Book Review

Risk Regulation in the Internal Market – Lessons from Agricultural Biotechnology

Maria Weimer

Oxford: Oxford University Press, 2019, 304 pp. £63.00. Hardback

In *Risk Regulation in the Single Market*, Maria Weimer explores a fundamental and unresolved tension that lies at the heart of EU law: its uncomfortable approach to risk assessment and management in the fields of health, safety and the environment (HSE). Weimer adds to the emerging body of knowledge on European risk regulation with a deep dive in the meanderings of the regulatory frameworks governing agricultural biotechnology, specifically GMOs. The great value of this book is its structured effort to inform public and academic discourse on broad topical issues surrounding the governance and regulation of risks through the lens of one of its most contested fields. What emerges is a vivid picture of imperfect structures and processes resulting from the co-production of market integration and regulatory culture. While I was reading *Risk Regulation in the Single Market*, I quickly realised that, whilst I often myself rely on general concepts such as the co-productionist dynamic between epistemic authority and executive power, or the intrinsic and unavoidable political dimension of risk governance, there is still a relative scarcity of studies embedding these concepts within solid sectoral analyses. Weimer has been contributing to the field for some time, for example through her recent co-editorship of the excellent collection *Regulating Risk in the European Union* (co-edited with Anniek de Ruijter). With *Risk Regulation in the Single Market*, Weimer achieves a difficult balance between freshness and maturity of thinking, presenting in simple yet compelling terms the intrinsic and structural limitations of current European approaches to risk regulation.

Chapter I provides a synthesis of the state of the art of current debates surrounding risk regulation and governance. Aside from being a pleasant and engaging read, with much depth in elucidating the complexities of risk as a regulatory idea, the chapter is also pedagogically sound and can profitably be included in reading lists of regulation or risk regulation university courses. Weimer guides the reader through a series of dichotomies that characterise both risk as a concept and discourses about risk. These variables include: the clash between catastrophe and control, or, as she puts it, the ‘bright’ and ‘dark’ sides of risk; the intrinsic contestability of risk, caught between diverging selection criteria and knowledge limitations; and the attempts at ‘stabilising’ the notion of risk through an uneasy partnership between science and procedure, animated by the unavoidable contrast between precautionary and cost-benefit logics. Weimer comprehensively outlines the field on the back of established scholarship in Science and Technology Studies (in particular Sheila Jasanoff) as well as regulatory theory (in particular Julia Black).

On the back of this theoretical and conceptual background, Chapter II focuses the analysis on the European approach to risk regulation, which has been historically driven by the necessities of single market integration. As astutely put by Weimer, this is not to say that HSE concerns are subsidiary to market integration, but it does imply that decisions around HSE protection and acceptable levels of risk are framed within a normative scheme that is eminently economic. The prevalence of the single market objective as a vehicle for an “ever-closer Union” brings to the fore at least two EU-specific tensions in risk regulation and governance. First, the legitimacy problem, which over the course of the past decades has been solved through reliance on a functional form of legitimacy, based on expertise and scientific evidence. This approach, which is epitomised by the EU Better Regulation Agenda, is premised on the neat distinction between risk assessment, purportedly based on exclusively scientific data, and risk

management, which involves a normative/political level of decision-making. Secondly, the friction between further harmonisation and calls for dis-integration (or between unity and diversity) in decision-making involving significant risks across the union.

Through its thorough analysis of the EU regulatory framework governing GMOs (Chapters III to VI), Weimer discusses the tensions highlighted in the first two chapters to debunk a series of misconceptions about risk and its regulation, and points to a number of fruitful lessons to be learned. First of all, the neat separation between the scientific and the political, as enshrined in the Better Regulation Agenda, is not only fictitious but can prove to be actively counterproductive. This is exemplified in the book by reference to the progressive politicisation of the (theoretically) evidence-based comitology process, countered by a net refusal from the Commission to engage in any normative evaluations and decisions, with no recorded departures from recommendations issued by the European Food Safety Agency.

At its core, the book sheds light on what is possibly an irreconcilable conflict: can you keep pursuing market integration while catering for strong objections to certain products or processes? And what if these objections are based on anything other than scientific evidence, or strict HSE concerns? Chapter VI discusses the unique path undertaken by the 2015 reform of GMO regulation, which allows for opt-outs from centrally approved GMOs on grounds *other* than public or environmental health and safety, to embrace a variety of socio-economic, environmental or agricultural preferences and conditions. While this reform goes some way towards restoring the political dimension of risk regulation in the management phase, it does so at the expense of EU's institutions and processes, which are structurally excluded from the opt-out mechanism of the reform that reattributes power to member states.

While the analysis of the current state of play may suggest an insurmountable impasse, if not an unavoidable regression towards dis-integration, the book concludes with a series of moderately optimistic and intelligent propositions for the future of GMO regulation (but really EU risk regulation in general). First, 'safety' does not seem to be viable any longer as a 'regulatory yardstick' in a field where uncertainty and contestations loom large. It is in this sense that Weimer suggests 'sustainability' as a new regulatory guiding principle better suited to cater for the 'wicked' complexity of the field. Secondly, the comitology governance architecture of EU risk regulation in agricultural biotechnology is demonstrably unfit for purpose. Weimer describes current reform proposals to highlight that a 'no final decider principle' is more attuned to demands for diversity emerging from conflicting member states views and public opinions on GMOs than a top-down model based on artificial distinctions between epistemic, executive and political spheres.

At a deeper level, what transpires from Weimer's analysis is a fundamental critique of a model that hinges on the goal of market integration as established under Article 114 TFEU, which is reflected on what she identifies as 'the need for a societal debate about modern agri-food production'. This call is what animates the normative drive of the book: the need for a reconfiguration of risk regulation able to capture societal attitudes towards the future and sustainability, as opposed to a technocratic exercise that can be simply fixed by way of more (or less) technical rules. Overall, this book is an important read to understand not only GMOs regulation and risk regulation in general, but to understand the European Union more broadly. What is fundamentally broken about it, but also what can optimistically (and realistically) be done to make it better.

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