CHAPTER 33

Comparative Regulatory Regimes and Public Policy

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Abstract This chapter offers a selective critical review of studies on regulatory regimes in member states and at the EU level, especially regarding the most recent advancements on multi-level regulatory regimes, accountability, and legitimacy. We will briefly examine theoretical work dealing with the conceptualization of such regimes, and compare and contrast it to other notions that are used to denote similar phenomena, i.e. that of so-called regulatory spaces. Further, national and sectoral variations of regulatory regimes allow us to elaborate on the rise and evolution of the regulatory state in Europe. A discussion on the development and effectiveness of multi-level regulatory regimes, which emerge primarily through regulatory networks, follows. Finally, regulatory regimes on finance and environmental sustainability are presented as empirical examples.

33.1 Introduction

Regulatory governance relies on a complex system of rules and regulators, which can be soft or hard, public or private. Especially in the EU, regulation stretches across multiple layers of governance and reaches from local levels to

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supranational ones. Over time, this system has evolved into a 'patchwork' and turned into 'the world's largest and probably most complex transnational regulatory system' (Levi-Faur 2011a, 826). The rise of this European 'regulatory state' (cf. Majone 1997, 1999) has, in the eyes of its tenants, improved public regulation and administration in multiple ways. Thatcher (2002, 2011), for example, has argued that independent regulatory agencies (IRAs) and European regulatory agencies (ERAs) have made regulation more transparent, more open to participation, and more accountable. Critics, on the other hand, have pointed out that, because of the growing complexity of the European regulatory system, transparency and accountability have actually been diminished. In particular, regulation through networks in multi-level systems entails the dilution of political responsibility, and consequently has left demands for accountability unanswered (Papadopoulos 2007). However, a number of sector-specific regulatory regimes emerged in Europe, which bring together these rules and regulators across different levels of governance. This chapter introduces regulatory regimes with special attention to the European Union, both at community level and in member states. The next section discusses the literature on the concept of regulatory regimes. Afterward, we will account for the rise and the evolution of the regulatory state in Europe by presenting the rationale for delegation and agencification in member states, by pointing to the development of multi-level regulatory regimes, namely through the emergence of regulatory networks, and finally by discussing the question of the accountability and legitimacy of these regimes. The fourth section offers an empirical illustration of the functioning of regulatory regimes in finance and environmental sustainability. To conclude, we will wrap up our argument, mention existing challenges, and suggest some avenues for further research.

33.2 Conceptualizing Regulatory Regimes

The 'regime theory' provides the conceptual foundation for understanding regulatory regimes. This theory has been put forward most prominently by Stephen D. Krasner (1982, 1983) to make sense of the behaviors of actors in the international realm. He defined regimes 'as sets of implicit or explicit principles, norms, rules, and decision-making procedures around which actors' expectations converge' (Krasner 1982, 186). In this sense, principles are at once general statements as well as theories about the world and the causal relations therein. Norms are more precise guidelines for the conduct of actors, which also prescribe their rights and obligations. Rules are coordination devices that are usually established to resolve conflicts among actors and reduce transaction costs. Finally, decision-making procedures refer to existing practices for making collective decisions. Krasner (1982) originally illustrated his argument with the General Agreement on Tariffs and Trade as an example of a set of multilateral agreements meant to liberalize and, at the same time, regulate world trade, mostly through the reduction of tariffs, quotas, and subsidies.

Scholars of regulatory governance have adopted, refined, and extended the theory of international regimes. Eisner (1993, 1), for instance, defined a

regulatory regime early on as a 'historically specific configuration of policies and institutions which structures the relationship between social interests, the state, and economic actors in multiple sectors of the economy.' Subsequent authors have softened this focus on the economy and have acknowledged that regulation may also concern other policy issues, such as the protection of the environment, safety, and, later, the welfare state. In that regard, Hood et al. (2001) forged the concept of risk regulation regimes to characterize the variety in the way risk associated with these policy issues is regulated by public and private actors. It has been also recognized that regulatory regimes span different territorial levels and include informal institutions and processes. Accordingly, Eberlein and Grande (2005, 91) defined regulatory regimes as 'the full set of actors, institutions, norms and rules that are of importance for the process and the outcome of public regulation in a given sector.' This definition has then been fine-tuned further by Levi-Faur, according to whom regulatory regimes are understood as a framework that 'encompass[es] the norms, the mechanisms of decision-making, the various institutions, and the networks of actors that are involved in regulation' (2011a, 811, also 2011b).

Thus, the extension of regime theory to regulatory governance explicitly incorporates two additional elements with respect to the original definition, namely the process of regulation itself and a closer look at the role of public and private actors involved in this process. Regarding the former, regulation is usually understood as a mode of governance that implies stricto sensu neither distributive nor redistributive policies (Lowi 1964; Levi-Faur 2011a, 816). Instead, Baldwin et al. (2012, 3, also Jordana and Levi-Faur 2004; Black 2002) have mentioned the following three meanings of regulation. First, it is seen as 'a specific set of commands,' that is, the creation of a number of obligations and prohibitions that may be backed up through mechanisms of compliance and enforcement, such as criminal law. The second meaning has a wider scope. Regulation may also refer to state actions designed to influence the behavior of other actors. This can be achieved through obligations and prohibitions, but also through incentives and information provision and contracts, among other instruments. The third and last meaning of regulation widens the scope even further and indicates that even non-state actors may employ regulation to modify their own behavior (self-regulation) or that of others. As regards the effects of regulatory policies, it is worth noting that they have been framed and studied not only as intended or deliberate, but also as incidental or even unintended.

Regarding actors in regulatory regimes, several typologies exist. Crucial actors are normally considered those that have been delegated or entrusted with regulatory authority—the regulators. They operate within a regulatory regime together with several other actors whose most important categories correspond to the political 'principal' (elected politicians who delegated regulatory capacity), co-regulators (other regulators with concurrent or complementary regulatory functions), regulatees (the targets of the regulatory activity), and beneficiaries (actors concerned with the outcomes of regulatory policies). These actors interact in regulatory regimes following various

configurations and across different levels of governance. Traditional perspectives on the role of these actors are inspired by the policy cycle, meaning that policy formulation, implementation, and change are considered to take place in specific sequences, which can also follow a circular pattern. For instance, Jann and Wegerich (2007) have proposed a simple policy cycle with four steps: agenda-setting, decision-making, implementation, and evaluation and termination. Regulators can be active in any of these steps, and, through their activity, can contribute to the functioning of the regulatory regime. More recent research has emphasized not only the central role of regulators as rule-makers in shaping regulatory regimes, but also their interaction with actors such as those that are demanding rules, rule-takers (Büthe 2010) and regulatory intermediaries, that is, actors that affect, control, and monitor relations between rule-makers and rule-takers (Levi-Faur and Starobin 2014, 21).

Regulatory regimes as such can be distinguished from other concepts denoting similar phenomena. In particular, the term *regulatory space*, first developed by Hancher and Moran (1989) regarding economic regulation, exhibits a considerable conceptual overlap (also Scott 2001; Thatcher and Coen 2008; Vibert 2014). It corresponds to an environment defined by the range of regulatory issues subject to decisions in specific sectors (e.g. financial services in Europe, global environmental protection). The main difference is that a regulatory space can be conceived as an arena occupied by participants in the regulatory process that are involved in cooperation as well as in bargaining and struggles for regulatory power. On the other hand, a regulatory regime is better understood as an institutional framework that simultaneously structures the interactions among actors and is structured by them.

33.3 Regulatory Regimes in the EU

The literature on European regulatory regimes is quite extensive. This section provides an overview of the main features that characterize such regimes: the phenomenon of agencification in member states, the development of networks and European agencies in the multi-level polity, and issues of legitimacy and accountability.

33.3.1 Delegation and Agencification in Member States

The rise of the regulatory state in Europe is epitomized by the creation and diffusion of independent regulatory agencies (IRAs), to which considerable regulatory authority has been delegated. Usually, two functional explanations for this phenomenon of agencification are identified (Majone 1999). The first is that governments choose to delegate regulatory authority to IRAs because the latter are able to provide expertise and up-to-date knowledge on technical issues much more efficiently and in an unbiased manner compared to elected politicians and the ordinary civil service. According to the second explanation, delegating authority to IRAS is expected to provide credible long-term policy commitment. This is because, after delegation, regulatory decisions become 'out of reach' of

politicians and their supposedly short-term perspectives. Strategic explanations also exist: in particular, elected politicians have incentives to shift the blame for unpopular policy reforms and for their impact on other actors that are perceived as insulated from political influence. Levi-Faur (2005, 25) and Gilardi (2005, 87) have summarized these explanations by labeling them as 'bottom-up.' In addition, they complement them with 'horizontal' and 'top-down' explanations. The former emphasize interdependent decision-making and policy diffusion as drivers of agencification. In other words, the experience of a given country may have an influence on the establishment of IRAs in another one. IRAs have been found to diffuse through a process of emulation, where their symbolic properties—being a socially valued model that at some point becomes taken for granted—matter more than their functional utility (Gilardi 2005).

Top-down explanations focus on processes of Europeanization through which the European Union has a direct influence on domestic regulatory regimes as well. This influence is exercised through market harmonization, i.e., as market making or market shaping (Quaglia 2012), as well as through more or less explicit pressures on member states regarding the creation of non-majoritarian regulators, the most prominent of which are IRAs (Majone 1997, 1999). For example, regarding telecommunications, EU regulation demands the functional separation of regulation and (state-) ownership of service providers (Gilardi 2005, 89). In other instances, the European Commission itself has promoted the proliferation of IRAs in member states. Most notably, it has reported on issues such as the independence from both industry and government, or the capacities and powers of such agencies, pointing out in which aspects improvements could be made (Gilardi et al. 2006, e.g. European Commission 1999).

Empirically, the spread of IRAs over Europe follows a sigmoid pattern (Gilardi 2008). That is to say, at the beginning of their 'expansion,' few IRAs were established by pioneering countries. The majority of IRAs were created after that *en bloc* by most countries. In some countries, however, the creation of such agencies lagged behind. In finance, as in one of the cases we will discuss below, the proliferation of IRAs follows this pattern clearly. This can be seen in Table 33.1. Belgium, Switzerland, and Ireland created IRAs first, while the majority was established in the 1980s and 1990s. However, this pattern is not as clear regarding IRAs dedicated to the environment, the other policy field we will discuss. Most of the agencies in this policy field have been created rather close to each other.

33.3.2 Multi-Level Governance, Regulatory Networks, and European Agencies

Multi-level governance through regulatory networks and European agencies deserves special attention because, on the one hand, it represents a more sophisticated way to organize regulatory regimes, and, on the other hand, it is particularly advanced and institutionalized in the European Union. The starting

Table 33.1 Creation of IRA in selected policy fields

Country	*Finance*	*Environment*
Austria	2001	1985
Belgium	1934	–
Denmark	1988	1972
Finland	1993	–
France	1967	1990
Germany	2002	–
Greece	1967	–
Ireland	1942	1992
Italy	1974	1994
Luxembourg	1998	–
Netherlands	2002	1996
Norway	1985	1974
Portugal	1991	–
Spain	1988	–
Sweden	–	1967
Switzerland	1934	–
United Kingdom	2000	1995

Source Gilardi (2008)

point of multi-level governance as an analytical framework is the consideration that decision-making authority is increasingly fragmented and diffused across subnational, national, transnational, and supranational levels, which is consistent with the functional development of the European polity. The key features of multi-level governance are as follows: the complex interdependence across actors situated at different levels; the reliance on forms of non-hierarchical policy-making; and a widely inclusive decision-making process, which integrates non-state actors in critical stages (Hooghe and Marks 2003). A crucial consequence of this is that the nation-state is no longer seen as the single most important arena for understanding and analyzing political processes (Kübler 2015). The multi-level nature of the EU not only refers to policy processes, but, inevitably, to its organizational architecture as well. A multi-level administration emerged that was indeed characterized by a European Commission that has become increasingly autonomous from member states and relies more and more on domestic regulatory agencies. These agencies, in turn, play two different roles at the same time, one as the traditional delegate of national ministers and one as a part of a European Union administration (Egeberg 2006).

A visible manifestation of multi-level governance is represented by regulatory networks and by supranational agencies, which, in essence, still function as networked organizations (Maggetti and Gilardi 2011; Bach and Ruffing 2013; Maggetti 2014). At the international level, networks are considered to be the cornerstone of a new world order (Slaughter 2004). In the EU, they gained prominence especially within the framework of so-called 'new governance,' whose aim is mostly to ensure policy convergence and coordination through soft and flexible tools in areas where harder governance is unfeasible or undesirable (Coen and Héritier 2005). Networks and agencies can be classified into several types (Thatcher and Coen 2008; Curtin and Egeberg 2009).

Forums are consultative groups for information exchange. Unlike other types, forums do not wield delegated power and make no binding decisions. Forum participants can be quite diverse and include public actors and officials, industry and business representatives, and delegates of civil society or non-governmental organizations. Informal networks of independent regulatory agencies (NIRAs) are similar to forums insofar as their purpose is to promote information exchange. However, participation is exclusive to IRAs. European regulatory networks (ERNs) are created through a 'double delegation' from national regulators and the European Commission, and they are composed of regulatory agencies. ERNs are rather formalized and may enjoy delegated authority and regulatory competencies. In addition, ERNs usually have a quite formalized organizational structure insofar as they can possess standing secretaries or working groups. The main task of ERNs is to facilitate coordination between national regulators. Furthermore, European regulatory agencies (ERAs) also rely on a double delegation. They usually offer advice to the Commission, may carry out inspections, and may even be empowered to make binding decisions on their own. ERAs are fully agencified, operate under EU law, and have their own budget, staff, and infrastructure.

Two current trends regarding networks and European agencies need to be mentioned (Levi-Faur 2011a). Firstly, regulatory regimes based on networks are becoming more and more formalized. In particular, informal or ad hoc networks of regulators have developed a more durable character as well as formalized rules of procedure. This trend is superseded by a second one, namely the ongoing agencification of regulation. On the one hand, as mentioned in the previous section, this is because the 'rise of the regulatory state' is accompanied by the increasing reliance on IRAs on the domestic level. On the other hand, this also refers to the establishment of ERAs, which continue to replace networks of regulators on the European level, even if somewhat unevenly depending on the policy area. A consequence of both trends is that new centers of executive and regulatory authority are created, and that, in this respect, the EU loses aspects of an inter-governmental agreement to become more supranational (Egeberg and Trondal 2011).

Empirically, regulatory regimes in Europe are particularly active in social and risk regulation, for example, in policy fields such as public health, food and product safety, or consumer protection, but they also operate on economic issues and market regulation, for example, in banking, finance, and insurance, and on various utilities, such as gas, electricity, water, broadcasting, and transportation (Levi-Faur 2011a; Thatcher 2002; Coen and Héritier 2005). The main tasks of EU-level agencies in these areas are handling and providing data and facilitating the cooperation of national agencies. The core task of regulation, i.e., the preparation of new norms, is by design only a minor responsibility of theirs (Egeberg and Trondal 2011, 874). However, recent empirical studies have shown that, in practice, networked organizations are becoming remarkably successful in creating and promulgating soft law and in stimulating

its adoption as legally binding regulation in domestic jurisdictions, following an endogenous developmental process of their rule-making capacity (Maggetti and Gilardi 2014).

33.3.3 Legitimacy and Accountability

Legitimacy is the perception or assumption that the activities of a given regulator within a regulatory regime are desirable, proper, or appropriate within a given system of norms, values, beliefs, and definitions (adopted from Suchman 1995, 574). As mentioned above, the qualities of regulatory regimes, such as expertise building, blame avoidance, and policy certainty through commitment, may contribute to the legitimacy of the European regulatory system. However, the setup of this system also has its drawbacks, and there are valid reasons to doubt the legitimacy of individual arrangements.

The basic principle of representative democracy is that political power is embedded in a chain of delegation that links it back to citizens. This chain is weakened through continued delegation to agents and effectively removed by the creation of IRAs, thus creating deficits in democratic control. These deficits are further amplified for ERAs because of the 'double delegation' that shifts authority away from the state to independent agencies *and* onto the supranational level. Overall, this situation can be described as 'power-without-corresponding-representation' (Hupe and Edwards 2012, 178; Vibert 2011).

Hence, regulatory regimes composed of IRAs or ERAs are—by design—*decoupled* or *isolated* from established democratic arenas (Papadopoulos 2003). Further shortcomings of European regulatory regimes include the following (Papadopoulos 2007, 2010). Firstly, such regimes may have low visibility and transparency, making it difficult to determine which actor holds what responsibility. This can have adverse consequences, such as the dilution of responsibility, blame avoidance, and scapegoat effects, which render public accountability less effective. Secondly, the composition of regulatory regimes can also be an issue. In particular, they frequently incorporate bureaucrats, policy experts, and interest representatives, none of whom are directly accountable to citizens through electoral mechanisms. Instead, other forms of accountability prevail, such as peer or professional accountability. Thirdly, the lack of democratic-electoral accountability is amplified in multi-level settings, particularly because of the problems of 'many hands' and 'many eyes' (Bovens 2007, 455, 457). Regarding the former, in multi-level governance, several regulators contribute to the outcome and impact of a given issue, and thus create overlapping regimes. In these situations, it becomes more difficult to determine who should be accountable for which conduct. Furthermore, concerning the problem of many eyes, there are also multiple principals and stakeholders to whom a regulator is accountable. They may have contradicting demands, making it difficult for the regulator to fulfill all obligations of accountability. This 'multiple accountability disorder' may decrease the

efficacy and efficiency of regulatory regimes (Koppell 2005). To what extent this has an impact on societal legitimacy remains, however, an open empirical question.

33.4 The Case of Finance and Environmental Sustainability

This section provides examples of European regulatory regimes for the financial sector and for environmental sustainability. The former policy field is dominated by few regulators that most prominently include member state representatives and civil servants, among other actors. In the latter policy field, private and hybrid regulators are more common and they may be in competition with each other (Büthe and Mattli 2011; Ewert and Maggetti 2016).

33.4.1 Finance

The international regulatory regime for the financial sector largely relies on complex interactions between informal institutions that promulgate non-binding rules (Brummer 2010). Central institutions include not only the International Monetary Fund (IMF) and the World Bank, but also less-institutionalized organizations, such as the Basel Committee, the Financial Stability Board (FSB), the Financial Action Task Force (FATF), and the Group of Twenty (G20). Private regulatory bodies, such as the Wolfsberg Group, exist but are comparatively smaller in scope and influence. The role of such regimes in this sector is to promote financial integration and prevent systemic crisis (Mügge 2014). Some within-case variations deserve to be mentioned. For instance, strong transnational ties exist between the relevant groups and organizations in charge of banking supervision in a context where no single state leads the globalization regulatory governance (Braithwaite and Drahos 2000; Drezner 2007). Instead, areas such as securities regulation are characterized by weaker transnational ties and less formalized governance mechanisms.

In the EU, a comprehensive regulatory regime for the financial markets was developed in the context of the Financial Services Action Plan (FSAP). This process, initiated by the Commission in 1999, aimed at transforming the regulatory landscape, bringing into being a relatively complex and sophisticated set of new measures (McMahon and Moloney 2006). Key measures relate to security trading and banking regulation, and they focus especially on the development of a single set of rules for regulatory supervision and on market integrity as a common good (Donnelly 2010). At the same time, ambitious institutional reforms were launched following the Lamfalussy report in 2001 (De Visscher et al. 2007). This report qualified the current legislative framework as 'too slow, too rigid, complex and ill-adapted to the

pace of global financial market change' (Lamfalussy Committee 2001, 7). In order to ensure more consistent interpretation, convergence in national supervisory practices, and to increase the quality of legislation on financial services, the committee called for a reform of the decision-making and adoption procedure, articulated in four levels. At the first level, the European Parliament and Council of the European Union adopt basic political decisions in the form of directives or regulations in accordance with the usual treaty legislative procedures. Then, at the second level, sector-specific committees provide advice to the Commission on detailed technical measures that will be adopted by the Commission under a streamlined and accelerated legislative procedure. The third level requires the cooperation of national regulators so as to ensure the implementation of these rules. The fourth level concerns the enforcement of the new rules through procedural transparency, enhanced coordination, and consultation of market actors. The new regulatory regime entailed the creation of new European regulatory networks in charge of the capital market (CESR), the banking market (CEBS), and the insurance and pensions market (CEIOPS). A crucial European directive has been developed according to this approach: the Markets in Financial Instruments Directive, or MiFID, in 2004.

This system can be qualified as a model of multi-level soft governance that has proven to be remarkably effective. The CESR—the pivotal institution of the Lamfalussy architecture—even developed a considerable autonomous rule-making capacity. Indeed, the CESR has been successful in developing and promulgating soft rules that have been consistently adopted by member states (Maggetti and Gilardi 2014). What is more, the EU market has become more attractive for investors, and the EU itself has become remarkably influential in global financial regulation, for instance, in the development of international accounting standards (Mügge 2014). However, the system has also been strongly criticized for its lack of accountability before the Council of the European Union and the European Parliament. The 2007–2008 financial crisis offered a window of opportunity to reform this regulatory regime (Maggetti 2014; Quaglia 2012). A number of EU agencies with community law status and more powers took over: ESMA, EIOPA, and EBA were in charge of the financial market, the pension and insurance market, and the banking market, respectively. Post-crisis measures also precipitated the creation of a European Systemic Risk Board (ESRB) under the responsibility of the European Central Bank, and of a Single Supervisory Mechanism (SSM) as a first step toward a banking union. The situation has been characterized as a state of 'cooperative decentralization'; that is, it exists as an agreement on basic rules, but there is considerable flexibility in national-level implementation (Helleiner et al. 2010). After the crisis, the European approach that had been based on more 'managed' regulation became more relevant than other international models (Posner 2010).

33.4.2 Environmental Sustainability

Regulation of environmental sustainability has always been a contested issue, both in terms of *ends* and *means*. Furthermore, political attention on this issue has been high at least since the 1992 Earth Summit of the United Nations and its predecessors. Disasters, such as the 1982 Bhopal incident in India, the 2010 Deepwater Horizon oil spill in the Gulf of Mexico, or the 2011 accident in the Japanese Fukushima nuclear power plant have additionally increased the salience of environmental concerns in general.

European public regulators in this policy field include a dedicated agency, the European Environment Agency, which was established in 1993 (Martens 2010). It is complemented by several regulatory networks operating on transnational levels. For example, the Green Spider Network, hosted by DG Environment, was created in 1995 to promote discussion and exchange among national authorities. The European Union Network for the Implementation and Enforcement of Environmental Law (IMPEL) is another example. Created in 1992 as an informal network for discussion, it became established under Belgian law as a not-for-profit organization in 2008 with its seat in Brussels.

However, private regulatory schemes were established earlier as well. For instance, the International Federation of Organic Agriculture Movements was founded in 1972, and the Forest Stewardship Council (FSC) in 1993. The FSC in particular stands out as an example of a highly successful multi-stakeholder organization, which operates through a voluntary certification scheme (Chan and Pattberg 2008; Cashore et al. 2004). The FSC has created regulation for timber production and trade, and actors involved therein can submit themselves to it to be acknowledged with the consumer-recognized FSC label. Although active worldwide, the FSC has its strongest impact in Europe. It claims that about 52% of European forests are managed according to FSC standards; in Poland it's even up to 75% (FSC 2014, 2015).

In addition to public and private regulation, in this area, one can also find hybrid bodies where multiple regulators collaborate. An example of this is the Central and Eastern European Bankwatch Network (CEEBN). This network is an umbrella association for several civil society organizations from that region. These organizations monitor and report on projects in their respective countries that are (co)-financed by public institutions and might endanger environmental integrity. The European Commission supports the CEEBN financially and hence endorses its work (Ewert and Maggetti 2016).

Thus, the European regulation of environmental sustainability is not only multi-layered, but also multi-centered. Unlike in finance, where there is a dominant regime, in environmental sustainability several competing regimes exist. Public regimes exist in parallel to private and hybrid ones, and with this multitude of centers comes a multitude of policy instruments as well. Alongside the 'hard' regulation of public actors, private regulators often operate through economic incentives and the purchasing power of the European

people (‘political consumerism’). Policy fields with such a dense population of regulators can create competition for regulatory resources, especially if regulatees can decide under which regulatory framework they want to be regulated (Ewert and Maggetti 2016). Here, legitimacy and accountability of a regulator (see above) can actually be a distinguishing asset (Black 2009). This is because, if they have a choice, regulatees will join the regime whose authority they find the most legitimate. In addition, compliance, uptake, and overall efficacy may also depend on the perceived legitimacy of a regulator.

33.5 Conclusion

In Europe, regulatory regimes have been established across multiple levels of governance in many economic and social policy areas. These regimes are characterized, firstly, by agencification, i.e., the development of specialized agencies with regulatory authority and various degrees of independence from their political principals. Secondly, they mostly consist of networks of bodies that, more often than not, incorporate public actors alongside private ones. Finally, regimes evolve insofar as they are becoming more and more formalized, embedded in legal frameworks, and variously subject to accountability schemes.

Recent research on European regulatory regimes and similar concepts can be divided into two broad clusters. The first adopts a descriptive and analytical perspective. Theoretical work from this cluster concentrates on defining, conceptualizing, and identifying regulatory regimes. Empirical research has described and explained the establishment and diffusion of agencies and networks, their independence and authority, as well as their interactions, relations, and use of policy instruments. For instance, Levi-Faur (2004) has examined the establishment of ‘economic-oriented’ European regulatory regimes in network industries such as telecommunication and electricity, while Coen and Héritier (2005) have focused on the post-delegation period, that is, on how regulatory regimes in these sectors monitor their goals day-to-day and are redefined by interactions with their institutional, business, and legal environments. Other scholars have explored ‘social-oriented’ regulatory regimes. For instance, Krapohl (2007) has investigated the differential success of the EU in regulating pharmaceuticals and food safety and has shown that frequent crises in the latter domain triggered supranationalism and agencification at the EU level.

The second cluster of research focuses more on conceptual and normative issues such as the legitimacy and the accountability of regimes. Empirical research here often tries to determine objective and subjective determinants of legitimacy, or, for example, the inclusiveness of regimes. For instance, Black (2008, 2009) has suggested that the legitimacy of regulators in regulatory regimes is shaped by their interaction with those making legitimacy claims and may work both ways. Biela and Papadopoulos (2014) have

applied a regime approach to measure the political, operational, and managerial accountability of agencies in front of different 'accountability fora,' showing that accountability varies with the systemic properties of the regulatory regime wherein the regulator is embedded. This implies that regulators and other key actors are not only part of regulatory regimes, but also of corresponding accountability regimes. Recent research has also pointed out that formal rights and duties are no guarantee of regime accountability. The account-holders, especially public actors, must be prepared and willing to demand accountability in terms of acquiring information and imposing consequences on the agency in charge (Busuioc 2012).

In conclusion, we can identify three types of tensions related to the development of regulatory regimes that would deserve more attention in future research. The first is a persisting deficit of democratic legitimacy. While such legitimacy ultimately relies on citizens' support, European regulatory regimes may not be subject to either electoral or other forms of public accountability, such as participatory ones. Even further, IRAs and ERAs, the most prominent types of regulators that operate in such regimes, are *by design* isolated from them. The second tension is created between the different levels of governance, i.e., between the subnational, the national, and the supranational. Regimes may stretch over all of them, and regulators share their respective authority in (partially) overlapping jurisdictions. This could result in conflicts within levels of governance, but also, as noted by Egeberg and Trondal (2011), across them. The third and last tension has its roots in the formal-legal distinction between public and private. Regulation, in terms of rule-making and implementation, is not exclusive to actors of public law because it increasingly includes civil and commercial actors as well. Regulatory regimes have to incorporate multiple values, interests, and capacities within a coherent regulatory framework in a way that might ultimately undermine their effectiveness.

The political system of Europe is evolving, and its regulatory regimes are anything but set in stone. Research from both the first and second cluster is needed to map and make sense of this evolution.

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