

## QUIS CUSTODIET IPSOS CUSTODES?

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*QUIS CUSTODIET IPSOS CUSTODES?* is a Latin phrase from *Satires* by Roman poet Juvenal. Literally translated to “Who will guard the guards?,” the more famous variant “Who watches the watchmen?” seems an apt descriptor for the Volkswagen scandal, when it came to light that the automobile manufacturer had installed software in diesel vehicles to provide false information during emissions tests. The failure to uncover this trick revealed an endemic weakness in the regulatory system of the European Union (EU)—the fact that they are implemented by national authorities without direct control or sanction powers from the European Commission. It behooves the Commission, of course, to verify the integrity of these national control systems, but this is a politically sensitive issue. For this reason, those entrusted to enforce controls often opt for a softened or postponed approach.

This is how, for example, the mad cow epidemic was born. UK authorities turned a blind eye to the common practices of the food industry, specifically the choice to feed cows with animal proteins to encourage growth and weight gain. The reform of financial regulatory authorities at the end of the last decade resulted from an analogous origin: national regulators, motivated to protect their country’s financial sector, had applied the common rules in an unequal manner, thus aggravating the subsequent crisis. Leading the charge was German bank regulator BaFin, which violated internal market rules blocking the transfer of liquidity within the Unicredit group, and failed to see colossal accounting and managerial violations intrinsic to German financial giants. Moreover, the reform has still had little success because the governing bodies of the supervisory authorities are made up of representatives from member states, who all agree not to ruffle any feathers.

At the end of the 1990s, the EU signed some agreements with the United States for the mutual recognition of systems for testing industrial products (mainly chemicals and pharmaceuticals); American authorities insisted on evaluating the European system, and they found the testing structures in Europe to be decidedly sub-standard in some countries (Italy among them), all of which were then required to raise their standards to bring them up to par. Environmental protection, of importance in European regulatory policy, remains under the supervision of national regulators, for which European direct controls over the application of norms does not exist. Now, without a doubt, the system will be strengthened.

This problem does not exist in areas where European legislation is supported by the direct control and sanction powers of European authorities, as is the case with competition and state

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aid policies, and, now, banking supervision. Naturally, this is not reassuring since it confirms that national regulators are, more often than not, influenced by the very parties they are mandated to oversee, to the detriment of consumers and depositors. In a system characterized by protectionism and corporate interests, the culture of independent regulation struggles to take root.