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Book Review

EU Policy Making on GMOs: The False Promise of Proceduralism

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Abstract

This monograph examines the regulatory framework for genetically modified organisms (GMOs) in the European Union. Analysis of the institutions of the European Union, in particular the European Commission, leads to the conclusion that technocratic governance relies too heavily on assumed objective scientific assessment, with not enough focus on cultural or socio-economic factors.

Keywords

GMO; Biotechnology; European decision-making; Technocratic governance

Published as Brexit takes effect and the UK government starts to look to both the EU and the USA in terms of trade and regulation, this book provides a clear and interesting outline of European legislation for genetically modified products, which will be of central interest to policy makers in both Europe and the UK as trade talks featuring agricultural standards commence. It may also be of use to officials in other countries, such as the United States of America (USA) where genetically modified organisms (GMOs) are considered equivalent to conventional crops and foods and the EU's position on biotechnology is little understood. Moreover, the issue of GMOs highlights aspects of EU policymaking, which will interest academics and scholars in this field.

Using genetic modification as his case study, Kritikos provides in depth examination of EU decision making processes. He notes in chapter one, that the EU's GMO regulatory framework is "inherently complex" (2018: 10) and as such "constitutes a unique case for examining the capacities of the EU institutional framework" (2018: 10). In this introductory chapter, he clearly sets out his research aims as well framed research questions which set the tone for a well written and clearly structured book. First, did any institutional structures shape the substance of the legal framework for the authorisation of new genetically modified organisms? Second, if so, what exactly were the mechanisms of this process? Third, what are the long-term consequences on the framework and its objectives? Kritikos thus approaches the book from an institutional perspective, which is driven by "a wave of research dealing with the role of institutional structures in the EU across a wide range of policy areas" (2018: 14).

Chapters two, three and four focus on the history of the regulatory instruments employed in the EU on the GMO issue. In chapter two, Kritikos focusses on the European Commission as an institution and on its constituent parts. Kritikos suggests that Directorates General (DGs) within the Commission saw an opportunity for expansion on the GMO issue and as such worked in fragmented and 'rather uncoordinated manner' to further their own interests. He argues that this shaped the future regulation of GMOs as it set the scene for the development of Directive 90/220 on the Deliberate Release into the Environment of Genetically Modified Organisms. Alongside discussion of the path dependent nature of the GMO issue, Kritikos analyses the European Commission, particularly DGXI (DG Environment), whose appointment as *chef de file* for regulatory development and GMO authorisation characterised agricultural biotechnology as an environmental issue rather than an agricultural breakthrough or industrial opportunity. In chapter three, Kritikos provides further analysis of the Deliberate Release Directive: Directive 90/220. In this second historical chapter, Kritikos concludes that

although Directive 90/220 represented a huge step forward in terms of regulatory structure and legislation to govern scientific approval, the complexity of its national and supranational governance structure meant that procedures were not applied with the required level of standardisation.

Chapter four further analyses and evaluates the problems in the implementation of the Deliberate Release Directive for GMOs that led to its ultimate revision and replacement. The author points to an overreliance on scientific based authorisation, and a lack of understanding that the various concerns expressed by Member States over GMOs were as relevant to discussion. Institutionally, he argues that the Commission's reliance on static scientific advisory reports clashed with the Council of Minister's need to acknowledge the 'plurality of concerns expressed in the various Member States' (2018: 144), and that the use of Regulatory Committees in the Comitology Procedure solidified, rather than eased, this tension.

The final two substantive chapters, five and six, provide a normative discussion where Kritikos addresses issues pertaining to the objectivity of science and its role in decision-making process. In chapter five, Kritikos concludes that the Commission requires a regulatory structure drawing on information from varied sources. He notes that the overreliance of Directive 90/220 on the scientific advice provided by the European Food Safety Authority (EFSA) damaged public confidence and, at the same time, the ability to authorise GM products. Kritikos notes that the current licensing framework, as altered by Directive 2001/18, takes note of socio-economic, cultural and local traditional issues and may thus expect more procedural success, but suggests that early failures to create a coherent and smooth procedure for GMOs led to continued policy difficulties. Chapter six focuses on the issue of scientific objectivity and the fact that the European Commission failed on this socially difficult policy area to acknowledge the subjectivity of findings, the existence of alternative scientific opinions or the value of non-expert input. This normative section thus concludes that the European Commission created a regime for GMO approval that 'limits the range of possible concerns not only to science but to a particularly narrow understanding of what science is' (2018: 278).

In the concluding chapter, Kritikos provides interesting material for scholars of EU decision-making. Kritikos discusses the European Union's (EU's) reliance on technocratic governance and calls for risky areas to include non-expert, non-scientific and non-technical voices throughout the policy cycle. He also emphasises the need to accept that policymaking is a 'deeply political matter' (2018: 329). He concludes with the note that EU decision-making and EU integration are difficult processes and that the GMO issue highlights some problematic areas. Kritikos identifies three main normative mistakes made in the GMO case: first, the denial of variation in favour of harmonisation; second, favouring expert driven scientific advice over cultural knowledge; and third, promoting proceduralisation of EU law to combat lack of social integration. Furthermore, he suggests that these may be attributable to wider EU policymaking, not simply to GMO authorisation.

The author's final comments broaden the analysis of the book by posing questions that exist at the heart of the European project: How can we balance diversity and unity? How can variation in social and ethical traditions be accounted for within decision-making? Critically, what do we want from the EU? Never have these questions been more important than at the end of the 2010s as Europe is discussed in terms of Brexit and normative misunderstandings abound. This book is the published 2018 version of a prize-winning PhD completed in 2008. While it has not been updated since then its message remains relevant today. While it appears at first glance to be only an historical account of a single policy area, we must note that the legislative portfolio on GMOs is largely unchanged in the interim. The de facto moratorium remains in place and the EU continues to prevent the flow of genetically modified foods, crops, animal feed and food derivatives into its Member States. Brexit, however, may change the status quo on GMOs and thus turn this from a historical policy area into a vitally current one. Indeed, an exit from EU regulations and trade partnerships will leave the UK in an

interesting position regarding biotechnology legislation, one that would potentially enable it to trade agricultural produce with the EU, or with the USA, but not with both.

In the current political climate this historical review of the EU's GMO policy is thus timely and much needed. Moreover, Kritikos has published a book which is a pleasure to read. It is comprehensive not only on the topic of GMOs and their regulation, but it also adds an interesting discussion on diversity and harmonisation to general literature on EU decision-making. However, the most widely applicable aspect of the book is its analysis of the role that technocratic governance and scientific advice play in European policy making. Kritikos's findings suggest that a change is required: this warning clearly has EU-wide applicability beyond the GMO policymaking he discusses in depth. However, Brexit discussions and looming trade negotiations suggest that it may indeed also soon be relevant to discussions of policymaking outside the legislative boundaries of the EU.

BIBLIOGRAPHICAL INFORMATION

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