheries Control Agency). The **arrangements for supervision and inspection** follow the same pattern as the latter agencies, namely **largely depending on the collaborative attitude of national authorities**, but provisions are less specific as for example in relation to EFCA. Moreover, **ELA** will entirely depend on the collaboration of Member States and **does not have any power to intervene** as for example EBA can do in relation to the stability of financial markets. The description of ELA's tasks hence has become quite broad, which is not unusual for EU agencies. For some tasks that will be transferred from existing structures to ELA, the proposal seems to be too vague.

As to the **nature of the powers**, ELA is **on par with the majority of EU agencies that do not have binding legal powers**. As to the **clientele**, ELA addresses both Member States, like information providers EEA (European Environment Agency) and EMCDDA (European Monitoring Centre for Drugs and Drug Addiction) do and, quite uniquely, individuals and businesses, to provide information ('one-stop shop')<sup>6</sup> but not (yet?) to provide specific services, like EUIPO (European Union Intellectual Property Office), CVPO (Community Plant Variety Office) and EASA (European Aviation Safety Agency).

## Governance

ELA can be welcomed in this **policy field** which is **characterised by a myriad of bodies** that have been created and added onto existing structures over the years. Yet, the analysis makes clear that whilst **ELA** improves the institutional structure, **it does not eliminate completely the institutional complexity** in this policy field. ELA's added value would lay in its ability to set up a platform for information provision (also to individuals and business) and exchange and to strengthen the cooperation between national authorities and structures, hereby replacing a myriad of bilateral agreements by one common EU action<sup>7</sup> and a variety of institutional structures. Through the strong links with the national authorities by means of inter alia the secondment of **national liaison officers**, **ELA could develop into a *primes inter pares* as a mediator and dispute settlement** amongst national authorities and into a strong **network agency** supporting cross-border mobility. The analysis made takes account of the Common Approach and a comparative agency perspective.

## Administrative and management structure of ELA

As to the institutional structure, ELA commonly has a management board with representatives of Member States and the Commission, like most agencies have, but does not have a **smaller-sized executive board**, as the Common Approach suggests where this would enhance efficiency. As to its connection to stakeholders, ELA takes a **unique** position by including a **stakeholder group** into its formal legal structure laid down in the founding regulation, instead of including stakeholders in its management board (Eurofound, ETF and EU-OSHA) or creating a stakeholder group by itself (EASA; EFSA) or setting up a group by the founding regulation, that is not part of the agency itself (EBA, EIOPA, ESMA).

According to the proposal, ELA's administrative and management structure will be composed of: a Management Board, an Executive Director and a Stakeholder Group.

## Management Board

The Common Approach states that the Management Board of an EU agency should be composed of one representative from each Member State; two representatives from the Commission, where appropriate, one member designated by the European Parliament and where appropriate, a fairly limited number of stakeholders' representatives. In the Commission's proposal (Article 18), the composition of ELA's Management Board is limited to the representatives from the Member States (one senior representative per country with an alternate) and two representatives from the Commission.

**Role of European Parliament:** The Common Approach stipulates that **where appropriate the European Parliament should designate one member of the management board of an agency.**<sup>8</sup> As indicated above, ELA's proposed Management Board is composed of representatives from Member States and the Commission. The above mentioned agencies do not have a designated person appointed by the European Parliament either. The European Parliament has been divided in its wish to designate a representative on the Management Board; with some viewing that this would clash with the Parliaments supervisory role and others considering this a good idea for purposes of information provision and feedback, especially also in view of the large sizes of management boards and in cases of shared competences.<sup>9</sup> The Common Approach has included explicitly the possibility for the Parliament to designate a representative. Yet, following the examples of Eurojust (the European Union Judicial's Cooperation Unit) and EBA, it does not seem necessary to include in the Management Board a designate member by the European Parliament. Moreover, in view of the supervisory role the Parliament has towards the ELA, it also does not seem appropriate.

**Role of Social partners:** For the ELA, the key question is how the social partners will be involved in its institutional structure. The Commission's proposal does **not** foresee membership of the stakeholders **on ELA's Management Board**. Instead it proposes to create a **Stakeholder Group** in order to facilitate consultation with relevant stakeholders and to benefit from their expertise in areas covered by this Regulation (see below). Herewith the Commission has not followed the example of the three other EU agencies that operate in the field of labour law and policy, Eurofound, EU-OSHA and Cedefop that have in common a tripartite structure, having representatives of governments, employers' organisation and trade unions as members of their governing or management boards. Research reveals that stakeholder representation in management boards often serves agencies' reputational concerns, whilst in some cases it also serves a need for information in terms of stakeholder feedback.<sup>10</sup> For these reasons it may be considered to also **include the social partners in its Board** (see also below: **Stakeholder Group** which may be a good alternative).

## Executive Director

**Appointment procedure:** The appointment procedure of the executive director is hidden in chapter V of the proposal that is about staff. It would be advisable to move the appointment procedure laid down in Article 32 and put it right after Article 23, as the founding regulations of other EU agencies do. It is recommended that a **specific period** is mentioned **for the evaluation** of the performance of the director before expiry of his or her mandate. The purpose of paragraph 6 of Article 32 is not clear and could be left out.

**Role of Parliament in appointment procedure:** The Common Approach is silent on the role of the Parliament in the appointment of the agency director. It merely states that in general it is the Management Board that appoints the director on the basis of a shortlist drawn up by the Commission following an open and transparent selection procedure that guarantees a rigorous evaluation of candidates and a high level of independence.<sup>11</sup> In the Commission's proposal, the director is appointed by the Management Board. The

Parliament has no say in the appointment of the Director. The **founding regulations of a few EU agencies however give the European Parliament a greater say** in the appointment procedure. The ETF regulation for example stipulates that before being appointed, the candidate selected by the governing board shall be invited to make a statement before the competent committee(s) of the European Parliament and answer questions put by its/their members.<sup>12</sup> In relation to EBA, EIOPA and ESMA, the European Parliament has also a role to play and the executive director may only be appointed by the Board of Supervisors, after confirmation by the European Parliament.<sup>13</sup> For the Fundamental Rights Agency, the founding regulation prescribes even a cooperation procedure and stipulates that applicants will address both the Council and European Parliament and answer questions. The Management Board that will appoint the director will take preferences of the Council and Parliament into account.<sup>14</sup>

It is suggested to amend the proposed text and **insert a role for the European Parliament in the appointment procedure of the director.**

### Stakeholder Group

**Formal part of ELA:** Instead of having the social partners on its Management Board, the Commission proposes to create a separate Stakeholder Group within the ELA. This Group may submit opinions and advices to the ELA on issues related to the application and enforcement of Union law in the areas covered by the Regulation (Art. 24 of the proposal).<sup>15</sup> The Common Approach states that agencies' relations with stakeholders should be coherent with their mandate, the institutional division of tasks in international relations, EU policies and priorities of Commission's actions. Agencies should exercise their functions in coordination with the different actors charged with the definition and implementation of a given policy. When relevant stakeholders are not represented in management boards, they should be involved in agencies' internal bodies and/or advisory groups/working groups, if appropriate.<sup>16</sup>

The choice for the creation of a separate stakeholder group may affect the tripartite structure, which is typical of this field. On the other hand, it indicates openness and a strong commitment towards the social parties and may allow for a broader input in the work of ELA than only in the Management Board.

The **inclusion of a separate stakeholder group** that according to the founding regulation makes part of the formal institutional structure of an EU agency **is unique**. Even the founding regulations of the three European supervisory authorities, the EBA, the EIOPA and the ESMA that have created a stakeholder group, do not formally include this group in the organizational structure of these agencies. In the practice of these three authorities, the stakeholder groups are very closely linked to these agencies. Other EU agencies connect with stakeholders for example, through membership of the management board (EMA, Eurofound, ETF) and/or a (scientific) committee within the agency (EMA), the creation of a separate advisory stakeholder forum (EFSA); or group by the agency itself (as required by the founding regulation; EASA) or the putting into place by the agency of an accreditation system of stakeholders who may *inter alia* join meetings of various bodies of the agency as observers (ECHA).

It is suggested to **include the social partners in the Management Board** or to keep the Stakeholder group, (or having both) and **to change the Stakeholder Group in terms of membership, size, meetings, chair and rules of procedure** in the following way:

**Membership of the European Commission:** Whether or not keeping the Stakeholder Group as a formal organ of ELA, it is not appropriate that in addition to six representatives of EU level social partners equally representing trade unions and employer's organisations that also the Commission will have two representatives on this Group, as the proposal suggests. Whilst this may be due to the particular nature of this field, it is noted that no other form of stakeholder group or forum in relation agencies has representatives of the Commission on board. The stakeholder groups of EBA, EIOPA and ESMA are indeed only composed of stakeholders and do not include representatives of the Commission. Likewise, other

groups established are only composed of stakeholders (EASA; EFSA). Therefore, the **Stakeholder Group should not include two representatives of the Commission**.

**Size of the Stakeholder Group:** ELA's Stakeholder Group is only a bland copy of the stakeholder groups of the above-mentioned supervisory agencies in the financial sector. It is composed of six representatives of Union-level social partners. To compare: the stakeholder groups of the supervisory agencies are composed of 30 members, representing in balanced proportions credit and investment institutions operating in the Union, their employees' representatives as well as consumers, users of banking services and representatives of SMEs. At least five of its members shall be independent top-ranking academics. Ten of its members shall represent financial institutions, three of whom shall represent cooperative and savings banks.<sup>17</sup> Even the Governing Board of EU-OSHA involves more stakeholders, viz: one representative of the employer's organisations from each Member State and one representative of trade unions from each Member State.<sup>18</sup> It is not clear how the proposal arrives at six representatives. This should be explained. **It could be considered to increase the number of stakeholders**, and for example to also include representatives of **civil society organisations**.

**Meetings:** The proposal states that the Stakeholder Group shall meet at least twice a year on the initiative of the Executive Director of at the request of the European Commission.<sup>19</sup> This can be explained from the formal inclusion of the Group into the ELA. Yet, this would not explain why the Commission would be able to request the Stakeholder Group to convene. This possibility should in any case be deleted. The stakeholder groups of the EBA, EIOPA and ESMA **all leave it to the groups themselves to meet on their own initiative**, at least four times per year. ELA's Stakeholder Group should also be able to decide to meet on its own initiative, with a minimum number of times included in the founding regulation.

**Chair:** The founding regulations of EBA, EIOPA and ESMA are silent on who will chair the meetings of the stakeholder groups. **In practice these groups select their own chair** who is also a stakeholder. This is quite common also in relation to other stakeholder committees and fora. The Commission's proposal states that the executive Director will chair the Group.<sup>20</sup> This should be changed and the Group should be able to select its own chair who will be a stakeholder.

**Rules of procedure:** Likewise, it is very common for stakeholder groups to **adopt their own rules of procedure** (EBA, EIOPA, ESMA). Alternatively, e.g. for groups set up by an agency, this could be done in consultation with the Executive Director of the Agency (EASA).

### Working groups or expert panels

The Commission's proposal states that the ELA may set up working groups or expert panels, including a **Mediation Board** and a dedicated group for financial matters.<sup>21</sup> Yet, in the provisions on mediation, the proposal already talks about 'its Mediation Board', hence already presuming its existence.<sup>22</sup> This should be avoided and deleted. In view of the importance of mediation and the sensitive character of it, it is suggested to insert a general provision that will guide the creation of a specific mediation board or panel. An example can be found in the founding regulations of the European supervisory authorities.<sup>23</sup>

### Independence

The Common Approach mentions the adoption of rules on preventing and managing conflicts of interests in relation to the members of management boards, directors, scientific experts working on scientific committees of agencies and members of boards of appeal. Founding regulations of EU agencies generally have provisions on the independence of members of management boards, the director, and members of other internal organs of the agencies.<sup>24</sup> Whilst paragraph 22 of its recital states that without prejudice to the powers of the Commission, the Management Board and the Executive Director should be independent in

the performance of their duties and act in the public interest, the proposal does not make mention in its provisions of the requirement of independence. It is merely stated that the Management Board shall adopt rules for the prevention and management of conflicts of interest in respect of its members, as well as the members of the Stakeholder Group.<sup>25</sup> It is therefore suggested to insert **provisions on independence and conflicts of interests for members of the Management Board, the director and other organs.**

### Cooperation with third countries

The Commission's proposal determines rules on the cooperation with third countries.<sup>26</sup> Yet, founding regulations of other EU agencies, such as the one of Eurojust, set rules about the cooperation with third countries and organisations.<sup>27</sup> It is suggested to **add international organisations** to the rules on cooperation with third countries.

### Cooperation with other existing structures

#### Replacement and cooperation

In the history of EU agencies, it is very common that EU agencies replace existing committees and/or other structures. ELA will operate in a setting of existing structures and tools. Importantly, the Commission's proposal states that ELA will replace six structures, viz:

- the Technical Committee on the Free Movement of Workers;
- the Committee of Experts on Posting of Workers;
- the Technical Commission of the Administrative Commission for the Coordination of Social Security Systems;
- the Audit Board of the Administrative Commission for the Coordination of Social Security Systems;
- the Conciliation Board of the Administrative Commission for the Coordination of Social Security Systems; and
- the European Platform on tackling undeclared work.<sup>28</sup>

Moreover it will take over the management of the EURES European Coordination Office now carried out by the Commission. In this manner, the proposal states, the ELA will pool tasks existing within the above-mentioned structures into a permanent structure.

#### Transferral of tasks of existing bodies to ELA

The proposal is silent on how and which tasks will be taken over from the six bodies that will be replaced by ELA. It is not clear **whether, which and how the tasks of these bodies will be taken over by ELA.** The description of tasks of ELA should be more elaborate in the proposal and mention (part of) the tasks that will be taken over by ELA. To some extent this can be inferred from the amendments proposed by the proposal. The analysis of these bodies is done from a governance perspective.

When analysing the tasks that are carried out by the three sub-organs that will be replaced by ELA and the amendments proposed in Articles 46-50 of the proposal, we observe that technical tasks relating to data processing and audit will be taken out of the Administrative Commission and transferred to ELA. Also the

task of conciliation, formerly a task of the Conciliation Board of the Administrative Commission is transferred to ELA. More 'regulatory' tasks as to the interpretation of Reg. 883/2004 remain with the Administrative Commission. **ELA will support the Administrative Commission in a variety of matters**, such as, financial matters (Article 46 proposal); decisions on annual averages costs laid down in Reg. 987/2009 (Art. 47 proposal) and technical matters (Art. 46 proposal).

In addition, the proposal says that it will enhance the digitalisation of procedures and be complementary to existing and planned initiatives in the field, such as the EESSI, IMI and the Your Voice Europe portal and the single digital gateway proposed by the Commission. **It fails however to address how this is done precisely.**

### Simplification?

With the creation of ELA, the intricate institutional landscape of this field will be simplified; a few bodies will be replaced and discontinued. Yet, the institutional setting **remains still quite complex**. Various committees will continue to exist:

- the Administrative Commission for the Coordination of Social Security Systems;
- the Advisory Committee for the Coordination of Social Security Systems;
- the Advisory Committee on the Free Movement of Workers.

Also the four agencies in this field continue to exist: ETF, Eurofound, Cedefop, EU-OSHA.

The proposal is **silent on the Senior Labour Inspectors' Committee, so it is assumed that this committee too continues to exist**. It is not clear what the links between ELA and this Committee are.

It is not clear how ELA will collaborate with the various commissions and committees that continue to exist. Overall, it seems **difficult to precisely delineate between the tasks** assigned to ELA and the committees that continue to exist. It should therefore be asked whether more simplification can be introduced.

The proposal wants the Administrative Commission to continue to give interpretation on the provisions of Reg. 883/2004 and will be concerned with the more 'regulatory' functions in relation to financial matters and decisions on data processing. The picture that emerges is one of ELA taking over some more technical functions of the Administrative Commission and being purely operational whilst leaving the Administrative Commission with the more regulatory decisions to take. And, although it is clear that the Administrative Commission may not take binding decisions,<sup>29</sup> in practice the decisions of this Commission are of great importance, and have a soft law character. In view of the fact that ELA will replace three sub-organs of the Administrative Commission, as set forth above, in practice this means that **ELA will support the Administrative Commission**.

The Administrative Commission itself is quite a peculiar creature that has been established by the EU legislature and is 'attached to the European Commission'. Its rules state even that it is a 'specialised body of the European Commission'.<sup>30</sup> The Administrative Commission has at its disposal, a secretary general and a deputy secretary general, that reflects the importance of its role.<sup>31</sup> It plays 'an extremely important role in the practical implementation of the social security regulations'.<sup>32</sup> In view of its genesis and the sensitivity of social security issues the decision to leave a, for the practice extremely important and successful structure untouched is quite understandable. Yet, from a more institutional and agency perspective in relation to issues as transparency, participation and accountability, the Administrative Commission can be questioned. The question therefore arise whether the tasks of the Administrative Commission could not be carried out by ELA. From a legal perspective it seems that there would be no barriers to delegate **these powers to ELA**,



**and transforming ELA into an overarching body** on all issues touching upon labour mobility and social security; or alternatively, even more audaciously, **turning the Administrative Commission into an umbrella EU agency** and grant it tasks that now granted to ELA. Or, should ELA just be given **a very narrow profile and deal only with labour inspection and enforcement**, as originally foreseen by Juncker?

The tasks of ELA and the Advisory Committee for the coordination of social security systems overlap to some extent. **The tasks of this Committee could also be absorbed into ELA.** In view of the composition of this organ, one representative per Member State, and one representative of the trade unions and one of the employers organisations from each Member State, a collaboration could be envisaged with the revised Stakeholder Group as suggested above.

The tasks of ELA and the Advisory Committee on the free movement of workers overlap, the latter assisting the Commission in the examination of any questions concerning the free movement of workers and their employment. ELA will participate in the meetings of this Committee as observer and provide technical input and expertise as relevant (Art. 48 proposal). Also here, **it is unclear why this Committee would continue to exist as it seems that the broad task mentioned will be carried out by ELA too.**

The proposal states that ELA will be complementary and ensure consistency with the activities of the four EU agencies, Eurofound, Cedefop, ETF and EU-OSHA. These agencies have a different profile and mandate and do not have overlapping tasks with ELA.

## Recommendations

The above makes clear that the institutional setting of this policy field needs to be further simplified. This requires the consideration of all institutional structures involved. More specifically the following recommendations can be made:

- The name 'Authority' is not in line with the Common Approach and it could be considered to change it into 'Agency';
- The specific role of the Parliament in the Management Board is not necessary and would possibly conflict with its supervisory role;
- The role of the European Parliament in the appointment (dismissal) procedure of the director could be reflected on. It is suggested to amend the proposal and insert a role for the European Parliament;
- The role and position of the social partners could be considered. It is suggested to either include the social partner in the Management Board or to revise the Stakeholder Group (or both). The role of the Commission in this Group is not clear and could be deleted;
- It is suggested to insert a general provision in the proposal that will guide the creation of a specific mediation board or panel;
- Provisions on independence and conflicts of interests for members of the Management Board, the director and other organs could be inserted in the provisions of the proposal;
- It is suggested to add 'international organisations' to the rules on cooperation with third countries;
- It is suggested to clarify the link with existing and planned initiatives on digitalisation of procedures in the field, such as the EESSI, IMI and the Your Voice Europe portal and the Single Digital Gateway proposed by the Commission;

- The proposal is silent on the Senior Labour Inspectors' Committee. It could be clarified what its links with ELA are;
- More generally, it is recommended to reconsider in how far more institutional simplification and perhaps innovation can be introduced into this policy area;
- This could mean that clear demarcation lines are drawn between ELA and the various existing institutional structures;
- Or, more significantly, to discontinue existing structures and to transfer their powers to ELA, that would then obtain an even broader profile and become an overarching umbrella agency;
- Or vice versa, to consider whether existing structures, such as the Administrative Commission could be transformed into an umbrella EU agency;
- Or, will ELA need to have rather a more narrowly profile and be limited to inspection and enforcement?

## Abbreviations

CPVO	Community Plant Variety Office
Cedefop	European Centre for the Development of Vocational Training
EU-OSHA	European Agency for Safety and Health at Work
EASA	European Aviation Safety Agency
EBA	European Banking Authority
EFCA	European Fisheries Control Agency
ECHA	European Chemicals Agency
EEA	European Environment Agency
EFSA	European Food Safety Authority
EMA	European Medicines Agency
EMCDDA	European Monitoring Centre for Drugs and Drug Addiction
EIOPA	European Insurance and Occupational Pensions Authority
ESMA	European Securities and Markets Authority
ELA	European Labour Authority (proposed)
ETF	European Training Foundation
EUIPO	European Union Intellectual Property Office
EUROFOUND	European Foundation for the Improvement of Living and Working Conditions
EUROJUST	The European Union's Judicial Cooperation Unit
FRA	European Union Agency for Fundamental Rights
FRONTEX	European Border and Coast Guard Agency

- <sup>1</sup> E. Vos, (2018). *EU agencies on the move: challenges ahead*. (1 ed.) (SIEPS; No. 2018:1). Stockholm: SIEPS.
- <sup>2</sup> Idem.
- <sup>3</sup> Common Approach, para 1.
- <sup>4</sup> E. Vos, 'European Agencies and the Composite EU executive', in: M. Everson, C. Monda and E. Vos, *EU agencies inbetween the institutions and Member States*, Kluwer law International 2014, pp. 20-22.
- <sup>5</sup> President JEAN-CLAUDE JUNCKER'S State of the Union Address 2017, [http://europa.eu/rapid/press-release\\_SPEECH-17-3165\\_en.htm](http://europa.eu/rapid/press-release_SPEECH-17-3165_en.htm).
- <sup>6</sup> See note 1.
- <sup>7</sup> S. Fernandes, What is our ambition for the European Labour Authority?, Sciences-Po, policy paper no.219, 8 March 2018.
- <sup>8</sup> Common Approach, para. 10.
- <sup>9</sup> F. Jacobs, 'EU Agencies and the European Parliament', in M. Everson, C. Monda and E. Vos, *EU agencies inbetween the institutions and Member States*, Kluwer law International 2014, pp. 221-222.
- <sup>10</sup> M. Busuioc, *Law and Practice of Accountability*, OUP, 2013; S. Arras & C. Braun (2017): Stakeholders wanted! Why and how European Union agencies involve non-state stakeholders, *Journal of European Public Policy*, DOI:10.1080/13501763.2017.1307438.
- <sup>11</sup> Common Approach, para 16.
- <sup>12</sup> Article 10 of Regulation 1339/2008 (recast). In case of extension of the term of office, the director may be invited before the European Parliament.
- <sup>13</sup> On the basis of merit, skills, knowledge of financial institutions and markets, and experience relevant to financial supervision and regulation and managerial experience, following an open selection procedure. Art. 51(2) of Reg. 1093/2010, as lastly amended by Dir. 2015/2366.
- <sup>14</sup> Article 15 of Reg. 168/2007.
- <sup>15</sup> Article 24 of the proposal.
- <sup>16</sup> Common Approach, para. 65; and para 10.
- <sup>17</sup> Article 37 of EBA regulation.
- <sup>18</sup> Article 8, EU-Osha regulation.
- <sup>19</sup> Article 24 (3) of the proposal.
- <sup>20</sup> Article 24 (3) of the proposal.
- <sup>21</sup> Article 17 (2) of the proposal.
- <sup>22</sup> Article 13 (2) of the proposal.
- <sup>23</sup> Article 41 EBA regulation.
- <sup>24</sup> See for example Article 52 of the EBA regulation in relation to the director: 'Without prejudice to the respective roles of the Management Board and the Board of Supervisors in relation to the tasks of the Executive Director, the Executive Director shall neither seek nor take instructions from the Union institutions or bodies, from any government of a Member State or from any other public or private body. Neither Member States, the Union institutions or bodies, nor any other public or private body shall seek to influence the Executive Director in the performance of his tasks. In accordance with the Staff Regulations referred to in Article 68, the Executive Director shall, after leaving service, continue to be bound by the duty to behave with integrity and discretion as regards the acceptance of certain appointments or benefits'. Similar provisions are provided for the chairperson and members of the supervisory board (Article 42).
- <sup>25</sup> Article 19 of the proposal.
- <sup>26</sup> Article 43 of the proposal.
- <sup>27</sup> Article 26a of Eurojust Decision.
- <sup>28</sup> P. 9 of the proposal.

<sup>29</sup> Romano case, Case 98/80.

<sup>30</sup> Fuchs and Cornelisen, EU Social Security Law, Beck, hart, Nomos, 2015, p. 426.

<sup>31</sup> Idem, p. 427.

<sup>32</sup> Fuchs and Cornelisen, EU Social Security Law, Beck, hart, Nomos, 2015, p. 425.

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Responsible administrator: Susanne KRAATZ; Editorial assistant: Janetta Cujkova

Contact: [Poldep-Economy-Science@ep.europa.eu](mailto:Poldep-Economy-Science@ep.europa.eu)

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