

Dealing with the Risk Regulation Reflex

Published in Jaarboek Nationaal Netwerk Risicomanagement 2013

Jan van Tol¹

Introduction

The subject of this article is the risk regulation reflex: the tendency to regard the constant reduction of risks, whether or not in response to an incident, as a self-evident duty of government. The risk regulation reflex can lead to disproportionate measures.

The proportionality of an intervention can be measured by the size of the risk in question. However, public governance is not based on reference to a decision table, and can always be different from what would be proportional on the basis of calculation. The proportionality of an administrative decision is judged by parliament and society – and opinions, of course, may differ. Thus a government may judge that more drastic measures are appropriate or necessary for some risks than for others which may be equally great. At the same time situations arise in which politicians demand action exceeding what the government is prepared to entertain. In this article, the terms disproportional and disproportionate are applied to measures the benefits of which, on closer inspection, clearly fail to outweigh the cost and the societal side effects, or which give the government a larger stake in risk reduction than is necessary and/or achievable.

The term risk regulation reflex was first used in the Dutch Risk and Responsibility programme (*Programma Risico's en Verantwoordelijkheden*), an interdepartmental programme established by the Ministry of the Interior and Kingdom Relations (BZK). Although the reflex can be observed throughout society, the programme is aimed at broadening the action repertoire public governance and the civil service can draw on when dealing with risks and incidents. More about the programme will be found in the appendix.

Responding proportionately to a risk

On 5 February 2014 the Dutch version of the free daily Metro opened with 'Netherlands must be geysers-free within five years'. The article itself was headed 'Ban geysers to prevent deaths', and goes on to say that at least eleven people die each year of carbon monoxide poisoning and a further 150 are taken to hospital. In 94 per cent of cases this is the result of accidents in the home, and geysers are the main culprit. At the time of writing half a million homes in the Netherlands have at least one geysers (the figure for 2001 was 1.7 million). The government has already decided that within ten years all homes must be geysers-free. The *Brandwondenstichting* (Burns Foundation), the country's principal fire safety campaigning body, believes there is still too little awareness of this risk and it is lobbying parliamentarians to insist that geysers be banned within five years. All these arguments are based on figures from VeiligheidNL, an independent think tank many of whose clients are government departments.

On the same page Metro had an article about parents who had lost a child to carbon monoxide poisoning. They had started a Facebook campaign and hoped to collect 50,000 'likes' to back up their call for geysers to be prohibited at the earliest possible opportunity.² The father also argued for the mandatory use of carbon monoxide detectors as a temporary measure while geysers remained in use: 'We want so many contacts that the government

¹ Manager of the Dutch Risk and Responsibility programme 2011-2014 (BZK) and project leader on the preliminary pathfinding project in 2010 (part of Central Government Reform programme). Before that, several years as strategic adviser, Office of the Inspection Board (*Bureau Inspectieraad*).

² By 21 March this had risen to 14,831 people who had clicked on 'Like carbon monoxide is deadly'.

cannot refuse. It is helping us to ensure that our daughters did not die in vain and that others can be spared the pain we are feeling.’

Within five days the Facebook page had amassed over 11,000 likes. Soon after, questions were put to the minister for Housing and the Central Government Sector by the ChristenUnie party with the aim of establishing whether he too believed that a ten-year time frame for geysers to be phased out was too long.

What exactly is going on here?

- a safety organization identifies a risk and draws it to the attention of members of parliament
- the pain of a tragic loss is converted into a campaign that may make something good out of the tragedy
- the newspaper combines factual reporting of the risk with the human interest factor in the Facebook campaign, giving the pain a face
- the unspoken implication, echoed in the questions in the House of Representatives, is that there is societal unrest which justifies intervention by the government, or at least that the minister should be asked to explain his position on the matter
- for the neutral reader it is difficult to form an accurate picture of the problem because there is no information about what citizens and housing corporations themselves can or ought to do about the risk. Nor is it clear how important this risk is in comparison with other risks in and about the home. For the rest, while the spotlight is on the safety benefits of the proposed measures, no such attention is given to their cost effectiveness. At the same time it is difficult to determine precisely what Facebook ‘likes’ represent: sympathy with or sharing in the sorrow of the original campaigners, endorsement of the need to tackle the risk posed by geysers, or agreement with the call for the government to take further measures as soon as possible.

In his answer to the questions put in parliament, the minister said that ‘over the coming years the number of deaths must come down, but that can also be achieved by the safe use of open combustion appliances pending their replacement with safer room-sealed appliances. In my letter [of August 2013] I refer for example to regular maintenance of appliances and the fitting of carbon monoxide detectors’. Making the use of such detectors mandatory he regarded as a less effective measure: ‘That is why, as with smoke alarms, it was earlier decided that carbon monoxide detectors would not be made mandatory in existing homes but that their use on a voluntary basis would be encouraged.’ The minister closed with the observation that ‘the VeilingheidNL figures were already known when my letter of August was written and they are in line with earlier figures on accidents involving carbon monoxide’.³

In this example – and in many other cases – the government answers the call for risk mitigation with arguments based on proportionality. However, this is not always easy, especially after an incident such as that in the following example.

On 9 January 2005 vandals dropped paving stones from a footbridge over the A4 motorway near Rijswijk. One of these went through a car windscreen and a person in the car was killed. There was widespread shock at the event, many people expressing the opinion that it was unacceptable that such a thing was possible. The minister for transport was urgently called upon to do everything possible to prevent a recurrence and the national road safety lobby organization 3VO (*Veilig Verkeer Nederland*) received much support for putting forward the idea that all footbridges should be fenced in.

³ Tweede Kamer [House of Representatives] 2013-2014, Aanhangsel 1300.

However, the cost of installing fences on all 350 footbridges over roads would be something like €100 million. *Rijkswaterstaat* (RWS), the Directorate-General for Public Works and Water Management, took the view that this would be a disproportionately high expense and accordingly looked for other options such as camera surveillance or patrols, but these too proved extremely costly. There then followed a more precise analysis of what was really going on. It turned out that as soon as all sorts of things on a footbridge are only loosely attached, or if there are building materials lying about, this acts as a magnet to young people with nothing better to do and an insufficient grasp of the potential consequences of their actions. The first thing to do, then, is to make sure the bridges are kept clear of loose objects. RWS also looked to see which footbridges attracted large numbers of young people and which were the most vulnerable footway routes. The worst affected routes were found to be those on which a footbridge is the link between a housing estate or residential area and a school or nightlife centre. A total of seventy of these high-risk footbridges were identified and they were fitted with enclosed fencing. All in all this has cut the risk considerably and at far lower cost than would have been entailed by the drastic measures proposed immediately after the event when emotions were running high.⁴

Examples of where the proportionality of the response is debatable

There are also cases in which a proportionate response turns out to be impossible. Here are some examples in which, in hindsight, the proportionality of the measures taken can be questioned.⁵

Legionella

Following the 1999 outbreak of legionnaires' disease in Bovenkarspel, which cost the lives of thirty-two people, drastic measures were announced for water installations in all institutional, commercial and industrial premises throughout the Netherlands. The result was expensive changes that also affected many premises at which the risk of a legionella outbreak was negligible, including sports clubs and even industrial plants (Hoogovens steel) well away from members of the public. In the years that followed, many of these measures were reversed as a way of reducing the burden of regulation. Even so, the annual cost for society is still tens of millions of euros for disproportional residual measures such as the mandatory checking for the presence of the legionella bacterium in fire hoses.

Rail safety

Pending the introduction of the European Rail Traffic Management System (ERTMS), in December 2013 the state secretary for Infrastructure & Environment asked Prorail (which is owned by the state) to invest in extra measures. The costs entailed are €165 million in two tranches for nationwide introduction of the ATB-vv (automatic train management – improved version) system as a temporary measure following the 2012 accident in Amsterdam in which one person was killed. Given that Dutch railways are among the safest in the world, and that rail is far and away the safest mode of transport, the benefits provided by this investment are extremely small.

Government office buildings

⁴ Eva de Kan, 'Wat maakt een "succes casus" tot een succes? Een onderzoek naar de achterliggende factoren die invloed hebben op het komen tot een afgewogen oordeel naar aanleiding van een mogelijk risico of incident' [What makes a 'success case' a success? An investigation into the underlying factors affecting the process of arriving at a balanced judgement following a possible risk or incident] (degree dissertation, Radboud University Nijmegen 2014). See also the case described by director-general J.H. Dronkers in J. van Tol (ed.), *Conferentiebundel Dag van de Dilemma's en Oplossingen* [Conference papers, Day of Dilemmas and Solutions] (BZK 2013).

⁵ These descriptions are based on research for the Dutch Risk and Responsibility programme (see appendix).

A fire in a temporary detention centre near Schiphol in 2005 killed eleven illegal immigrants and forced two ministers and a mayor to step down. In the wake of this tragedy, the fire safety of detention facilities constructed from converted shipping containers was sharply improved. Subsequently the fire safety standard for existing brick-built prisons and youth welfare hostels was raised to that of newly built facilities, after which the same was done for all central government office buildings. With the passage of time, then, the link to the original risk has been lost. The costs originally envisaged would have run into hundreds of millions of euros, but at present the actual implementation appears to have been limited to a cautious start that now costs some ten million euros a year.

Childcare

Professionalization and screening are employed as means of preventing child abuse, yet there is no evidence of any significant effect on the incidence of abuse. More generally, the effect of the 'four eyes principle' is poorer welfare.

Power lines

There is no scientific proof that electromagnetic radiation from overhead power lines presents a risk to health. There may be a small risk of childhood leukaemia (one case every two years), but even that conclusion is disputed. Despite this, the government has determined that all high-voltage power lines near homes must be placed underground, partly to facilitate their construction but also partly on safety grounds. This measure costs €580 million and 25% of this comes from local authorities.

The risk regulation reflex

By now it will be clear: dealing with risks is difficult. Over the past decade, aspects of the phenomenon of overreaction have been raised by a variety of advisory councils and academics under such headings as incidentalism, media logic, greedy government, and the nanny state. Use of the term 'risk regulation reflex' (*risico-regelreflex*) is spreading, and was used (for instance) by the Council of State (*Raad van State*), with examples, in its annual review for 2012. Every now and then the media too pay attention to the phenomenon and the effects of overreaction to risks.⁶

The term 'risk regulation reflex' is thus related to a range of other terms, but brings them together to the extent that they describe or explain something about disproportionality in dealing with risks.

The term 'risk regulation reflex' (*risico-regelreflex*) was coined by Margo Trappenburg in May 2010 in an essay for the Dutch Risk and Responsibility programme.⁷ The programme subsequently examined the phenomenon more closely and at the same time refined the definition of the term. The programme currently uses the following provisional definition and explanation:

⁶ At the same time references to the programme are becoming increasingly common. Some examples: *Brabants Dagblad* 31-8-2013 'Echte veiligheid is een utopie' [Real safety is a utopian concept]; *Algemeen Dagblad* 19-10-2013 'Alarm voor onze kademuur' [Alarm for our sea wall]; *Trouw* 10-9-2013 'Regeldrift zit hulpverlener bij ramp in de weg' [Regulation mania gets in way of aid workers after disaster]; DNP 5-9-2013 Protokolder; *Volkskrant* 15-6-2013 'Kille cijfers zijn niet onmenselijk' [Cold statistics are not inhuman]; *Geen Stijl* 14-1-2013 'Treinen zijn rijdende grafkisten. Of wacht...' [Trains are coffins on wheels. But wait...]; *NRC Next* 13-12-2012 'Als veiligheid een obsessie wordt' [When safety becomes an obsession]; *NRC Next* 21-9-2012 next.checkt 'De overheid heeft 1,7 miljard euro over voor één leukemiegeval per twee jaar minder' [Government prepared to spend 1.7bn euros for one fewer case of leukaemia per two years].

⁷ Margo Trappenburg, 'Waarom het allemaal niet lukt' [Why none of it works], in J. van Tol, I. Helsloot and F. Mertens (eds.), *Veiligheid boven alles? Essays over oorzaken en gevolgen van de risico-regelreflex*, Den Haag: Boom Lemma uitgeverij 2011. An abridged version of Trappenburg's essay appeared in *NRC Handelsblad* on 15 May 2010.

The risk regulation reflex is the tendency to regard the constant reduction of risks, whether or not in response to an incident, as a self-evident duty. The risk regulation reflex can lead to disproportionate interventions: measures that confer benefits which on closer inspection clearly fail to outweigh their cost and societal side effects, or which give the government a larger stake in risk reduction than is necessary and/or achievable. Such measures can range from legislation, regulation and the setting of standards to inspection, concrete measures and system changes.

All sorts of risk can be involved. The reflex is in any case clearly identifiable where it is a matter of physical risks that fall within the perceived ambit of government regulation. In the example of the geysers, the reflex could be seen in the response of the *Brandwondenstichting*, the initiators of the Facebook page, and the member of parliament. A potentially disproportionate intervention was averted by the minister's response and the fact that parliament itself did not pursue the matter further.

It is only natural that we should keep asking ourselves if things can't be made safer: it is a product of having both a civilized society and the prosperity that allows us to keep taking extra measures. Yet the high level of safety and security that we enjoy leads to a paradoxical situation: look at the reporting in the Western media and you see growing fear of risks. To paraphrase Ulrich Beck⁸, hunger has been exchanged for fear, or, in the words of Aaron Wildavsky: 'the richest, longest lived, best protected, most resourceful civilization, with the highest degree of insight into its own technology, is on its way to becoming the most frightened'.⁹ The basic premise in the political and media debate appears increasingly to be 'safety above all'. Added to a blame culture, this makes the balancing of disparate interests concerning a particular activity – of which providing physical safety is one – an increasingly sensitive business for public governance.

To this can be added the fact that in a highly safe and secure country like the Netherlands we are dealing with the law of diminishing returns: each incremental improvement in our physical safety, driven as it is by our fear of risk, is proportionally less effective and – in more than one respect – more costly. Studying numerous examples reveals that risk-related interventions can lead not only to expensive and more or less symbolic measures but also to a shifting of primary responsibility for risk management towards the government.

The coalition agreement under which the present Dutch government was formed explicitly enunciates the belief that incidents must not automatically be followed by countermeasures. This accords with the intention of several previous governments to place greater emphasis on proportionality and to leave responsibility where it belongs: in other words, decentralize what can be decentralized, leaving matters to lower-tier government, reduce the burden of regulation, and foster the participation society. These intentions frequently prove difficult to put into practice when they touch on safety aspects, since guaranteeing a certain level of safety and security is one of the core responsibilities of central government.

One common solution for dealing with risks on a proportionate basis is to do more, or better, cost-benefit analyses. However, figures can generally achieve little once the public debate becomes heated. Another often-heard recommendation is that the public officials must simply stick to their guns – but again, in practice this is often not as simple as it sounds, because the risk regulation reflex lies in the area of tension between a range of governance dilemmas and paradoxes.

⁸ U. Beck (1992), *Risk Society: towards a new Modernity*. London: Sage Publications.

⁹ A. Wildavsky, 'No Risk is the Highest Risk of all' in: *American Scientist* (1979) vol. 67, no. 1.

- One of the first dilemmas is that ever more detailed rules for implementation can put a brake on innovation and entrepreneurship without necessarily increasing safety. At the same time it can make a balanced evaluation of the probable benefits and disadvantages surrounding new technology far more difficult.
- Such interventions may also infringe upon constitutional rights or civil liberties.
- Another dilemma is on the one hand the freedom to develop activities that entail opportunities and risks for the individual, and on the other the government's duty of care as exercised by protecting people – up to a point – from danger.
- Local and regional government choices lead to differences, which can create a tension vis-à-vis the strict observance of the principle of equality.
- Technological advances enable us to produce ever more and increasingly healthy food, but they also allow us to detect ever smaller impurities, the dangers of which have not been established.
- A further dilemma is that on the one hand people expect central government to play an increasingly minor role in our ever more horizontally operating society in which there has to be room for civil society initiatives, self-reliance and empowerment, while on the other hand there is a growing tendency to turn to the government whenever a risk is perceived.
- Interventions can give rise to unrealistically high expectations regarding the extent to which government can prevent future dangers.
- Once measures designed to improve public safety have been introduced it is extremely difficult to remove them, even if they turn out to have manifestly undesirable consequences or simply don't work.



Illustration: Sebe Emmelot

In short, dealing with risks and responsibilities is fraught with all sorts of difficulties. The Dutch Risk and Responsibility programme (DRRP) seeks to broaden the range of action available to central and lower-tier government in dealing with risks and incidents. It does so partly by offering insight into the working of the risk regulation reflex and the associated factors acting with and against it.

The risk regulation reflex and the factors that govern it

The risk regulation reflex need not necessarily lead to disproportionate measures or measures that miss their target. What, then, are the factors that play a part in this, and what are the forces acting against it? The programme is currently working on a compact summary of the insights that have been gained in this area. In the course of 2014 the provisional table shown below will be completed and provided with extensive explanatory notes; broadly speaking, however, it will look something like what follows below.

<i>Factors reinforcing disproportionality</i>	<i>Counteracting factors</i>
<ul style="list-style-type: none"> • Visible patterns and symptoms • Possible drivers • Implicit convictions • Failure of logic 	<ul style="list-style-type: none"> • Points to be considered by public officials • Societal and policy arguments • What else government can do

The left-hand column identifies patterns and underlying factors that can be seen throughout our society; the right-hand column identifies possible strategies for government. Many of the factors have been described elsewhere, but not always specifically in the context of risk. Among the counteracting factors are the tools and results of the DRRP.

Provisional contents of column 'Factors reinforcing disproportionality'

Visible patterns and symptoms potentially include:

- Heightened media and political attention to risks, with risks quickly predominating over other aspects
- Following an incident, a scramble to express government sympathy with an action-oriented repertoire (symptoms include statements on the lines of 'safety has to be guaranteed')¹⁰
- Following an incident, calls for tighter regulation and system changes.

Potential drivers include the fear of societal unrest (one possible effect being a failure to examine critically whether unrest actually exists, and if so, what exactly it consists of), or a perceived need to cover backs, given the tendency to apportion blame in the public debate.¹¹ For politicians, electoral considerations may play a part, while for the media circulation and viewing figures are important. Safety is also an attractive wrapper for underlying commercial interests or averting liability. Internal stimuli may lead to biased advice.¹²

One factor that tends to be overlooked in the area of tension is the influence of implicit convictions. It is precisely because of their unspoken character that such convictions can have such a powerful effect in influencing public opinion. This is a factor that not only affects the man in the street but to which professionals, politicians and journalists can all be susceptible. Examples:

- Accidents must be eliminated
- Safety is first and foremost a task for the government

¹⁰ See e.g. Raad voor het Openbaar Bestuur (Council for Public Administration), *Belichaming van de Kundige Overheid. Over openbaar bestuur, incidentreflexen en risicoaanvaarding* [Embodiment of the Competent Government: public administration, incident reflexes and risk acceptance], 2012, and W. Trommel, 'Gulzig Bestuur' [Greedy government] (oration VU University Amsterdam, 2009).

¹¹ The ROB recommendations referred to above also look at the confusion of responsibility under criminal and administrative law.

¹² See I. Helsloot, *Veiligheid als (bij)product. Over beleidsontwikkeling in interactie tussen bestuurders, adviseurs en narrige burgers* [Safety als (by)product. Policy development in interaction between public officials, advisors and the intractable citizen] (oration Radboud University 2012).

- It is immoral to mention the cost-effectiveness of safety measures (symptom: ‘You cannot put a value on a human life’).

General failures of logic can also give rise to disproportionality. These may take the form of cognitive distortions such as hindsight bias or outcome bias. Hindsight bias is essentially when as a result of present knowledge the interpretation placed on past signals that preceded an event is different from that placed on them at the time, so that in hindsight it appears as if enormous blunders were made. Outcome bias, by contrast, equates the outcome of a situation to the quality of the preventive measures taken: thus the occurrence of an accident becomes proof that the safety measures in place at the time had failed. Other failures of logic have to do with the tension between fast, intuitive decision-making (‘system 1’) and slow, laborious cogitation (‘system 2’). System 1 leads to simplifications of a complex reality, e.g. drawing general conclusions from a single event, the idea that safety can be expressed in absolute terms, or the notion that a major incident is best served by a major change in policy.¹³

Provisional content of the ‘Counteracting factors’ column

Points of attention for regulators include ‘telling it as it is’, i.e. involving the public swiftly and as full partners in the debate about risks and outcomes. Attention must also be given to the fact that research indicates that following an incident what the public wants more than anything else is a convincing empathetic response without hasty promises to cut the risk – in short, empathy alone.

Depending on the situation, there are various societal and policy arguments for dealing with risks in a proportionate way which will include respect for civil liberties and other constitutional rights, profiting from innovation, room for initiatives from citizens and civil society organizations, and attention to reducing the burden of regulation.

There are also other things the government can do, such as going along with the widespread public acceptance of certain risks (see next section). At the same time, advisory bodies such as the Scientific Council for Government Policy (*Wetenschappelijke Raad voor het Regeringsbeleid*, WRR) have recommended that more should be done with risk comparison and that uncertain factors should be dealt with differently from demonstrable hazards. Meanwhile solid diagnosis naturally always remains of great importance as input for decision-making, possibly with the aid of the Integrated Assessment Framework for Policy and Regulation (*Integraal Afwegingskader Beleid en Regelgeving*, IAK), a social cost–benefit analysis or fact-checking

Applicability of these insights

For the practical application of these insights it is important to know what domains and situations are actually susceptible to the risk regulation reflex. In the Dutch Risk and Responsibility programme we have observed the risk regulation reflex in both the physical and the social domain, and we have the impression that it also occurs in other areas. At the time of writing the programme is investigating which domains are more likely to be susceptible.

As regards situations in which disproportionality is likely to be reinforced, we see five standard situations of which governments should be aware. They differ in their degree of susceptibility:

- area of risk with low external scrutiny
- area of risk subject to close scrutiny from media or politicians

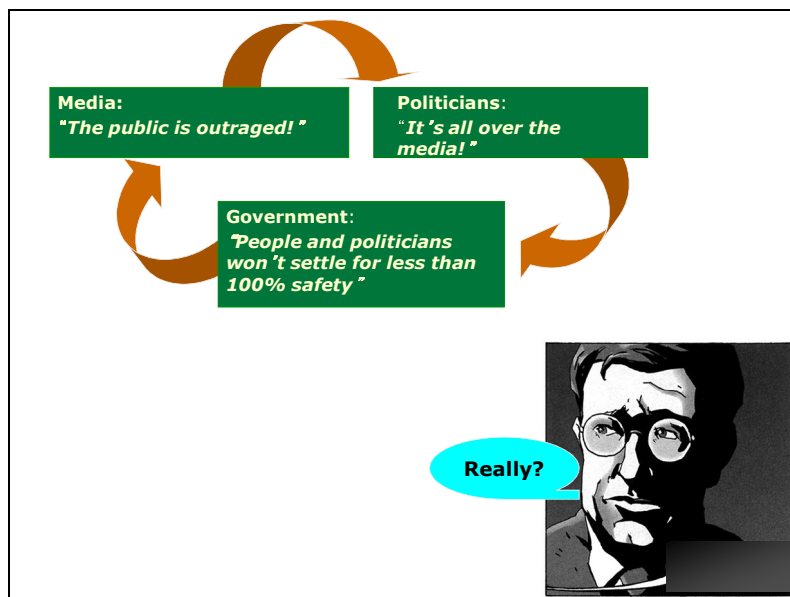
¹³ See e.g. D. Kahneman, *Thinking, Fast and Slow* (New York 2011) and R. Dobelli, *The Art of Thinking Clearly: Better Thinking, Better Decisions*, London 2013.

- initial reaction to an incident
- structural response to an incident, possibly following an accident investigation
- following a disaster: the extended aftermath.

Public opinion surveys

As already indicated, the above insights are still in a process of refinement. This is less true of our findings from public opinion research: they include a number of striking and encouraging results for public governance.

A symposium held in 2011 saw the birth of Februari's Circle: the observation by the philosopher of law Maxim Februari that politicians, journalists, citizens and government really only pass things on to each other, so that a sort of wheel of unsafety is kept in motion.¹⁴



Februari's Circle

Particularly after major accidents and incidents, media spokespersons and those in politics appear to assume that what the public wants is 100% safety, but it is debatable whether this is true. If the government is keen to play a less prominent and more realistic role in risk regulation, it is crucial to know what citizens really think about it. That is why our programme pays close attention to public opinion research. The principal findings are summarized below.

Citizens are pragmatic about risks

It may be very encouraging for public officials to know that our research shows that at heart most citizens have a realistic attitude towards risks, which is thus at odds with the predominant tone of the public debate. One important difference in comparison with other research is that we focus not on the perception but on the acceptance of risk. Risk perception and risk acceptance are often regarded as synonymous, but the fact that people are aware of a particular risk does not necessarily mean that they do not accept it or that they insist that the government should do something about it.

¹⁴ See the report of the symposium The Risk Regulation Reflex in Public Administration (BZK 2011) and the subsequent discussion in the conference papers of the Dag van de Dilemma's en Oplossingen (Day of Dilemmas and Solutions).

Our research since 2011 shows a kind of three-stage rocket:

- A majority of the general public would decide on risk policy on the basis of rational considerations
- A majority of those *exposed* to a small risk would like to see the government invest more in countering that risk
- With more information, and placed in the position of the minister or the mayor, however, a majority of the same at-risk citizens would not invest in measures to further reduce that particular risk.

The discovery that people make a distinction between investing in more prevention (which they do not regard as necessary for small and/or voluntary risks) and compensation (when they expect the government to be generous) appears to be a new insight.¹⁵

Citizens do not believe safety always comes first

Alongside the pragmatism displayed by members of the public, we have also found that they do not always regard safety as being the top priority, despite the fact that many politicians, public officials and the government appear to take that as a self-evident given. One important cause of the trend towards increasing risk reduction seems to be a degree of impoverishment that characterizes the political language of risk. Those who espouse ‘less is better’ as a moral principle at the centre of the debate deliver themselves into the hands of the party promoting or demanding the smallest risk. That creates the conditions in which people start believing that the public are no longer prepared to tolerate any risk however slight.

In fact, people draw on a much richer collection of moral considerations when they assess risk. The frames that citizens use for accepting risks are often not primarily about risks. It is not safety that they see as key, but some other value such as fairness, courage, reciprocity, sovereignty or liberty. These frames also have a certain coherence: they form clusters of three different attitudes to dealing with risks: calculation, distribution and acceptance.

Some of these considerations render the acceptance of risk necessary, desirable or even attractive. This is something that politicians and public officials can seize on to, bolstered by the fact that risk acceptance is a less difficult message than is often supposed.¹⁶

We hope that these insights can be of help in assessing feelings of public concern and subsequently answering them without necessarily suggesting that safety will be guaranteed. In general, finally, the aim of the DRRP is to help regulators and officials to better recognize and counter the risk regulation reflex so that it can become less of a hindrance in the way of desirable societal developments.

¹⁵ See e.g. TNS Nipo TNS-Nipo/Bureau Veldkamp, E. Bemer, S. Mulder and D. Verhue, *Burgers over Risico's en Verantwoordelijkheden. Overall rapportage van drie fasen burgerparticipatie* [Citizens on risks and responsibilities. Overall report of three phases of citizen participation] (BZK 2012); I. Helsloot, A. Scholtens, J. Groenendaal and A. Stapels, ‘De Nederlandse burger nader verkend: nuchter mits geïnformeerd’ [The Dutch citizen examined more closely: pragmatic when informed] in I. Helsloot and J. van Tol (eds.), *Nieuwe Perspectieven bij het Omgaan met Risico's en Verantwoordelijkheden* [New Perspectives in Dealing with Risks] (BZK 2012); Crisislab, I. Helsloot, D. de Vries and N. Melssen, *Risico's en Gevaren in de Drechtsteden. Hoe kijken de inwoners er tegenaan?* [Risks and Hazards in the Drecht towns: how are they viewed by residents?] (BZK 2014). In 2014 we shall be conducting further opinion research in the youth welfare sector and on the subject of citizen initiatives, while the Netherlands Institute for Social Research (SCP) will also be focusing on the subject of risks and responsibilities in the Continuous Survey of Citizens' Perspectives (*Continu Onderzoek Burgerperspectieven*, COB), due out in the second quarter of 2014.

¹⁶ See also M. van Eeten, L. Noordegraaf-Eelens, J. Ferket and M. Februari, ‘Waarom burgers risico's accepteren en waarom bestuurders dat niet zien’ [Why people accept risks and why regulators fail to see it] in *Nieuwe Perspectieven bij het omgaan met risico's en verantwoordelijkheden* [New Perspectives in dealing with risks and responsibilities].

Appendix. Notes on the Dutch Risk and Responsibility programme

Remit and framework

At the end of 2009 the then minister for the Interior and Kingdom Relations promised a reflection on the allocation of responsibilities relating to risks. Under successive ministers this was further refined into a government position on the role and responsibility of government in matters relating to (principally physical) risks and incidents. Following a pathfinding project as part of the Central Government Reform programme (*programma Vernieuwing Rijksdienst*), since 2011 BZK has implemented the interdepartmental Dutch Risk and Responsibility programme (DRRP). The programme has met with broad approval from departments, local and regional administrators, regulators and academics, as also from politicians and journalists and in other countries.

The framework is more than this promise to Parliament. It embraces the intention, stated in the current coalition agreement, not to give in to the reflex to introduce new regulation after every incident. The government's response to the recommendations of the Council for Public Administration (*Raad voor het Openbaar Bestuur*), published as *Belichaming van de Kundige Overheid* [The Embodiment of Competent Government] describes how the DRRP converts these starting points into action.¹⁷ The Council's recommendations have helped determine the direction taken by the programme, as have earlier recommendations made by the Scientific Council for Government Policy (WRR) at the request of BZK.¹⁸

The programme develops a repertoire of government actions which can aid public governance and the civil service in continuing to deal with risks and incidents in a proportionate way in spite of outside pressure, thus creating more latitude for society at large and a less central role for government. What choices are ultimately made naturally depends on the public officials concerned.

Scope definition

The risk regulation reflex is a broad phenomenon that can be seen in conjunction with a wide range of risks. In its closer analysis and in the development of tools, the programme places the stress on physical risks that have not been caused deliberately. Since 2013 its scope has been enlarged to include physical risks in the social domain such as childcare and youthcare.

In the analysis we take a broad look at relevant actors in the 'risk landscape', but when it comes to solutions we zoom in particularly to the role of government (including, since 2013, at local and province level). We also try to interest other actors in the phenomenon and their part in it through the use of dialogues and conferences.

There are also points of contact between the risk regulation reflex and crisis management, in particular the response to unrest, the promising of measures, and dealing with accident investigations.

Approach and actions

¹⁷ Kabinetsreactie [Government's response]: Tweede Kamer 2012-2013, 29 362 no. 218.

¹⁸ Wetenschappelijke Raad voor het Regeringsbeleid (Scientific Council for Government Policy) (2011), *Evenwichtskunst. Over de verdeling van de verantwoordelijkheid voor fysieke veiligheid* [Balancing Act. The allocation of responsibility for physical safety]. Kabinetsreactie [Government's response]: Tweede Kamer 2011-2012, 26 956 no. 127.

The programme's approach is iterative and follows a network approach, as this subject largely concerns organizations and individuals outside BZK. The relevant government organizations are involved in the programme as colleagues in a process that takes place in a largely bottom-up way. The ranks of those interested are growing steadily both within and outside official circles, and the risk regulation reflex is recognized by both academics and regulators, parliamentarians and journalists.¹⁹ Input for the programme has come from a number of academics in a variety of fields and DRRP's academic adviser is Ira Helsloot, professor of the Governance of Safety at Radboud University Nijmegen.

Internationally this subject is also in the spotlight. In the UK we are indebted to the earlier work of the Better Regulation Commission and the Risk Regulation Advisory Council²⁰, and members of both bodies regard us as their spiritual successors. There is much interest in and appreciation of the Dutch approach, which is why we are regularly invited to give presentations at international conferences and occasionally publish in the international academic press.²¹

Until now the accent has been on researching the risk regulation reflex and making it better known. Our work for the remaining period (to the end of 2014) will be as follows:

- Further defining the role of government with the help of a Dutch government position paper. This is intended as a frame of reference for public governance in wherever possible reducing the government role vis-à-vis risks while maintaining an adequate level of safety. The position paper covers a number of general principles relating to the role and responsibility of government in dealing with public risks and incidents; its subsequent application are a matter for the responsible portfolio holders and officials.
- Developing tools for government (e.g. useful tips for local council secretaries²², a guide to risk comparison, public concern assessment, hints for use in the event of incidents etc.), films, analysis of good practice.
- Bringing insights to the notice of officials in public governance and in the civil service, and to wider audiences through workshops, dialogues etc.
- Linking and where possible putting into practice: reform of youth welfare²³ (together with Transitiebureau Jeugd [the youth transition bureau] and Platform 31, the Environment & Planning Act (*Omgevingswet*), citizen initiatives, burden of regulation, BZK guidelines for crisis communication.

Case studies and analysis

¹⁹ See e.g. V. Winter and J. van Tol (eds.), *Dialogen risico's en verantwoordelijkheden. Zestien bijeenkomsten met actoren in het risicolandschap, juni 2011 - oktober 2012* [Dialogues, Risks and Responsibilities. Sixteen meetings with actors in the risk landscape, June 2011 – October 2012] (BZK 2012); USBO Advies [University of Utrecht School of Governance (USG) Recommendations], University of Utrecht, M. Trappenburg, M.J. Schiffelers, G. Pikker and L. van de Camp, *De risico-regelreflex vanuit politiek perspectief: Verkennend onderzoek naar de meningen van Kamerleden over risico's en verantwoordelijkheden* [The Risk Regulation Reflex from the Political Perspective: pathfinding research into the opinions of parliamentarians regarding risks and responsibilities] (BZK 2012).

²⁰ For a summary of that work in the period covering roughly 2005-2009, see A. Burgess and D. Macrae, 'An Experimental Offensive against the Mishandling of Risk in Society: Reflecting on the Pioneering Work of the Risk Regulation Advisory Council in the UK' in *European Journal of Risk Regulation* 3/2012.

²¹ 'Symposium on the Risk Regulation Reflex', in *European Journal of Risk Regulation* 3/2012, pp. 281-360; 'International Seminar on Risk and Responsibility in The Hague', in *Journal of Risk Research* (forthcoming 2014).

²² See <http://www.gemeentesecretaris.nl/over-de-voyages/nieuws/1012/10-gouden-tips-voor-de-gemeentesecretaris>.

²³ Our activities in the field of youth welfare began with N. Melssen and E. Jongmans, *Risico-regelreflex in de jeugdzorg? Verkennende analyse van de bestuurlijke valkuil van overreactie op risico's en incidenten in de jeugdzorg* [Risk Regulation Reflex in Youth Welfare? A pathfinding analysis of the administrative pitfall of overreaction to risks and incidents in youth welfare] (BZK 2013)

The programme has described and analysed a large number of example cases, many of which have also been referenced during conferences and workshops.²⁴ At the time of writing we are working on a series of 40 cases which have demonstrably led to disproportionate measures, or in which the introduction of disproportionate measures was avoided despite considerable pressure. For each case there is a brief description and an analysis highlighting the relevance of the risk regulation reflex.

Publications

Some of our publications have already been mentioned above. A complete list of publications up to the end of 2012 is included as an appendix in the collection *Nieuwe Perspectieven* [New Perspectives]. In passing it may be noted that, at the time of writing, nine students have graduated, partly on aspects of the risk regulation reflex, from the VU University Amsterdam, Radboud University Nijmegen and the University of Utrecht; in most cases their studies were complemented by a temporary placement on the DRRP. A further three masters dissertations are to follow in 2014.

Finally

The programme will hold its closing conference in November 2014. This will be open to anyone with an interest in the subject. More information about the Risks and Responsibilities programme will be found at www.risicoregelreflex.nl. The website is in Dutch only, but some of our publications are available in English as well.

²⁴ See the 15 compact analyses in *Veiligheid boven alles?* Four cases examined in greater depth are described in *Nieuwe perspectieven bij het omgaan met risico's en verantwoordelijkheden* [New perspectives in dealing with risks and responsibilities]. Five cases have been studied in degree dissertations. For an overall analysis with cost indications for some examples of existing or impending disproportionate policy see I.Helsloot, A. Schmidt and D. de Vries, *Quick scan voorgenomen en staand rijksbeleid op proportionaliteit* [A quick scan of the proportionality of some proposed and existing central government policy] (Crisislab 2012).