

BALANCING EXPERTISE AND LEGITIMACY: THE EFSA AND THE EEA IN THE GOVERNANCE OF EU SUSTAINABILITY

Alberto Atelli

Abstract: *At the intersection of expertise and democracy, EU sustainability governance depends on the work of its agencies. This paper contrasts the European Food Safety Authority (EFSA), whose scientific opinions carry normative influence, with the European Environment Agency (EEA), which provides descriptive evidence and analyses. Framed by theories of epistemic democracy, the study examines how both institutions balance autonomy, accountability and stakeholder participation. Despite structural asymmetries, EFSA and EEA perform complementary functions, combining normative authority with empirical knowledge to strengthen the coherence and democratic legitimacy of EU sustainability governance.*

Keywords: EU Agencies; Sustainability; Epistocracy; Autonomy; Expertise.

1. Introduction and Scope of the Research

When approaching the subject of sustainability, one is immediately confronted with the inherent indeterminacy of the concept itself. Among the various definitions available, the *Oxford Dictionary* – though not prioritising it as the primary meaning – describes sustainability as ‘the property of being environmentally sustainable; the degree to which a process or enterprise is able to be maintained or continued while avoiding the long-term depletion of natural resources’.¹ Conceptualising sustainability as a legal principle recognised across a multiplicity of legal systems proves even more complex. Such an endeavour inevitably exposes the notion to criticism that extends well beyond its semantic

¹ *Oxford English Dictionary, Sustainability*, available at: https://www.oed.com/dictionary/sustainability_n?tl=true [last accessed: 4 September 2025].

vagueness,² raising questions about its fairness³ and, indeed, its practical utility.⁴

This study refrains from conducting a comprehensive doctrinal and regulatory reconstruction of sustainability. Rather, it seeks to underscore that sustainability – and specifically the principle of sustainability – must be regarded as a concrete and inescapable reality, regardless of the criticisms to which it may be subject. Within this framework, the purpose of the research is to analyse the role played by two key European Union agencies – the European Environment Agency (EEA) and the European Food Safety Authority (EFSA) – in shaping the governance of sustainability.

Before proceeding, it is necessary to identify the theoretical and conceptual framework of this study, specifying the relevant dimensions of the principle of sustainability given the term's polysemous nature. In particular, this contribution refers to the notion of sustainable development, understood in the sense established by the authoritative definition provided in the United Nations' 1987 Brundtland Report,⁵ according to which sustainable development means 'meeting the needs of the present without compromising the ability of future generations to meet their own needs', and is further specified as 'the idea of limitations imposed by the state of technology and social organisation on the environment's ability to meet present and future needs'.

² R. MacGregor Pelikánová, *Sustainability in Europe: Roots and Evolution of the Current Legal Regime*, Cham, (2025), 35 ff; M.A. White, *Sustainability: I Know It When I See It*, in *Ecol. Econ.* (2013), 213-217; N. Stockmann, *Now they Can Cope? The Green Deal and the Contested Meaning of Sustainability in EU Sectoral Governance*, in *Front. Polit. Sci.* (2024), 2-3.

³ B.S. Chimni, *Third World Approaches to International Law: A Manifesto*, in *Int. Community Law Rev.* (2006), 25-26; E. Daly, J.R. May, *The Indivisibility of Human Dignity and Sustainability*, in S.A. Atapattu, C.G. Gonzalez, S.L. Seck (Eds), *The Cambridge Handbook of Environmental Justice and Sustainable Development*, Cambridge (2021), 23 ff; M. Lostal, *One-dimensional Law: a Critique of the Human Right to a Clean, Healthy and Sustainable Environment*, in *Int. J. Hum. Rights* (2025), 828-833.

⁴ A. Gillespie, *The Long Road to Sustainability: The Past, Present, and Future of International Environmental Law and Policy*, Oxford, (2017), 219 ff.

⁵ G.H. Brundtland, *Our Common Future*, Oxford, (1987).

Today, the concept of sustainable development has full recognition in EU primary law and is explicitly enshrined – taking into account the recitals and preambles – a total of seven times: five in the Treaty on European Union (TEU), and once each in the Treaty on the Functioning of the European Union (TFEU) and the Charter of Fundamental Rights of the EU (CFREU). It is appropriate to examine in some detail these legal texts, starting with the TEU, Article 3, which forms part of the so-called constitutional core of the Treaties.⁶ This outlines, along with other key provisions, particularly Article 2, the *telos* of the European Union,⁷ or rather its multiple objectives (*teloi*). Paragraphs 3 and 5 are complementary and mutually reinforcing: the former identifies sustainable development as the primary goal of European single market integration,⁸ while the latter situates the Union's contribution to the sustainable development of the planet among the objectives of its external action.⁹

This teleological conception of sustainable development is strengthened by the principle of integration,¹⁰ as reflected in the combined reading of Article 11 TFEU and Article 37 CFREU, which require environmental protection to be integrated into all Union policies and activities. As such, sustainable development,

⁶ L.D. Spieker, *EU Values Before the Court of Justice*, Oxford (2023), 87 ff; J. Bast, A. von Bogdandy, *The Constitutional Core of the Union: on the CJEU's New, Principled Constitutionalism*, in *Common Market Law Rev.* (2024), 1471 ff.

⁷ J. Bast, A. von Bogdandy, *The Constitutional Core of the Union*, cit., 1471.

⁸ H.-J. Blanke, S. Mangiameli (Eds), *The Treaty on European Union (TEU): A Commentary*, Berlino-Heidelberg (2013), 172.

⁹ H.-J. Blanke, S. Mangiameli (Eds), *The Treaty on European Union (TEU): A Commentary*, cit., 179-180; S.E. Akdoğan, J.P.T. Társia, J.B.M. Diz, R.A. Wessel, *Introduction: EU External Relations Law and Sustainability*, in R.A. Wessel, J. Bergamaschine Mata Diz, J. Péret Tasende Társia, S.E. Akdoğan (eds), *EU External Relations Law and Sustainability*, The Hague, (2024), 1-2; M.W. Gehring, *EU External Relations Law on Trade and Sustainable Development: The Evolving Nature of EU Law and Policy Constraints*, in *Eur. Foreign Aff. Rev.* (2025), 162.

¹⁰ V. Karageorgou, *The Environmental Integration Principle in EU Law: Normative Content and Functions Also in Light of New Developments, Such as the European Green Deal*, in *Eur. Papers* (2023), 167 ff.

enshrined in EU primary law, acts as a programmatic principle guiding EU action, including, for the purposes of this study, its Agencies.

Taking the argument a step further, it could be argued that sustainable development has become part of the common constitutional heritage of the European Union, conceived broadly as comprising both the Union itself and its Member States, including their respective constitutional orders.¹¹ In the Italian legal system, it should be noted that Constitutional Law No. 1/2022, which amended Articles 9 and 41 of the Italian Constitution, to include two core elements of sustainable development: the protection of the environment and the safeguarding of future generations. Interestingly, the notion of ‘sustainable development’ is not explicitly mentioned. This legislative choice has divided scholars between those who welcome¹² and those who criticise¹³ the omission and raises the question of whether sustainable development nonetheless exists as an implicit constitutional principle within the Italian legal order.

Having thus clarified the specific understanding of sustainability to which this study refers – namely, sustainable development as enshrined in EU primary law – it is now necessary to set out some methodological considerations and to outline briefly the overall structure of this contribution.

1.1. *Methodology and Overview*

The methodological framework of this study primarily adopts a doctrinal approach,¹⁴ relying on sources of European Union

¹¹ D. Jočienė, *The Concept of Sustainability in National Constitutions: Insights from Constitutional Jurisprudence*, in *Law and Sustainability: Perspectives for Lithuania and Beyond*, Kraków (2023), 45-59.

¹² L. Bartolucci, *Il più recente cammino delle generazioni future nel diritto costituzionale*, in *www.osservatorioaic.it*, 6 July 2021, 216-217; R. Montaldo, *La tutela costituzionale dell'ambiente nella modifica degli artt. 9 e 41 Cost.: una riforma opportuna e necessaria?*, in *Federalismi.it* (2022), 208-210.

¹³ R. Bifulco, *Prmissime riflessioni intorno alla l. cost. 1/2022*, in *Federalismi.it* 11 (2022), 7-8.

¹⁴ S. Theil, *Carefully Tailored: Doctrinal Methods and Empirical Contribu-*

law, the case law of the Court of Justice of the European Union (CJEU), and relevant legal scholarship. However, given that this research, while legal in nature, addresses the complex relationship between science and policy – or, more specifically, the tension between democratic legitimacy and epistemic legitimacy – an interdisciplinary perspective is necessary, drawing on concepts from political philosophy and social sciences. Furthermore, a comparative method is employed to highlight the differences and similarities between the two EU agencies focussed on in this study.

This study concentrates on the European Environment Agency (EEA) and the European Food Safety Authority (EFSA) because they operate in distinct domains of sustainability governance, thereby offering a richer comparative perspective. Other agencies, such as the European Chemicals Agency (ECHA), while undoubtedly relevant, adopt decision-making mechanisms closer to those of the EFSA making them less suitable for illustrating structural and procedural divergences.

The EFSA produces scientific opinions that are formally non-binding yet possess significant normative influence, shaping EU policies and legislation in practice. In contrast, the EEA primarily provides data, analyses, and reports, whose impact on EU law tends to be more indirect. This contrast allows a precise examination of how soft law instruments affect the democratic legitimacy of EU governance.

Section 2 outlines the relationship between science and policy in EU sustainability governance, focusing on the fundamental role of Agencies. After reconstructing the theoretical framework on epistemic issues, section 3 compares the two Agencies' structures, decision-making procedures and the impact of their work on scientific evidence and regulation. The study concludes with some considerations on the coherence of the sustainability governance system and a synopsis of the main findings.

2. *The Epistemic Governance of Sustainability in the EU: the Epistemic Dilemma*

In the opinion of the author, before proceeding with the analysis of the Agencies and their toolbox, it is both useful and appropriate to situate this research within the context of the debate between proponents of democracy and those of epistocracy. Drawing from the categories of political philosophy helps to mitigate the partiality of an approach that is solely and exclusively legal in studying the relationship between science and political decision-making.

The objective here is not to provide an exhaustive reconstruction of a vast and still ongoing debate, but rather to offer broad conceptual coordinates that can aid in understanding the significant philosophical implications of the subject under examination.

As a preliminary step, the issue of definition must be addressed. Epistocracy is a term coined by David Estlund,¹⁵ who, despite being its theorist, is not an advocate of it. The theory of epistocracy, however, has ancient roots, tracing back to Platonic¹⁶ and Aristotelian¹⁷ thought, passing through John Stuart Mill¹⁸ and Gaetano Mosca,¹⁹ and still finding supporters today.²⁰ It refers to the ‘rule of experts’ as opposed to democracy, understood as the ‘rule of the majority’. However, such a concise definition

¹⁵ D. Estlund, *Why Not Epistocracy?*, in N. Reshotko (Ed.), *Desire, Identity, and Existence: Essays in Honor of T.M. Penner*, Edmonton: Academic Printing & Publishing, (2003), 53-69.

¹⁶ K. Lippert-Rasmussen, *Estlund on Epistocracy: Critique*, in *Res Publica* (2012), 242.

¹⁷ C. Holst, *What is Epistocracy? Dimensions of Knowledge-Based Rule*, in T. Lund-Olsen et al. (Eds), *Sacred Science? On Science and Its Interrelations with Religious Worldviews*, Wageningen: Wageningen Academic Publishers, (2012), 43.

¹⁸ J.S. Mill, *Considerations on Representative Government*, Project Gutenberg, (2010).

¹⁹ C. Pinelli, *La questione del diritto di voto in Gaetano Mosca e nei costituzionalisti italiani*, in *Materiali per una storia della cultura giuridica* (1998), 433-445.

²⁰ J. Brennan, *The Right to a Competent Electorate*, in *Philos. Q.* (2011), 700-724; J. Brennan, *Against Democracy*, Princeton, (2016).

gives rise to a series of questions, at least two of which deserve consideration in this context: how to identify experts²¹ and, above all, whether an epistocratic decision-making system is preferable to a democratic one.

Regarding the first aspect, the crucial issue lies in the selection process of this body of ‘experts’.²² As for the second, while there are both supporters and critics of epistocracy, a significant portion of the scholarly literature seeks to reconcile democracy and epistocracy by emphasising the epistemic component within democratic systems.²³ This perspective provides the conceptual framework for this research.

In particular, it is useful to refer to Estlund’s epistemic proceduralism²⁴ and Lafont’s critique of technocracy.²⁵

Epistemic proceduralism, as proposed by David Estlund, argues that democracy is justified not only because it is procedurally fair but also because it tends to produce better decisions through collective deliberation.²⁶ Unlike epistocracy, epistemic proceduralism values expertise but ensures that decision-making remains democratic, allowing for public debate, institutional

²¹ D. Estlund, *Democratic Authority: A Philosophical Framework*, Princeton, (2008), 36.

²² H. Nowotny, *Democratising Expertise and Socially Robust Knowledge*, in *Sci. Public Policy* (2003), 151-156.

²³ D. Landa, R. Pevnick, *Representative Democracy as Defensible Epistocracy*, in *Am. Polit. Sci. Rev.* (2020), 1-13; J. Van Bouwel, *Strengthening the Epistemic Case Against Epistocracy and for Democracy*, in *Soc. Epistemol.* (2023), 110-126; A. Manor, *Polycentric Limited Epistocracy: Political Expertise and the Wiki-Model*, in *Episteme* (2022), 1-20; U. Bhatia, *Indirect Elections as a Constitutional Device of Epistocracy*, in *Int. J. Const. Law* (2022), 82-111; P. Gunn, *Democracy and Epistocracy*, in *Crit. Rev.* (2014), 59-77; R.E. Goodin, K. Spiekermann, *An Epistemic Theory of Democracy*, Oxford (2018). Antonino Palumbo, on the other hand, denies the feasibility of an epistemic democracy in *Epistemic Models of DD: Reasoning and Judging in an Epistemically Correct Way*, in Id. (Ed.), *The Deliberative Turn in Democratic Theory. The Theories, Concepts and Practices of Democracy*, Cham: Palgrave Macmillan, (2024), 81-123.

²⁴ D. Estlund, *Why Not Epistocracy?*, cit., *passim*.

²⁵ C. Lafont, *Democracy without Shortcuts: A Participatory Conception of Deliberative Democracy*, Oxford, (2019), 75-100.

²⁶ J.B. Min, *Epistocracy and Democratic Epistemology*, in *Polit. Cent. Eur.* (2015), 92-96.

checks and diverse perspectives to refine policies. It strikes a balance between knowledge and legitimacy, integrating expert input within a transparent and participatory framework.

Cristina Lafont's critique of technocracy contends that expert-driven governance undermines democratic legitimacy if it excludes public participation. She challenges the notion that technical expertise alone should guide policy decisions, emphasising that citizens must have a role in shaping the policies that govern them.²⁷ Unlike technocratic models that prioritise efficiency and expert knowledge, Lafont advocates for deliberative democracy, in which expertise informs decision-making but remains subject to public debate, accountability, and democratic scrutiny.²⁸

Now, let us attempt to apply these theories to the present research context. However, first a clarification is necessary. Both Estlund's and Lafont's theses have been widely debated and criticised²⁹ and it would be impossible to fully account for the extensive discourse surrounding them within this paper. Moreover, the intention here is not to endorse one theory over the other, but rather to use them as a theoretical and conceptual lens through which to frame the present analysis.

²⁷ C. Lafont, *Democracy without Shortcuts: A Participatory Conception of Deliberative Democracy*, Oxford, (2019), *passim*.

²⁸ *Ibid.*, 161-188.

²⁹ Against Estlund we can account for J.B. Min, *Epistocracy and Democratic Epistemology*, cit., 91-109; K. Lippert-Rasmussen, *Estlund on Epistocracy: A Critique*, in *Res Publica* (2012), 241-258; H.S. Richardson, *Estlund's Promising Account of Democratic Authority*, in *Ethics*, (2011), 301-334; M.R. Windsor, *Estlund's Utopophobia: From Aspiration to Social Dependence*, in *Soc. Altern.* (2011), 42-45. A moderate critique of Lafont's theoretical framework comes from J. Habermas, *Commentary on Cristina Lafont, Democracy Without Shortcuts*, in *J. Delib. Democr.* (2020), 10-14; M.E. Warren, *Participatory Deliberative Democracy in Complex Mass Societies*, in *J. Delib. Democr.* (2020), 81-88; T. Tamura, *Another Way for Deepening Democracy Without Shortcuts*, in *J. Delib. Democr.* (2020), 89-95. For a reply to these critiques, see C. Lafont, *Against Anti-Democratic Shortcuts: A Few Replies to Critics*, in *J. Delib. Democr.* (2020), 96-109.

2.1 EU Agencies and Their Epistemic Contribution to Sustainability Governance

A complete and accurate reconstruction of the bodies that fall within the category of EU Agencies is by no means an easy task. This is due, on the one hand, to the significant differences among these bodies in terms of functioning, competences, and objectives, and, on the other hand, to the fact that the phenomenon of ‘agentification’³⁰ has unfolded over a period beginning in 1975, with the establishment of the first two Agencies – the European Centre for the Development of Vocational Training (CEDEFOP) in Thessaloniki and the European Foundation for the Improvement of Living and Working Conditions (EUROFOUND) in Dublin – and appears far from having reached its conclusion.³¹

Rather, it seems evident that the creation of new Agencies corresponds to the emergence of new and complex issues that require the intervention of bodies endowed with high-level technical expertise³² and positioned, if not as fully independent, then at least as autonomous from the EU institutions.³³ Prior to analysis-

³⁰ B. Waluyo, *The Tides of Agencification: Literature Development and Future Directions*, in *Int. J. Public Sect. Manag.* (2022), *passim*; K. Verhoest, *Agencification in Europe*, in E. Ongaro, S. Van Thiel (Eds), *The Palgrave Handbook of Public Administration and Management in Europe*, Palgrave Macmillan, (2018), 327 ff; M. Chamon, *EU Agencies: Legal and Political Limits to the Transformation of the EU Administration*, Oxford, (2016), 3 ff; E. Vos, *European Agencies and the Composite EU Executive*, in M. Everson, C. Monda, E. Vos (Eds), *European Agencies in Between Institutions and Member States*, Alphen aan den Rijn, (2014), 13-17.

³¹ Most recently, one may consider the establishment of the Authority for Anti-Money Laundering and Countering the Financing of Terrorism (AMLA) in 2024.

³² M. Simoncini, *Administrative Regulation beyond the Non-Delegation Doctrine: A Study on EU Agencies*, Oxford, (2018), 2; A.R. Zito, *Expertise and Power: Agencies Operating in Complex Environments*, in *Politics Gov.* (2015), *passim*; C. Ossege, *Driven by Expertise and Insulation? The Autonomy of European Regulatory Agencies*, in *Politics Gov.* (2015), *passim*.

³³ K. Verhoest, *Agencification in Europe*, cit., 332 ff; C. Ossege, *Driven by Expertise and Insulation? The Autonomy of European Regulatory Agencies*, cit., 102-103; A.R. Zito, *Expertise and Power: Agencies Operating in Complex Environments*, cit., *passim*; T. Jevnaker, *When EU Agencies Set Up Advisory Committees: All About Autonomy?*, in *J. Common Mark. Stud.* (2024), 422 ff.

ing in detail the two previously mentioned Agencies, it is appropriate to identify some essential features and fundamental classifications of EU Agencies in general.

On a formal level, one feature that appears to unite all Agencies is the attribution of legal personality,³⁴ notwithstanding the uncertain contours of the notion of legal personality within the framework of EU law.³⁵ On a substantive level, however, the common features seem to be those mentioned earlier, namely: a high degree of technical qualification and a guarantee of autonomy from the Institutions and other EU bodies. This autonomy, however, does not exclude the possibility of oversight,³⁶ including judicial review, to which Agencies remain subject.³⁷

Among the possible classifications of EU Agencies, two are worth mentioning. The first relates to the objectives for which a given Agency has been established, or, more precisely, the pillar within which its activity is situated under the former structure of the EU Treaties. By way of example, one may consider the role of the European Union Intellectual Property Office (EUIPO) in the construction of the single market, Frontex within the Area of Freedom, Security and Justice, or the European Defence Agency (EDA) in the context of the Common Security and Defence Policy.

A second categorisation concerns the source of law that pro-

³⁴ K. Lenaerts, P. Van Nuffel, T. Corthaut, *EU Constitutional Law*, Oxford, (2021), 467.

³⁵ M. Ruffert, *Personality under EU Law: A Conceptual Answer towards the Pluralisation of the EU*, in *Eur. Law J.* (2014), 347-351.

³⁶ M. Simoncini, *Administrative Regulation beyond the Non-Delegation Doctrine: A Study on EU Agencies*, cit., 142; K. Lenaerts, *EU Constitutional Law*, cit., 467; M. Chamon, *EU Agencies: Legal and Political Limits to the Transformation of the EU Administration*, cit., 299 ff; N. Font, I. Pérez Durán, *The European Parliament oversight of EU agencies through written questions*, in *J. Eur. Public Policy* (2016), 1350 ff.

³⁷ Joined Cases 9/56 and 10/56, *Meroni & Co, Industrie Metallurgiche, SAS v High Authority of the European Coal and Steel Community*, [1958] ECR 53, 173; Case C-270/12, *United Kingdom v Council and European Parliament*, ECLI:EU:C:2014:18, para. 53. M. Simoncini, *Administrative Regulation beyond the Non-Delegation Doctrine: A Study on EU Agencies*, cit., 169 ff; M. Chamon, *EU Agencies: Legal and Political Limits to the Transformation of the EU Administration*, cit., 249 ff.

vides the legal basis for each Agency. While the vast majority of Agencies are established and regulated by secondary sources of EU law, specifically Regulations, others – such as Europol – are provided for directly in the Treaties.³⁸

Several other classifications could be drawn, for example, with reference to the organisational structure and functions of the various Agencies. However, the foregoing observations will suffice for present purposes. We can now proceed to highlight the role that the Agencies play, by virtue of their expertise and autonomy, in the governance of sustainability within the European Union.

Having thus clarified some essential coordinates of the phenomenon of agentification within the European Union, we can now turn to the analysis of the role and importance of EU Agencies in the governance of sustainability. Just as the introductory chapter highlighted the polysemy and the uncertain contours of the concept of sustainability, it is necessary here to add a caveat regarding the complexity of sustainability governance in the EU context. In particular, it can be argued that sustainable development, in addition to shaping the activities of the EU, of the Member States, and even their local authorities,³⁹ has increasingly assumed a horizontal dimension.⁴⁰ This evolution stems from the recognition that the objectives of sustainable development can hardly be achieved without the involvement of private actors.⁴¹ Two examples illustrate this point effectively. First, one may consider a recent significant legislative intervention by the EU: the

³⁸ K. Lenaerts, *EU Constitutional Law*, cit., 467.

³⁹ R. Bandari, E.A. Moallemi, A. Kharrazi, R. Šakić Trogrlić, B.A. Bryan, *Transdisciplinary Approaches to Local Sustainability: Aligning Local Governance and Navigating Spillovers with Global Action Towards the Sustainable Development Goals*, in *Sustain. Sci.* (2023), 1294-1295.

⁴⁰ L.J. Kotzé, *Arguing Global Environmental Constitutionalism*, in *Transnatl. Environ. Law* (2012), 221-222.

⁴¹ K. Buhmann, L. Feld, *Shifting Boundaries: a Transnational Legal Perspective on the EU Corporate Sustainability Due Diligence Directive*, in *Transnatl. Legal Theory* (2024), 374 ff; M. Thorens, N. Bernaz, O. Hospes, *Advocating for the EU Corporate Sustainability Due Diligence Directive Against the Odds: Strategies and Legitimation*, in *J. Common Mark. Stud.* (2025), 606-607.

Corporate Sustainability Due Diligence Directive.⁴² This instrument assigns a central role to economic operators, who can no longer pursue profit at the expense of sustainability. Secondly, the Renewable Energy Communities introduced and regulated by the RED II Directive⁴³ aim to promote both the production and the sharing of energy from renewable sources. These two examples are emblematic: in the first case, companies' activities are bound by compliance with specific sustainability standards, while in the second, associative models are encouraged, generating environmental benefits as well as economic advantages for citizen-users. Therefore, sustainable development necessarily requires the active participation of private actors, although the focus of this contribution remains on the role of the EU Agencies.

2.2. *Challenges*

To better highlight the delicate role played by the Agencies in the governance of sustainability, it is useful to revisit two concepts briefly mentioned earlier but which deserve further and deeper examination: expertise and autonomy. On the one hand, the expertise of these bodies makes them indispensable for political decision-makers when adopting policies that are technically and scientifically sound, a requirement that becomes unavoidable when addressing sustainability-related challenges. However, this raises once again the epistemic dilemma, forcing us to confront the question of who qualifies as an expert. On the other hand, autonomy is equally essential to ensure that the processes of data collection, analysis, and, where appropriate, decision-making or deliberation carried out by the Agencies remain free from external interference. In this regard, it becomes neces-

⁴² Directive (EU) 2024/1760 of the European Parliament and of the Council of 13 June 2024, *on corporate sustainability due diligence and amending Directive (EU) 2019/1937 and Regulation (EU) 2023/2859*.

⁴³ Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018, *on the promotion of the use of energy from renewable sources (recast)*.

sary to clarify from whom and from what such autonomy must be protected – namely, political influence and private interests.

2.2.1. *Expertise*

If the governance of sustainability through the Agencies touches upon the most sensitive aspects of the tension between politics and science, that is, between democratic legitimacy and epistemic legitimacy, it is nonetheless true that the very notion of epistemic legitimacy is far from being universally accepted. In particular, it has been argued that there is a need to ‘democratise expertise’ and, conversely, to ‘expertise democracy’. From this perspective, some further reflections are required. The starting point must be the recognition that the governance of sustainability cannot remain a technocratic exercise insulated from public deliberation. The European Food Safety Authority (EFSA) and the European Environment Agency (EEA) wield significant influence over food safety and environmental policies, yet their mandates and decision-making authority are often misunderstood. The EFSA is not a regulatory agency but a scientific risk assessment body, providing advice to policymakers while risk management decisions rest with the European Commission and Member States.⁴⁴ Similarly, the EEA primarily collects and disseminates environmental data, serving as a knowledge broker rather than an enforcement body.⁴⁵ To enhance democratic legitimacy, transparency and policy responsiveness, these agencies must integrate structured participation, contested knowledge and foresight methodologies to ensure that decisions reflect not only scientific assessments but also societal values and lived experiences.⁴⁶ This aligns with the argument

⁴⁴ M. Klintman, A. Kronsell, *Challenges to Legitimacy in Food Safety Governance? The Case of the European Food Safety Authority (EFSA)*, in *Eur. Integr.* (2010), 322-323.

⁴⁵ D.R. Keleman, *The Politics of “Eurocratic” Structure and the New European Agencies*, in *West Eur. Polit.* (2002), 101.

⁴⁶ C. Holst, J. Christensen, *The Epistemic Quality of Expert Bodies: From Normative-Theoretical Concept to Empirical Measurement*, in *Acta Polit.* (2024), 824-827.

that ‘citizens are, and should remain, a driving force of the transition’.⁴⁷

A crucial step is transforming public consultations from formal exercises into substantive participatory processes. The EFSA integrates public consultations at various stages of the scientific assessment process, including during the development of assessment protocols and before finalising scientific outputs. However, stakeholder influence is often limited by the procedural structure which prioritises scientific independence and evidence-based assessments.⁴⁸ Instead, consultations should be multi-staged, engaging consumer groups, small-scale food producers and public health advocates at early decision-making phases. The EEA must similarly integrate climate justice organisations, local sustainability initiatives and local knowledge holders into the definition of environmental indicators.⁴⁹ These reforms align with deliberative democracy models which prevent regulatory capture by dominant actors while broadening the epistemic base of policy decisions.⁵⁰

Beyond consultation, participatory expert panels should replace insular advisory bodies that privilege established epistemic communities.⁵¹ It has been argued that while public consultations can serve as a mechanism for gathering knowledge, they often reinforce existing divides rather than fostering genuine dialogue: ‘Public consultations are inadequate for fully understanding complex topics, and thus should not be used as a standalone tool for feeding into policy’.⁵² The EFSA’s risk assessment

⁴⁷ European Commission, *Communication from the Commission: The European Green Deal*, COM (2019) 640 final, Brussels, 11 December 2019.

⁴⁸ EFSA (European Food Safety Authority), *Guidelines on EFSA Consultations*, EFSA Supporting Publication (2018): EN-1390, (2018).

⁴⁹ C. Matti, L. Bontoux, K. Jensen, *Strategic Foresight Framework for Addressing Agency in Sustainability Transitions: A Co-Creation Approach*, in *Front. Sustain.* (2025), 2-3.

⁵⁰ E. Krick, *Creating Participatory Expert Bodies: How the Targeted Selection of Policy Advisers Can Bridge the Epistemic-Democratic Divide*, in *Eur. Polit. Soc.* (2019), 105-106.

⁵¹ J. White, *Technocratic Myopia: On the Pitfalls of Depoliticising the Future*, in *Eur. J. Soc. Theory* (2024), 269-270.

⁵² A. Frelih-Larsen, C.-A. Chivers, I. Herb, J. Mills, M. Reed, *The Role of Public Consultations in Decision-Making on Future Agricultural Pesticide Use*:

panels must incorporate nutritionists, consumer safety advocates and independent researchers to ensure that food regulations balance technical precision with ethical concerns. The EEA, meanwhile, should ensure urban planners, renewable energy cooperatives and sustainability-focused enterprises participate in the knowledge-production process, bridging institutional expertise with local innovation.⁵³ Such ‘targeted selection’ mechanisms enhance both scientific rigour and democratic representation.⁵⁴

2.2.2. *Autonomy*

The issue of the autonomy of EU Agencies is characterised by a high degree of complexity, and it is possible here to focus only on certain salient aspects and problematic nodes. Nevertheless, the aspect concerning the autonomy of the Agencies is a decisive one, and its analysis is necessary to complete this general framework, which serves as a preliminary step for the study of the two agencies that will be examined shortly.

A first clarification concerns the terms autonomy or independence, even though the two are often used interchangeably in the literature.⁵⁵ In this regard, the term autonomy is considered more appropriate in light of the relationship between the Agencies and those EU institutions capable of exercising influence or control over them.⁵⁶ A further clarification concerns the fact that the *de jure* autonomy of the Agencies⁵⁷ may not fully correspond to their *de facto* autonomy, since the latter may be affected by

Insights from European Union’s Farm to Fork Strategy Public Consultation, in *J. Environ. Policy Plan.* (2023), 488.

⁵³ V. Bader, *Sciences, Politics, and Associative Democracy: Democratizing Science and Expertizing Democracy*, in *Innov.: Eur. J. Soc. Sci. Res.* (2014), 420-422.

⁵⁴ E. Krick, *Creating Participatory Expert Bodies*, cit., 108-112.

⁵⁵ M. Busuioc, M. Groenleer, *The Theory and Practice of EU Agency Autonomy and Accountability: Early Day Expectations, Today’s Realities and Future Perspectives*, in M. Everson, C. Monda, E. Vos (eds), *European Agencies in Between Institutions and Member States*, The Hague: Kluwer Law International (2014), 185.

⁵⁶ *Ibid.*, 185.

⁵⁷ M. Busuioc, *Accountability, Control and Independence: The Case of European Agencies*, in *Eur. Law J.* (2009), 600.

informal dynamics that can either limit or expand the actual scope of their autonomy.⁵⁸ Indeed, it has been observed that Agencies with a similar institutional design may nonetheless diverge in practice with regard to their levels of autonomy, depending also on the ability of their governing bodies to secure legitimacy and to build networks of alliances.⁵⁹ Moreover, from a regulatory perspective, Agencies may adapt their interpretative approaches over time and display risk averse behaviour to protect and strengthen their autonomy.⁶⁰ On the basis of these considerations, it can safely be affirmed that the quantification of an Agency's autonomy, although naturally anchored to legal texts, may nonetheless vary in practice, and a fundamental role in this respect is played by the way in which the executive organs interpret and exercise their mandate.

The autonomy under discussion may be distinguished according to whether it is exercised vis-à-vis the Union's political institutions or private actors. As regards the institutions, the relationship between the Agencies and the European Commission should first be highlighted. While not one of dependence, it can be understood in terms of subordination.⁶¹ It has been observed that the Commission exercises its powers of guidance and oversight more or less strictly at its own convenience.⁶² Given this, it is argued that the greater the Commission's influence in agenda-setting, the greater the alignment with its positions, and thus the greater the sacrifice of autonomy of the Agencies.⁶³ At the same

⁵⁸ Ibid., 604.

⁵⁹ M.L.P. Groenleer, *Agency Autonomy Actually: Managerial Strategies, Legitimacy, and the Early Development of the European Union's Agencies for Drug and Food Safety Regulation*, in *Int. Public Manag. J.* (2014), 261-262.

⁶⁰ C. Ossege, *Driven by Expertise and Insulation? The Autonomy of European Regulatory Agencies*, in *Politics Gov.* (2015), 107-108.

⁶¹ M. Egeberg, J. Trondal, N.M. Vestlund, *The quest for order: unravelling the relationship between the European Commission and European Union agencies*, in *J. Eur. Public Policy* (2015), 611-612.

⁶² M. Thatcher, *The Creation of European Regulatory Agencies and its Limits: a Comparative Analysis of European Delegation*, in *J. Eur. Public Policy* (2011), 805-806.

⁶³ E. Ruffing, *European (Networked) Agencies Between Independence and Influence*, in *J. Eur. Public Policy* (2022), 1551-1552.

time, the Commission has repeatedly relied on the Meroni doctrine to restrict the attribution of new prerogatives to the Agencies and to limit their autonomy.⁶⁴

As regards the relationship between the Agencies and private actors, it seems more appropriate to speak of independence rather than autonomy. This is because it is necessary to establish a set of safeguards to prevent the occurrence of the phenomenon commonly referred to as regulatory capture.⁶⁵ In order to prevent and avoid this undesirable phenomenon, the solution adopted has been to limit the possible access points of private stakeholders to the Agencies and to introduce what has been defined as procedural insulation.⁶⁶ However, while the insulation of Agencies is useful in protecting them from external influences, an Agency cannot entirely disregard the private interests affected by its activities if it is to regulate effectively. The solution deemed appropriate has therefore been the establishment of so-called advisory committees, which have the undeniable advantage of increasing transparency in the relationship between the Agency and private stakeholders, while also allowing stakeholders to contribute to the fulfilment of the Agency's mandate,⁶⁷ thereby giving voice to the plurality of private interests – not exclusively those of an economic or industrial nature.⁶⁸

⁶⁴ M. Wood, *Mapping EU Agencies as Political Entrepreneurs*, in *Eur. J. Polit. Res.* (2018), 405-406; M. Thatcher, *The Creation of European Regulatory Agencies and its Limits: a Comparative Analysis of European Delegation*, cit., 800;

⁶⁵ W.Y. Li, *Regulatory Capture's Third Face of Power*, in *Socio-Econ. Rev.* (2023), 1219 ff; R.A. Posner, *The Concept of Regulatory Capture: A Short, Inglorious History*, in D. Carpenter, D.A. Moss (eds), *Preventing Regulatory Capture: Special Interest Influence and How to Limit It*, Cambridge (2013), 49-56.

⁶⁶ C. Ossege, *Driven by Expertise and Insulation? The Autonomy of European Regulatory Agencies*, cit., 104.

⁶⁷ T. Jevnaker, *When EU Agencies Set Up Advisory Committees: All About Autonomy?*, cit., 423.

⁶⁸ *Ibid.*, 420.

3.1. *The EFSA and the EEA*

The European Environment Agency (EEA), based in Copenhagen, was established by EEC Regulation 1210/1990 (as amended by EEC Regulation 933/1999 and EC Regulation 401/2009) with the purpose, defined in Article 1 (2) of the Regulation, of supporting the European Community (now the Union) and the Member States in the governance of sustainability. In particular, the Agency's contribution consists in providing:

- (a) objective, reliable and comparable information at European level enabling them to take the requisite measures to protect the environment, to assess the results of such measures and to ensure that the public is properly informed about the state of the environment, and to that end;
- (b) the necessary technical and scientific support.

The European Food Safety Authority (EFSA), located in Parma, was established by Articles 22 *et seq.* of Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002, laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety, also known as the General Food Law Regulation. In this case, the mission of the Authority, pursuant to paragraphs 2-6 of Article 22 of the Regulation, is to:

- [...] provide scientific advice and scientific and technical support for the Community's legislation and policies in all fields which have a direct or indirect impact on food and feed safety. It shall provide independent information on all matters within these fields and communicate on risks.
- 3. The Authority shall contribute to a high level of protection of human life and health, and in this respect take account of animal health and welfare, plant health and the environment, in the context of the operation of the internal market.
- 4. The Authority shall collect and analyse data to allow the characterisation and monitoring of risks which have a direct or indirect impact on food and feed safety.
- 5. The mission of the Authority shall also include the provision of:

- (a) scientific advice and scientific and technical support on human nutrition in relation to Community legislation and, at the request of the Commission, assistance concerning communication on nutritional issues within the framework of the Community health programme;
 - (b) scientific opinions on other matters relating to animal health and welfare and plant health;
 - (c) scientific opinions on products other than food and feed relating to genetically modified organisms as defined by Directive 2001/18/EC and without prejudice to the procedures established therein.
6. The Authority shall provide scientific opinions which will serve as the scientific basis for the drafting and adoption of Community measures in the fields falling within its mission”.

Both Agencies play a fundamental role in gathering scientific evidence to support political decision-making. A key difference is that the EEA is limited to collecting and disseminating data, while the EFSA is also called upon to provide opinions. This point will be addressed more thoroughly in the section concerning the normative power of the two Agencies, understood as their impact at the decision-making level within the EU system of sustainability governance. Before proceeding with that analysis, however, it is necessary to consider the organisational structure of the two Agencies.

3.2. Organisational Aspects

The European Environment Agency is governed by a Management Board⁶⁹ and a Bureau,⁷⁰ which are responsible for providing the overall strategic direction of the Agency, approving its

⁶⁹ Regulation (EC) No 401/2009 of the European Parliament and of the Council of 23 April 2009 on the European Environment Agency and the European Environment Information and Observation Network (Codified version), art. 8 para. 1.

⁷⁰ *Ibid.*, art. 8 para. 2.

annual and multi-annual work programmes, budgets and reports, and ensuring accountability to both the EU institutions and the member countries. Day-to-day management is carried out by the Executive Director,⁷¹ supported by an Internal Control Coordinator to guarantee proper oversight and compliance. The Executive Director is also advised by the Scientific Committee,⁷² an independent body of external experts that ensures the scientific quality, independence and relevance of the Agency's outputs. Its epistemic function is further complemented by the more specialised European Scientific Advisory Board on Climate Change, which was introduced by Article 3 of Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality and amending Regulations (EC) No 401/2009 and (EU) 2018/1999 ('European Climate Law').

The Agency's work is organised into thematic departments and cross-cutting services.⁷³ The Environment Department addresses core environmental domains such as pollution and health, freshwater and marine ecosystems, and biodiversity and nature. The Climate Department covers climate neutrality, energy and mobility, climate risk and resilience, as well as greenhouse gas reporting and verification; it also acts as the secretariat to the European Scientific Advisory Board on Climate Change. The Sustainability Department focuses on the transition towards more sustainable systems, addressing areas such as circular economy, sustainability indicators, fair transitions, and governance processes. In addition to these thematic domains, the Agency relies on several horizontal support functions. The Communications Department is responsible for publishing reports and data, managing public communication and stakeholder networks, and ensuring transparency and accessibility of environmental information. The Digital Department handles information and com-

⁷¹ Ibid., art. 9.

⁷² Ibid., art. 10.

⁷³ European Environment Agency, *EEA Organisational Chart as of 01.09.2025*, available at: <https://www.eea.europa.eu/en/about/who-we-are/governance/organisational-chart> [last accessed: 15 September 2025].

munication technology, data management and Earth observation services, providing the digital backbone for the Agency's knowledge and information systems. The Resources Department covers human resource management, finance, legal assurance and facilities management.

Beyond its internal departments, the EEA operates within a wider networked system. A cornerstone of this system is Eionet (the European Environment Information and Observation Network), which links national focal points and reference centres in the member and cooperating countries, ensuring that environmental data are gathered, quality-assured and comparable across Europe.⁷⁴ The Agency also coordinates with several European Topic Centres⁷⁵ (ETCs), which are external consortia of institutions providing specialised expertise and technical support in areas such as biodiversity, circular economy, climate adaptation and mitigation, environmental health and sustainability transitions.

The structure of the EFSA is similar to that of the EEA and, pursuant to Article 24 of the General Food Law Regulation, is composed of the Management Board, the Executive Director and staff, the Advisory Forum and the Scientific Committee and Scientific Panels.

The Management Board⁷⁶ is made up of 14 members appointed by the Council, in consultation with the European Parliament, plus one representative of the European Commission. Its role is to provide strategic direction, adopt the Authority's internal rules, work programmes and annual reports, oversee financial regulations and budgets, and ensure that the EFSA carries out its mission in line with EU legislative and policy priorities. Members are appointed for a four-year term (renewable once) and the Board elects its own Chair.

⁷⁴ S. Dammann, D. Gee, *Science into Policy: The European Environment Agency*, in J. Lentsch, P. Weingart (Eds), *The Politics of Scientific Advice*, Cambridge, (2011), 240.

⁷⁵ *EEA Organisational Chart as of 01.09.2025*, cit.

⁷⁶ General Food Law Regulation, art. 25.

The Executive Director,⁷⁷ appointed by the Management Board from a shortlist proposed by the Commission, is the legal representative of the EFSA and responsible for the day-to-day administration of the Authority. The Director prepares work programmes, implements the decisions of the Management Board, ensures scientific and administrative support for the EFSA's scientific bodies, manages the budget and staff, and maintains contact with the European Parliament. Each year, the Director submits draft reports, programmes, accounts and budgets to the Management Board for approval.

The Advisory Forum⁷⁸ brings together representatives of each Member State's competent bodies that perform tasks similar to those of the EFSA. It provides advice to the Executive Director, fosters cooperation between the EFSA and national authorities, avoids duplication of scientific work, promotes networking and serves as a mechanism for sharing information on potential risks and emerging issues. It is chaired by the Executive Director and meets at least four times a year.

Finally, the Scientific Committee and the Scientific Panels⁷⁹ constitute the scientific backbone of the EFSA. The Scientific Committee ensures consistency across EFSA's scientific work, addresses cross-cutting and multisectoral issues, and may establish working groups when needed. The Scientific Panels, each composed of independent experts, issue scientific opinions in specific areas such as food additives, feed, plant health, GMOs, nutrition, biological hazards, contaminants and animal health and welfare. Members are appointed for three years (renewable) through open calls, and both the Committee and the Panels adopt their own procedures and may organise public hearings.

On the basis of this brief examination of the organisation of these two Agencies, it is appropriate to focus on certain key aspects. First, senior positions within both Agencies and the dualism between the Management Board and the Executive Director. The former is a collegial body which, in some way, functions as a

⁷⁷ Ibid., art. 26.

⁷⁸ Ibid., art. 27.

⁷⁹ Ibid., art. 28.

link between politics and the Agencies.⁸⁰ This is evident from the appointment procedure for the members of the Board, as defined in the respective founding regulations, in which the Commission, Parliament and Member States (in the case of EFSA, the Council)⁸¹ all participate. The role of the Management Board is therefore one of supervision and strategic guidance, to which the Agency's organs – above all the Executive Director – must conform, without undermining the epistemic legitimacy deriving from scientific expertise. An interesting difference lies in the presence, in the case of the EEA, of the so-called Bureau, which is simply the Management Board in a reduced composition, operating when the latter is not convened.⁸²

A second aspect of interest concerns the relationship with the Member States' agencies. In the case of the EFSA, one of its constituent organs is the Advisory Board, which means that representatives of the Member States are directly integrated into the Agency's organisational structure. EIONET, on the other hand, while being a branch of the EEA and dependent on it, is not an organ or office of the Agency but rather a partnership network operating on the basis of ten-year strategic plans under the aegis of the EEA without being structurally part of it.⁸³

We observe significant differences in the stakeholder relationships of the two Agencies and varying degrees of openness towards interest groups. In the case of the EFSA, it is noteworthy that the founding Regulation, in Recital 56 and Article 42, expressly requires openness towards stakeholders, explicitly mentioning consumers. Therefore, the Agency has developed an articulated system of venues that serve as points of contact with the

⁸⁰ S. Dammann, D. Gee, *Science into Policy: The European Environment Agency*, in J. Lentsch, P. Weingart (eds), *The Politics of Scientific Advice*, Cambridge, (2011), 240.

⁸¹ General Food Law Regulation, art. 25.

⁸² M. Martens, *Voice or Loyalty? The Evolution of the European Environment Agency (EEA)*, in J. *Common Mark. Stud.*, (2010), 887.

⁸³ European Environment Agency, *Delivering Data and Knowledge to Achieve Europe's Environment and Climate Ambitions. EEA-Eionet Strategy 2021-2030*, Luxembourg: Publications Office of the European Union, (2021).

wide range of interests arising along the entire food chain,⁸⁴ thereby enhancing the role and weight of civil society.⁸⁵ The involvement of stakeholders, above all consumers, is emphasised by the EU legislator, in light of the EFSA's mission to ensure food safety in situations of risk. This task undoubtedly requires the collection and processing of scientific data, but in determining the acceptable level of risk, such data needs to be integrated with value-based considerations.⁸⁶

The same cannot be said of the EEA, whose mandate is to collect and process scientific data on the environment in order to enable policymakers to make informed decisions, without providing precise value-laden indications. EEA activity – essentially consisting of scientific research – remains a prerogative of the scientists co-opted within the Agency. The identification of stakeholders is undoubtedly more difficult here than in the EFSA's case, since the concept of environment is far broader than that of food safety. Nevertheless, it might be possible to isolate certain differentiated positions, such as those particularly exposed to the consequences of climate change. Even after undertaking the challenging task of identifying such stakeholders, a further difficulty would remain of integrating them effectively into the Agency's 'machinery'. Notwithstanding the limits of its mission and structure, the EEA appears fully aware of the social significance of its work and of the importance of civil society in environmental protection. This may be seen in its attention to institutional communication strategies.⁸⁷

⁸⁴ EFSA – European Food Safety Authority, 'Stakeholders / Engagement Platforms', available at: <https://www.efsa.europa.eu/en/stakeholders/engagement-platforms>.

⁸⁵ L. Leone, *EFSA under Revision: Transparency and Sustainability in the Food Chain*, in *Yearb. Eur. Law* (2020), 537-538.

⁸⁶ *Ibid.*, 559.

⁸⁷ European Environment Agency, *Communication, Environment and Behaviour. A Scoping Study on the Links between Public Communication, Environment Policy Implementation and Behavioural Science*, EEA Report No. 13/2016 (2016), p. 7 ff.

3.3. *The Normative Power*

In this section, the discussion will focus on normative power (or the absence thereof), making use of the polysemy of this expression. Normative power is understood here both in the sense of issuing binding and non-binding acts, and in the sense of the Agencies' ability to influence political decision-makers through their activities. The decision to move on these two different levels recognises that even an Agency with limited or entirely absent powers of rule-making and/or regulation may nonetheless exert significant influence on political decision-making. It is therefore appropriate, before examining the two Agencies in detail, to recall a precise and still valid taxonomy of EU Agencies⁸⁸ with reference to their 'normative power'. Griller and Orator outline a scale ranging from the so-called 'ordinary agencies',⁸⁹ which are not entrusted with decision-making powers and limit themselves to activities that may be described as neutral – for example, in the case of the EEA, the collection and processing of scientific data – to the next level, that of Agencies with 'pre-decision-making'⁹⁰ functions, in which the EFSA is included. The latter are characterised by the issuance of non-binding decisions which, however, exert a decisive influence on the adoption of binding acts by the Commission.⁹¹ This scale culminates with the so-called 'rule-making Agencies',⁹² which exercise binding regulatory powers, as in the case of the EASA. The two Agencies examined here occupy the two lowest steps of this scale, but may still be able to exercise a decisive influence on the rule-makers.

It is therefore useful to turn to the typical acts of the two Agencies. The EFSA has at its disposal a range of instruments that it may issue depending on the circumstances. The most sig-

⁸⁸ S. Griller, A. Orator, *Everything under Control?: The 'Way Forward' for European Agencies in the Footsteps of the 'Meroni' Doctrine*, in *Eur. Law Rev.* (2010), 8-9.

⁸⁹ *Ibid.*, 8.

⁹⁰ *Ibid.*, 8-9.

⁹¹ M. Kritikos, *EU Policy-Making on GMOs: The False Promise of Proceduralism*, London (2018), 182.

⁹² *Ibid.*, 9.

nificant tool is provided directly by Article 22 (6) of its founding Regulation: the Scientific Opinions, which explicitly serve as the ‘scientific basis for the drafting and adoption of Community measures in the fields falling within its mission’. The Scientific Opinions are issued, pursuant to Article 29 (1):

- “(a) at the request of the Commission, in respect of any matter within its mission, and in all cases where Community legislation provides for the Authority to be consulted;
- (b) on its own initiative, on matters falling within its mission.

The European Parliament or a Member State may also request the Authority to issue a Scientific Opinion on matters falling within its mission”.

Of considerable importance are the Guidelines addressed to EFSA experts, aimed at ensuring quality and methodological consistency in the research activities carried out on behalf of the Authority. These Guidelines perform the fundamental function of safeguarding the epistemic authority of the EFSA.

The EEA, by contrast, is an Agency that does not provide the political decision-maker with an opinion but merely with scientific evidence. The documents issued by the EEA are therefore those typical of the dissemination of scientific content, such as reports or briefings. These documents have official scientific value but, unlike the EFSA, do not contain an opinion and do not suggest to the European institutions or the Member States which paths to follow in order to protect the environment and achieve sustainability objectives. Nevertheless, it has been observed that the EEA is still capable of influencing decision-makers: preliminarily, by framing the problem,⁹³ and *ex post*, by assessing the effectiveness of the sustainability policies implemented.⁹⁴

4. Conclusion

The analysis confirms that the EFSA and the EEA occupy distinct but complementary epistemic roles within the EU’s sustain-

⁹³ S. Dammann, D. Gee, *Science into Policy: The European Environment Agency*, cit., 239-240.

⁹⁴ Ibid.

ability governance framework. The EFSA's mandate is to deliver independent scientific advice and risk assessments on food and feed safety issues, giving rise to explicit normative recommendations that directly inform legislation and regulatory decisions. By contrast, the EEA is tasked with gathering, quality-checking and disseminating environmental data and evidence-based analyses. In other words, the EFSA generates science-based normative opinions about what is safe or acceptable in the food chain, whereas the EEA provides empirical descriptive information on environmental states and trends. This functional asymmetry means that the EFSA's work tends to embed value judgments about risk thresholds, while the EEA's outputs serve as the factual basis for setting sustainability targets without prescribing policy *per se*.

At the same time, their technical authority highlights a broader tension between expertise and democratic legitimacy. As commentators observe, EU agencies often derive legitimacy from their specialised knowledge,⁹⁵ but this can conflict with democratic ideals of accountability. In practice, the EFSA's high-profile scientific judgments (for example on controversial pesticides or GMOs) periodically attract public scrutiny and political debate,⁹⁶ testing its democratic justification. The EEA's role as a neutral 'provider of facts' tends to command broad acceptance, yet its influence is more indirect. The contrast reflects an epistemic-democratic dilemma: the EFSA's normatively charged expertise can appear to encroach on political choices, whereas the EEA's evidence-based mandate keeps it safely within technocratic bounds. The study finds that the two agencies face different legitimacy pressures. EFSA must carefully justify its scientific opinions through transparent procedures and stakeholder dialogue, while the EEA maintains legitimacy mainly through reputation for objectivity and the credibility of its data.

⁹⁵ T.N. Fjærtøft, A. Michailidou, *Beyond Expertise: the Public Construction of Legitimacy for EU Agencies*, in *Polit. Res. Exch.* (2021), 2.

⁹⁶ M. Garcia-Alonso, C. Novillo, P. Kostolaniova, M. Martinez Parrilla, E. Alcalde, N. Podevin, *The EU's GM Crop Conundrum: Did the EU Policy Strategy to Convert EFSA GMO Guidance into Legislation Deliver on its Promises?*, in *EMBO Rep.* (2022), 25-26.

These differences mirror important structural and normative asymmetries. The EFSA was established by EU Regulation in 2002 with a strong legal remit to advise risk managers, and is accountable to an EU management board and ultimately to the Commission and Parliament. Its founding statute explicitly mandates ongoing consultation with consumer, industry, producer and other interest groups. By contrast, the EEA (created in 1993) operates as an independent agency structured around the European Environmental Information and Observation Network (Eionet): it collaborates closely with national environment agencies in 38 countries to compile data. In normative terms, the EFSA's outputs often carry explicit policy implications (for instance, recommending limits on contaminants), whereas EEA publications frame normative sustainability goals (such as emissions targets) only indirectly via scientific assessments. These divergent missions mean the two agencies sit in different parts of the governance system. On one hand, this specialisation enhances coherence by ensuring that each agency focuses its expertise where it adds most value. On the other hand, their different procedures and priorities require effective coordination to maintain an integrated sustainability strategy. In sum, the system's coherence depends on recognising these complementarities: the EFSA's pre-regulatory science and the EEA's environmental monitoring are two sides of the same knowledge coin.

Finally, both the autonomy and stakeholder engagement mechanisms of the EFSA and EEA modulate their contributions to sustainability. Their operational independence tends to strengthen the credibility of their outputs. For example, EU evaluations note that the Commission 'depends on [the EEA's] robust and reliable data' and thus highly values the Agency's independence.⁹⁷ Similarly, the EFSA enforces strict rules to safeguard the objectivity of its experts. At the same time, both agencies employ inclusive engagement to bolster legitimacy. The EFSA maintains multiple consultation channels – from a formal Stakeholders' Consultative Platform to public comment windows –

⁹⁷ European Environment Agency, *Evaluation of the European Environment Agency. Final Report*, Cowi, April 2013, 34-35.

explicitly to promote openness and trust. The EEA engages through its scientific committee and broad Eionet network; in practice it has built strong links with key users (Member States, the Commission and other stakeholders). By balancing independent expertise with participatory input, these mechanisms help align technical advice with societal needs. Overall, the study finds that the EFSA and the EEA each enhance EU sustainability governance in their own way: their autonomous expertise lends authority to policy discussions, and their structured stakeholder ties help ensure that such expertise remains relevant and accountable. The result is a system that, despite its asymmetries, can integrate diverse sources of knowledge to inform more coherent and democratically attuned sustainability policies.