
**Risk Regulation without
Political Conflicts?
Regime Structures in Food Safety
Politics in Germany, Great Britain and
the Netherlands**

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Abstract

This paper aims at examining how far regimes have developed in a specific area of risk regulation. In the field of food safety politics, a subfield of risk regulation, regime structures are going to be examined via a comparative analysis. The policy field of consumer protection politics in Europe was affected by severe changes as response to the BSE crisis. These changes concern administrative as well as programmatic reforms at both EU and national levels. The following analysis is therefore guided by the question whether these reforms encouraged or prevented the formation of partly autonomous policy regimes.

1 Introduction

The policy fields of risk regulation in the policy areas of health, environment and consumer protection are marked by a paradox. On the one hand, current dangers, scandals or accidents provoke massive political debates and cause state actions. The adoption of risk minimizing legislative packages as well as administrative reforms are then critically observed by the public sphere (Linzmaier 2007; Meins 2002). Therefore debates over necessary reforms and assessments of the initiated actions take place within a strong political climate. Governments and oppositions struggle about reform initiatives and about the scale of the required changes, and try to use crises to establish themselves for upcoming elections. Real or potential risks of new products, of environmental changes or of unhealthy lifestyles are perceived and interpreted along criteria inherent in political competition. On the other hand, policy fields of risk regulation experience relatively quiet phases, during which policy design and enforcement of investigations and safety tests are carried out as routine matters, while the public does not pay attention to the implications of new political decisions or potential dangers. During these phases, which often follow after restructuring reforms, the policy formulation and implementation is mostly de-politicized. Media attention declines and policy formulation and implementation are dominated by experts within the bureaucratic structures, representatives of interest groups and scientific technicians. It is a basic assumption of current policy research that autonomization and de-politization of processes within regulatory policy fields are accompanied by the emergence of specific regime structures (Eberlein/Grande 2000, 2005; Schneider/Janning 2006: 164ff.). Policy regimes can detach themselves from external influences and waves of politization, if they gain power in policy-making and implementation (Janning 2007a; Müller 2002). Within the regimes, actor constellations and systems of rules and procedures evolve, which enable the regimes to execute political authority in their specific

area of regulatory politics. The policy design and implementation is therefore strongly guided by the actors within the policy field, their behavior and interaction with each other. The political center of political consultation and decision committees in the parliament and the governmental apparatus, stays relatively passive and is, at the most, treated as obligatory passage point.

This paper aims at examining how far regimes have developed in a specific area of risk regulation. In the field of food safety politics, a subfield of risk regulation, regime structures are going to be examined via a comparative analysis. The policy field of consumer protection politics in Europe was affected by severe changes as response to the BSE crisis. These changes concern administrative as well as programmatic reforms at both EU and national levels. The following analysis is therefore guided by the question whether these reforms encouraged or prevented the formation of partly autonomous policy regimes. The first section of this paper describes the changes in the policy field of food safety politics on the EU level. These reforms affected the member states, since food safety and food regulation are strongly determined by EU rules and regulations. The selection of the cases to be compared regarding specific consequences of the regulations is oriented along a basic differentiation of regulatory policy traditions in the field of consumer protection prior to the BSE crisis. In the following section, the theoretical framework for a comparative analysis is developed. The concept discussion leads to a typology of regime types that can be used to compare the selected cases. The next three sections compare the regimes of food safety politics in Great Britain, the Netherlands and Germany. Regulations of food safety still show specific national features and constellations. In Great Britain and the Netherlands, the results seem to indicate the development of regimes with a stronger element of de-politization of policy-making than in Germany. The conclusion interprets the results in the light of general tendencies of de-politization.

2 Food Safety as a Policy Regime: The Europeanization of Risk Regulation

National and supranational risk regulation programs are generally motivated by the need to manage or avert crises or catastrophes.¹ In Europe, it was the BSE crisis that radically transformed the policy areas of food safety and consumer protection (Alemanno 2006; Chalmers 2003; Janning 2004; Smith u. a. 2004). The BSE crisis did not only trigger the awareness about problems in the industrial meat production and processing or the intransparency of the European wide distribution of meat products and animal food, but it also pointed to the shortcomings and thus the need to reform of the established ways and means of food safety regulation (Millstone/Zwanenberg 2002; Vos 2000). For EU member states in which meat production is an important economic factor (e.g. Germany, Great Britain), the BSE crisis demonstrated shortcomings in political risk management and a lack of political neutrality in risk assessment (Dohn/Schmiedendorf 2001; Dressel 2002; Greer 1999; Winter 1996; Wolters 1998). On the level of the EU, the complex structure of counseling bodies, whose role it is to consult and make suggestions to the

¹ The meaning of risk is commonly associated with a decision-making situation, in which a (political) decision has to be made under the condition of uncertainty, implying uncertainty of success (problem solving) and unintended consequences, which could lay the basis to modify further actions (Bonss 1995; Luhmann 1991). This the reason why risk regulation intends to proactively prevent certain dangers, which are provoked by technological innovations and externalities of the production of goods and commodities, but also stem from the individual consumer behavior (Dardis 1988), even before these dangers and problems have occurred (Baldwin/Cave 1999: 138ff.; Breyer 1993; Tait/Levidow 1992) The focus of risk regulation traditionally lies on environmental and health issues, but it can be extended to encompass the general safety of the population (Hood/Rothstein/Baldwin 2001).

Commission and the Parliament was criticized. The British government was able to fuel key positions of relevant committees with British experts, who maintained close ties to national business interests, and thus prevented critical debates about BSE in EU decision bodies (Chalmers 2003; Chambers 1999; Krapohl/Zurek 2006; Vos 2000). In face of the crisis the EU initiates crucial reforms in the field of risk regulation in order to restructure the whole system of food safety regulation drawing the consequences of the failure of early warning systems, of insufficient risk management procedures, and of insufficient capacities to estimate the development of potential dangers (Alemanno 2006; Vos/Wendler 2006).

As a first consequence of the hitherto discussions, a regulation that points to a general reorientation of the field of food safety in Europe was approved. The *Decree (EG) No. 178/2002* explicitly refers to the risk analysis approach as basis for decisions concerning the permission of food products. It therefore refers to the principal of precaution as a fundamental aspect of risk regulation. Moreover, the regulation initiated the important act of establishing the European Food Safety Authority (EFSA) in 2003, which began to operate from its headquarters in Parma in October 2005. The EFSA carries the main responsibility for the assessment of risks and dangers in the food sector, and acts as main advisor to the EU Commission in risk assessment issues. However, the final decision concerning warnings and restrictions lies with the Commissions itself and the responsible DG for Health and Consumers. The *Decree 178/2002* also calls for harmonization and alignment of national regulations in the food sector, and advocates a neutral, centralized model of risk assessment organized on the EU level.

The reforms and regulations on the EU level were followed by similar processes of restructuring within the member states. Certainly, many modifications resulted from EU guidelines and regulations, but there are also a few cases of national policy innovations in the field of

food safety regulation. Also, specific latitudes and rooms for innovations were used in different countries.² Thus, in order to answer the question how policy regimes in the field of food safety politics in Europe have developed, a case selection of the countries to be analyzed should be oriented along the Most Similar Systems Design (MSSD), or the Method of Difference (Blatter/Janning/Wagemann 2007: 142ff.) respectively. The countries selected for analysis in this paper share several features, as they are all western industrial states integrated into the EU and organized as parliamentary democracies. However, they differ in the general guideline and outcomes of one or more policy regimes. Furthermore, the case selection should include countries in which the political treatment of the BSE crisis had a high priority and in which the food sector is an important segment of the economy.³

Up to the mid-1990s when the EU started to initiate regulatory reforms in consumer protection and later in food safety regulation, the selected countries fulfill the conditions of the MSSD. They furthermore show a high variance in their national consumer protection policies (DTI 2003; Mitropoulos 1997; Tänzler u. a. 2005): *Germany* represents a system of *consumer protection with high state activity* characterized by complex legal provisions and governmental initiatives to stabilize the organization of consumers' interests (Janning 2004). The state is installed as supervisor of safety standards and consumers' interests and dominates the formulation

² In the examined countries however, it is emphasized by representatives of the ministries and federal agencies that more than 95 percent of the regulations relevant to the food sector are initiated by the EU (and not by national governments).

³ The selected countries, Germany, Great Britain and the Netherlands, are all leading countries in terms of the export and import of agricultural products and food (Oosterveer 2007: 3). The Netherlands export more than they import, Germany and Great Britain import more than they export, but according to WTO statistics they are also among the ten leading food exporting countries in the world.

of policies in the best interest of the consumer. Up to the 1990s, food regulation in Germany fulfills in general the characteristics of a *state centered protective policy*. Great Britain also has a long tradition of codified consumers' rights. British consumer protection policy-making is dominated by the attitude that the support of consumers' interests should not interfere with the free articulation of market forces in the economy. Therefore it is characterized by a *liberal market regulation approach*. Especially for the case of food safety regulations, there are many factors that indicate a *liberal market consumer protection regime* up to the 1990s; a regime that relies on self-regulation in the main sectors and allows only few state interventions (Barling/Lang 2003: 10; Flynn/Marsden/Harrison 1999; Marsden/Flynn/Harrison 2000: 73ff.). In the *Netherlands*, one can observe the interesting phenomenon of relatively high standards of consumer protection without a strong codification of consumer rights (Mitropoulos 1997: 144-170). Consumer protection policies in the Netherlands are based on *cooperative self-regulation* without a detailed system of safety regulations and legal claims. The food safety regulation up to the 1990s, as well as other regulatory fields, can be ascribed a similar system of self-regulation as established in Great Britain, although quasi-state bodies like the Social Economic Council (Sociaal-Economische Raad/SER) carry a supporting function of counseling and supervision of interests groups that are willing to cooperate.

3 Regime Analysis As A Tool for Comparison

In order to detect different national tendencies, e.g. processes of alignment in food safety regulation, this paper uses the regime approach to analyze the restructuring of the policy field from a comparative perspective. The regime approach allows for a comprehensive "synopsis" of the constellations within a policy field or *issue area*. For this purpose it combines different con-

cepts and methods of policy analysis (Janning 2007a; Schneider/Janning 2006: 164-168).

Regime analysis recently gained new popularity in the examination of constellations of players and forms of institutions, both in the fields of national and transnational regulatory policy-making. Regimes develop after a phase of regulatory reform in order to built up new regularities and collectively shared expectations in a field of regulatory policy-making. They are constituted in connection to state-run regulatory reform programs which require a certain durability and continuity to become successful (Eisner 1993: 2ff.; Francis 1993: 43ff.; Harris/Milkis 1989: 25ff.). Regimes are described as new configurations with a specific degree of stability, composed of political programs and policies, governmental and administrative institutions and specific configurations of actors and interests. In policy field of regulatory politics, they manage to dispose the power of formulating and enforcing policies. Any further theoretical discussion of the regime analysis approach, therefore has to consider that regimes need to be conceptualized as governance structures for political regulation. Consequently, the capacity to formulate and enforce policies has to be seen as essential element of a regime. Along their structural features policy regimes in the field of regulatory politics can be characterized to construct a comparative typology. In this paper however, only two regime characteristics are observed more closely:⁴

Delegated authority for decision-making: On the basis of the assumption that policy regimes implement a governance structure in a policy field, it has to be presumed that these regimes hold the authority to decide over the

⁴ A more detailed comparison of structural features of national policy regimes additionally includes the coherence of policy definitions, the compatibility of programmes and policy instruments as well as the international embeddedness of a regime (Janning 2007a; Janning 2008a).

formulation or implementation of programs and regulations. This authority has been given (by the voters) to the formal decision makers and executive organs who in turn empower a regime, or a quasi-state actor, to take over the functions of control and regulation within a policy field.

Networks for coordination and exchange of information: In order to function as governance mechanism, regimes need to be organized as integrated, closely meshed political networks, incorporating all relevant actors. Depending on the heterogeneity and the unequal distribution of resources among the actors organized in a regime, the internal structure of a regime can vary between a centralized network concentrated on one actor or one group of actors and a polycentric network divided into many groups or segments and organized in a less hierarchical structure. An integrated and centralized network structure enhances the regime's capacity to act as an actor-network while a decentralized structure of relationships is prone to internal conflicts and thus weakens the coordinative abilities of a regime.

The characterization of structural features of policy regimes in regulative politics is strongly associated with a specific type of regime, the *regulatory regime*, which functions as a central quasi-decision and implementation body for a specific policy field. Only regulatory regimes have the structural characteristics which ascribe them a particular power to execute within a regulative policy field (delegation of decision authority to the regime or to a regulatory agency within the regime, centralized and highly integrated network structure etc.). As a result, it appears to be appropriate to think about the construction of further ideal types of policy regimes. Thereby the types of regimes vary especially along the degree of their centralization and along the decision authority within the policy field they have been delegated.

The empirically probably most common type within regulatory politics centers exclusively on the coordina-

tion responsibility of a regime within this policy field – that it is called *coordination regime*. In such a regime, the actors, supplied with the respective competences, link players in transnational and national regulatory politics. However, they do not hold a mandate to formulate policies or control their implementation. The members of a coordination regime are less motivated by common aims and policy orientations, and the regime stays prone to conflicts, because its coordination structure depends on sectoral, federal or national interests and is therefore subject to more pressure from outside than a regulatory regime. A similar degree of autonomy as a regulatory regime is inherent in the *self-regulation regime*.

Particularly in certain economic sectors and in infrastructure management, self-regulatory models are increasingly discussed and employed. These regimes should release state agencies from their governing and controlling responsibilities and instead establish a mandatory regulatory system, which includes all regime members. The regime structure evolves without a centralized agency that would need to monitor all actions and sanction violations of the rules. It is assumed that all regime members bind their behavior to self-responsibility and have a great interest to cooperate and adhere to the rules. National or transnational regimes, which are less stable and whose goal it is merely to provide a temporary capacity for cooperation among conflicting interests or to support joint activities in the case of an acute crisis, have to be distinguished from this type. They function as *cooperation regimes*, and are therefore more dependent on the willingness to cooperate of its members and their structure is even weaker than that of coordination regimes or self-regulation regimes. Their task is to provide the capacity of repeated cooperation between states or policy actors in the context of complex and dynamic problem structures.

Table 1: Types of Policy Regimes

<i>Decision-Authority</i>	High	Low
<i>Degree of Centralization</i>		
High	Regulatory Regime	Coordination Regime
Low	Self-Regulation Regime	Cooperation Regime

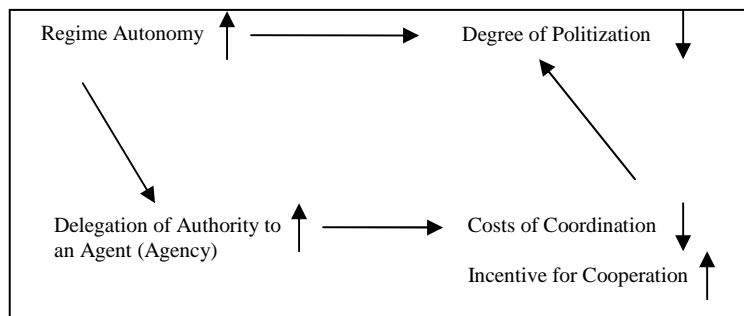
One of the basic assumptions of this study is that the depoliticization of processes within a policy field is connected to the emergence of regime structures that grant autonomy. A micro-founded explanation model of the relationship between regime structures and conflict proneness, or politization, of a policy field will highlight this aspect. Since the autonomy of a policy regime can be explained via the performed or delegated decision authority of actors within the regime. A principal (a national ministry or government) delegates power to an actor/agent within the policy network and supplies her/him with the competences of implementation, control and design. Because of her/his competence to lead, the agent can establish her-/himself as central player within the policy network and takes part in all relevant coordination and information procedures. In this way, the agent structures and simplifies the organization of the policy regime. By other regime members, the agent is perceived as stabilizing actor. From the perspective of the "simple" regime actor, the initiatives of the agent lower the costs of coordination within the regime and generate new incentives to adhere to cooperation rules especially because the principal also supplies the agent with competences to enforce regulations and sanction irregularities.

In this manner, the danger of an outbreak of conflicts among regime actors is reduced. Due to greater stability and minimized transaction costs in the self-managed policy regime, the actors within the regime will perceive all interventions from outside as potential danger

for the inner harmony of regime transactions and processes. Therefore they reject every intervention in internal program debates through macro-political actors (e.g. political parties, government) and conflicts. The internal cooperative reconciliation of diverging interests will be experienced as a better model of conflict management than the macro-political conflict model influenced by forces from outside. The policy regime therefore tries to maintain its equilibrium of reduced politization.

For this research work, the de-politization thesis is used to generate further indicators for regime building in policy fields, apart from the actual structural attributes and features of regimes. From the assumption discussed above, it can be deduced that a high/low degree of politization – indicated by a strong/weak position of (macro-) political parties and factions in the regime network or a high/low conflict level in policy debates – gives further information about the status of regime building, or else the special regime type in the policy field. In this simple model, the regime type, characterized by different degrees of autonomy (high in the case of regulatory and self-responsible regimes, low for coordination and cooperation regimes) functions as independent variable for the explanation of the degree of politization of a policy field (high in coordination and cooperation regimes, low in regulatory and self-responsible regimes).

Figure 1: A simple explanatory model



4 Comparative Analysis of Policy Regimes in Food Safety Politics

In the following section different national arrangements in policy fields in the area of food safety regulation of EU member states are going to be examined. In our study we ask how regime building was influenced by internal or external impulses and whether a convergence of policy regimes can be observed.⁵ We assume that since the reforms of food safety regulations and food safety politics initiated by the EU Commission at the end of the 1990s, the national policy fields experienced a high pressure to transform which caused restructuring efforts in all of the member states. The EU itself advocates a system that suggests a development towards a regulatory regime, because the European Food Safety Agency (EFSA) has been created as an actor that appears to hold the central position in the regime. However, because of the delegation of mainly information gathering competences to EFSA, only a cooperation regime was able to develop in EU food safety regulation. EFSA allows for a better communication and coordination between national food safety agencies, but the EU Commission maintains the most important decision competencies, and EFSA is not authorized to enforce the national implementation of rules and regulations (Gehring/Krapohl 2007; Janning/Zwick 2008; Shears/Zollers/Hurd 2004). Did the national strategies to reform food safety regulation go beyond the establishment of cooperation regimes, did in some cases even regulatory regimes develop; or did the restructuring processes stay behind these progressions? In the next

⁵ In the selected countries more than 40 interviews with experts in the field of food safety regulation, like public servants, politicians, and representatives of interest groups, were conducted. In Germany the policy area was analyzed in more detail using a formal, quantitative network analysis (Janning 2008a).

paragraphs a comparison of regime structures in Great Britain, Germany and the Netherlands will be carried through. This comparison will focus on the two main characteristics of the regime typology, namely the delegated decision authority and the degree of integration of the policy network structures.

4.1 Realizing the Ideal Type? The Regulatory Regime in Great Britain

In Great Britain, efforts to cope with the BSE crisis coincided with the replacement of the conservative Major-government. Up to the middle of the 1990s, high ranking experts and representatives of the government claimed that "British beef is safe to eat" and did not seriously consider and in some cases even suppressed scientific conclusions that indicated a relation between BSE of cows, consumption of beef, and the Creutzfeldt-Jakob-disease of humans (Greer 1999; Wolters 1998). Government and the ministries in charge, the Ministry of Agriculture Fisheries and Food (MAFF) and the Department of Health (DoH), were strongly criticized during the BSE crisis. Instead of seeking a common strategy to deal with BSE, the two ministries competed with each other. Thus, the handling of the crisis was lost in fight over responsibilities and shares of power. After the change of government in Mai 1997, first plans to install an independent regulatory agency were carried out. Even the conservative government had already begun to draw lessons and consequences from the close connection between policy counselors and the farming lobby. It established the independent Food Safety Council. Under the new Labour-government, the MAFF and the DoH sought to improve their mutual coordination through the creation of a Joint Food Safety Standards Group (JFSSG) and moreover tried to promote ideas for a Food Standards Agency (FSA). In January 1998, MAFF published a

white book for food safety, in which the tasks of the FSA to be established were explained and discussed.

As a result of discussions with interest groups and experts, a new legislation for the reorientation of the food safety sector, the Food Standards Act, was drafted in June 1998. It announced the establishment of the FSA and determined its tasks. With the Food Standard Act, the FSA was assigned a leading role in the reorientation of the food safety sector. The new regulatory agency should contribute to the protection of public health and defend the interests of the consumers in the area of foods and agricultural goods. With the founding of the FSA, competences were to be newly distributed, and the MAFF lost most of its responsibilities in this area. It changed to a pure ministry of agriculture which primarily deals with the interests of producers in the food and farming sector, as well as with the question of animal protection. The new ministry is reorganized as Department for the Environment, Food and Rural Affairs (DEFRA). How did the regime of food safety regulation politics in Great Britain develop after these reforms?

Delegated Decision Authority: Practically, the establishment of the FSA created a new central contact point for questions concerning food safety. The FSA monopolizes competences in risk assessment and risk management. It runs no longer under the authority of the ministry, but directly consults with the ministers or the government in security issues and legislative matters. However, the FSA is obliged to report to the Ministry of Health (DoH), although it is not accountable to the Ministry of Agriculture (DEFRA) (Flynn et al. 2004). It is able to initiate new programs and regulations but rarely uses this capability. To illustrate this fact, the debate on a new regulation of food labeling to fight food allergies in the year 2003 can be used as an example (Rothstein 2006). Unsatisfied with the current situation of self-responsibility in the food industry, the FSA pursued a harsher information policy in order to grasp the public's interest and put pressure on the industry.

Moreover, it tried to push the EU Commission to develop a new framework for a European-wide regulation of food allergies. Nonetheless, the direct way of a national initiative to tighten labeling regulations was not realized. On the one hand the public attention for this issue was not very high, as there is a good number of consumers who are not affected by food allergies; on the other hand only a small group of civil servants was in charge of working on this issue and the personal resources were not sufficient to lead an offensive strategy, and thus the initiative failed. Another central task of the FSA concerns law enforcement in the field of food safety.

In this sector the FSA cooperates mostly with local agencies and governments in England, Wales, Scotland and Northern Ireland and supervises control and implementation procedures, although it heavily relies on the local level's willingness to cooperate (Flynn et al. 2004; interview with policy-expert). On the national level though, the relationship between the government and FSA seems to be balanced and can be considered to be mostly conflict free. In many controversial issues, both actors pursue similar goals; only in the case of genetically modified foods, FSA endorsed a diverting position (Flynn et al. 2004). Even though FSA enjoys extensive autonomy and respect, a trend of competition seems to have developed between the Ministry of Agriculture (DEFRA) and the Ministry of Health (DoH). For risk assessment as well as for risk management, FSA, DEFRA and DoH entertain separate departments and divisions, and in both areas the expertise of FSA appears to dominate. The exchange relation between the three administrative actors and their departments is formally organized through cooperation contracts.

Networks for Coordination and Information Exchange: The FSA occupies a key position within the regulatory network. In this agency, all current information on risks and tests come together and its expertise is in demand for all questions of food safety regulation. Because FSA is not put under the authority of a ministry,

DEFRA and DoH need to maintain reciprocal relations to this agency. Concerned especially with the representation of consumers' interests (with the slogan "putting the consumer first"), the FSA stays in intense contact with the National Consumer Council, as well as with the membership based Consumers' Association (now called Which?) (Barling/Lang 2003: 12). Especially DEFRA (as replacement organization of the producer friendly MAFF) mainly speaks for the side of producers in the British food regime, therefore FSA favors a more or less balanced representation of interests. As internal consultation instrument, the Consumer Committee, composed of representatives of the consumers, is of special interest for FSA. However, this committee was already abolished at the end of 2005, because the represented consumer groups did not feel that their decisions were adequately regarded by the leadership of FSA, which was accused to be too biased (Rothstein 2007). FSA also maintains regular contacts with the food industry in order to observe research and innovations in the field of food and to exchange information concerning successful crisis management.

A special role can also be ascribed to retailers and their associations, which increasingly use aggressive lobbying-strategies and also directly contact the FSA (Thankappan et al. 2004; interview with policy expert). Presently, the conflict level in the sector of food safety regulations seem relatively low, which signifies that the FSA's key position within the network has been accepted and is not challenged by DEFRA and DoH (interview with DEFRA). FSA operates as mediator and broker for the different administrative and private interests without favoring single actors (Moran 2003: 149f.). This also means that this agency does not always represent the interests of consumers' associations and does not exclusively decide according to their wishes, but only does so in cases where consumers' groups are well organized and the public is mobilized. In issues where consumers' interest groups are not effectively organized (e.g. in the case of food allergies), FSA remains passive

(Rothstein 2005). The strong position in the regulatory network is moreover strengthened through the FSA's responsibility to implement and enforce food safety policies, and therefore to monitor and coordinate local agencies (Yapp 2006: 164).

Summary: With the FSA, the food safety regime gained a new internal organization structure. The agency lies in the centre of all cooperation and information transfers. Nonetheless, it does not sufficiently use its central position to formulate its own policy goals and to install a new focus of policy-making independently from legislative politics. First conflicts with the Labour Government indicate a certain pursuit of autonomy, but the FSA's activities within the policy regime remain limited to the implementation of EU regulations in the food sector (in agreement with Labour policy guidelines) and to fast reactions to crises. Through the less controversial central position of the FSA, clashes over competing competences between MAFF (now DEFRA) and DoH were diminished. The regime therefore experienced a certain process of de-politization, but this development is not used to formulate a new policy mandate. Concluding, the food safety policy regime in Great Britain appears to fulfill the characteristics of a coordination regime more than those of a regulatory regime.

4.2.1 From Self-Regulation to Coordination Regime? Food Safety Politics in the Netherlands

Consequences of the BSE crisis were not very noticeable in the Netherlands, although some cases of BSE were reported since March 1997 (Oosterveer 2002: 220). The meat production and sausage industry did not have a position as relevant for the food industry as in Great Britain or Germany, and the processing and consumption of beef was not publicly debated. The crisis did not have a fundamental effect on the political system. However, in the late 1990s a number of critical

animal epidemics (swine fever in 1997, foot and mouth disease in 2001) occurred which pointed to the problems of mass animal farming and industrial meat processing (Reijnders 2004). The consequences of the BSE crisis therefore emerge indirectly. As a result of the higher attention to food safety issues within the EU and the new EU food regulation program, the social-democratic/liberal-coalition in power took on some restructurings in the field of food safety.

A special role plays the Voedsel en Waren Autoriteit (VWA), a central agency for risk assessment. It is in charge of consulting on questions of risks; moreover it coordinates local food safety controls and holds basic competences in the area of risk management. It was created in 2002, shortly before the establishment of EFSA. To build the VWA, two separate organizations were merged into one organization: the inspection agency for public health protection (KvW), which was part of the Ministry of Health; and the inspection agency for meat hygiene (RVV), which had belonged to the Ministry of Agriculture. The VWA itself was initially under the authority of the Ministry of Health (Ministerie van Volksgezondheid, Welzijn en Sport/VWS), though after a change of government in 2002/2003, it was integrated into the Ministry of Agriculture (Ministerie van Landbouw, Natuur en Voedselkwaliteit/LNV). In the field of consumer protection politics, the agency model which was long advertised by the EU Commission as delegative strategy of political leadership (Majone 1997), gains growing popularity also in the Netherlands (Smullen 2007), despite a change in government – since 2002 the Netherlands have been ruled by a conservative-liberal/right-populist coalition.

Delegated Decision Authority: In the issue of food regulation, two ministries, the Ministry of Health (VWS) and the Ministry of Agriculture (LNV) compete over the enforcement of their decision authority. Recently, the conflict seems to have settled down, however, especially the VWA was involved in a struggle over com-

petencies. In order to resolve the conflict, the parliament prepared a formal description of competences according to which the VWS is responsible for all areas of food hygiene, except meat and meat products, where the responsibility lies with the LNV. But because the VWA does not only perform controls for meat products, but also for other foods, the two ministries cooperate with the agency. To optimize this collaboration, regular meetings of the heads of office of the three organizations were established (interview with the LNV).

Especially within the LNV however, the VWA is perceived only as enforcement agency and is not accepted as policy maker (interview with the LNV). The VWA is reduced to its central role as rule enforcer, but it can also decide on new charge fees and threshold values in agreement with the ministries. However, VWA recognizes itself primarily as subordinated instrument for the implementation of national regulatory policies which are strongly influenced by EU regulations (interview with the VWA). At least the present administrative laws authorize the VWA to close down farms and enterprises that disobey regulations. Before, the only possibility to shut down these "black sheep" was via a court decision (interview with VWA). Because of its strong role in risk assessment and law enforcement, the VWA operates as mediating actor, on the one hand between the regional and local levels of food safety controls, on the other hand as consulter of the two ministries in questions of risk assessment.

Risk management is centrally organized by the two ministries with involvement of the VWA. In this process, competition about competencies still occurs. Depending on how strongly the farming sector is concerned by a crisis, the LNV tries to lead the debate and organizes *task forces* in its own branches, although it regularly consults with VWS and VWA about the crisis. The interest groups are involved in the risk assessment and evaluation processes in case of a crisis, but risk management decisions are only made by the *task force* itself (interview with LNV). As a result, food safety in

the Netherlands seems to be shaped mainly by the ministries.

Networks for Coordination and Information Exchange: The two ministries separately meet with "stakeholders" in the food sector and inform interest groups about their legislative initiatives in Brussels. The LNV seems to be eager to represent a plurality of interests, the side of the producers nonetheless dominates the concerns and debates, since the Ministry of Agriculture traditionally perceives itself as ally of the farmers (Kickert 2004: 561). The VWS on the other side slightly tends to favor the consumers' interests and has appointed representatives of consumers' associations to relevant boards and committees (interview with Consumentenbond). The ministries therefore correspond to the general public image of the state administration in the Netherlands (Kickert/In't Veld 1995; Pollitt u. a. 2004: 63ff.). Contacts to members of parliament or interventions from their side are relatively rare and restricted to individual cases, in which interests groups that are not integrated in the consensual negotiation style of the administrative policy making are brought into the policy process.

At least, the VWS openly opposes such interventions (interview with VWS). It rarely maintains policy related networks, although especially in the area of risk assessment, it possesses a wide range of contacts into the field of science, above all the area of food research. Particularly strong is its connection to the Wageningen University which constitutes the academic center of the production and food research (interview with VWA). For the enforcement and control of safety and quality standards, the VWA naturally cooperates with local/regional controllers and administrative actors although controls are centrally organized by the VWA. Observing the whole policy field of food safety in the Netherlands, a strong fragmentation and cluster building seems to prevail within the network. Despite a mostly plural involvement of interest groups, the tightest contacts develop between the business groups and the LNV, as well as between the consumers' associations

and the VWS. Because the VWA only holds a central position in the issue of risk assessment and in the enforcement of policies, it is only involved in a subordinated position, whereas the two ministries are in charge of leading the debates and have reserved better positions within the network.

Summary: The policy regime of food safety politics in the Netherlands is more polarized and shaped by conflict than the ideal type of self-regulation regime would allow.⁶ Responsible for this situation are the initiatives of the two leading ministries VWS and LNV, as well as conflicts over the areas of responsibility and the implementation of opposing policy aims (prevention versus reactive risk management). The clashes between the ministries are reflected in their network contacts. The VWA stands in the middle of these conflicts. It is partly led by diverging demands and due to a lack of competences it is not able to mediate between the ministries. The food safety regime appears to be a relatively low integrated coordination regime, in which the Polder-mechanism of the self-regulation regime only partly occurs and in which the two ministries play an active role in the implementation and reformulation of EU food regulations. Because of the increased legislative activity of the EU in the field of risk regulation, the Polder-model proves to be obsolete, since instead of negotiating a consensus based on self-regulation rules, it is necessary to adapt to and implement a more and more formalized safety legislation.

⁶ Over the past 30 years a form of state-sponsored and -moderated self-regulation was developed for the handling of security and regulation issues in the Netherlands which is commonly referred to as the Polder-model (Hendriks/Toonen 2001; Woldendorp 2005). What is meant by this is a version of liberal, or consensual corporatism in which "social partners", usually unions and business interests, decide on general policy goals through a number of decision committees under guidance of the state, and therefore release the state and mitigate political conflicts (Kickert 2003; Lehmbruch 1979).

4.3 More than a cooperation regime? The politization of risk regulation in Germany

In Germany, similar to the situation in Great Britain, the BSE crisis became a test case for the management competences of the young SPD/Green Party-coalition government. Initially the dangers of BSE were downplayed by the responsible ministries of the Red-Green coalition. Both ministers (health: Fischer/Green Party and agriculture: Funke/SPD) had to resign from office because of public pressure and as a result of the chancellor's effort to minimize the political damage. As a reaction to the insufficient crisis management and a lack of information processing of the two ministries, and ministers respectively, the Red-Green government decided on an important institutional restructuring, via an organizational act initiated by the chancellor and implemented 22 January 2001 (Dressel et al. 2006; Janning 2004; Steiner 2006). From the Ministry of Health competences for consumer protection in the area of food and nutrition were integrated into the new Ministry of Consumer Protection, Nutrition and Agriculture (Bundesministerium für Verbraucherschutz, Ernährung und Landwirtschaft/BMVEL).

Moreover, this new ministry was assigned responsibilities in the area of consumer protection politics from the Ministry of Economy and Technology. The task of enforcements (implementation of food hygiene controls, shutting down of corporations, allocation of sanctions) is now organized by the federal states (Länder) and local authorities, where different control mechanisms have been established (Böschchen et al. 2005). This federalist regulatory system increases the need for coordination, a circumstance that was anticipated by Government and BMVEL at the end of 2002, when a Federal Agency for Consumer Protection and Food Safety (Bundesamt für Verbraucherschutz und Lebensmittelsicherheit/BVL) was created. BVL should take up general tasks of coordination and in consulting with the

BMVEL it is able to withdraw products from circulation and inform the public about irregularities of foods. In the assessment of food risks, the Federal Agency for Risk Assessment (Bundesamt für Risikobewertung/BfR), which was newly installed at the end of 2002, plays a crucial role.

Different from the BMVEL and the BVL, it is not an entirely new agency, but continues, partly even at the same location and with the same staff, the work of the Institute for Hygienic Consumer protection and Veterinary Medicine (Bundesinstitut für gesundheitlichen Verbraucherschutz und Veterinärmedizin/BgVV), which was once part of the Ministry of Health. The BfR has the primary task to undertake risk assessment research on food and food additives. Test results should be made available to the BVL and the BMVEL (and, if necessary, to the EFSA). In sum, a hierarchical structure for the administration of food safety is constructed that complies with the German tradition of public administration and can also be found in other areas of regulation (Döhler 2007).

Delegated Decision Authority: In the German food safety regime, a centralization of regulatory power is pursued through delegation to the Ministry of Consumer Protection (today BMELV). Competences which initially were divided between the Ministry of Health and the Ministry of Agriculture are now concentrated in the BMELV. At least in the field of food safety regulations, the BMELV can be conceived as the main policy maker in the implementation and adaptation of relevant EU guidelines. Conflicts with other ministries over responsibilities thus do not take place. However, in regulatory issues in the field of economic consumer protection, the Ministry of Economics (Bundeswirtschaftsministerium/BMWi) is the leading actor; therefore the decision authority of the BMELV in the area of consumer protection is limited to the *issue areas* of food, nutrition and agriculture. For policy decisions in other issue areas of consumer protection it is regarded as an important consultant, but technically it is subordinated to the lead-

ership of the BMWi (and in some cases of to the Ministry of Justice - Bundesjustizministerium/BMJ).

The establishment of the BMVEL/BMELV naturally caused only a restricted delegation of authority to the regime, because the ministry's program is strongly influenced by the policy guidelines of the coalition agreements and governmental politics as well as by the political strategies of ministers (2002-2005: Mrs. Künast, Green Party, advocated ecological agriculture and an offensive consumer protection policy; since 2005: Mr. Seehofer, CSU, a representative of agricultural business interests and a proponent of a more defensive take on consumer protection issues). Through the dominant position of the ministry within the policy field, a strong politicization of policy debates and political interaction takes place. The two agencies, BVL and BfR, hold more or less subordinate positions (Janning 2007b).

The BVL has still to find its role as coordinator between the national ministries and the Länder and is in danger to become a puppet of respective national as well as Länder interests and programs (interview with BVL). In the case of a crisis the BVL should be primarily responsible for risk management; nevertheless, several meat scandals particularly in Bavaria since 2005 demonstrate that the BVL heavily relies on reliable information from Länder agencies and therefore depends on their willingness to cooperate. Additionally, in the area of decision making, it merely does the preliminary work for the ministry, where final decisions are lastly made. Because the responsibilities for control and enforcement lie with the federal states, the BfR holds even fewer competences than the VWA in the Netherlands. Therefore, parallels between the work of the BfR and the function of the EFSA can be drawn (Fischer 2007). However, the role of the BfR is not limited to the consultation of the BMELV or the BVL. In severe crisis situations, researchers of the BfR quickly have to make decisions about informing the public about toxic ingredients or additives in food (interview with BfR). Usually the

BMELV needs to give its approval, but in urgent situations crucial test and examination results sometimes reach the public without this confirmation.

Networks for Coordination and Information Exchange:

A formal quantitative network analysis, which was conducted in winter 2006/2007 for the set of actors in the *issue area* of food safety regulations, confirmed BMELV's central position within the network (Janning 2008a). The BMELV is the most central actor and is therefore the regime player that is contacted the most. The BVL and BfR show centralization values slightly lower than that of the ministry of consumer protection. The Verbraucherzentrale Bundesverband (VZBV), a state funded consumers' association that is aimed at political lobbying, is the most important interest group with a relatively high centralization value (Janning 2008b). Especially under the Red-Green coalition the VZBV had easy access to BMELV and the agencies, after the change of government in 2005 this high relationship began to change.

The food safety politics regime is therefore shaped mostly by the activities of BMELV. In interviews, civil servants of BMELV openly admitted to hold a variety of network contacts in order to gain relevant information (interview with BMELV). Apart from VZBV, of course the associations of the food industry (BVL and BVE) as well as important business interest groups are consulted. The branches of BMELV which are concerned with food safety regulations and agricultural politics and which are still located in Bonn traditionally maintain close contacts to associations and interest groups in the food industry, even during the red-green coalition, when these contacts were not displayed as openly as before (interview with BMELV). The access points for the VZBV were located in the Berlin branches of BMELV, in particular close ties to the departmental steering group around Mrs. Künast were valuable. The BVL also maintains active outside contacts; important are foremost the regular consultation with the concerned Länder ministries.

The BfR is functionally dependant on close ties to other scientific institutions and to the research departments of the food industry, because it does not have sufficient resources to run its own test series. Only in some special cases – for example the determination of the middle- and long-term cancer causing affects of acrylamide found in potato chips and other bakery products – BfR conducted its own research, whereas in most other cases BfR uses available test results of the food industry for their own risk assessment (interview with BfR).

Summary: The reforms initiated and implemented after the BSE crisis delegated little decision authority to the food safety policy regime itself. The two agencies BVL and BfR, authorized with new competences, function as additional coordination and consultation organs for the leading ministry, however their competences in policy matters are very limited. Through the creation of BMVEL the executive power in the policy field was concentrated and further stabilized. At least in this *issue area*, the BMVEL (now BMELV) competes with no other national ministry. Nonetheless, governments and ministries of the federal states (Länder) do not have to uncritically follow the instructions of the BMELV, but can set their own priorities and implement these through a system of control and enforcement structures. Insofar, the federal organization provides a number of possibilities for the Länder to refuse and obstruct instructions, where the party political constellation causes a disagreement between the national government and a majority of the Länder. Moreover, the strong position of the BMVEL/BMELV caused a dependency of the whole policy field from the party political orientation of the minister in charge, and from the macro-political cycle of elections and turnover of governments and of government coalitions (Janning 2005). Everything points to the conclusion that the food safety regime in Germany is even more politicized than the regime in the Netherlands. Therefore, only a weak coordination regime emerged.

5 Conclusion: Food Safety Politics between Politization and De-Politization

The cases we examined do not present a coherent image of regime structures. The thesis that food safety regimes in general tend to de-politicize has to be revised. Although the Europeanization of food regulations and food safety policies resulted in a relocation of competences from the national executives and parliaments to the EU, the implementation of EU regulations and the national organization of food safety policy sectors clearly differ between the countries.

In Germany, coordination devices within the policy area of food safety and the tools for crisis management in case of scandals and or other incidents improved with the establishment of new agencies. Nevertheless, because the task of risk management is competitively carried out by federal ministries and affected Länder ministries, many political disputes arise. The regime's ability of self-regulation remains prone to inner-party animosities, impacts of the contest between the parties, and political career strategies of the ministers. However, tendencies of politization primarily result from the strong position of the executive and result from the conflict between the national policy actors and the political interests of the Länder. The parliament and the parliamentary committees concerned with consumer and food issues function as controlling organs, but a politization of these processes by parliamentary actors cannot be observed.

Surprisingly, in the Netherlands food safety politics do not constitute a self-regulation regime as it is often identified and debated as the basic model for the whole policy system. On the one hand, since the 1990s, a new prominent role of the executive in policy-making and implementation has been documented in this policy area (Kickert 2003). Two ministries, the Ministry of Health and the Ministry of Agriculture, dominate the regime. Both are responsible for risk management, the regula-

tory agency VWA remains limited to the tasks of risk assessment and communication, while it is also the central body for the control of food safety and law enforcement. Because the two ministries compete over tasks and responsibilities, the food safety regime in the Netherlands is more politicized than expected. The ministries also organized the inclusion of social partners into the regime, as is typical for national politics in the Netherlands. But because the ministries still maintain individual interest preferences as well as traditional connections to selected interest groups, disagreements between the two bodies also come up in the implementation of diverting interest positions and programs.

The regime structures in the *issue area* of food safety politics in Germany and the Netherlands seem to respond to the ideal type of the coordination regime, with both regimes staying prone to politicization sways. As a result of an "unfavorable" federal-national constellation, the German regime can be degraded to a cooperation regime under the impact of politicization forces. Then, its capacity for coordination is even further reduced. On the other hand, the policy regime in Great Britain matches the ideal type of a regulatory regime. Through the successful delegation of decision authority to a regulatory agency, the FSA, the regime gained autonomy and is organized around a center which concentrates the competences of risk management, assessment and communication. The authority of FSA cannot be surpassed or questioned because the regulatory agency is neither subordinated to a ministry nor bound in their resource allocation. Therefore incentives of cooperation between the actors of the issue area in the British regime are high, and the costs of network coordination are low. However, it is remarkable that the FSA hitherto did not use its powerful position to promote its own political projects. From this perspective, the regulatory regime does not produce a true active self-regulation, but adjusts to the government's politics and the policy-making of the parliamentarian and executive bodies. Although the British regime has the best opportunities

to develop a semi-autonomous, de-politicized regime structure, this potential is rarely realized during conflicts with government or with the Ministries of Health and Agriculture (DoH and DEFRA).

Although no general tendencies of de-politization can be observed in the examined cases, at least a development towards a de-parliamentation of policy design becomes evident. Dominant actors in food safety politics are the responsible ministries and, in the case of Great Britain, the newly established regulatory agency (FSA). Interventions from parliament and political parties only play a subordinated role in the development and enforcement of EU regulations. Parliaments still hold the institutional primacy right in final decision making; nonetheless the parliaments' attempts to influence policy outcomes often remain ineffective. In the field of food safety regulation we are confronted with a general trend recently also described for other policy areas: the strengthening of the executive and the neglect of the parliament in real decision-making. In this development, the EU seems to have a centralizing and bureaucratizing impact (Bach 1999).

For once, it was observed that member states' national parliaments have less influential power than the national governments and administrations, and that therefore EU decisions hold a low level of legitimacy (Dieringer 2004; Kirchhof 2004). Moreover, the institutional structure is heavily focused on the executive and serves as promoter of the "de-parliamentation" of national policy-making (Börzel 2000; Obrecht 2006). This also holds true for the field of food safety politics, because here most regulations are initiated by the EU and the national program strategies are characterized by a strong orientation towards administration, legalization and technocracy. However, these findings cannot be generalized or transferred to other policy areas. Those policy areas that are less directly affected by EU regulations (e.g. social and foreign policy) can still be dominated by parliamentary initiatives and debates, and member states' parliaments can develop a number of strategies to impact the

European political process when ideas for new EU framework regulations come up (Behning 2006; Benz 2004; Borrás 2008).

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