Legitimising Supranational Risk Regulation: The EU Pharmaceutical and Food Safety Regimes

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From the point of democratic legitimacy, supranational risk regulation is problematic in two respects: Firstly, as part of EU competencies, it may suffer from the EU's 'democratic deficit' like all other kinds of supranational policy-making. And secondly, supranational risk regulation often takes place in rather technocratic, intransparent and closed bodies like committees or agencies which hide it from public scrutiny. This article examines whether and how supranational risk regulation can nevertheless be legitimised. Therefore, it examines different mechanisms which may legitimise policy-making. On the one hand, input legitimacy derives from procedures, which allow stakeholders to articulate their interests in supranational risk regulation. And on the other hand, output legitimacy results from the quality of the final policy outcomes of supranational regulatory regimes. A crucial question is the relationship between output- and input legitimacy: Does strong input from stakeholders automatically result in adequate regulatory policies, or does it disturb the efficiency and thus output legitimacy of regulatory regimes? To answer this question, the two cases of pharmaceutical and foodstuff regulation in the EU are compared. The result of this empirical analysis is that pharmaceutical authorisation derives its legitimacy mainly from output factors, whereas foodstuff regulation aims to increase its legitimacy by purposeful inclusion of stakeholders. Given the crisis of consumer confidence in EU food safety legislation, the article concludes that supranational regulatory regimes are more dependent on output than on input legitimacy.

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