

Brief Concluding Remarks

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The papers collected in this special issue of *Biolaw* are the result of an interdisciplinary conference held at the Law Department of the University of Turin on 7 and 8 November 2024, entitled *Science advice to policy makers: the changing European landscape*, organized by Michele Graziadei. I was entrusted with the “mission impossible” of wrapping up the two intense days of proceedings, and what follows are my initial thoughts after listening to the presentations given by the distinguished guest speakers, which approached the theme from a variety of perspectives and provided theoretical and empirical analysis of important experiences. The Turin conference marked the conclusion of the 2020 national research project (PRIN) coordinated by Arianna Vidaschi as principal investigator, entitled *Decision-Making in the Age of Emergencies. New Paradigms in Recognition and Protection of Rights*.

When the project was conceived, the pandemic was just beginning, and the wars that have upset geopolitical balances that we thought were

immutable—or that we deluded ourselves into thinking they were—could not have been imagined. These wars have intensified mass migrations, produced food and energy insecurity, and caused trade disruptions, triggering a chain reaction in society. Although dramatic war-related events were not yet on the horizon at the beginning of 2020, the term “polycrisis”, coined by philosophers Edgar Morin and Anne-Brigitte Kern in their 1993 book *Terre-Patries*, was already in frequent use.¹ In fact, Jean-Claude Juncker, then President of the Commission, used it several times to describe the European political and economic situation. More recently, at the 2023 World Economic Forum, polycrisis was discussed as a necessary lens through which to view the present.² Thus, when the project was conceived and discussed, the stratification and interconnection of the emergencies unfolding since the beginning of the new millennium were already well understood. However, it may not have been entirely clear that the transition from “polycrisis” to “permacrisis” would be so swift. The fact that this evocative neologism, selected by the *Collins Dictionary* as its 2022 Word of the Year, constitutes a contradiction in terms speaks volumes about the present state of affairs.³

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¹ E. MORIN, A.B. KERN, *Terre-Patrie*, Seuil, 1993; Italian edition: *Terra-Patria*, Milano, 1994.

² See in particular A. TOOZE, World Economic Forum, *This is why “polycrisis” is a useful way of looking at the world right now*, March 7, 2023, available on the World Economic Forum website.

³ “Permacrisis” is not a new word. It was coined in the 1970s and used by American political scientist John

Pearson Roche in *The Lewiston Daily Sun* on December 20, 1975, to describe the state of perpetual crisis in the Middle East, particularly in Israel. However, Hans Kluge, the World Health Organization’s Regional Director for Europe, is credited with reviving the term in 2022. Christine Lagarde, President of the European Central Bank, then adopted this expression when she opened the sixth annual conference of the European Systemic Risk Board on December 8 of that year. She denounced the current permacrisis linked to “the pandemic, energy emergencies, high prices, and concerns about the war in Ukraine.” Recently, several publications have addressed the issue of permacrisis from various perspectives. For an economic perspective, see G. BROWN, M. SPENCE, AND M. EL-ERIAN, *Permacrisis: A Plan to Repair a Broken World*, Milano, 2024.

Within this landscape, the following question arose: how do constitutional democracies respond to repeated emergencies? The issue is further complicated by the interplay of two phenomena that emerged in the last century: the emergence of a supranational dimension of law alongside the national one, and the transformative impact of technological revolutions. This situation has given rise to new decision-makers, as well as new ways of making decisions, and new relationships between decision-makers. All these changes bear directly on the scope and protection of fundamental rights. In times of crisis, as more bodies gain the power to limit our freedoms, it becomes vital to understand what they are, how they are legitimised, how they reason and justify their decisions, and how they relate to one another.

Given these premises, each research unit of this PRIN analyzed the roles and methods of the various decision-makers, as well as their mutual interference and dependencies, from a comparative perspective. The aim was to verify whether and to what extent fundamental rights have been restricted in the current situation of multiple and permanent crises, and to establish whether there are tools and measures to safeguard and protect freedoms from possible limitations. The analysis covered political, judicial, economic, technological, and scientific decision-makers.

The reports presented during the two-day conference focused on the fourth dimension, particularly the relationship between scientific and political decision-makers.

After listening to the reports, my first observation is that the interrelation and interdependence between public and private bodies is stronger and deeper than one might have thought. The various decision-makers are meaningfully intertwined with each other in different

ways at different levels. Indeed, under certain (rare?) positive circumstances, it is possible to envisage an ongoing and productive dialogue among the numerous decision-makers, without any of them abdicating their specific responsibilities, and without any of them losing accountability to their communities. Moreover, this imaginable dialogue would take place in an even more complex scenario if we consider that science lacks a single voice and is inherently multidisciplinary, and that most decision makers have a plurality of voices, which change rapidly over time. In any case, it is essential that the dialogue is both institutionalized and transparent. This is particularly pertinent to the specific theme of the conference, given that it is utopian to expect the scientific community always to “speak truth to power”. To each its own.

As noted earlier, drawing conclusions is difficult; I therefore limit myself to highlighting a few keywords that emerged from the three conference sessions.

The first keyword is “uncertainty.” Decision makers turn to science looking for certainty and tend to view science as monolithic. However, we have learned that science is far from certain and that diversity of opinion and disagreement are intrinsic features of scientific knowledge. We have also learned that scientific pluralism is not a bad thing, but rather a value that needs to be preserved and enhanced.

The second keyword, “legitimacy,” is closely related to the first. It has been emphasized that decision makers, operating in a complex and fragmented scenario, turn to science to bolster the legitimacy of their acts of power, effectively using science as a shield from criticism. This means that scientific knowledge becomes a source of authority, filling the gap left by traditional sources of legitimacy, such as democratic processes. To legal scholars, this raises the well-

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known issue of the legitimacy of non-democratic bodies—in short, the unsolved question of the “counter-majoritarian difficulty,” using Bickel’s term,⁴ or the “mighty problem,” of judicial review in constitutional democracies, to use Cappelletti’s term.⁵

The third keyword is “transparency,” which encompasses a group of ideas. Primarily, it emphasizes the importance of ensuring the accessibility of scientific knowledge in all its aspects and thus avoiding the risk of “black box” decisions.⁶ Second, transparency means rejecting “precooked” expertise and having a full account of the scientific process. Ultimately, transparency is linked to the duty to communicate and justify decisions. In this regard, it is crucial to acknowledge the significance of not only reassuring the public about the capacity to manage emergencies, but also openly informing and educating them. In essence, this involves fostering trust among citizens.

Taking a closer look at science advice systems, it has emerged that there are several models in Europe, each of which constitutes a complex ecosystem in itself. Despite the differences, however, it may be possible to identify some common features.

Although the various bodies constitute an interface between the scientific and political worlds, the scientific agenda is not necessarily aligned with the political one. Moreover, scientific advisors do not primarily produce science, but rather collect knowledge and connect different communities and stakeholders. Indeed, scientific advisors are mapmakers, exploring possible alternative options offered to political policymakers.

More specifically, when considering the composition and funding of the scientific advisory boards, three words stand out: independence, impartiality and accountability. For scientific bodies to work legitimately and efficiently, all of these elements must be carefully taken into account and preserved.

Ultimately, given the impossible nature of the mission, I would like to conclude with an open question that concerns my profession: what should the relationship be between the scientific advisory boards and academia?

⁴ A. M. BICKEL, *The Least Dangerous Branch. The Supreme Court at the Bar of Politics*, New Heaven and London, 1962, 16.

⁵ M. CAPPELLETTI, *The Judicial Process in Comparative Perspective*, Oxford, 1989, 150.

⁶ See F. PASQUALE, *The Black Box Society: The Secret Algorithms That Control Money and Information*, Cambridge, 2016.