



Legal Structures of Food Safety in Europe

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Author's contribution

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Short communication

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ABSTRACT

In view of the rapid increase in the globalisation of the economy, assuring food safety within the European Union is a challenge. The range and variety of foods on offer in Europe continue to rise steadily. The demands not only on food companies but also on the European Union and its member states grow, that food risks should be scientifically assessed, minimised and communicated in a way that can be easily understood. Private, as well as criminal and public law aspects have to be considered, especially in possible crises. The structures of and responsibilities for the public law tasks of EU institutions and on the level of the Member States and even within the Member States themselves are often not sufficiently well known. This results in confusion and accusations in times of crisis and a duplication of efforts and negative competence conflicts in times of peace and quiet. The "EU Food Safety Almanac" published by the German Federal Institute for Risk Assessment (Bundesinstitut für Risikobewertung, BfR) is intended to help to perceive responsibilities in food safety in a proper manner. It provides an overview of the structures of food and feed safety within the Member States and the European Union. In doing so, it becomes clear how food safety is organised and implemented differently within the scope of the constitutional and administrative law of 35 respective countries.

Keywords: Food safety; almanac; European Member States.

1. NATIONAL GOVERNMENT TASKS IN THE FIELD OF FOOD SAFETY

Incidents, such as aflatoxins in forage maize or the horse meat scandal in Europe at the beginning of 2013, show that “food scandals” usually affect more than one country of the European Union. This in turn makes smooth cooperation between the food safety players of each country essential to ensure an adequate response from each national government. In the best interests of consumer protection, they have the task of protecting consumer health, preventing the deception of consumers and providing them with factual and appropriate information. The course of the decade which followed the fundamental restructuring of EU institutions after the BSE scandal gives various reasons to reflect on the accomplishment of tasks in the field of food safety¹.

Food safety tasks are traditionally divided up into risk assessment, risk management and risk communication in line with Art. 3, No. 10 of Regulation (EC) 178/2002. Risk assessment is understood to be the estimation of a risk by scientific means. In addition to scientific risk assessment, social and economic aspects also flow into the process of risk management. Ultimately, consumers can only reach responsible purchasing decisions if information on food safety is made available by the protagonists in a manner which is correct, transparent and in line with the interests of each target group. The demand for more transparency is made not only for risk assessment but also for risk management². Accordingly, risk communication constitutes the third element of “risk analysis”, Art. 6 of Regulation 178 (EC) 178/2002. In addition to the three-way split of “risk analysis” into risk assessment, risk management and risk communication, the significance of establishing the facts is a fourth aspect which should not be underestimated: The search for the causative agent and the contaminated food plays a major role, especially in an incident or crisis, such as the dioxin crisis and the EHEC outbreak in Germany in 2011. It is often made even before a scientific assessment of the risk is possible and before management measures against the risk can be initiated.

2. ‘FROM STABLE TO TABLE’ – THE EUROPEAN CONCEPT FOR MORE FOOD SAFETY

In light of the challenges posed by a single market and the severe consequences of food scandals like the BSE crisis, the EU Commission deemed it necessary to develop a radically new food safety concept. The White Paper on Food Safety, published in 2000, was the stimulus for the restructuring of food safety in Europe. With the help of new and revised regulations, food safety is to be guaranteed on all production and processing stages along the entire food chain from the producer to the consumer, or ‘from stable to table’. In addition to 80 individual measures, the white paper contained the plan for the set-up of a European food authority for independent scientific consultancy and as a result, the European Food Safety Authority (EFSA) was established in 2002. On the other hand though, risk management in the EU was to remain in the hands of the EU Commission. This separation of risk assessment and risk management is based on the idea that initially, a potential risk should be evaluated transparently from a purely scientific point of view of consumer health protection independent of any political or economic interests.

¹ Cf. by way of example Alemanno, A., (2014): *Foundations of EU Food Law and Policy; Ten Years of the European Food Safety Authority.*

² *Heads of National Food Agencies Working Group on Transparent Use of Risk Assessment in Decision Making. Final Report to the Heads of Agencies, 2012, <http://food.gov.uk/multimedia/pdfs/decision-making-docs.pdf>*

With the establishment of the Federal Institute for Risk Assessment (BfR) and its sister authority, the Federal Office of Consumer Protection and Food Safety (BVL), both in the same year 2002, this concept was implemented on German national government level, too. Via a network of 'EFSA Focal Points', with the BfR as the EFSA Focal Point in Germany, the cooperation of food safety authorities and institutions has been created on a national and European level. The Focal Point system has become a key player in the cooperation activities of the Member States³.

3. WHO DOES WHAT? KNOWLEDGE OF STRUCTURES AND RESPONSIBILITIES

In addition to the assessment of a risk by scientific experts, laymen also evaluate risks. They do that not only by scientific criteria but also from a subjective point of view⁴. How a risk is perceived depends on several factors⁵. Risk perception increases when, among other things, it is not actually or seems not to be possible to control the risk⁶. This means that if the impression is given in crises or incidents involving food safety that there is disagreement and uncertainty between national institutions about who is responsible for what, perception of the risk increases and even more explosive power is added to the conflict.

For this reason, knowledge of the structures and responsibilities of all players including authorities is essential where food safety is concerned. A lack of knowledge of this distribution of tasks is not a problem that can be solved on the level of the European Union only or some individual Member States. Germany as a federal state stands as a representative example for all of Europe in this regard in that there is often a lack of sufficient knowledge among consumers, domestic and foreign companies and even within some authorities as to which national, regional or local institutions are responsible for which tasks in the field of food safety.

Within the European Union, it became clear at the latest with the climax of the BSE crisis in 2000 that problems of this kind are relevant to safety. It is also true, however, that many well functioning structures have been in place for decades within the European Union in the field of food safety. The effective European Rapid Alert System for Food and Feed (RASFF), for example, has been providing the Member States and European Commission with a rapid exchange of information for more than 30 years when a food or feed poses a serious risk to human health, as outlined in Art. 50 of Regulation (EC) 178/2002. Where the areas of risk assessment, risk management and risk communication are concerned, however, the procedures, structures and responsibilities are not familiar to everyone involved.

A study from the BfR came to a similar conclusion in 2004: The objective of achieving a fast and efficient exchange of information between the institutions responsible for consumer

³ Abels G./Kobusch A./Träsch J. (2014): *Scientific Regulatory Cooperation within the EU*, in: Alemanno, A., *Foundations of EU Food Law and Policy; Ten Years of the European Food Safety Authority*, p. 85.

⁴ Günther, L./Ruhmann, G./Milde, J. (2011): *Pandemie: Wahrnehmung der gesundheitlichen Risiken durch die Bevölkerung und Konsequenzen für die Risiko- und Krisenkommunikation*. *Forschungsforum Öffentliche Sicherheit, Schriftenreihe Sicherheit Nr. 7*.

⁵ Henning, K.J. (2004): *Verbraucherschutz und Partizipation aus der europäischen Perspektive*, p. 30-34; Slovic, P. (1987): *Perception of Risk*, *Science*, p. 280 - 285.

⁶ Kurzenhäuser, S./Epp, A. (2009): *Wahrnehmung von gesundheitlichen Risiken*. In: *Bundesgesundheitsblatt 2009 (12)*, p. 1141-1146; BfR, *Rechtfertigen „gefühlte Risiken“ staatliches Handeln?*, *Proceedings*, 2008, http://www.bfr.bund.de/de/publikation/tagungs__und_seminarbaende-661.html

protection proves to be difficult because knowledge of the structures and responsibilities is capable of improvement⁷.

4. A CONTRIBUTION: THE BFR'S EU FOOD SAFETY ALMANAC

The goal of the almanac is to enable transparency and clarify the responsibilities in the field of food safety. In this way, a duplication of efforts can be avoided and the search for European partners for cooperation projects facilitated. By doing so, national authorities are given the opportunity of collaborating more efficiently on EU level, as well as on a bilateral level. Ultimately, smooth cooperation between national government players in Europe serves to strengthen food safety in the common market, while providing European consumers with more reliable protection against risks and supporting fair competition between companies.

To achieve this goal, the EU Food Safety Almanac produced by the BfR provides a clear overview of the structures and institutions of food safety in 35 European countries comprising the 28 member countries of the EU plus the Former Yugoslavian Republic of Macedonia, Iceland, Montenegro, Norway, Serbia, Switzerland and Turkey.

Each of the 35 country profiles is portrayed on two to three pages. At the beginning of each chapter, there is a graphic depiction of the authority structures and hierarchies of government ministries and subordinate authorities. This is followed by an overview on private and criminal law aspects of food safety and a detailed description of the tasks and activities of each individual institution, subdivided into national and regional/local institutions. The areas of responsibility of the ministries and authorities are additionally mapped out using ten icons. They show at a glance which authorities in each Member State are responsible for plant protection products, animal feed, mineral water, drinking water, dietary supplements, novel foods, genetic engineering, veterinary drug residues, zoonoses and contaminants. This is intended to contribute to European networking on the specialised technical levels. Readers learn at the same time which institutions are responsible for which risk management topics in each respective country, how risks are communicated and the extent to which risk assessment and risk management are institutionally separated. The 35 country profiles are supplemented by details of the valid legal basis and a list of the institutions involved in the EFSA network in each member state.

Anyone who wants to find out about the structures and institutions of food safety in Europe can benefit from this knowledge, especially specialists from related scientific and practical professions, parliamentarians, food authority staff, the lay press, consumer associations and the food industry.

5. OUTLOOK

With steadily rising demand, already the third edition of the EU Food Safety Almanac was published in German and English in December 2013. The almanac was developed by the Federal Institute for Risk Assessment (BfR) in close cooperation with the EFSA Focal Points of the other European countries. The EU Almanac is therefore a good example of the constructive cooperation of all of the official institutions responsible for food safety in Europe. The almanac is currently being translated into French, Spanish and Chinese. These versions will become available in the course of 2014.

⁷ Henning, K.J. (2004): *Verbraucherschutz und Partizipation aus der europäischen Perspektive*, p. 67-69.

The EU Food Safety Almanac can not only be downloaded free of charge from the BfR homepage (<http://www.bfr.bund.de/cm/364/eu-food-safety-almanac.pdf>), brochures can also be ordered from: Bundesinstitut für Risikobewertung, Max-Dohrn-Strasse 8-10, 10589 Berlin, Fax +49-(0)30-18412-4970, E-Mail: publikationen@bfr.bund.de.

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