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Regulatory Co-ordination in the EU: A Cross-Sector Comparison

Eva M. Heims

ABSTRACT The paper examines what drives national regulators' attitudes towards and engagement with EU regulatory co-ordination as facilitated by EU agencies and offices. It suggests that a bureaucratic politics perspective can counteract shortcomings of explanations conventionally advanced in the EU governance literature by showing that national regulators' attitudes towards co-ordination are driven by the aim to protect their turf. This is empirically demonstrated by a comparison of attitudes to co-ordination across maritime safety and food control authorities in the UK and Germany that draws on original document analysis and semi-structured interviews with British, German and EU officials. UK and German food control authorities have a positive attitude towards EU co-ordination, but the maritime safety authorities contest it. While the food control authorities use EU co-ordination to enhance their bureaucratic turf vis-à-vis lower-level authorities, the maritime safety authorities perceive EU co-ordination to threaten their established position in the International Maritime Organization.

KEY WORDS EU Agencies; food controls; maritime safety; national regulators; regulatory co-ordination

INTRODUCTION

Despite the nature of co-ordination as one of the key limits of administration (Hood 1976:17ff) and pervasive problems of government (Wilson [1989] 2000: 268f), governance of interdependence in the European Union (EU) rests on co-ordination to a large extent: Co-ordination between regulators has become the key mechanism for managing cross-border risks and regulating integrated markets as national regulators come together in EU regulatory bodies –such as offices and agencies– to coordinate their practices (Dehousse 1997; Eberlein and Grande 2005; Eberlein and Newman 2008; Levi-Faur 2011; Majone 1997; Rittberger and Wonka 2011; Sabel and Zeitlin 2008; Slaughter 2004;). In facilitating horizontal and vertical co-ordination of regulatory practices, such EU regulatory bodies can –at least in theory- counteract the mismatch between the regulatory responsibilities and the miniscule administrative capacity of the EU (Eberlein and Newman 2008: 25; Majone 2000: 279). Given the small administrative capacity of EU regulatory bodies, they can only facilitate horizontal and vertical co-ordination of regulatory practices in Member States if national regulatory authorities accept and support them in their work (Busuioc *et al.* 2012). National authorities, in turn, remain the bodies that hold the greatest regulatory capacities and expertise. From a bureaucracy studies' perspective, it is puzzling why national authorities

might accept oversight from EU regulatory bodies that ostensibly have less expertise or why they might be willing to support potential rivals in their work as they are usually regarded as wanting to protect their ‘turf’. Even though national regulators might not have a choice but to live with newly established EU regulatory bodies, they may be more or less supportive of them in practice. These attitudes may affect the extent to which they are willing to proactively engage with co-ordination in EU regulatory bodies. Without proactive engagement that goes beyond the formal-legal requirements put on national authorities, EU regulatory bodies are likely to have difficulties in fulfilling their tasks.

The paper analyses what drives national authorities’ attitudes towards EU coordination, i.e. their (un-)willingness to support horizontal co-ordination (i.e. co-ordination with sister authorities in the forum of EU regulatory bodies), or their acceptance or contestation of vertical co-ordination (i.e. being inspected by an EU regulatory body). Considering the degree to which regulatory governance in the EU rests on co-ordination, it remains a critical puzzle for students of public administration and EU governance to understand why some national regulators are willing to engage with the work of EU bodies and to coordinate their practices with sister authorities, whilst others are not. Attitudes are crucial in this respect since we can assume that they drive national regulators’ behavior at least to some extent. The paper also considers the level of national regulators’ proactive engagement with EU co-ordination, which is assumed to be –at least somewhat– driven by their attitudes.

Rooted in central insights of public administration studies, the paper applies a bureaucratic politics perspective by focusing on turf battles and turf protection to understand attitudes towards EU regulatory co-ordination. This is contrasted with the dominant accounts of attitudes and behaviour identified in relation to ‘networks of regulators’ in the EU governance literature. In order to do so, the paper compares two cases, namely attitudes of British and German maritime safety and food control authorities. These cases provide variation across hypothesized explanatory factors that helps us to assess competing explanations, as well as helping us to control for unobserved explanatory factors (the second section of the paper presents a justification of this case selection). The presented empirical results are based on the analysis of official documents of the European Commission, the relevant EU regulatory bodies (the European Maritime Safety Agency and the Food and Veterinary Office), and pertinent German and British authorities, as well as 20 semi-structured interviews with officials.

The paper finds that British and German maritime safety authorities contest EU co-ordination in their field since they worry that it can potentially undermine their strong role in the International Maritime Organization (i.e. it threatens their turf). German and British food control authorities, on the other hand, embrace EU co-ordination since it helps them to protect their turf by helping them keep the complex administrative system of local authorities they oversee under control. That cannot be easily accounted for by the dominant explanations found in the EU governance literature, which has studied interactions between national regulators in EU regulatory bodies most extensively. This literature has not conventionally viewed co-ordination between national regulators as a fundamental puzzle since it has focused on particular governance forms –such as networks and ‘experimentalist governance’– at the expense of individual organizational behaviour of national regulators. The approach and findings of this paper demonstrate that national regulators’ strategically formed attitudes and behaviours are key for understanding the conditions under which transnational co-ordination between regulators in the EU can function and has crucial implications for (the study of) governance in the EU, which rests fundamentally on co-ordination between national bodies.

The paper proceeds as follows: The first section proposes a bureaucratic politics based explanation of national regulators’ attitudes towards and engagement with EU regulatory co-ordination. This is contrasted with dominant accounts of national regulators’ attitudes and engagement with EU co-ordination identified in the EU governance literature. The subsequent section outlines the paper’s case selection and data evaluation methods. The third part presents the empirical findings. The last section assesses to what extent these empirical observations substantiate the theoretical argument advanced in the first part of this article.

TURF PROTECTION DRIVES NATIONAL REGULATORS’ ATTITUDES

From a public administration perspective focused on organizational attitudes and behaviour driven by ‘turf protection’, we would expect the puzzle of co-ordination between regulators in the EU to be ‘solved’ by considering whether EU co-ordination infringes on their turf or helps them to protect it. ‘Turf’ is the relatively undisputed jurisdiction over specific tasks and ways of doing them (Wilson [1989] 2000: 183). ‘Turf protection’ relates to the protection of mandates and autonomy (also see Dunleavy 1991). In order to understand national regulators’ attitudes towards EU regulatory coordination, then, the paper suggests that we need to understand their position within the constellation of bureaucratic actors that are

involved in the regulation of the same particular industry (or risk). A bureaucratic politics perspective encourages us to consider how national regulators' tasks and expertise relate to other (bureaucratic) actors in their field.

The literature on co-ordination in government as well as on network governance has demonstrated 'turf' to be a crucial factor in understanding what drives government agencies to work together or not (for a comprehensive overview, see McGuire and Agranoff 2011; Peters 1998). The dominant view is that agencies often refrain from working together because they wish to protect their distinctive way of doing things as well as their autonomy (Bardach 1996, 1998; Wilson [1989] 2000). For example, it has been suggested that managers of government agencies may have a clear idea of how best to carry out their work (Thomas 2003), thus signifying that turf can block collaboration between agencies in co-ordination or network structures (McGuire and Agranoff 2011).

Whilst this literature has put forward a variety of managerial strategies and tools to overcome turf related impediments to collaboration (Kopenjan and Klijn 2004; Mandell and Steelman 2003), the 'flip-side' of the turf argument is rarely explicitly recognized: if an infringement of an agency's turf can serve as powerful impediment to co-ordination, it should also act as enabler if co-ordination processes help an agency to protect or even to enhance its turf. By explicitly recognizing that government agencies can be much more open to co-ordination than is sometimes assumed among students of bureaucratic politics, we reduce the risk of trading in 'one of the older clichés of government' (Peters 1998 304f).

From a 'turf perspective', we would expect that national authorities engage in the EU proactively in horizontal forms of co-ordination and accept vertical co-ordination if they perceive this to help them to maintain their turf. Equally, we would expect national authorities to refrain from proactive engagement in horizontal co-ordination and to contest vertical co-ordination if they perceive EU co-ordination to threaten their turf. In such circumstances the involved national and EU actors might question each other's role within the given regulatory regime and try to advance their own role at each other's expense, thus leading to 'turf battles' (*cf.* Wilson 2000 [1989]: 188-195). If, for example, national regulators question the European Commission's role as a regulatory actor in a particular field and would prefer to curtail its activity in a regime (thereby also safeguarding or advancing their own position) we can expect this to affect their attitude towards co-ordination facilitated by an EU regulatory body. In such a scenario, in turn, horizontal co-

ordination is unlikely to be valued by the European Commission as this would further undermine its role and privilege national regulators instead.

The bureaucratic politics perspective focuses on administrative actors' interactions (Rhinar and Boin 2009: 2). It hence views national regulators' attitudes as a response to constellations of bureaucratic actors, which provide specific incentive structures for strategic interaction. This has key implications for the literature on EU governance, which has provided the most dominant explanations of regulatory co-ordination in the EU to date. Rather than focusing on attitudes organizational behaviour, this body of literature has largely characterized co-ordination between regulators in the EU as 'network' or a type of 'experimentalist' governance (for example, Eberlein and Grande 2005; Sabel and Zeitlin 2008). Hence, governance form and structure binding national and EU regulatory bodies together, rather than individual organizational attitudes, have been paid most attention to in the empirical study of regulatory co-ordination in the EU. We contrast the bureaucratic politics perspective with the drivers of attitudes to EU co-ordination implicitly identified in these dominant accounts to demonstrate the added value of the turf perspective.

The EU governance literature identifies three key drivers of national regulators' attitudes to and engagement with EU regulatory co-ordination: 1. One view emphasizes the importance of regulators' professional norms and epistemic communities: professionals are keen to exchange practices, learn from each other and maintain their professional reputation (Eberlein and Grande 2005; Sabel and Zeitlin 2008; Slaughter 2004: 59; Trondal, 2010: 22). Learning and deliberation are used to solve co-ordination problems (Majone 1997: 271, 2000: 295). 2. The functional perspective focuses on the interdependence of regulators in an integrated market as driving force of national authorities' attitudes: Evidence shows that the higher the perceived level of interdependence between regulators in the EU, the more intensive their cooperative efforts in EU agencies and committees (Van Boetzelaer and Princen 2012). 3. The third view, based on rational choice institutionalism, implicitly suggests that national regulators' attitudes are a strategic response to the European institutional framework: The 'shadow of hierarchy' view emphasizes that in principal-agent relationships national regulators co-ordinate if co-ordination will otherwise be replaced by hierarchical intervention (i.e. intervention by the principal, such as legal enforcement of EU law – called infringement procedure– or secondary legislation initiated by the European Commission) (Börzel 2010; Eberlein 2010; Héritier and Lehmkuhl 2008; Scharpf 1997).

In line with the bureaucratic politics perspective developed in this paper, we expect national authorities to approach EU regulatory co-ordination positively if it helps them to protect their turf in the particular constellation of bureaucratic actors in which they carry out their day-to-day work, and to approach it negatively when it threatens to infringe on their turf. Accounts that emphasize the importance of professional norms, interdependence or the ‘shadow of hierarchy’, on the other hand, would expect that the stronger these shared norms, (perceived) interdependence or threat of hierarchical intervention are, the more positive attitudes to co-ordination and the more active engagement with co-ordination will be.

CASE SELECTION, ALTERNATIVE HYPOTHESES AND METHODS

The paper compares attitudes to and engagement with EU regulatory co-ordination across food control and maritime safety authorities in order to verify the theoretical argument that these are motivated by turf protection. National authorities’ attitudes to and engagement with EU regulatory co-ordination hence constitute the unit of analysis. An organization’s ‘attitude’ is defined as dominant, well-established and persistent views held by an authority as expressed by its leadership, key staff members, and its official communication to the external world. Hence, empirical study of organizational attitudes requires in-depth qualitative study of the views expressed by senior personnel, staff responsible for engagement with EU co-ordination processes, as well as official documentation of a given regulatory authority. To render such analysis feasible, the paper focuses on national authorities from two countries, Germany and the UK. It is sensible to study potential turf protection dynamics by focusing on high capacity national regulators: At least in theory, they have the clout to make negative views about EU co-ordination known, even vis-à-vis the European Commission.

The selection of two fields in which the relevant EU regulatory bodies have an inspection task should be a particularly tough test for the acceptance of their work by ‘high capacity’ national authorities. The formal set-up of the EU co-ordination structures are similar in the two chosen policy sectors, but they differ in their expected turf dynamics, strength of their professional communities’ shared norms, and the perceived levels of interdependence between authorities (see Table 1). These similarities and differences should reflect how national authorities approach co-ordination in these two cases if this is either driven by

turf protection considerations or by the dominant explanations identified in the EU governance literature.

[Table 1 about here]

Selecting the British and German authorities in these two sectors also gives us more confidence in our results as it allows us –at least partially– to control for unobserved or neglected explanatory factors. Firstly, choosing national regulators which we would expect to have similar attitudes towards EU co-ordination in both policy sectors helps us to verify whether regulators’ attitudes towards EU co-ordination may in fact be determined by general attitudes towards the EU in the UK and Germany, rather than being predominantly shaped by regulators’ turf considerations, perceptions of interdependencies, their professional norms or a shadow of hierarchy effect. In theory, ministers overseeing regulatory authorities may wield influence on regulators’ attitudes, either through direct control mechanisms (such as appointment procedures) or through regulators’ pre-emptive alignment to governments’ political positions as a means to avoid ministerial interference. If government positions vis-à-vis the EU, counter to the paper’s theoretical expectations, indeed have such an effect, UK regulators’ attitudes towards EU co-ordination would be more negative than their German counterparts’ attitudes.

Secondly, the selection of British and German authorities also allows us to control for overlooked explanatory factors in each policy sector: The British and German maritime authorities are both ‘big players’ in the International Maritime Organization (IMO). If turf protection matters, we expect them to exhibit similar attitudes. This is also true for the explanations focusing on professional norms, functional pressures and the ‘shadow of hierarchy’ since they are both from ‘traditional’ maritime states with similar norms and concerns about interdependencies, as well as operating in the same formal-legal framework of the EU. If they exhibited significantly different attitudes to and engagement with EU co-ordination we would know that overlooked factors play a significant role in explaining their respective attitudes.

This also applies to British and German food control authorities: Both countries have a heavily decentralized food control system, in which a central (UK) or *Länder* (Germany) authorities oversee hundreds of local food control authorities. This decentralized setting

renders it unlikely that food control officials across federal/central, regional and local authorities in these countries form part of a transnational (or even national) professional community or perceive interdependencies with other countries as great concern.¹ At the same time, authorities in both countries have experienced difficulties in coordinating the work of the many authorities involved. They can use vertical EU co-ordination ‘to get their own house in order’. If any of the advanced explanatory factors holds, we expect British and German authorities to exhibit relatively similar attitudes. If they differ, we know that unobserved or overlooked factors are crucial for explaining the observed outcomes.

Overall, then, by choosing cases that differ on the value of our competing explanatory factors and choosing two national regulators to control for unobserved factors, we would expect the observed outcomes to differ in line with different values of our proposed explanations (*cf.* Gerring 2006: 97ff) (see Table 2). At the same time, however, this case selection does not allow for sweeping generalizations to the sector or the country level since national authorities’ positions in actor constellations can vary extensively across both dimensions. The findings can be generalized to cases in which the relevant EU regulatory body has an inspection task and national authorities that have faced control problems in overseeing decentralized administrative systems,² as well as to national authorities that are major players in international regulatory arrangements, whilst not having to oversee a complex web of decentralized actors.

[Table 2 about here]

Data analysis and methods

The empirical analysis is based on in-depth analysis of over 300 official documents and secondary material on regulation in the two sectors, as well as 20 semi-structured interviews with former and current officials (see online appendix for a list of interviewees). Interviewees and documents covered the European Commission, the European Maritime Safety Authority (EMSA), the UK Maritime and Coastguard Agency (MCA), the German Ship Safety Division, the Food and Veterinary Office (FVO), the UK Food Standards Agency (FSA), and the Ministries for consumer protection and food safety of the German *Länder*. Particularly crucial were 140 annual reports, 130 meeting minutes, 30 technical reports, 16 agency personnel speeches, as well as inspection reports (only publicly accessible for the FVO). The risk of capturing individual, as opposed to organizational, attitudes was

minimized by analyzing official documentation across time and selecting former and current staff members as interviewees. Interviewees were high level officials, port state control inspectors and food control officers. Empirical analysis was conducted in two steps, in which inductive study of the data was followed by systematic thematic coding.

CO-ORDINATION AMONG MARITIME SAFETY AUTHORITIES AND FOOD CONTROL AUTHORITIES IN PRACTICE

This section presents the empirical findings of the analysis, which show that the German and British authorities contest vertical co-ordination and do not proactively engage in horizontal co-ordination in maritime safety, while embracing both forms of co-ordination in food controls.

Maritime Safety

EMSA has the task to inspect national authorities' practices in several key fields of maritime safety (Art.3, Regulation 1406/2002), such as the inspection of foreign-flagged vessels in European ports (see Directive 2009/16/EC on port state control). The European Commission can use EMSA's inspection reports to commence infringement proceedings against Member States. In turn, horizontal co-ordination of national practices is set up through EMSA's extensive training programme. It is based on the idea that coordinated implementation of EU law is facilitated if national officials come together to discuss how they are doing things within their home administrations, thus being able to learn from each other (for example, see Recital 5, Regulation 1406/2002; also, see, sections on training activities in EMSA Annual Reports).

German and British authorities contest vertical co-ordination and do not proactively engage in horizontal co-ordination. This finding needs to be understood in light of the European Commission's activism in using EMSA reports to initiate infringement proceedings: The first time the Commission initiated an infringement procedure on the basis of an EMSA inspection report, it failed to inform EMSA about this, which reportedly irritated the agency and the given authorities (*cf.* EMSA 2006: 7f). After the first letters announcing the impending infringement procedures based on EMSA's finding had gone out, Member State officials remarked that this potentially tainted the image of EMSA's visits and might result in a less open atmosphere between the involved actors (EMSA 2006: 8). However, the Commission's proactive approach to initiating infringement proceedings did not subside as a

consequence (see the Commission's annual reports on national implementation of EU law). The German and British authorities, as well as most other national authorities largely perceive this approach to be overly zealous: They have complained that they had usually already changed their system due to EMSA's preliminary findings (a detailed description of EMSA's inspection process can be found in Groenleer *et al.* 2010; also see COWI 2008). There have also been complaints by national officials that they do not get sufficient time to remedy negative inspection findings before an infringement procedure is started against them, and national officials have repeatedly questioned whether the level of intensity of inspections is necessary (EMSA 2007: 5; EMSA 2011: 6; EMSA 2011: 10). As a result of these experiences, national authorities are acutely aware of the flow of information between EMSA and the Commission.

This awareness, in turn, hampers national officials' willingness to deliberate and exchange practices on 'how to get things done' in the forum of EMSA's trainings. Whereas trainings are popular amongst officials (not least because attendance is fully paid for by EMSA), national officials are permanently aware of the potential information flow between EMSA and the Commission and the possible infringement proceedings, inhibiting their willingness to candidly exchange their experience with handling difficulties. National authorities' inhibitions are also recognized by EMSA officials:

But I think another issue here is since EMSA is an EU body, Member States that are not performing superbly are a bit reluctant to come to EMSA and very openly share their problems because they sometimes feel that that might be used against them. [...] But I think generally we create a relatively good atmosphere [...] But it's still on the back of the minds of the Member State officials that they cannot be too open about things that they are doing. [Interview M4]

The training office of EMSA basically puts people together in the same room, and they listen, and there is not really an exchange of good practices. It is more a process of EMSA preaching the good word, on what a good practice should be. [...] Nobody will -in public like that when everybody is present- admit certain weaknesses in their system. [Interview M3]

EMSA's vertical co-ordination task hence does not easily coincide with its task to promote mutual learning and a 'common risk management culture'.

UK and German authorities' contestation of EMSA inspections seems to be particularly acute since they are highly skeptical of the EU's role in the field of maritime safety. Both national authorities are influential players in the IMO and defend its place as international rule-maker (for standard-making dynamics in the IMO, see Tan 2006; for in-depth discussion

about the value EU maritime safety standards see Ringbom 2008). In their view, European rules undermine, rather than promote, maritime safety.

I would say the biggest issue in that area [maritime safety] is the competence ambitions in trying to create an EU standard for maritime safety, an EU platform for maritime safety within an industry that is international. [...] And to some extent there is within that the risk to undermine and to undo a lot of the good work that has come out of the Paris Memorandum, for example. [Interview M10]

Sometimes it is good when EU interests are bundled somewhere, through the Commission or whomever. But not in this field. After all, international cooperation at the IMO is very well-rehearsed indeed. And if the EU wants to have a common position you can get together on a case-by-case basis. [Interview M1]

The British and German authorities thus fundamentally question the value of EU co-ordination. The European Commission, in turn, has been eager to adopt rules which are more stringent than IMO standards, as well as aiming to become a full voting member of the IMO. Both aspects are opposed by the UK and Germany as they perceive the EU's role in the field to be potentially detrimental in furthering maritime safety in the context of an industry that is inherently global and has virtually no barriers-to-entry. Since the European Commission's standard-setting role is necessarily limited by the importance of the IMO, it has detected a gap to be filled by stringently enforcing international/EU standards. This is a more potent motor for harmonization of practices than IMO standards are (Knudsen and Hassler 2011; Koivurova 2012). This strict enforcement through the use of EMSA reports is what inhibits horizontal co-ordination between national officials (see above).

Food Controls

Like EMSA, the FVO also inspects national authorities and the Commission can use FVO reports to enforce EU legislation in the Court of Justice (for analyses of the FVO's work see Lodge and Wegrich 2011: 94-97; Vos 2010: 164ff; Vos and Weimer 2012: 12ff). However, British and German authorities do not contest FVO audits. Rather, they have a positive attitude towards them as they perceive them to be helpful to their own work. In Germany, co-ordination between *Länder* has intensified as a means to follow-up on FVO recommendations: These are addressed to Germany as a country, although they are based on observations in (usually) two *Länder*. In the relevant working groups of the consumer protection consortium of the *Länder* ('Länderarbeitsgemeinschaft Verbraucherschutz', LAV), *Länder* now discuss how to change practices across the whole country to bring them into line with FVO recommendations.

That has really improved, the coordinating working groups of the *Länder* are very good, they really disperse the results of an audit in the whole country, so that everyone knows what's going well or what isn't going so well. [Interview F5]

The FVO process has also started to pull the *Länder* together in areas in which no agreement on practices could be found amongst them before, for example, in the case of mechanically separated meat: FVO audit report recommendations prompted agreement on shared guidelines on practices (as pointed out in Interviews F3 and F5). The federal as well as the *Länder* authorities find this development beneficial for identifying and remedying shortcomings in official controls in Germany.

In the UK, FVO inspections do not interfere with similarly complex federal structures. Nevertheless, the FSA's role as overseer and partner of local authorities has been characterised by tensions. Overall, a lack of partnership and co-ordination has been observed (for example see FSA 2007: 7, 17).

I want to see better partnership working between us and you [local authorities], and vice versa. Our effectiveness as an organisation [the FSA] is highly dependent on how you deliver. [Smith 2009]

FVO inspections provide the FSA with a tool to coax local authorities –which carry out the food inspections– into compliance with national rules. For example, the FSA communicates to local authorities that any severe shortcomings found in a particular Council during an FVO visit could adversely affect the entire UK as this could undermine consumer confidence in UK products overall (Interview F8).

Overall, authorities in the UK and Germany have a positive attitude towards FVO inspections since they have induced better co-ordination *within* their country and can be used as a justification for action vis-à-vis the industry: Since the FVO provides them with additional expertise on how to run their control systems, the FVO audit processes provides overseeing control authorities to be more effective in controlling their own territory. UK and German authorities explicitly value the input provided by the FVO as a means to improve their practices. As one interviewee put it 'it is as if you were getting management consultants in for free' (Interview F7). As noted by a FVO official, 'we often get the feedback that our comments are helpful. Because we see things with different eyes' (Interview F5). German *Länder* officials share this view.

In my experience, if something was criticised [by the FVO] it was usually justified. Even if one then normally tries to defend the system and to find excuses because usually it will have something to do with the complexity of the task and staffing issues... But one does know that they have struck a nerve. [Interview F3]

In contrast to their maritime safety counterparts, then, UK and German authorities perceive FVO inspections to add value to their own work and consequently have a positive attitude towards them.

Similar findings were made in relation to the increasing opportunities for horizontal co-ordination. Gradually, transnational co-ordination in food controls is taking on a horizontal form by establishing structures for direct exchanges between national food control officials. The FVO has increasingly mediated the horizontal exchange of practices between national authorities through the increased use of tools such as ‘Overview Reports’ and fact finding missions. Moreover, the trend towards horizontal co-ordination is especially visible in the manner in which the European Commission (and subsequently the Executive Agency for Health and Consumers) has structured the ‘Better Training for Safer Food’ programme, which results from the Commission’s responsibility to establish a training programme for national control officers under Regulation 882/2004. The training programme was devised to ensure that control staff is kept ‘up to date’ with relevant EU standards. The trainings aim at ensuring that controls become ‘more harmonized and effective’ (European Commission 2006: 5). They are seen as success by all involved actors (see European Commission 2009: 15; this was also pointed out by all interviewees; also see its Annual Reports). The trainings are consistently over-subscribed. It has been noted that officials often would like to improve their know-how in a given area -rather than just being focused on compliance with EU standards- which is rendered possible through the high quality of the courses (which also include ‘hands-on’ training, such as practicing inspections by visiting food businesses; this was especially emphasized by Interview F7). The UK and German authorities found these trainings and FVO inspections *both* extremely helpful for maintaining control over the highly complex administrative system they oversee.

DISCUSSION

British and German authorities embrace EU co-ordination in food controls, whilst contesting and partially refraining from engaging in it in maritime safety. Overall, UK and German

authorities' attitudes to EU co-ordination are much more positive and engaged in food controls than in maritime safety. These findings are better explained by national authorities' motivation to use EU co-ordination to maintain (or even enhance) their bureaucratic turf, rather than by their professional norms, functional pressures or the 'shadow of hierarchy' (see Table 2).

In food controls, British and German authorities perceive EU regulatory co-ordination to enhance their turf by helping them to control other bureaucratic actors (regional and local authorities) more effectively. British and German maritime safety authorities, on the other hand, perceive EU co-ordination to be detrimental to the maintenance of their turf: Both authorities are influential players in the IMO and have traditionally favoured international regulation. EU co-ordination in maritime safety has the potential to undermine their role in the IMO, as well as the importance of the IMO as such. British and German officials hence perceive EU co-ordination to infringe upon their turf.

Both findings need to be interpreted as a function of turf protection considerations of national authorities that hold specific positions in constellations of bureaucratic actors: German and British authorities in food controls have a position in which they are required to oversee a decentralized administrative apparatus, and they experienced co-ordination problems (between the *Länder* in Germany) and enforcement vis-à-vis local authorities (in the UK) in the past. In this constellation, they have been able to use EU co-ordination to alleviate these problems. This, in turn, has helped them to protect their turf in relation to actors at lower levels of government. The UK and German maritime safety authorities' position, on the other hand, is characterized by their strong role in the IMO and the absence of oversight problems in relation to actors at lower levels of government. In this constellation, EU co-ordination poses a (perceived) threat to their turf.

The dominant accounts of attitudes to and engagement with EU regulatory co-ordination found in the EU governance literature are less able to explain our empirical observations, but still help us to make sense of some observed attitudes and behaviours: If the norms of professional communities were primarily driving national authorities' attitudes (*cf.* Eberlein and Grande 2005; Majone 1997; Sabel and Zeitlin 2008), we would expect maritime safety authorities to approach co-ordination in the EU more positively than their food controls counterparts. However, our findings report the opposite. That maritime safety authorities

perceive co-ordination more negatively than their counterparts in food controls is also surprising from a functionalist perspective (for example, Van Boetzelaer and Princen 2012, see Section I). Nevertheless, our empirical observations demonstrate that (perceived) interdependencies *are* considered by the maritime safety authorities. Indeed, the UK and German maritime safety authorities perceive *international* regulatory efforts to be most effective in managing risks under conditions of interdependence. Yet, they perceive EU co-ordination to interfere detrimentally with international regulation. Interdependencies have an impact on attitudes, but are not per se an inducement for embracing EU regulatory co-ordination at the expense of other forms of transnational co-ordination. Whilst (perceived) interdependencies are thus evidently on regulators' minds, they do not explain the pattern of attitudes to EU co-ordination observed here. Especially in maritime safety questions of interdependency are evidently intertwined with considerations of bureaucratic 'turf'.

In relation to the 'shadow of hierarchy' (for example, Héritier and Lehmkuhl 2008), in turn, we would not expect the attitudes of UK and German regulators across these two sectors to differ greatly. However, we find that attitudes differ quite remarkably: Whilst authorities seem to be enthusiastic about engaging in horizontal exchanges in food controls, they are inhibited to exchange practices in the case of maritime safety. Indeed, the 'shadow of hierarchy' seems to work in a reverse logic in maritime safety: The 'shadow' cast by the European Commission's enforcement possibilities inhibits free exchange between national officials in EMSA because national authorities are worried to be found in compliance when they are open about 'what they do at home'. Incentives emanating from the EU's rule framework do enter national authorities' considerations. However, similar worries are not found among German and UK food control authorities. The different attitudes to and engagement with EU regulatory co-ordination in these two cases give us reason to believe that national authorities do not necessarily structure their attitudes and behaviours strategically in response to the institutional framework of the EU: Rather, their attitudes and behaviours are responses to their position in the constellations of bureaucratic actors they operate in beyond the EU, such as their position in their national as well as in international regulatory regimes. The British and German food control authorities value transnational co-ordination because it helps them to maintain –and possibly even enhance– their turf vis-à-vis local authorities.

Future research needs further test the paper's turf-based argument in order to specify its scope conditions and to rule out possible alternative explanations, such as regulatory regimes'

historical development. The EU entered the picture in maritime safety when international cooperation between authorities was already firmly established, while EU regulatory coordination in food safety has developed alongside international and national efforts, which may account for some of our findings. However, if this paper's argument holds, we would, for example, expect contestation of EU co-ordination in food controls by national authorities that oversee a centralized food control system (such as the Dutch authority), despite the concomitant development of an international, EU and national regulatory regimes in this field. Systematic selection of such cases is a fruitful avenue for future research.

CONCLUSION

The paper's findings suggest that it is useful to take into account the positions which national authorities hold in constellations of bureaucratic actors beyond the EU context in order to understand their attitudes to EU co-ordination. After all, EU bodies are only one set of actors with which national authorities interact in going about their day-to-day work. This demonstrates that the well-established concept of turf protection is useful for understanding the fairly novel phenomenon of EU regulatory co-ordination precisely because constellations of bureaucratic actors are not novel. Rather, they change over time as new actors, such as EU agencies, committees or offices, become part of webs of bureaucratic actors, ranging from the local to the international level.

The analysis of individual organizational attitudes and behaviours further our understanding of the conditions under which a transnational 'EU administration' can function. This has implications for the EU governance literature that has emphasized the importance of particular governance structures and forms, such as 'network' and 'experimentalist' governance. Equally, in helping us to understand the conditions under which transnational administration can be effective, it has policy implications for the EU's use of co-ordination as a problem-solving mechanism. How national regulators respond to vertical and horizontal regulatory co-ordination in the EU depends critically on the other bureaucratic actors that matter to them in their daily work. Whilst this might not be surprising to students of public administration, it is crucial in for EU scholarship, which has shown a greater tendency to look at 'national' responses or attitudes. Such an approach might view UK and German regulators as equivalent to attitudes to EU co-ordination in their Member States. We suggest here that it is more accurate to view them as bureaucratic creatures that

are more responsive to their place in constellations of other agencies and authorities in their field –across levels of government- than as creatures of ‘national politics’.

The bureaucratic politics perspective becomes less ‘clichéd’ (*cf.* Peters 1998: 304) if we recognize that ‘turf protection’ is not inherently linked to counter-productive attitudes that obstruct problem-solving. For example, in maritime safety the European Commission as well as British and German authorities vigorously try to protect their turf in relation to each other’s claims to authority. Some might interpret this as narrow-minded attempt to safeguard their organizations’ power. However, one can equally interpret this as a battle between two different maritime safety paradigms: the British and German authorities are convinced that EU regulation that is not supported internationally will undo the progress made in maritime safety over the past decades. The European Commission, in turn, thinks that safety is increased through vigorous enforcement of safety standards in the EU territory. Both of these ‘safety paradigms’ have merit. In highly international industries, resistance to EU regulatory co-ordination can hence result from preferences for transnational regulatory arrangements beyond the EU.

Moreover, in food safety, UK and German authorities have a positive attitude to regulatory co-ordination not *despite* but *because* of the constellation of bureaucratic actors they find themselves in at the domestic level. The domestic level can hence clearly act as enabler of EU regulatory co-ordination, rather than being a hindrance to it by default, which is a crucial insight for students of EU regulatory governance. For students of bureaucracy, in turn, this implies that ‘turf’ needs to be taken more seriously as a facilitator of –rather than as an obstruction to- co-ordination between government authorities.

Supplemental data for this article can be accessed at [link to source]

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Notes

¹ Food *risk assessment* is underpinned by a transnational scientific community embodied in the international Codex Alimentarius Commission and the European Food Safety Authority (EFSA) at the EU level. However, food *controls* in the *UK and Germany* are carried out by local authorities, where it is more difficult to detect a transnational professional community.

² We hence do not expect these findings to apply to national food control authorities that oversee a centralized food control apparatus.

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Table 1: Case selection – Variation across explanatory factors

	UK and German Maritime safety authorities	UK and German Food control authorities
Incentives for turf protection	Strong Well-established transnational co-ordination in the IMO, in which many national authorities are powerful players (Braithwaite and Drahos 2000, p.418-437; Tan 2006). EU co-ordination threatens their well-established turf.	Weak Food controls are carried out by hundreds of local authorities, which has caused oversight and co-ordination problems for overseeing authorities in the UK and Germany in the past. EU co-ordination has the potential to strengthen oversight.
Strength of professional community	Strong Long-standing co-ordination in IMO, as well as regional co-ordination agreements (Paris MoU, Bonn Agreement, HELCOM). Complemented by shared norms of officials with histories as international seafarers.	Weak Weak sense of community and shared norms due to the highly heterogeneous, decentralised administrative apparatus.
Degree of (perceived) interdependence	High In the highly international industry of shipping –in which virtually no barriers to entry exist and ‘flags of convenience’ are widely seen as <i>the</i> key problem in maintaining maritime safety– interdependence is at the forefront of maritime authorities’ concerns.	Low Authorities’ daily work is focused on inspections of food businesses and local authorities in a dispersed and heterogeneous industry and administrative system. Interdependencies with other countries are less apparent.
Incentive structure for prevention of hierarchical intervention	Strong Both EU regulatory bodies have a formal oversight function. National authorities’ hence operate within very similar formal- legal frameworks of the EU.	Strong The ‘shadow of hierarchy’ provides incentives for co-ordination to avoid further hierarchical intervention by policy-makers in both cases.

Table 2: Alternative theoretical expectations of attitudes to EU regulatory co-ordination

	UK and German Maritime safety authorities	UK and German Food control authorities
Turf protection	Negative (EU co-ordination threatens well-established positions in IMO.)	Positive (FVO inspections help to increase control over local authorities.)
Professional community/norms	Positive (Strong shared professional norms.)	Negative (Weak professional community.)
Interdependence	Positive (Highly visible interdependence.)	Negative (Complexity of oversight structures more apparent than interdependence.)
Shadow of Hierarchy effect	Positive (Avoidance of more hierarchical intervention.)	Positive (Avoidance of more hierarchical intervention.)