



Executive summary

The governance of food safety - a web of rules, standards and regulations

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The foundation of the present European policy framework governing food quality and safety was laid down in response to the food scandals in the mid-1990s. The BSE-scandal in particular sent consumer confidence levels in freefall and prompted a systematic reform of the regulatory and institutional systems in the EU and the member states. Prior to and during the midst of the food scandals, risk assessment tasks as well as the representation of both producer- and consumer-interests often rested with the same Ministry in several European member states. As a consequence, institutions were locked in a conflict of interest between protecting producers and consumers. The European Commission White Paper on Food Safety 2000 shed light on the institutional incapacity to cope with both tasks and forced policy-makers to redefine the institutional framework to emphasize the functional and institutional separation of the three components of risk analysis, namely risk assessment (scientific advice and information analysis), risk management (regulation and control) and risk communication. As a direct consequence of the White Paper, the European Food Safety Agency (EFSA) – mandated to carry out and coordinate risk assessment and communication at EU level – was set up, and shortly thereafter several member states established a food agency equivalent to the EFSA. Nevertheless, at the national level, considerable differences still exist particularly with regard to the effectiveness and efficiency of controls and the application of the HACCP codex.

Apart from emphasizing the functional separation of the three components of risk analysis, the European Commission also underlined in the White Paper that food safety is embedded in a **multi-level governance structure** where the responsibility is distributed between public and private institutions at the national, regional and international level. Accordingly, the so-called General Food Law of 2002 (*Regulation (EC)178/2002 1*) came to be based on the thesis that implementing an effective food safety policy necessitates a comprehensive approach from **farm-to-table** throughout the whole food chain **covering all food sectors and all stakeholders**.

In this so-called multi-level governance framework, food standards have come to play a great role and their importance reflects, in turn, the **power attributed to private stakeholders**. The last decades witnessed the emergence of more quality-conscious consumers who pay more attention to quality attributes rather than price. Standardization agencies and industrial associations such as the CEN, ISO, and the BRC responded by issuing their own private food quality and safety standards aimed at retailers, and underpinned by the control of certification bodies and accreditation agencies.



Concomitant with more private forms of governance, **international organizations and the WTO also gained ground in the issuing of standards.** The Agreement establishing the WTO, which incorporated the SPS Agreement, obliges member states, when adopting sanitary and phytosanitary measures, to base these either on a scientific risk assessment or on international standards. In the case of the latter option, the SPS Agreement specifically mentions the **Codex Alimentarius Commission** as its reference organization. Indeed, the significant role attributed to the Codex Alimentarius Commission as being *the* reference organization for food standards, reveals the authoritative position entrusted upon Codex standards. However, it also illustrates the deadlock where nations are confronted with the dual objective of ensuring trade liberalization while maintaining their sovereign right to establish more precautionary measures than those provided for by the Codex Alimentarius. Two exemplary cases stand out in this respect, namely the 'hormones case' and the 'GMO case.' While both cases demonstrate the growing role attributed to the precautionary principle in European legislative actions, they also reflect the overall difference in regulating food safety and quality between the EU and the US, respectively.

The regulation of chemical contaminants is another relevant example. In the EU, the regulation of chemical contaminants is approached through the so-called ALARA principle (as low as reasonably achievable). This presupposes that harmful effects may even occur at very low levels of contamination, and, in turn, this is a motivator for seeking to reduce contamination to as low as reasonably achievable. As such, the ALARA principle is closely linked to the precautionary principle in the sense that both principles emphasize that even low harmful levels or threats should be a motivator for regulators to prevent such substances from being marketed. In contrast, the US has approached the regulation of chemical contaminants from the principle of risk-benefit analysis where the Food and Drug Administration (FDA) lays down action levels, which are levels at or above those the FDA recommends legal action to remove the particular products from the shelf rather than prescribing maximum levels of contamination as it is the case in the EU.

The legislation on labelling is another example. As a means of increasing transparency and information for allergic consumers, in 2003 the obligation to indicate *every* ingredient present in foodstuff on the label was introduced in the EU (*Directive 2003/89/EC*). Prior to 2003, it was not obligatory to indicate on the list of ingredients the components of compound ingredients if they made up less than 25% of the final food product, which meant that if a manufacturer of pizzas put salami on the pizza, he/she was only obliged to indicate the additives in the salami on the label and not the other ingredients in the salami such as meat, fat, milk powder if they made up less than 25% of the final product. Apart from the mandatory obligation to indicate every ingredient on the label, the Directive also mandated manufacturers to indicate on the label the presence of twelve allergenic ingredients by the word "contains". In contrast, US labelling requirements oblige manufacturers to indicate every ingredient present in the product in descending order of prominence according to weight, with the exception of ingredients that are present in amounts less than 2% of the product. With regard to food allergens, in 2004 the US Congress took similar measures to the EU obliging food business operators to indicate eight major food allergens on labels. In comparison, the relevant Codex standard prescribes that ingredients shall be listed in descending order according to their weight, and that compound ingredients may be declared but only if they constitute more than 5% of the food while food business operators are obliged to indicate on the label six ingredients known to cause hypersensitivity. While EU legislation on labelling is the most stringent providing for the mandatory indication of twelve potentially allergic ingredients, the fact that all three parties prescribe a number of allergic substances indicates that the EU, US and Codex Alimentarius all follow the same line: that



the only way to avoid an allergic reaction is by avoiding specific allergic substances, which, in turn, is only possible if you know the exact ingredients in a food product.

While the legislation on labelling requirements is somewhat similar across the Atlantic the same cannot be said of the legislation governing health and nutrition claims. Primarily, nutrition labelling is mandatory in the US whereas it is only mandatory in the EU if a nutrition claim is made (at least to date! In January 2008, the European Commission put forth a proposal to make nutrition labelling mandatory). In terms of the contents of nutrition labels, the EU approach appears to be the most extensive requiring manufacturers to declare the content of fat, energy, protein, and carbohydrate, vitamins etc.

When comparing European food safety legislation with the American equivalent, it emerges that the two systems differ significantly. Firstly, the sensitivity to food crises and the consequent consumer trust/distrust in regulatory authorities is a factor that sets the two apart. In the EU, consumer trust in regulatory institutions has been driving regulatory activity in the field of food safety. In contrast, the American regulatory framework has been left relatively untouched despite the fact that food scandals have also occurred on American territory; however, consumer trust has remained relatively stable in comparison to the EU. Secondly, the relative market conditions in terms of food import shares differ greatly in the EU and the US: where EU countries import approximately 50% of their total food supply from other EU countries or countries outside the EU, the US only imports 11% of total food products. And thirdly, the interpretation of the precautionary principle and its application within risk assessment is an issue that might also serve as an explanatory factor. The US has long equalled risk assessment with 'sound science' whereas the EU has called upon the importance of societal, economic, traditional, ethical and environmental factors when a risk assessment alone does not provide enough information on which a risk management decision can be taken. Several examples – and notably the two above-mentioned WTO-cases – illustrate how risk is perceived and how it is approached legislatively in the EU, US and Codex Alimentarius, respectively. Notwithstanding such different strategies and regulatory approaches of implementation and enforcement, while their responses continue to diverge, their **patterns of reaction to specific hazards are converging for the simple reason that trade liberalization has embedded food supply in global food chains characterized by political and economic interdependencies between countries.**

About MoniQA – www.moniqa.org

MoniQA ("Monitoring and Quality Assurance in the Food Supply Chain") is a Network of Excellence (NoE) funded by the European Commission under the 6th Framework Programme. The Network aims to make food safer by harmonising methods for food analyses. The project is coordinated by the Vienna-based International Association for Cereal Science and Technology (ICC). More than 155 researchers and scientist from 33 international partners from 20 countries are involved in MoniQA.

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