Editorial

By focusing on the interactions between science, policy and law, the European Journal of Risk Regulation has always been interested in exploring the role of scientific advice in policymaking. While we have published several contributions discussing the role of expertise in both policymaking, through the analysis of EU agencies, and adjudication, we have never had the opportunity to perform a broader analysis discussing the various institutional settings for scientific advice, and more specifically that of the Chief Scientific Advisor (CSA). Like most observers, we rather took for granted that the completion of the EU system for scientific advice required the creation of the post of a European chief scientist. This appeared in line with a broader trend that saw the number of chief scientists grow across the world. As a result, in 2011 – at the time that President Barroso appointed Professor Anne Glover as the first EU Chief Scientific Advisor – we did not prompt nor participate in a debate about the merits of, and rationale for, such a post. As a matter of fact, such a debate never took place and that despite the vagueness surrounding the job description of this new post.

As the new Commission is about to start its own activities, the time has come to devote some analytical attention to the merits of having a European chief scientist. This is all the more true given the fierce debate prompted by the recent publication of a letter addressed to the then-President elect Jean-Claude Juncker by nine leading health and environmental NGOs asking for the scrapping of this position[1].

It is against this backdrop that the EJRR's latest issue opens with a Symposium devoted to EU's CSA. We solicited contributions from academics, policymakers, policy analysts in think tanks, as well as NGOs. We asked them to examine the rationale for instituting the office of a Chief Scientific Advisor in modern government in general, and at the EU level in particular.

They all took up our invitation – with the exception of the NGOs themselves who, however, kindly cooperated in the preparation of this Special Issue – to examine the role of the CSA, by looking at this post both *in abstracto* and *in concreto*. It appears indeed quite difficult to separate an analysis of the merits of this post from an actual evaluation of how this has been interpreted by the first EU CSA. As a result, some of our contributors attempted to identify the major achievements and obstacles faced by Professor Glover during her three and a half years in the job, while sharing a few reflections on the future of the post.

As none of the invited contributors questions the existence of the chief scientist, the first introductory piece – authored by myself – aims at providing some background in-

1 Letter signed by Greenpeace, Heal, Test Biotech, RES, Corporate Observatory Europe, Pesticide Action Network, EarthOpenSource, Sciences Citoyennes and send to President-elect Juncker on July 22, 2014, available at http://corporateeurope.org/sites/default/files/attachments/ngo_letter_on_chief_scientific_adviser_-_final.pdf . The publication of this letter was in turn prompted by BUSINESSEUROPE President's letter (Emma Marcegaglia) addressed to José Manuel Barroso, Science, governance and a stronger European Union: a strengthened role for the Chief Scientific Advisor, available at http://www.businesseurope.eu/content/default.asp?PageID=568&DocID=33005

formation about the genesis, context and public debate surrounding the creation of this post. In particular, it aims at presenting the criticisms made by the EU-based NGOs and assesses them against the mandate entrusted to the CSA. In so doing, it anticipates and sums up some of the major ideas presented by our contributors and formulates some final remarks.

James Wilsdon, Professor of Science and Democracy at the University of Sussex and one of the most attentive observers of the institutionalization of scientific advice across OECD countries, provides a detailed account of the evolution of the role of CSA at the international level. He does so after contextualizing it among the other institutions of scientific advice, such as advisory councils, advisory committees and national academies, learned societies and networks. By building upon the lessons learned over the years, both in the EU and outside of it, he suggests a set of recommendations aimed at addressing some of the limitations faced by the first EU CSA.

Julie Girling, MEP and Chair of the informal European Parliament Risk Committee, expresses her faith in the role of science, and in that of the CSA, in steering society towards a successful resolution of many of the challenges facing the EU. In so doing, she does not only recommend maintaining the post of EU CSA, but also argues to further strengthen her position within the existing EU system of scientific advice.

Marie-Valentine Florin, Managing Director of the International Risk Governance Council, a Swiss not-for-profit foundation, shares a less orthodox understanding of the role that science may play in society. After presenting several examples of controversial public policy decisions, she understands the role of CSA as a mediator between science, stakeholders and politics who acts in an area of contested governance.

Dirk Hudig, Secretary-General of the European Risk Forum, an industry-funded platform gathering the voices of major risk stakeholders across Europe, makes a case for a full institutionalization of the CSA within both the EU system of scientific advice and that of policymaking. He formulates a set of recommendations to attain this objective by essentially reiterating the request originally formulated by BUSINESSEUROPE in Spring 2014.

Last, but not least, *Lorna Schrefler and Jacques Pelkmans*, both policy analysts at the Centre for European Policy Studies who have devoted much of their work to the quality of EU policymaking, critically review how 'science' is used in the EU regulatory regime through an informal SWOT analysis. After making a first attempt at evaluating the EU CSA's accomplishments to date, they offer a few recommendations on how the role of the CSA could be strengthened in the near future.

A special thanks goes first to Lorenzo Allio, our Regulatory Impact Assessment correspondent, for originally proposing this Special Issue and for coordinating it, and second to our numerous peer-reviewers, who reviewed these pieces on rather short notice.

In addition to the Symposium, the issue contains three original and promising articles. The first one, authored by *Merijn Chamon*, lies ones again at the very core of the EJRR's scope and examines the special position of EU agencies under the EU's primary and secondary law defined procedural law. His article offers an insightful and up-to-date analysis of how these risk regulators' acts can be challenged before the European Courts. It does so by taking into account the changes brought by the Lisbon Treaty and the consequences for the pre-Lisbon legal remedies, the Common Approach on Decentralised Agencies, as well as the lessons of the CJEU's ruling in *Short-Selling*[2].

The second piece by *Barend van Leeuwen* examines the EU's New Approach for Goods – a regulatory framework for placing products on the market in which both public and private parties have an important role to play – in the aftermath of the PIP breast implant scandal. His analysis of subsequent cases shows the challenges of linking this ex ante regulatory framework to potential liability for defective products. This is largely due to national courts having reached different conclusions about the scope of the obligations of certification bodies in the New Approach. It is argued that, given the seriousness of these flaws, it would be desirable for the CJEU, and possibly also the European legislator, to step in.

The last general article is in turn devoted to Sweden's chemical control policy and looks at its so-called "generational goal", aimed at phasing out all human made chemicals within a 25-year period. By means of an in-depth analysis of the Swedish policy literature and formal interviews with regulators and stakeholders active in the chemical control policy sector, *Ragnar Lofstedt* comments upon the Swedish Government's various initiatives to reach this ambitious goal.

As usual, our various correspondents are not only keeping you abreast on a wide range of risk regulatory issues – such as the opt-out clause in the cultivation of GMOs and the future legal framework on novel foods and animal cloning – but also annotate a series of recent EU and US judgments pertaining to data protection, motor insurance law and the patenting of DNA sequences.

Finally, an interdisciplinary roster of book reviews close the issue.

I hope that this insightful collection of contributions will be useful either in the framework of your research, work or in the classroom. I wish you a pleasant reading!

Alberto Alemanno

2 Case C-270/12, *United Kingdom v. Council and Parliament*, annotated by Simone Gabbi in EJRR 2/14 (pp. 259–266).