

EU FOOD SAFETY POLICY

Localising contested governance

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ABSTRACT: Food safety is a vital concern and a salient regulatory arena, with important implications for consumers, producers and retailers of food. Following the BSE crisis in 1996, and with the alleged aim to restore consumer confidence in food, national and fragmented food safety regulations across Europe were transformed into a new European-wide food regulatory system. This included a new legal and regulatory framework, a new institutional set-up of public authorities, and new roles for public and private actors. The article analyses how the division of responsibilities for food safety has changed both across the EU as a whole and, more specifically, in six European countries. Based on seven case studies, which were prepared as part of a comparative research project, TRUSTINFOOD, the article analyses how core principles of the new EU food safety policy was put into practice in Denmark, Germany, Italy, Norway, Portugal and the UK. The article demonstrates how changes in regulatory practices in EU and the six countries converge with respect to formal regulatory framework and diverge with respect to practical implementation and institutional reform. It is a shared perspective to restore consumer confidence by enhancing institutional independence, transparency and consumer agency, but conditions for this differ between the countries. The structure of food markets and the political agendas around food issues continue to vary in different national contexts but the new food safety policy may further the development of the single European market and thus promote changes within the food production systems in Europe.

Key words: food safety; food policy; governance; EU; comparative analysis

1. Introduction

In Europe, the 1990s was the decade in which the 'mad cow disease' (BSE) scandal hit the European food sector. The 1990s was also the decade in which the implementation of the Single European Market began, and thus a time where new issues about the integration and harmonisation of procedures in food production, processing and regulation emerged. The BSE case is the most spectacular example of a scandal related to food safety. It resulted in a collapse of public confidence in the organisations handling food safety, including market actors, scientific experts and public authorities responsible for the regulation of food (Kjærnes *et al.* 2007). The crisis helped put food safety at the top of the political agenda in Europe. As a result food regulation underwent serious reorganisation in EU. In this article we discuss this reorganisation and how it has been implemented in different European countries.

The area of European food safety policy has been labelled 'contested governance'. This concept is meant to describe situations when conflicts about policy go beyond typical political controversy about different interests and positions about policy outcomes. Contested governance conceptualises more pervasive and fundamental questions as to 'who should make decisions, and where, how, and on what basis they should be made' (Ansell and Vogel 2006: 10).

European food safety regulation before the 1990s has been described as fragmented, reflecting a food market made up of national markets in which national governments have used food safety regulation as a competitive tool for domestic markets (Bernauer and Caduff 2006). National regulations mirror different national food cultures and the aspects of food they prioritise and focus on. A prioritisation of taste may for example lead to a focus on process control and quality grading systems run by private industry associations, whereas a priority on food safety may lead to a focus on product composition and control systems run by public authorities (van Waarden 2006). Such national cultures are persistent and upheld by national institutional systems, and it may take a severe crisis to open up the systems for change. In Europe it is claimed that national cultures and regulatory systems were main barriers for the further integration of the European food market (Skogstad 2006). The implementation of the single European market made harmonisation of food safety governance necessary and with the BSE crisis opportunities to carry through profound changes emerged.

In response to the BSE scandal the EU Commission prepared a White Paper on Food Safety which stated: 'The European Union needs to re-establish public confidence in its food supply, its food science, its food law and its food controls' (EU Commission 2000: 7). The crisis put change

on the agenda not only within the food producing sector, but also in the legal and regulatory framework, in the division of responsibility between societal actors, in the public authorities in charge of food control, and in the conduct of the science lying behind the regulation of food safety. But are such changes possible in all European countries? Europe is characterised by a rich variety of national and regional food cultures and national differences in regulatory systems and food sectors. The question is to what extent European-wide solutions to the loss of trust in food safety organisations are possible? It is this question we address in the following, and we do so through an empirical analysis of some of the variations in how the new European food safety policy was implemented in six European countries.

The basis for the discussion is a series of case-studies about EU food policy and about changes during the last decade in the food sectors, food policies and food regulations in Denmark, Germany, Italy, Norway, Portugal and United Kingdom (Domingues *et al.* 2004; Ferretti and Magaudda 2004; Lenz 2004; Nielsen and Møhl 2004; Terragni 2004; Wales 2004). The studies were part of the empirical work in the project 'Consumer Trust in Food. An European Study of the Social and Institutional Conditions for the Production of Trust' (www.trustinfood.org) (Kjærnes *et al.* 2007). The countries were selected because they represented qualitative types of analytical variation that were both relevant to the societal institutionalisations of the handling of food safety and necessary if qualitative generalisations were to be made (Blaikie 1993). The countries represent southern, central and northern Europe, countries with a strong welfare state tradition and others with liberal leanings, countries where the food sector is a major contributor to national income and others where it is not, countries in which the food sector is highly competitive on the international market and others where it is substantially subsidised and protected by national policies.

The studies were conducted by national research teams, coordinated by the present authors (Halkier and Holm 2006). They were based on documentary analysis and interviews with key informants in the food sector. The documentary analysis included official documents and statistical information from public authorities, market actors and organisations in the food sector. The interviews were open-ended and qualitative (Spradley 1979) and informants were selected to represent important actors in the food sector: producers, manufacturers, retailers, consumer organisations, public authorities, scientists and mass media. In each case study 15–20 individuals were interviewed and all interviews were transcribed verbatim. In the analysis of the documentary material, and of the interviews, ordinary coding, categorising and conceptualisation

(Coffey and Atkinson 1996) were used to structure the data materials together with discursive framing analysis (Benford and Snow 2000).

The analysis is inspired by the 'societal analysis approach' (Maurice 2000; Maurice and Sorge 2000) and a governance perspective. The 'societal analysis approach' emphasises the need to move, analytically, between political, economic and social spheres and the governance perspective assumes that it is the relations and institutionalisations among all types of societal actors that must be included in analyses of policy issues and processes (Marks 1996; Pierre 2000), not only actors' relations with the state. The social distribution of responsibility for food safety was analysed with respect to five dimensions: (a) the formal division of responsibility, (b) the informal interaction and relationships between societal actors, (c) discursive versions of food safety problems, and solutions to these problems among various actors, (d) the degree and type of conflict over the distribution of responsibilities for food safety, and (e) processes of change in the allocation of responsibility.

We follow each of the core principles of the new EU policy and see whether and how they are put into practice in the six countries. Firstly, we look at the implementation of the new European Food Regulation in the countries, and secondly at the different forms of institutional reorganisations which have taken place. Thirdly, we discuss how the new focus on and role of consumers appear in different national contexts. Finally we discuss how the political agenda around food safety varies between the countries and how the driving forces behind current change differ. It is our aim through this discussion to contribute to an empirically founded understanding of how European regulatory food policies work in practice.

2. A new form of food safety regulation

The EU Commission's White Paper on Food Safety (2000) states that the essential role of the Internal Market 'is to offer consumers a wide range of safe and high quality products coming from all Member States' (EU Commission 2000: 6). As the food production chain is becoming increasingly complex, the health of consumers can only be adequately protected if every link in this chain is 'as strong as the others' (ibid: 6). Restoring public confidence thus involved all parts of the food sector. That is, a *farm to table* (ibid: 3) policy was required. Five key principles guided the Commission's suggestions: clear definitions of the roles and responsibilities of stakeholders in the food chain; traceability of feed and food and their ingredients; transparency of food policy; risk analysis as the foundation on which food safety policy is based; and the application

of the precautionary principle in risk management decisions. Last but not least, the need to involve individual consumers actively in food safety policy, and in the handling of food safety, was underlined. An attempt was made, then, to encourage and direct societal actors to take part in the strategies for handling the problem of food safety. In this respect, the new EU food policy is an example of the alleged shift in political management, from the 'dirigiste' approach towards a more regulatory approach (Majone 1994).

The EU system has been described as the '*Regulatory State par excellence*' (Knill and Lenschow 2004: 218). Regulation has been defined as a distinct type of policy-making, which refers to a 'sustained and focused control exercised by a public agency over activities that are generally regarded as desirable to society' (Selznick, here quoted from Majone 1996: 9). Food safety may be included in this definition, since activities in this area are considered desirable to society. The term 'Regulatory State' refers to a historical change taken place – not only in Europe – in the relation between market and state, and between public authorities and private actors (Moran 2002). The term underlines that 'regulation is not achieved simply by passing a law, but requires detailed knowledge of, and intimate involvement with, the regulated activity' (Majone 1990). Limits of legal regulation and '*dirigiste*' policies (Jabko 2004: 201) are overcome in sectors such as the food sector, which are complex and which require considerable input of private knowledge (Marsden *et al.* 2000: 87).

The Regulatory State governs through regulation rather than through direct state interventionism and public ownership (Jordana and Levi-Faur 2004: 8). It adopts a mode of governance which builds on regulatory capacities already existing within regulated sectors, such as the in-house control systems in modern food industry, thus blurring borders between public and private authority (Scott 2004: 157). It changes top-down authoritative control by decentralising regulatory processes, allowing access to and spreading responsibility across economic and social actors (Knill and Lenschow 2004: 218) such as food manufacturers, food retailers and consumers. This new form of governance allows governmental centres of command and control to be replaced by semi-autonomous agencies (Pierre 2000) such as the new risk assessment agencies in Europe, which often operate outside the hierarchical control of the central administrations (Majone 1994). In this manner power is thought to be delegated from politicians to experts. This offers a solution to the problem of lack of expertise among policy-makers (Jordana and Levi-Faur 2004: 12).

Regulatory policy-making is considered to be particularly well-suited for the EU system, since the EU's budget is small and regulatory policies do not require substantial financial commitment from public authorities. Further, regulatory policies allow for regulation in a unified economy

which co-exist with a fragmented political system. (Jachtenfuchs 2001: 253).

The new food safety policy in EU was heavily influenced by the events of the British BSE crisis preceding the European crisis (Millstone and Zwanenberg 2002). In the United Kingdom the political and institutional response to the crisis was formed in a manner which reflected British conditions for restoring public confidence in the food system. Recent changes in the British food chain have given more power to retailers and promoted the development of integrated production systems, which are effective in ensuring food quality, protecting brands and thereby the markets of dominant supermarket chains. The new British food safety control system built on the procedures and systems which were created by the market actors, such as in-house quality assurance schemes which include systems of HACCP ('Hazard Analysis and Critical Control Points') (Marsden *et al.* 2000: 90; Wales *et al.* 2006). Secondly, the BSE crisis in UK destroyed public confidence in the public food safety system and governmental authorities in this field, calling for severe changes of public administration systems. Independence of ministerial systems and clear separation of scientific advice from the management of risks became the key characteristics of the British reorganisation of food safety policies.

The new EU initiatives in relation to food safety policy were deeply inspired by the changes in the United Kingdom. The question is how does such a policy fit with the realities of other European countries where market and regulatory conditions may be quite different and political controversy around food safety issues either lacking or moving in other directions than in the United Kingdom and EU?

3. The new regulatory framework

In January 2002 the new European Food Regulation was adopted (Regulation (EC) 178/2002). Thereby a framework was provided to ensure a coherent approach in the development of food legislation in order to ensure the free movement of food and feed in the EU. The regulation aims at ensuring a high level of protection of human life and health. It covers all stages of food/feed production and distribution and was to be implemented by all member states no later than 2007. The Regulation establishes the basic principle that the primary responsibility for ensuring the safety of food rests with the food business. However, public authorities have an important role too: 'To complement and support this principle, there must be adequate and effective controls organised by the competent authorities of the Member States' (Regulation (EC) 178/2002).

The regulation establishes in EU law that risk assessment, risk management and risk communication provide the basis for food law. Scientific assessment of risk must be undertaken in an independent, objective and transparent manner based on the best available science. Transparency of legislation and effective public consultation are seen as essential elements of building greater consumer confidence. Better communication about food safety, including full transparency of scientific opinions, are considered of key importance.

In all the six countries the new regulation has been implemented. This has meant that complex and scattered bodies of law are replaced by one single Food law in most countries. In all countries it is now official policy that principles for food safety inspection have changed. The adoption of HACCP principles which are suggested in the regulation implies that post-factum product control is substituted by process control. This takes the form of public authorities' control with private self-inspection systems. In Italy and Germany legislation is accepted at federal/national level but has to be implemented at Länder/regional level (Ferretti and Magaudo 2004; Lenz 2004). National/federal authorities have no power to ensure proper implementation, and in Italy this leads to huge variation as to the extent of implementation of EU regulation (Ferretti and Magaudo 2006).

Part of the EU regulation was the establishment of new organisations and new institutional division of responsibilities. In most countries organisational change has been on the agenda too. However, changes in the national systems have not always followed the same path as those that took place at the EU level. This will be addressed in the following sections.

4. Institutional reorganisation

The BSE crisis had revealed severe mismanagement within the scientific committees of EU and poor coordination and collaboration between EU directorates (Bergeaud-Blackler and Ferretti 2006). The new risk policy was therefore to cover the whole food production chain from plough to plate and to separate responsibility for risk analysis from that of risk management. An independent authority – the European Food Safety Authority (EFSA) – was set up in 2002 with main responsibility for risk assessment. Risk management was placed in the General Directorate for Health and Consumer Protection (DG Sanco) which became responsible for ensuring food safety through farm-to-table measures. This Directorate must ensure effective control systems in member states and evaluate compliance with EU standards. A Standing committee on the Food Chain and Animal Health and a Rapid Alert System for food and feed were set up. The system implies obligatory notification of risks to human health, animal

health or the environment within a network consisting of national competent authorities, the EFSA and the European Commission.

4.1. Plough to plate/simplification

Food safety systems in many member states have historically been organised in a manner which differentiated between specific types of foods (meat, fish, plant products) and specific phases of the production chain (primary production in agriculture and fisheries, industrial production and the retail sector). In some countries, for example Denmark and Norway, food safety policies further formally distinguished between food for the home-market and food for export. As a result, the body of regulations and the number of organisations involved in food safety policy were numerous, and it was often considered unclear who was in fact responsible for which aspect of food safety. In most countries critical discussions have taken place of this lack of clarity and the problems following from it: inefficient regulation (Nielsen and Møhl 2004), lack of flexibility (Terragni 2004: 23), overlapping functions (Domingues 2006) and lack of coordination and inefficient use of resources (Ferretti and Magaudda 2004: 29).

As a consequence, in all six countries it has been on the political agenda to reduce the number of organisations responsible for food safety and to clarify the division of responsibilities. However, the rate of success in this endeavour varies between the countries.

In most countries new organisations were built with an overall responsibility for food safety for the whole food chain. In the United Kingdom, this new organisation – the Food Standards Agency – was set up as a government office outside the departmental structure, directly linked to the Prime Minister, while in the other countries similar organisations were placed under the authority of ministries. In Denmark and in Germany (on the federal level) responsibility for food safety was concentrated in only one ministry, in Norway, Italy and Portugal several ministries are involved.

In Norway and Denmark the simplification of administrative structures involved a centralisation of authorities for food inspection, in that former municipal responsibilities were transferred to the state. In Germany and Italy the multilevel administrative structures, lending autonomy to Länder and Regions, means that responsible ministries have no legal authority over how food safety policies are implemented at the regional and local levels. As a consequence, the implementation and enforcement of food safety regulation varies between Länder and Regions. In the United Kingdom food inspection has been under local authority coordinated in a

central coordinating body. After the reorganisation, this system is now under the authority of the Food Standards Agency.

In Portugal no consistent reorganisation of the organisations handling food safety has been completed. Attempts have been made to set up a new central Portuguese Food Agency under the Ministry of Agriculture (Domingues *et al.* 2004), but this has caused considerable controversy. Portuguese food safety is still handled by a complex system of ministries and agencies working at the national and regional level and inspection units working at the municipal level (Domingues 2006).

4.2. Separation of consumer from producer interests

In the early 1990s a consumer policy was developed in the EU (Bergeaud-Blackler 2004). This policy was first justified in terms of efficiency of the single market, which was thought of as in need of active participation of consumers. Consumer interests were thus seen as compatible with producer interests in establishing the single market. Further, a consumer policy was seen as a means of gaining citizen legitimacy and 'bringing the EC closer to the citizen' (European Commission MEMO/92/68, here quoted from Bergeaud-Blackler 2004). Following the BSE crisis in 1996, it became clear that objectives, which were previously indiscernible, now had to be prioritised: consumer or market? (Bergeaud-Blackler 2004). As a consequence, clear separation of consumer and producer interests was a priority. In this, the EU followed the same path of development which had been started in the United Kingdom. Both in the EU and in the United Kingdom the handling of the BSE crisis was criticised for putting producer interests before concerns for consumer health, as public authorities responsible for food policy by tradition viewed food almost exclusively from a provisioning perspective, first and foremost as an economic matter. Concerns were expressed about the potential conflict of interests within public authorities when they were to protect the interests of the food and farming industries at the same time as those of the consumers. Consequently, a stronger representation of consumer interests and protection was needed.

In the United Kingdom the separation was attempted by establishing the Food Standards Agency as independent of the old Ministry of Agriculture, Food and Fisheries, outside normal departmental structures under the direct responsibility of the Minister of State (Wales *et al.* 2006). Further, the members of the board of the Food Standards Agency were not representatives of market actors organisations but individuals appointed on the basis of their personal qualification (Wales 2004).

In none of the other five countries was this separation ensured. In most of the countries debates have been going on as to which kind of ministry should be responsible for food safety, but in none had earlier crises led public authorities to face collapse in public confidence. In Norway, Germany and Portugal, responsibility for food safety was placed under ministries which were also responsible for agricultural policies (Terragni 2004: 24; Domingues 2006). This was also the case in Denmark, even though a scandal in 1998 revealed that for months the Ministry of Food had kept secret an outbreak of salmonella DT 104 (Nielsen 2006). Still, in Denmark efficiency in food inspection and control was prioritized above independence. But in 2004, following a reorganisation of the cabinet, a new Ministry of Family and Consumer Affairs was established and the food control system was transferred from the Food Ministry.

4.3. Separation of risk analysis/assessment from risk management

The BSE crisis raised concerns about the independence of science. In the EU, the crisis had demonstrated a lack of openness, coordination and rigour in the proceedings of the scientific committees (Bergeaud-Blackler and Ferretti 2006). Consequently, as in the United Kingdom (Wales 2004: 36) a clear separation of scientific analysis and advice from the political management of risk came to the front as a way to restore public confidence in food system.

The new EU risk policy was therefore based on the separation of three steps: assessment, management and communication. This was attempted by placing risk assessment at the new independent European Food Safety Authority and by placing risk management and communication at the General Directorate for Health and Consumer Protection (DG Sanco) in collaboration with food control systems of member states.

In the United Kingdom risk assessment was the responsibility of the Food Standards Agency. This was set up independently from government in an attempt to restore confidence in scientific expertise, to re-establish neutrality of 'science' and thus to create an independence lacking to the 'government scientist' (Wales *et al.* 2006). However, since the Food Standards Agency is also the central authority responsible for the British food control system, risk assessment and risk management is not separated in the United Kingdom.

In Denmark, Norway and Germany there has been no severe loss of public confidence in the existing scientific advisory system as such (Lenz 2004; Nielsen and Møhl 2004; Terragni 2004). Still, following the example of the EU, measures have been taken to ensure the independence of

scientific assessment from the management of food safety. In Denmark the scientific laboratories and organisations which were formerly integrated in the National Food Agency were first separated as independent research institutions, still, though, under the authority of the same ministry. Recently they have become part of the university system but maintain a contractual relationship with the ministerial system. In Norway a new Scientific Committee responsible for risk analysis is set up under the Ministry of Health, whereas the management of food safety is placed under the Food Safety Agency in the Ministry of Agriculture (Terragni 2004: 24). In Germany a new Federal Institute for Risk Assessment (BfR) corresponding to EFSA in EU was established in 2002. Risk management and co-ordination of the food control in the Länder is placed under a new Federal Agency for Consumer Protection and Food Safety (BVL) established under the same ministry. In Italy, the National Institute for Nutrition and the National Institute for Health shares the task of risk management and communication, but tasks are not clearly divided (Ferretti and Magaudda 2004), whereas in Portugal the Agency for Food Quality and Safety will be responsible for risk assessment.

4.4. Separation of legislation from inspection

Integral to the new EU risk policy was the intention to separate responsibility for legislation from that of inspection. In the EU, legislation is the responsibility of the Council of Ministers, whereas responsibility for enforcement lies with DG Sanco.

Similar separations are established in Norway and the United Kingdom. In Norway, the new Food Law is to be developed by the Ministry of Health, whereas food inspection lies with the Ministry of Agriculture. In the United Kingdom food legislation is shared between the responsibility of the Department for Environment, Food and Rural Affairs (DEFRA), the Food Standards Agency and the Department of Health, whereas the Food Standards Agency is responsible for local authority enforcement policy.

In Denmark, legislation and food inspection are not separated. They were until 2004 both the responsibility of the Ministry of Food and now both are the responsibility of the Ministry of Family and Consumer Affairs (Nielsen 2006). In Germany and Italy the situation is different by tradition. Here legislation is the responsibility of the national political and ministerial system, whereas enforcement such as food inspection is the responsibility of regional and local authorities (Lenz 2006). In Portugal, there is no separation between legislation and enforcement for food safety, and the responsibilities are shared by several central, regional and local public authorities, which create problems of overlapping of responsibilities on food control (Domingues 2006).

5. The new role of consumers

The new risk regulation of EU reflects a shift in the focus of food policy. Food is no longer seen entirely as an economic entity and in a provisioning perspective. As long as food security was a main objective of European food policy, the consumer was hardly of interest. Rather, the existence of a consumer endowed with a reliable propensity to consume was an essential assumption (Wales *et al.* 2006), and consumers and producers were seen sharing the same interest in ensuring a stable supply of foods. However, during the BSE crisis throughout the EU, conflicts between consumer protection and market interests became clear, and thus the idea of a harmonious relationship between the consumer and market became problematic and objectives had to be prioritised: consumer welfare or market efficiency? The Commission had suggested that the main objective of the new food safety regulation should be to encourage stability in the food-market, but the European parliament succeeded in making protection of human health the main objective of the new food regulation (Bergeaud-Blackler and Ferretti 2006).

The outcome of the BSE crisis was thus increased priority to consumer interests and protection of consumer health. Thus 'the consumer' became a central food policy actor. Traceability and labelling was seen as a tool for consumer control over all steps of the food chain, that is, as a means of direct control by consumers on market actors.

Consumers were not to be protected from market excess but seen as an omnipresent and unpredictable figure that needed to be taken into account. Further, focus was now on the consumer as an individual market actor and not as a member of a political organisation (Halkier and Holm 2008). The inversion of political priorities at the European level was promoted politically by the parliament and not by consumer organisations. This challenged the legitimacy of consumer organisations. These organisations lost their monopoly as spokesmen of 'the consumer' and currently both members of parliament, Eurobarometer surveys and retailers compete with consumer organisations in representing 'the consumer voice' (Bergeaud-Blackler 2004).

5.1. 'Consumers first'

Even though the interests and concerns of consumers are framed in different manners by various actors in the countries (Halkier *et al.* 2007) the shift towards a clear priority of consumer protection and consumer interests can be found in several of the six countries discussed here. In Denmark and Germany it is reflected in the re-naming or naming of

existing and new organisations where words like 'consumer affairs' or 'consumer protection' now appear instead of 'agriculture' (Lenz 2006).

In formulations of objectives of new and old organisations, the same prioritising of consumer interests can be found, 'Putting the consumer first' in the United Kingdom (Wales 2004: 41–2), and officially shifting priorities from agricultural and fishing industries to the consumer in all areas regarding food in Denmark (Nielsen and Møhl 2004: 38). In Italy, a strong prioritization of consumer interest within public food policy has not appeared yet. In Norway, there is a long tradition of interpreting consumer protection as public welfare and, contrary to the UK and the EU, this is not seen as an area of conflicting interests (Terragni 2006). In Portugal, where the move from self-sustained agriculture into modern consumerism took place only some 40 years ago, the very concept *consumer* is recent. As questions related to food safety are not part of traditional concerns in local family-based food production systems the idea that consumers should be concerned with food safety rather than food scarcity is recent too (Domingues 2006). Still, securing the *credibility* of the food production chain is the first proposed objective of the new agency for Food Quality and Safety proposed in 2000. This signals a focus on consumer concerns.

In some countries this new prioritising of consumer interests also show in new policies regarding the workings of the administrative system. In the United Kingdom, consumers are the only market actors who are given a legitimate role and place in the new Food Standards Agency. This formalising of consumer interest within an executive agency represents a marked shift in public administration in the United Kingdom (Wales *et al.* 2006). In Portugal, during the BSE crisis, it was the first time that scientific experts and representatives of the food market and the consumers were called upon for consultancy in such a political process (Domingues 2006). This was a hitherto unknown practice in Portuguese parliamentary democracy, which began only in 1974 after 40 years of dictatorship. In Germany some Länder started to draw upon consumers for consultation. In Bavaria, for example, public consultation panels were used in order to collect 'citizens advice' (Lenz 2004: 79). In the Nordic countries recent institutional reorganisations did not change the long tradition of incorporating consumer organisations as 'concerned parties' in legislative processes and public administration (Esping-Andersen 1990). In Italy consumers are still mainly seen as receivers of education and information about food, but some observers in the food market argue that there is an increasing awareness of consumer interests and policy which is going to change the way public authorities approach consumers (Ferretti and Magauidda 2004: 86).

5.2. Consumers as 'controllers'

In the new regulation consumers were no longer seen as weak individuals in need of protection, but were called upon as competent and independent actors able to and responsible for making relevant choices in the food market. In order for consumers to be able to live up to this, full information about food products was necessary. This was the aim of legislation about labelling and traceability. The shift in view of consumers was by no means uncontroversial. In Germany it led to a complete turn in the priority of consumer protection and liberty of trade for example in the field of regulations regarding misrepresentation. Earlier, not only labelling, but also the images of food packing must not be misleading, but in the new regulation consumers were supposed to be able to look through misleading pictures on food packages (Lenz 2006). A new consumer information law was proposed by the government, aiming at guaranteeing the consumer all necessary data for her/his decision-making, including information about violation of regulations even in cases where no acute health danger prevailed. However, the law did not pass, and in Germany the public authorities still have problems, for example, in naming enterprises which have problems with food safety. In other countries policies regarding publication of food inspection results vary. In Portugal and Italy, inspection results are not registered electronically in a way which make them generally available outside the controlling unit, let alone for consumers. In Norway and in the United Kingdom, inspection results can be found on the websites of the Food Safety Agency and the Food Standards Agency, but they are not actively communicated to the public. In Denmark intense political controversy about the matter has resulted in a more radical publication policy – the 'Smiley system' (see Nielsen 2006) – which readily informs consumers on the spot about recent food inspections of any premise selling food products or meals.

6. Initiation of change

In most countries the development towards the Single European Market and the need for national economies to adapt to it is an important driver behind regulatory and institutional change. Thus references to the new demands of traceability are frequently made in all countries, when discussions are raised about the need to adjust national food control policies to the EU system and adopt the principles of HACCP.

This is also the case in Norway, even though it is not a member of EU. Since Norway has joined the European Common Market, Norwegian legislation had to be harmonised to EU regulation. This has been the main

driving force behind Norwegian changes in food safety policy, and the actor who has pushed this development is the state. Similarly, changes in Germany and Denmark have been driven by public authorities, in Germany with clear references to the demands from the Single Market and in Denmark with more emphasis on national debate about the need to improve food control systems. In both these countries national political agendas have been interwoven in this process: in Germany 'the Agrarian turn' produced a new orientation of agricultural policy which now was to include a consumer policy and an environmental policy (Lenz 2006) and in Denmark, after intense controversy, the Smiley system was adopted, which changed a tradition of not publicising names of enterprises with food safety problems (Nielsen 2006). In Italy and Portugal, however, the situation is very different, in that the state and the public authorities have failed to accomplish the changes required by the new EU food safety policies. As a consequence, much initiative is left to private market actors. In Italy food production changed in the last decades more than did public organisations, and it has been market actors who have reacted most promptly to crises in consumer confidence following the first Italian BSE case in 2001, by adopting a strategy which emphasised the promotion of quality products (Ferretti and Magaudda 2006). In Portugal, the best organized agricultural companies, the most powerful food industries and the big supermarket chains invested in the improvement of food quality with the main objective of guaranteeing the commercial quality and the safety of products. These investments were made in accordance with, and as an execution of the requirements of the European Union, such as traceability (Domingues *et al.* 2004: 52).

It is thus clear that the regulatory changes following the new EU food policies in some countries are carried through on the initiative of private market actors, while in others, the state and the public authorities have acted as vanguard of the necessary reforms.

7. Concluding remarks: harmonisation and variation

In this article, we have demonstrated that changes in regulatory practices are not uniform across the EU and the six countries. Changes converge with respect to the regulatory framework and diverge with respect to institutional reform. The new EU law is a good example of what Majone (1990) terms *regulation* as it includes several of the characteristics of the regulatory type of governance, such as building on capacities already existing in the regulated field and blurring traditional distinctions between public authorities and private actors. The question is, however, whether

this regulatory type of governance will change balances between public and private actors in the same manner in all countries.

The new policy delegates responsibility for food safety to private market actors. However, food markets vary across Europe, and it is a question of the extent to which the new division of responsibility fits food market structures in different national contexts. The changes in the food market which have led to integrated production chains have been visible not only in the United Kingdom, but in other countries as well, not only in Northern and Central Europe, but also in the South. Integrated production systems have appeared in Italy as well as in Portugal. However, in these countries large parts of the food production system still consists of small and family owned businesses (Domingues *et al.* 2004; Ferretti and Magaudda 2004) and in southern Italy a considerable proportion of the food market belongs to the hidden economy. Under such conditions, food safety policies, which are designed on the basis of large-scale integrated production chains such as the British, cannot be fully implemented. It is therefore to be expected that there will be big national and regional variations in operation of the EU food safety system in future. It is, however, also to be expected that the Single European Market and the new food safety policy will promote change within the food production systems of member states. In Italy, it is expected that the demands of traceability will necessitate technical and administrative innovation and incentives for small producers to come together in cooperatives and associations in order to better face the economic burdens implied by the new methodologies for ensuring food safety (Ferretti and Magaudda 2004).

Historically, food standards have played a critical role as trade barriers (Ansell and Vogel 2006). But in many ways, current policies regarding food safety appear to develop in parallel in the EU and the six countries. In all countries expert advice about food risk is closely coordinated and based on scientific consensus across nations (Vincent 2004). Such a coordinated perspective on risk helps prevent protectionist measures which would be counterproductive for the building of the European Single Market. However, food safety may not have the same status in all countries. Other food related policies may be considered of greater importance, for example if the protection of local and traditional food production systems is a top priority on the political agenda. Consequently, in some countries, such as Italy, food safety is just one element in a food policy with much broader objectives, such as for example the promotion of food quality. EU food safety policy is thus dependant on national political priorities.

New and shifting balances between state and private actors has been an important issue in debates about the Regulatory State and new forms of governance (Peters 2000). The case of food safety policy in Europe

demonstrates that in several countries the state remains a locus for policy and regulation, and in some sectors of the food markets new public policies initiate market change.

The final core element in the new EU food safety policy, the emphasis on consumers, appears to be a shared perspective in all countries, even though the framing of consumers' core problems and concerns differ largely depending on national institutional contexts (Halkier *et al.* 2007). But conditions for the emphasis on consumers vary considerably. While in some countries consumer organisations and consumer agencies are relatively well established, this still has to develop in others. The frequent reference in EU policy to the new and strong role of consumers does not build on already existing capacities, but is perhaps rather a rhetorical device, indicating a shift in the view of the market. Whether this does in fact reflect a genuine prioritization of consumers' interests above other interests is for future empirical studies to decide.

The European food safety policy represents a strong attempt to establish European-wide solutions to the loss of consumer trust in food safety. Our analysis has shown that no uniform implementation of such cross-national policies exists. National conditions and national histories still play an important role in the specific workings of the food safety policy in the EU countries. Still, legislation is now shared across EU countries, and the common EU policy has helped shaping national European food safety agendas to address shared principles for ensuring consumer confidence in food.

The governance perspective which has informed this analysis has helped establish a focus on both social, economic and political dynamics and relationships involved in the workings of food policy making and regulation. The politics of food do not only take place within the formal political system of commissions, parliaments and governmental administrations but is happening in complex interrelationships between all actors in the food sector. This complexity needs to be in focus also in future studies of food policy, including studies of how the food safety policy set-up described in our analysis will succeed in handling future food crises.

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