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BUILDING JOINT CAPACITY: THE ROLE OF EUROPEAN UNION AGENCIES IN THE MANAGEMENT OF TRANS- BOUNDARY CRISES

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Building joint capacity: The role of European Union agencies in the management of trans-boundary crises

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Abstract: This paper focuses on the growing role of European Union (EU) agencies in the management of trans-boundary crises. It makes this development explicit, demonstrating that the emergence of multiple agencies with specific crisis preparation or response tasks has transformed the EU's crisis management arrangements and structures. By relying on both the literature on crisis management and EU agencies, the paper discusses the advantages and disadvantages of the existing (and evolving) multi-agency model, comparing it with a more centralized, single-agency model. It reflects on the role of EU agencies within the expanding contours of the EU's emerging crisis capacity and the most appropriate way forward for effective and legitimate crisis management at the EU level, thus contributing to both the debate on the EU's role in crisis management and the delegation of tasks to specialized EU agencies.

Key words: centralization, crisis management, delegation, European Union, specialized agencies.

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Introduction: what role for the EU?

Not so long ago, academics wrote in alarmed tones about the increased vulnerability of modern society, but their calls fell on deaf ears. Their argument was a solid if complex one: that the ongoing integration of infrastructures, social systems and countries not only drives economic progress, but also opens the door to hitherto-unknown emergencies and disasters (Perrow 1999; 2011; Turner & Pidgeon 1997; Smith & Elliott 2006). Advances in technology, population growth, and changes in the environment have also created new types of disasters – and this combination of increased vulnerability and evolving threats spells trouble. However, despite the alarm raised in academic circles, not much happened at the national level, let alone at the international level.

All this has changed dramatically in recent years. Events such as the terrorist attacks in New York, Bali, Madrid, and London, the Asian tsunami and Hurricane Katrina disasters, SARS and Avian flu, the global financial turmoil and the Fukushima nuclear disaster in Japan made the world feel smaller than ever before. They exposed the inability of governments to respond to impending threats in an effective and convincing way. Even rich countries appeared weak and unprotected when faced with these events.

What made these crises particularly hard to manage was their capacity to cross geographical and functional or policy borders. These are ‘trans-boundary crises’, which pose an urgent threat to the multiple life-sustaining systems that span borders and connect states, and which can morph and jump both geographical and functional boundaries (Boin *et al.* 2005a). They are occurring increasingly frequently and they

can have a devastating impact, undermining societal security, especially so in the European Union (EU) (Ansell *et al.* 2010).

The member states of the EU, which has progressively lifted its internal border controls and has seen a rapid increase in the movement of people, capital, products and services on its territory, are becoming vulnerable to trans-boundary disturbances. The BSE crisis in 1996 and the Dioxin scandal in 1999 led to widespread food scares and seriously disrupted the Internal Market; the running aground of the *Erika* tanker in 1999 and the sinking of the *Prestige* tanker in 2002 had a devastating environmental, social and economic impact on the Spanish and French coasts; the severe floods in Central and Eastern Europe in 2002, and the forest fires in Southern Europe in 2003 resulted in high economic and social costs for urban as well as rural areas (special issue of *Journal of European Integration* 2006). More recently, the Volcanic Ash crisis left hundreds of thousands of passengers stranded and reportedly cost the airline industry well over 1 billion Euro in lost revenue;¹ the e-coli/EHEC food contamination exposed the vulnerability of national and EU food regulatory systems; and as we write, the EU is struggling to contain the effects of the financial crisis and its challenges to the survival of its single currency and to the EU political project more broadly.

National response structures have repeatedly proven insufficient or inappropriate for the management of these trans-boundary emergencies (Grönvall 2001; Olsson 2005; Boin & Rhinard 2008). It is no surprise, then, that the management of trans-boundary crises has climbed the European Union's political agenda. With each event, member states invested additional authority in the Union's budding emergency management apparatus. Ambitious policy statements, strategy papers, action plans and legislation packages saw the light of day; existing institutional structures were transformed and new instruments and mechanisms were devised, albeit fragmentary in nature (Olsson & Per Larsson 2009; Boin *et al.* forthcoming).

This paper focuses on one of these gradual yet transformative institutional developments: the growing role of European Union agencies in the management of trans-boundary crises. It makes this development explicit, demonstrating that the

emergence of multiple agencies with specific crisis preparation or response tasks has transformed the EU's crisis management arrangements and structures.² By relying on both the literature on crisis management and EU agencies, the paper discusses the advantages and disadvantages of the existing (and evolving) multi-agency model, comparing it with a more centralized, single-agency model. It reflects on the role of EU agencies within the expanding contours of the EU's emerging crisis capacity and the most appropriate way forward for effective and legitimate crisis management at the EU level, thus contributing to both the debate on the EU's role in crisis management and the delegation of tasks to specialized EU agencies.

Trans-boundary crisis management and the centralization reflex

Managing crises across (European) borders

The defining characteristic of a trans-boundary emergency is its potential to jump geographical borders and policy boundaries. These crises easily snowball into a disaster of international proportions, affecting multiple industries and critical infrastructures (Ansell *et al.* 2010). A small incident can race through the tightly connected systems that define modern society, gaining momentum and changing shape as it goes. Such emergencies can take many forms; they are impossible to predict, hard to detect, difficult to stop and costly to recover from (Perrow 1999; special issue *Journal of Contingencies and Crisis Management* 2007).

Scholars predict these types of emergencies to gain prominence in the near future. They point to modern society's ever-increasing complexity and the close links between the various life-sustaining systems, all of which provide minor glitches with plenty of potential to develop into full-blown emergencies. They also point to the rise of catastrophic trans-boundary threats to societal security such as fundamentalist terrorism, climate change and bio-engineering, with governing authorities in a race against time to deal with them (Posner 2004; Clarke 2005).

It is not clear how these trans-boundary emergencies are best managed. Some do not believe that such events can be managed (Perrow 2011). This school of thought tends to suggest rather extreme measures, ranging from huge investments to strengthen society's resilience to a full retreat from modernization. Others advocate an array of administrative and technological tools designed to prevent, detect and manage emergencies. Such technological tools typically include modern communications and information systems, custom-built crisis centers and an abundance of hardware, while the administrative tool of choice is usually some form of centralized command and control structure.

Scholars do agree that national governments will not be able to manage these trans-boundary emergencies by themselves and will need to collaborate, quickly and effectively, to stop an escalating crisis in its tracks. Research has shown time and time again that public authorities find it hard to manage crises (Rosenthal *et al.* 1989; Rosenthal *et al.* 2001; Boin *et al.* 2005b). Crisis management in a multilateral setting is even harder.

Consider the example of the European Union. In the EU, different actors must cooperate across multiple levels of government, from the local to the national and the European level and back (e.g. Kohler-Koch & Eising 1999; Hooghe & Marks 2001). These levels are not organized in a hierarchical fashion but rather are characterized by complex interdependencies; governance in the EU often involves multi-level networks and cross-national coalitions of actors, both public and private. Such conditions militate against the maxims of effective crisis management, including speed, decisiveness, centralization of critical decision-making, and unity of command.

At the same time, we can observe a variety of institutional arrangements in the EU aimed at the management of different crises. In the wake of BSE, Dioxin, and other food crises, the EU rearranged its regulatory structures to trace and prepare for future food risks and threats (Lezaun & Groenleer 2006). In order to coordinate assistance from member states, the EU in 2001 adopted the Civil Protection Mechanism (Ekengren *et al.* 2006). This mechanism is supported by the Monitoring and Information Centre (MIC) set up within the Commission to monitor impending crisis situations on a 24/7 basis. In 2005, the EU Crisis Coordination Arrangements

(CCA) were established to ensure a swift and coordinated response in the event of a multi-sectoral crisis affecting multiple member states. The CCA can be triggered by the rotating EU Presidency in the event of a crisis that would require an exceptional response at the EU level such as a pandemic or a terrorist threat. What is more, the Lisbon Treaty (Article 222) now contains the solidarity clause, which calls upon member states to act jointly and assist each other in the event of a terrorist attack, natural or man-made disaster. The new provision has potentially significant implications as it makes solidarity ‘compulsory’, transforming it into a legal requirement, although its exact implementation remains uncertain (Myrdal & Rhinard 2010).

It is not clear, however, to what extent these capacities will allow the EU institutions to play a leading role should a large-scale crisis emerge; in this respect, the response to the Volcanic Ash crisis and the looming breakdown of the Eurozone do not bode well. The current state of play in European crisis management has long been characterized by bureaucratic fragmentation, inter-institutional strife, and inherited cross-pillar divisions (Boin *et al.* 2005a). The pillar structure – now abolished – tended to isolate certain capacities within particular policy domains. The Council and the Commission created their own structures and mechanisms, creating potential for duplication and overlap. Capacities are scattered across European institutions and within bureaucracies, and are administered on different legal bases.

Towards enhanced EU crisis management: A single EU agency for the management of trans-boundary crises?

A slow, incoherent crisis response marred by poor preparation and weak leadership usually prompts calls for centrally consolidated command and control structures, or at least centrally organized coordination of tasks (’t Hart, Rosenthal & Kouzmin 1993). In the wake of the ‘9/11’ attacks, many Western governments upgraded their response systems, typically strengthening the political and administrative center in the name of rapid, coordinated decision-making. The EU also tends to broaden its tasks and responsibilities – however stealthily – after a major crisis on the continent (Boin &

Rhinard 2008). In the face of a recent spate of crises, we may therefore expect more coordination tasks and possibly even decision powers to be delegated to the EU level.

One of the ways in which the EU currently tends to bring together and enhance administrative powers – especially in the face of some persistent problem – is the creation of a specialized agency. The ‘agencification’ trend is visible within the EU since the 1990s. In order to restore legitimacy in the face of policy fiascos and to enhance performance (increased efficiency, capacity, expertise), the EU already set up more than thirty independent agencies. These agencies deal with a variety of issues that the member states want to see addressed at the supranational level (Majone 1997; Kreher 1997; Kelemen 2002; Groenleer 2009; Busuioc 2010).

Agencies have proliferated in most Western countries since the 1980s (e.g. Pollitt *et al.* 2004; James 2003; Van Thiel 2001). The creation of new agencies formed part of the administrative reforms that swept these countries from the early 1980s onwards (Pollitt and Bouckaert 2004). Under the banner of New Public Management (NPM), a large number of countries delegated public tasks in a great variety of policy domains to semi-autonomous public organizations headed by appointed bureaucrats that are not directly accountable to voters or elected politicians (Majone 1996; Thatcher & Stone Sweet 2002).

A wide variety of motives for agency creation has been put forward (Pollitt *et al.* 2004; James 2003; Van Thiel 2001). Tasks are delegated to agencies in order to lessen political interference, achieve higher efficiency, put public services closer to citizens, enhance scientific or technical expertise, improve flexibility, facilitate partnerships with other public or private bodies, or to demonstrate credible commitment. Agencies are also set up for more political reasons: to pay off political allies, create a power base for some group or faction, hive off unpopular activities or complex tasks, avoid political responsibility, or to manipulate civil service numbers.

There have been several calls to create a crisis agency within the EU (see below). Compelling functional arguments *in favor of* creating a single EU agency that could take responsibility for responding to trans-boundary emergencies include:

- one agency means one point of contact, a ‘one-stop shop’ for member states, third states, and non-state actors, providing clarity for all involved and visibility for the EU also vis-à-vis its citizens;
- bringing all operational capacities together in one agency reduces the administrative complexity of the response network, making coordination easier;
- channeling information before, after and especially during emergencies to one point may help to create a “common operational picture”;
- having one agency simplifies and thus clarifies legal and financial responsibilities;
- bringing resources together enhances the speed and efficiency of the response;
- eliminating bureaucratic overlaps reduces costs;
- having all the information in one place facilitates the post-emergency evaluation and learning process.
- increasing transparency by providing a less opaque alternative to the complex and fragmented structures that currently characterize EU decision-making on safety and security related issues.

Moreover, as with the establishment of most European agencies (Kelemen 2002), both the Council and the Commission could gain politically from the creation of such an agency. It would give the Council (and thus the EU’s member states) the opportunity to enhance EU capacities without ceding more authority to the Commission. By ensuring that the agency’s governing board is made up of their representatives, member states believe they can retain control over new supranational capacities.

The Commission could also benefit. An agency would enhance (albeit indirectly) the Commission’s executive powers. At present, most of the EU’s emergency management capacities are scattered among the Commission’s disparate bureaucratic departments. Even when these can be marshaled during a crisis, the Commission largely depends on the willingness of member states to act rapidly and in accordance with its intentions. Creating an agency, endowed with independent capacities and means yet under the Commission’s responsibility, would foster a Union approach to emergency management – something the Commission is actively pursuing.

Nevertheless, the member states and the Commission have so far been reluctant to delegate generic crisis management tasks to an EU agency. At the Laeken European Council in December 2001, plans for a so-called European Civil Protection Agency were put forward by the Belgian Presidency.³ These plans were not taken up by the Council as member states wanted to await the experiences with the Civil Protection Mechanism (CPM) entering into force on 1 January 2002.

In May 2006, in the wake of the Asian tsunami, the Barnier report called for a European civil protection force to improve the EU's ability to deal with humanitarian crises across the world. Resources would be pooled in an operations center, but as the report said, "There would be no centralisation of resources in Brussels".⁴ The proposal was closely linked to the creation of the position of EU foreign minister and the development of the EU's external action service and thus became part of lengthy negotiations.

The Greek forest fires in 2007, which triggered a call for help from the Greek authorities under the CPM, prompted the European Commission to consider the setting up of a "standing intervention force" for different types of crisis. But, as a Commission spokeswoman stressed, "we are not talking about a European force based in Brussels, here in the European Commission, about ready to be launched when the crisis happens. We're not talking about that."⁵

Not quite satisfied with the Mechanism or the coordination by the Commission, Southern European countries in 2008 proposed the creation of a European Emergency Management Agency in order to improve the speed of joint actions, for instance during forest fires or floods. These proposals were successfully countered by Northern European countries such as the Netherlands, the UK and Germany, reluctant to permanently detach their emergency responders to a EU body. 'We are not going to sit and wait in a center for a disaster', the Dutch Minister of Internal Affairs stated.⁶

Most recently, after the earthquake in Haiti, floods in Pakistan and wild fires in Russia, France proposed a "real EU reaction force", drawing on the resources of the member states, to handle natural disasters.⁷ In October 2010 the Commission published its proposal to reinforce Europe's crisis response capacity. Rather than creating an agency, the Commission proposed the establishment of "a European Emergency Response Capacity in the form of a pool of pre-identified civil protection assets from the states participating in the Civil Protection Mechanism that are voluntarily made available for EU disaster relief operations both inside and outside the Union".⁸

It seems safe to assume that a single EU crisis management agency will not see the light any time soon. This does not mean, however, that the EU will not have crisis management agencies. In fact, the EU already has a quite a few agencies with crisis management tasks. Together, we show in the next section, they form a potent crisis management network.

Sectoral EU agencies: an emerging crisis management patchwork

Despite member state resistance to a crisis management agency, the EU is slowly but surely enhancing its crisis management capacities. We are witnessing a build up of joint crisis capacity in a piecemeal fashion through the creation of European Union agencies that operate in specific policy areas. These agencies are often set up in reaction to major crises and are tasked with a role (though not exclusively so) in the prevention of and response to future crises. Let us now take a look at the most prominent agencies with a role in EU crisis management.

European Medicines Agency (EMA)

The European Medicines Agency (EMA) was set up in 1995 and is located in London. It is responsible for the scientific evaluation of applications for marketing authorizations for pharmaceuticals, assessing the quality, safety and efficacy of pharmaceutical products. The agency is one of the larger European agencies, with a staff of over 500 employees. It draws on the expertise of over 4,500 experts across the EU and relies on the resources of national medicines authorities of the member states.

While EMA was not specifically set up to manage a crisis, it does play a role in the management of health crises and more specifically, pandemic influenza crises. The formal declaration of a pandemic triggers the EMA Pandemic Influenza Crisis Plan.⁹ Organizational arrangements and procedures are laid out with regard to the role of the various actors, the set up of a task force and several crisis teams etc. Detailed

procedures are in place for an accelerated assessment of influenza vaccines and antivirals. One of these procedures is the fast-track approval system, which allows for the approval of vaccines in a 70-day procedure, as opposed to the 210 days of the regular procedure.¹⁰ For instance, in the recent H1N1 pandemic, EMA approved three mock-up pandemic vaccines, which have been given to millions of Europeans, as well as issuing guidelines on the administration of these vaccines and on priority vaccination groups (De Ruijter 2010).

European Food Safety Authority (EFSA)

The European Food Safety Authority (EFSA) was established in 2002; its history is inextricably bound up with the repeated outbreaks of mad cow disease (BSE). The BSE crisis in 1996 spurred the reform of the EU's food safety policy. In the midst of the reform, the EU was struck by another food control emergency, this time over the contamination of chicken with carcinogenic dioxin. In 2000, the Prodi Commission put forward a proposal for an independent European food agency. In the past, a lack of capacity on the EU level had hindered the delivery of rapid and effective advice to EU decision-makers. While the Commission and the member states remain responsible for the (political) management of risks, the agency has therefore been given the task of (scientifically) assessing and communicating (emerging) risks, bringing together experts from the member states and making use of its in-house expertise to undertake preparatory work.

The agency plays a significant role in the management of food crises. EFSA has drawn up a general plan for crisis management which is activated when a situation arises which presents a risk to consumers, animal or plant health which cannot be controlled by the existing regular mechanisms. It has also established a procedure for preparing, at short notice, statements in response to urgent requests for scientific advice. In 2010, the agency for instance issued advice on two issues regarding the possible risks for public health associated to the presence of a plant protection product in imported grapes and the possibility that the volcanic ash from Iceland could have health consequences for human beings and animals.¹¹ During food crises, EFSA participates in a crisis unit that provides the Commission with scientific and technical

assistance and keeps the public informed of the measures taken. The agency thus also plays an important role in restoring and maintaining consumer confidence in food safety.

European Centre of Disease Prevention and Control (ECDC)

The European Centre for Disease Prevention and Control (ECDC) was created in 2005 and is seated in Stockholm. Before its creation, the Commission had already been managing a communicable diseases network. To control communicable diseases more effectively and to prevent their rapid spread, it was felt that the system would have to be strengthened. The need for reinforcement of the system was underscored by the speed with which the severe acute respiratory syndrome (SARS) emerged in 2002 and spread from southern China to Canada, Europe and Asia in just a couple of weeks, as well as the outbreaks of highly pathogenic avian influenza (H5N1) since late 2003 throughout the world.

The ECDC works closely together with national experts, pooling the knowledge on health protection in the EU, providing scientific and technical assistance and supporting training programs in the EU member states. In cooperation with health protection experts in the member states, the Centre identifies, assesses and communicates current and emerging threats to the health of EU citizens. Based on its threat assessment, it informs the Commission and the member states about findings that require their immediate attention. The ECDC also operates the Early Warning and Response System (EWRS), the communication system where member states routinely report communicable disease threats as well as the primary network used by member states for the exchange of information and the communication of measures during an influenza pandemic.

The Commission and the member states remain responsible for taking effective action during an emergency. However, ECDC does also possess operational capacities and powers. ECDC is endowed with an Emergency Operations Centre (EOC), which is activated in response to emergencies as well as for simulation exercises. In response to health threats, it can for instance, deploy outbreak assistance

teams with very specific expertise on epidemiology, public health, and infection control.¹² The agency also has a role in the harmonization and co-ordination of preparedness plans, capacity building and interoperability of preparedness plans through trainings and workshops.

European Maritime Safety Agency (EMSA)

The European Maritime Safety Agency (EMSA), based in Lisbon was established in 2002 after the *Erika* tanker ran aground in December 1999 and caused the pollution of large parts of the French coast. Its creation was part of the so-called Erika packages, two sets of legislative proposals and measures adopted by the European Commission in 2000 (Groenleer *et al.* 2010). Before EMSA became operational, another disaster occurred. In 2002, the *Prestige* tanker – a single hull tanker – sank off the Spanish coast, spilling tons of oil into the sea. The oil spill caused major damage to the environment and had a disastrous effect on fishing along the Atlantic coast. The *Prestige* disaster underscored the importance of the establishment of EMSA to ensure maritime safety and prevent the pollution from ships. The Commission reacted with a proposal to bring the establishment of the agency forward and to provide it with additional tasks.

EMSA would initially play a limited role in the management of maritime safety and the pollution from ships. Its activities were supposed to contribute to the prevention of pollution from ships. However, as a result of new EU-legislation adopted in the wake of the *Prestige* disaster, EMSA's mandate was broadened before it had even started its operations and EMSA was delegated the so-called pollution response task. When pollution from a ship occurs, EMSA has to assist the member states, making available additional resources, such as clean-up equipment and vessels. Member states remain responsible for the immediate response to a disaster. EMSA only becomes involved on the request and under the authority of a member state.

European Police Office (Europol)

The European Police Office (Europol) was created in 1995 and is located in the Hague. The creation of the agency was directly linked to the disappearance of border controls between member states and the rise in trans-boundary crime as a result of the collapse of the Berlin Wall (Den Boer & Walker 1993), raising political awareness of the need for closer European police co-operation. The agency is mandated to improve the co-operation of the competent authorities in the member states in preventing and combating international crime and its core task is to facilitate the exchange of information between the member states. High profile events or incidents have resulted in increases in Europol's mandate, expanding the types of crime Europol can handle as well as the types of actions it can undertake (Occhipinti 2003). Thus, Europol's mandate now includes crimes such as Euro counterfeiting, terrorism, and money laundering, and the body has also acquired semi-operational powers such as the right to request national police forces to take up an investigation and to participate in joint operations with national authorities.

Europol also has a role in crisis prevention and response. Since 2005 Europol compiles the European Organised Crime Threat Assessment (OCTA) reports, which provide predictive assessments of future threats and risks as a basis for future strategy and (operational priority) setting. Europol is also to play a central role in the prevention and response to terrorism threats (albeit with competition from other Council structures)¹³ (Groenleer 2009; Busuioc *et al.* 2011). Furthermore, one of its principal new tasks is to provide member states with intelligence and analytical support conducting threat assessments for major international public events such as the Olympic Games (De Moor & Vermeulen 2010). More recently, it is gaining a central role in the context of the EU's internal security policy in terms of its implementation but also the identification of threats, guiding political priority-setting and the EU policy-making cycle on serious and organized crime (European Parliament 2011).

European Agency for the Management of Operational Cooperation at the External Border (Frontex)

Frontex, the European Agency for the Management of Operational Co-operation at the External Border, was set up in 2004 and is located in Warsaw. The agency was proposed in reaction to the sharp increase in irregular immigration at the EU's southern maritime borders (Rijpma forthcoming) and the recent stream of North African migrants has led to a boost in its powers. Frontex is the quintessential crisis agency as every time the agency is deployed a level of crisis is ongoing with migration flows beyond the coping capacity of the respective state.

The agency is mandated with coordinating the operational response of member states in the field of border security, carrying out analyses so as to identify and assess threats at the external border, the training of national border guards, coordinating joint operations and the management of pooled resources in the form of Rapid Border Intervention Teams of national border guards (RABITs). Emergency teams of national border guards are part of a stand-by, on-call 'Rapid Pool'. The RABIT mechanism draws on a pool of as many as 700 EU-wide personnel, as well as technical equipment ranging from aircraft to mobile radar units.¹⁴ The agency can buy or lease its own equipment, thus decreasing its dependence on member states. Unprecedented, while deployed in the territory of a member state, RABIT team members (i.e. border guards from other member states) have the capacity to perform all tasks and exercise all powers for border checks, can actually carry guns, ammunition and are even authorized to use force on the host state's territory, albeit under specific circumstances. The first RABIT operation took place at the Greek-Turkish border from October 2010-March 2011.

European Network and Information Security Agency (ENISA)

The European Network and Information Security Agency (ENISA), based on Crete, was created in 2004 to enhance the capability of the EU and its member states to

prevent and respond to network and information security problems. Communication networks and information systems are not only critical for the operation of physical infrastructures; they have also become infrastructures critical to economic and societal development themselves. In view of the possible consequences of accidents, errors, breaches and attacks, the security of these networks and systems has therefore become more and more important.

ENISA has only limited competences to achieve its objectives. The agency describes itself as a ‘center of expertise’, advising the Commission and the member states on information security, collecting data on security incidents and emerging risks in Europe, promoting the development of risk assessment and management methods to increase the capacity to deal with security threats, and stimulating cooperation between stakeholders. As such, the agency, while acclaimed for its expertise, has not played a central role in the EU’s crisis management activities in the area of information security until now. However, the growing perception of Europe’s increased vulnerability to large-scale cyber-attacks has rendered it a priority issue in the context of the EU’s internal security. Consequently, a stronger role is being envisaged for ENISA in this respect cooperating closely with Europol, where a new cybercrime center is likely to be located (House of Lords 2011).

European financial authorities

Most recently, three agencies were set up in direct reaction to the financial crisis: a European Banking Authority (EBA), based in London, a European Securities and Markets Authority (ESMA), based in Paris, and a European Insurance and Occupational Pensions Authority (EIOPA), based in Frankfurt.¹⁵ They started their work on 1 January 2011 and will have a strong role to play in financial regulation and supervision, protecting the financial interests of European consumers. Their powers are wide-ranging and they will effectively become the most powerful European agencies to date.

What is even more interesting however, is that in an emergency situation, as declared by the Council, these bodies can take action, banning certain types of financial activities as well as, and this is unprecedented among European agencies, adopt decisions addressed to national competent authorities requiring them to take

specific action to safeguard the functioning and integrity of the financial markets and the stability of the European financial system. Furthermore, the three bodies will also participate actively in the development and coordination of emergency procedures, preventive measures to minimize the systemic impact of any failure, and recovery plans. The new agencies are also meant to measure and assess systemic risk, identify the financial institutions that pose such risk and subject them to enhanced supervision.

Building up capacity through multiple EU agencies?

The overview above indicates an incremental yet considerable build up of joint capacity through the creation of European agencies performing a wide range of crisis tasks: risk analysis and threat assessment on the basis of information and data gathered by the member states and the agencies themselves, coordination of operational efforts, training of national officials, operational assistance in preparing and responding to emergencies upon the request of member states. What is more, their powers are on the rise, as evidenced by the increasing role and capacity, culminating with the establishment of the new bodies in the financial sector.

These specialized, expert-based bodies do not operate in isolation. They are part of complex inter-linkages and interact with the Council, the Commission, its various DGs, specific Commission and Council crisis management structures as well as the member states and their authorities in their crisis management roles. There is increasing co-operation among EU agencies, in overlapping areas, across sectors as well. In the area of public health emergencies, for instance, multiple agencies have a role in providing advice or collating information, including ECDC, EMA, EFSA and (in case of bio-terrorism) Europol.

The single-agency model reconsidered

We argue that the agencies described above are the building blocks of an emerging European crisis management network. The question is whether this networked

structure, with competences for crisis management dispersed over a variety of EU agencies, is preferable to the “single agency” option. Let us first consider the arguments *against* a central agency.

No regular performance opportunities

It would be difficult for a body exclusively specialized in emergency management to “add value” in the absence of regular performance opportunities (crises, fortunately, remain rare events). The lack of activity would take a heavy toll on a starting organization. Without a track record, and confronted by many enemies, any new agency is politically vulnerable. In the absence of crises, a crisis agency cannot demonstrate its ‘added value’ to those who have to make use of its products, and, even more important, who have to provide it with inputs in the first place. Without concrete, and preferably, measurable results, politicians are not very eager to provide budgets. This, in turn, makes it harder to deliver results.

Single-mindedness

It is often assumed that bringing all information into one agency will help bring about a unified and shared point of view. This is, indeed, quite likely. It is also often thought that such a shared view aids the timely discovery of emerging threats. This may be true, as long as the shared view is the correct one. However, this is not always the case and one point of view may be the wrong point of view. One, also in crisis situations, usually arrives at an accurate assessment of the situation through careful deliberation and considering multiple perspectives (Boin *et al.* 2005b). Avoiding possible duplication and overlap among several agencies by centralizing tasks in a single agency may be efficient, but it rarely makes the newly created organization perform its tasks more effectively.

A certain level of redundancy increases the degree of reliability of information (Landau 1969; Bendor 1985; Heimann 1997). Politicians therefore tend to prefer multiple, competing agencies providing them with information. In this light, the co-

existence of multiple agencies at the EU level and at multiple levels (national and EU) may be considered a positive development.

Political infighting and bureaucratic jealousy

Centralizing tasks in a single agency is not a *tabula rasa* exercise. It requires taking away experts and resources from other, pre-existing institutions. This will give rise to political infighting and bureaucratic jealousy, which may well paralyze the young agency and weaken its central position. During a crisis, such an agency can then easily become the common enemy or scapegoat.

Sectorally specialized Commission DGs or EU agencies may find it difficult to swallow that a comprehensive emergency management agency carries out tasks in their established areas of expertise (as occurred more generally in the case of EFSA's establishment). The experts left in the Commission or other agencies will not necessarily accept their changed role, no longer being responsible in times of crisis. Similarly, in the case of member states, a supranational agency that deals with emerging threats, and to which the member states cede some level of sovereignty, will likely run into problems with the member states and their traditions, routines, organizations, laws and political preferences.

In case of the member states infighting and jealousy will be particularly strong because crisis management concerns highly salient tasks the execution of which may well have significant political consequences at the national level. When member states do not feel involved in the agency's activities and if they do not see the value it adds to their own work, they are likely to obstruct its effective functioning by withholding critical information or the necessary resources to run operations. This for instance became clear in the early years of Europol, when national enforcement authorities, perceiving the agency as a competitor, refused to provide it with the information it needed to perform its tasks (Groenleer 2009; Busuioc *et al.* 2011)

Member state controls

The agency that would emerge out of negotiations would very likely be rather weak, compromising its ability for effective crisis response and to demonstrate added value. EU agencies are created as a result of inter-institutional politics and political compromise (Kelemen 2002; Groenleer 2009). Whereas initial plans are generally very ambitious, EU agencies' management responsibilities are usually watered down to ensure the EU institutions and member states remain in the driving seat.

Take for instance again, the example of Europol: whereas original political intentions were along the lines of a "European FBI", the body that emerged out of the negotiations was initially closer to a "clearing house for information" than to a regular police force (Groenleer 2009; Busuioc *et al.* 201). This would likely be even more pronounced in the case of an agency focused exclusively on crisis management given member state reluctance to cede sovereignty in this area, as also illustrated by the EU's experience with the Civil Protection Mechanism, where member states resisted a much-needed reform of its inadequacies, exposed by the EU's failure to deliver prompt and effective relief after the Asian tsunami due to strong sovereignty concerns (Von Ondarza & Parkes 2010).

An agency would simply not be granted a broader mandate or new tasks without also expanding the potential means to control it. Such controls come at the expense of the flexibility of the agency's operation and functioning, one of the reasons (in the case of a crisis management agency, one of the most important ones) to delegate tasks in the first place. The agency's political principals thereby undermine the effectiveness of delegation (Moe 1987).

Lack of power

Perhaps the most important argument against one central crisis agency is that in the EU setting there can never be a full centralization of crisis management tasks. Power is shared not only between national and local authorities, who remain principally responsible for the management of crisis and disaster impacts, but also between

European and national institutions. Member state authorities will never accept, not even (or perhaps particularly not) during an emergency, an EU body calling the shots.

Moreover, it is not clear what the added value of such a “super agency” would be. Crisis and disaster management operations are best built from the bottom up: higher levels of organization *support* (rather than supplant) local response organizations, which, after all, know the situation best (Boin *et al.* 2005b). A single EU agency would not only lack the required resources to operate a centralized emergency management system, it would also lack the necessary knowledge to do so (Eberlein & Grande 2005). The question then becomes: in what types of situations is the direct assistance of one central agency required or even helpful?

Challenges for a “multiple agencies” or “networked agency” model

It would appear from the previous section that a model in which competences for crisis management are dispersed over a variety of EU agencies, along the lines of the model *de facto* in place, is more suitable in case of the EU than a single crisis agency. The networked agency model comes with its own set of challenges, however.

Disjointed information and overloads

In hindsight, every disaster looks preventable. If only all relevant information had been received on time, the signals of the impending crisis would have been heard and remedial action could have been taken. This line of reasoning builds on the common misunderstanding that impending threats ‘transmit’ early warning signals, if only we could hear them. The normal solution is to organize a system for listening, interpreting and acting. However, threats often emerge in unsuspected, and often inconceivable, ‘creeping’ ways. Most emergencies are fundamentally ‘unknowable’ – we do not know what the next ‘big one’ will look like, when it will strike and how we can recognize it before it occurs.

This being said, the smooth, prompt, coordinated exchange of information from the various sources to crisis decision-makers, although not a guarantee, can play a significant role in the early identification of a crisis and in successful crisis response. The difficulties of sharing information are compounded by the complexity of the EU system, its multi-levelness, the variety of national and EU structures, actors, and agencies, however. There are multiple early-warning and communication systems and parallel communication channels (few experts can name or identify all of them). This can easily result in confusing and contradictory signals and sudden information overloads, which can paralyze the crisis response and become a risk in and of themselves.

Fragmentation through specialization

In an EU of 27 members, differences in member state capacity and the lack of interoperability of practices and plans can undermine a rapid and coherent European crisis response.¹⁶ Agencies at the EU level can have a positive impact in this respect by improving convergence and harmonization of member states' institutional capacities, and as discussed above, some of them have (undertaken) a specific role in this direction.

Previous research (Groenleer 2009) however, shows that even among the national authorities brought together in networks by EU agencies, there continues to be huge variety in traditions, cultures, systems and contexts, which causes problems with regard to coordination by EU agencies, rather than such coordination being the solution. What is more, the challenges in this regard faced by agencies such as EFSA and Europol often bring to light problems with cooperation among the many involved actors at the national level that are not easily overcome. Indeed, while interlinks are built among the various agencies as well as with the Council and/or the Commission, specialization through multiple, sector-specific EU agencies working through increasingly complex networks of organizations may exacerbate institutional fragmentation. A specific focus may come at the expense of a more overarching approach towards crises and emergencies, which takes into account all types of hazard and is arguably more suitable to trans-boundary crisis.

Member state dependence

One of the key weaknesses of the existing capacity in EU agencies is that it is often dependent on the capacities of the member states and their willingness to employ them. Agencies, as a result, have limited room for manoeuvre. Consider EFSA and the ECDC: they can assess and communicate risks and threats, but they cannot manage them. During a crisis, decisions can only be taken by incorporating the competent national authorities (for instance through secondment of experts or establishing a network of liaison officers or experts) – much like how the Civil Protection Mechanism works, as ‘network of networks’. In this light, the new authorities in the financial sector are quite exceptional in their ability to direct national authorities’ actions.

An additional difficulty is that the EU cannot compel national authorities to implement EU-wide measures, unless national authorities have delegated the authority to do so to the EU. And even when decision-making authority has been delegated to the EU level, the EU often experiences problems in enforcing compliance with its measures (e.g. Peters 1997; Börzel 2001; Dimitrakopoulos and Richardson 2001; Falkner *et al.* 2005).

Accountability in times of crisis

Appropriate accountability arrangements are essential as in times of acute crisis the space for executive action and discretion is broadened and the normal procedural and institutional safeguards are “relaxed” (Busuioc 2010). The issues that are being decided upon and the measures undertaken can have serious repercussions ranging from infringement of individual rights (e.g. through counter measures restricting the movement of people, quarantine, selective immunization etc.) to a population’s health and safety, and are thus not merely technocratic but highly political.

Designing appropriate and effective mechanisms of accountability is difficult however, given the fragmented nature of EU’s crisis management structure and the

multiplicity of supranational, national and sub-national actors involved. The outcome of the decision-making process comes from the interaction of multiple actors at different levels, so there is a dispersion of responsibility, which renders accountability problematic, i.e. the so-called problem of many hands (Bovens *et al.* 2010). What is more, the introduction of (often rigid) accountability arrangements can come at the expense of flexibility and an effective response (Busuioc *et al.* 2011).

Conclusion: building crisis management capacity at the EU level

What can we expect from the EU when an infectious disease breaks out across the continent or when terrorists strike in multiple European capitals? These are so-called low chance, high impact events. Member states may feel forced to ask for assistance (invoking the Solidarity Clause) when national authorities prove unable to cope with the unfolding disaster. The question, then, is: what can the EU do and how can it best achieve that? What type of institutional model would be appropriate?

The EU was never intended nor designed to deal with acute emergencies at home (trans-boundary or otherwise). Its capacity to actually ‘manage’ emergencies remains limited. The situation is slowly changing, however. In a relatively short time, the EU has developed considerable capacity to deal with these trans-boundary emergencies (Boin *et al.* forthcoming). In this paper, we have shown that much of that capacity is found in the growing patchwork of EU agencies.

Specialized EU agencies yield increasingly relevant powers ranging from managing shared information systems, conducting 24/7 surveillance and threat assessments, to the possibility to deploy emergency teams at the request of a host state or even to direct national authorities. Agencies have the potential to play a crucial role in the enhancement of co-ordination and coherence of EU and member state crisis management. This potential can be found in their capacity to pool and assess complex information from a multiplicity of sources and feeding back coherent, expert advice; through their role in harmonizing national practices and building inter-operability through workshops and training programs; and more recently, even in their powers to

intervene and compel national bodies to implement and live up to EU-wide measures and standards (e.g. in the financial sector).

Future disasters may well lead to added institutional impetus and the investing of further resources and authority in new bodies, including EU agencies, further beefing up the existing emergency management system, as part of the EU's growing role in ensuring societal security. In fact, strong indications of this can already be observed. The Lisbon Treaty was adopted after several long years of negotiations and compromise, yet heavy political discussions soon ensued for the set up of a permanent crisis resolution mechanism for the Eurozone.¹⁷ Moreover, there is a proposal for the setting up of a new European Emergency Response Centre, a 24-hour-a-day emergency-monitoring center with access to classified information on EU foreign policy and the authority to call in military assets from EU countries.¹⁸

In this paper, we considered whether the crisis management tasks of EU agencies should perhaps be concentrated in one "super agency". If expectations rise, such an agency may well be in the cards. This agency could begin by concentrating on coherence. It could enhance joint capacity through standard setting, building interoperability, and developing training programs and shared information bases, without falling into the traps of misplaced centralization. Moving beyond preparedness, the EU might be expected to coordinate responses to crises originating both from within and outside the Union. A European-wide crisis response would benefit from a central platform provided by the EU, possibly in the form of a single agency. However, careful deliberation will be required to give this body authority beyond coordinating an EU-wide pooling of available resources. A single agency must have clear 'added value' if it is to assume responsibility for certain emergency management tasks, which goes well beyond the networked capacity that can be found in today's agencies.

To be sure, a lot still needs to happen if the EU is to become an effective and legitimate emergency manager at the supranational level, its institutional characteristics restricting the possibilities for change. But the groundwork has been laid and growing institutional impetus is paving the way for the further build up of 'EU' crisis management capacity, both decentralized and more centrally at the EU level.

Notes

¹ *European Voice*, EU starts to count cost of volcanic ash, 22 April 2010, available at <http://www.europeanvoice.com/article/imported/eu-starts-to-count-cost-of-volcanic-ash/67773.aspx>, consulted on 22 April 2010.

² The empirical data for this paper were gathered through document analysis (websites, constituent documents, news reports etc.) and semi-structured interviewing (of, amongst others, agency staff, European Commission officials, and national experts) in the course of previous research on EU crisis management and EU agencies conducted by the authors (see notably Groenleer 2009; Busuioc 2010; Boin *et al.* forthcoming).

³ Council of the European Union, Presidency Conclusions, Laeken, 14-15 December 2001, p. 5.

⁴ *For a European Civil Protection Force: Europe Aid*, Report by Michel Barnier, May 2006, p. 13.

⁵ *EUobserver*, Greek fires prompt plans for permanent EU emergency forces, 27 August 2007.

⁶ *De Volkskrant*, Geen Europese rampenbestrijdingsdienst, 7 July 2008, available at http://www.volkskrant.nl/buitenland/article1040627.ece/Geen_Europese_rampenbestrijdingsdienst, consulted on 7 July 2008.

⁷ *EUobserver*, France proposes EU reaction force for natural disasters, 16 August 2008; *Euractiv*, Commission heeds Sarkozy's request for EU crisis response force, 17 August 2010, available at <http://www.euractiv.com/en/foreign-affairs/commission-heeds-sarkozy-s-request-eu-crisis-response-force-news-96888>, consulted on 17 August 2010.

⁸ European Commission, *Communication from the Commission to the European Parliament and the Council, Towards a stronger European disaster response: the role of civil protection and humanitarian assistance*, COM(2010) 600 final, Brussels, 26.10.2010.

⁹ EMEA Pandemic Influenza Crisis Management Plan for the Evaluation and Maintenance of Pandemic Influenza Vaccines and Antivirals, London, 21 August 2006, Doc. Ref. EMEA/214301/ 2006.

¹⁰ See <http://www.ema.europa.eu/htms/human/pandemicinfluenza/vaccines.htm>.

¹¹ See Technical Report of EFSA, Annual report on EFSA's food and feed safety crisis preparedness and response 2010, available at <http://www.efsa.europa.eu/en/supporting/doc/168e.pdf>, consulted 29 July 2011.

¹² See <http://www.ecdc.europa.eu/en/activities/response>.

¹³ Most notably from the Joint Information Situation Centre, which is now part of the European External Action Service (EEAS).

¹⁴ See http://www.frontex.europa.eu/origin_and_tasks/tasks.

¹⁵ We do not discuss the European Central Bank, even though it has substantial crisis management tasks, the ECB is explicitly mentioned in the EU treaties as an EU institution, on a par with the European Council, the European Parliament, the Commission, the Council (of the EU), the Court of Auditors and the Court of Justice. It thus holds a different institutional position than EU agencies.

¹⁶ European Security Research & Innovation Forum, Final Report, December 2009.

¹⁷ *BBC*, EU divided over plan for Lisbon Treaty change, 27 October 2010, available at <http://www.bbc.co.uk/news/world-europe-11634169>, consulted on 14 November 2010.

¹⁸ *EUobserver*, Commissioner envisages robust crisis centre, 2 November 2010, available at <http://euobserver.com/9/31179>, consulted on 2 November 2010.

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