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Emerging multilevel environmental governance – A case of public participation in Poland

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ABSTRACT

In recent decades, nature conservation policies have increasingly considered the participation of various actors. However, the effectiveness of such efforts is often questionable, and better methods of engaging stakeholders are still being sought. In this paper, we present an analysis of a consultation program conducted in the final stage of site selection for Natura 2000 in Małopolska, a region located in southern Poland. Based on a desk study and qualitative research, we analysed the modes and degrees of participation, the normative foundations of the consultation program, and the goals and expectations that characterise participants. The results are discussed using Unnestall's and Arnstein's typologies of participation, which show the limited success of the participatory process in representing all relevant stakeholders and enabling their actual influence on final decisions. The importance of implementing the EU directives for emerging multilevel governance in the nature conservation sector in Central and Eastern Europe, including Poland, is highlighted. In the context of Poland, the consultation program analysed appeared to be a novel and innovative step forward towards the development of a meaningful participatory approach in this region of Europe.

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Introduction

The increasingly frequent conflicts at the interface between man and nature and the resulting need to prevent or manage them have forced significant changes in the governance of natural resources (Dietz et al. 2003; Manfredo & Dayer 2004; Paavola 2009). These changes primarily consist of taking an anthropocentric perspective while developing and implementing conservation policies (Rauschmayer et al. 2009). Relatively simple top-down approaches are replaced by complex decision making based on the multilevel governance (MLG) concept. MLG refers to both the delegation of power to lower administration levels and the involvement of various actors in shaping environmental policy (O'Riordan & Stoll-Kleemann 2002; Paavola et al. 2009). MLG often refers to the concept of stakeholders as potential interest groups that need to be considered in decision-making processes (Primmer & Kyllönen 2006). In the case of natural resource governance, such groups are usually categorised based on their rights (e.g., land owners), land use practices (e.g., farmers), roles in the policy process (e.g., scientists) or interests in its outcomes (e.g., investors, environmental groups). Although public programs often present all stakeholders

as equally important, in practice, some of them have privileged positions that secure greater consideration of their interests by means of law, informal practices or personal connections (A'gh 2001; Apostolopoulou & Pantis 2011). Consequently, nature conservation includes both formal administrative activities and informal mechanisms and institutions (Jordan 2008).

The development of MLG of nature conservation in the EU-15 – the Member States of the European Union (EU) prior to the accession of new countries in 2004 – was closely related to the framing of EU environmental directives dating back to the 1970s and 80s. The process was dependent on the national political context and the historical development of participatory approaches in public policy (Rauschmayer et al. 2009; Wurzel 2008). The designation of the Natura 2000 (N2000) European Ecological Network, based on the Birds and Habitats Directives (2009/147/WE, 92/43/EEC), was one of the main governance challenges in nature conservation. Although the N2000 directives do not explicitly require involving communities in implementation processes (Unnerstall 2006), it is highly recommended to organise public participation based on other EU directives (2003/4/EC, 2003/35/EC) and the Aarhus Convention (Wesselink et al. 2011). In the majority of the EU-15 countries, the implementation of N2000 was criticised for being a top-down approach that insufficiently engaged stakeholders (Wurzel 2008), leading to conflicts (Paavola 2004; Young et al. 2005), legitimacy crises (Engelen et al. 2008) and active opposition against the program (Hiedanpää 2002). In many cases, the initial

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top-down implementation failed to designate N2000 sites. The EU Commission took several countries (e.g., Denmark, Finland, France, Germany, Greece, Netherlands) to the European Court of Justice, citing delays and failures in the development of the N2000 network (Paavola 2004). As a result, participatory approaches were used to handle the legitimacy issues and finally designate the sites (Bogaert & Leroy 2008; Cliquet et al. 2010; Pinton 2008; van der Windt 2008). The eventual inclusion of public participation in the N2000 designation processes varied widely among the EU-15 countries but was hardly ever applied from the beginning of the process and still remains a challenge (Alphandéry & Fortier 2001; Apostolopoulou & Pantis 2011; Beunen & de Vries 2011; Keulartz 2009; McCauley 2008; O'Riordan et al. 2002). The introduction of participatory approaches is often discussed in the framework of governance shift from top-down to multilevel (Engelen et al. 2008), while at the same time, it is criticised for leaving a gap between the rhetoric of participation and everyday practice (Rauschmayer et al. 2009).

In Central and Eastern Europe (CEE), the development of public participation and MLG with respect to nature is often considered as more demanding because the heritage of the communist system is characterised as being highly centralised, having rather ineffective public institutions for environmental conservation (Bruszt 2008; Kluvánková-Oravská et al. 2009; Scricciu & Stringer 2008) and, a lack of tradition for the participation of public and non-governmental organisations (NGOs) (Bell et al. 2011; Tickle & Clark 2000). Institutional incompatibility with environmental problems is manifested by increasingly frequent conflicts at the interface between nature conservation and infrastructure and because economic development has been additionally stimulated by EU financial support since the accession (Grodzińska-Jurczak & Cent 2011a; Sikor 2003; Young et al. 2007). Europeanisation has contributed to the development of participatory approaches in CEE environmental policies (Börzel & Buzogány 2010a; Sasse et al. 2006). However, similar to the EU-15, institutional changes require not only the proper transposition of the EU regulations but also the broader institutionalisation of public participation (Tews 2009; Wagenet & Pfeffer 2007), which – according to recent studies – is still lacking (Banas 2010; Rodela & Udovč 2008; Suškevičs and Külvik, 2011; Svajda 2008; Szabo et al. 2008).

A framework for analysing public participation in N2000 implementation

So far, several approaches have been proposed for studying and evaluating public participation processes (Reed 2008). We have based this study on two frameworks developed by Unnerstall (2006) and Arnstein (1969). The first one focuses specifically on public participation in the establishment and management of N2000 sites in select EU counties. The second one is a classical, broadly used tool for analysing the power relations between actors and the implicit purposes of using participation in policy processes (Evans 2012; Maier 2001; May 2006; van der Windt 2008). The Unnerstall framework identifies three modes of participation: 1) the informal administrative approach, where the public administration in charge of the process discusses various options with stakeholders – in this case, stakeholders' insight is somewhat considered in selecting sites for N2000 and defining their borders; 2) the formal administrative approach, where a draft of decisions, for example, a preliminary map of sites, is presented to stakeholders in order to collect comments; and, 3) the political approach, where decisions considering N2000 sites are made collectively by a committee of all relevant stakeholders. Arnstein's ladder of participation categorises activities that engage stakeholders based on the extent of participants' influence. Three categories are proposed: 1) "non-participation", which includes activities that are only an

illusion of participation and are oriented at changing participants' attitudes by manipulation, therapeutic approaches and information; 2) "tokenism", where power is monopolised by the organisers, although some level of advice from stakeholders affects decisions through consultations in order to placate stakeholders; and 3) "citizen power", which involves the distribution of power among actors and ultimately results in citizen control over a program. To apply the ladder concept, the identification of the organisers' and participants' objectives and expectations toward the program was found useful (Reed 2008).

The two classifications highlight different aspects of participation, and their parallel application leads to conclusions of different scopes. Arnstein's ladder of participation classifies practices as being "more" or "less" participatory based on the degree of participants' influence on final decisions. These characteristics are generally applicable to any participatory activity. Unnerstall's classification considers different institutionalisations of participation, which do not necessarily determine degrees of participation; in this framework, all modes of participation have limitations and can be executed very differently, depending on certain political and social contexts (Unnerstall 2008). The three modes were developed based on case studies in N2000 implementation and management, therefore, they can be applied to analyse the nuances of participation for the specific context of the EU Directives.

Even if no conclusive scientific evidence is available (Haruța & Radu 2010; Newig & Fritsch 2009), there is some evidence that stakeholders' involvement can, to some extent, improve the effectiveness of nature conservation (Grodzińska-Jurczak & Cent 2011b; Irvin & Stansbury 2004). The success of public participation can be evaluated based on either the characteristics of a process (e.g., degree of participation achieved) or the quality of decisions and their consequences (Reed 2008; Young et al. 2013). In both cases, the evaluation criteria are contextual and case-dependent, and their assessment can vary among the actors who participate (or refuse to participate) in the process (May 2006). What is explicitly described as success is dependent on who defines the evaluation criteria. The use of selected approaches allows us to reconstruct existing definitions of success and discuss them in their particular policy contexts.

The role of N2000 in developing MLG of nature in Poland

In the case of Poland, the transposition of the EU Birds and Habitats Directives into national law and the designation of N2000 sites became one of the most influential changes in nature conservation over the past two decades. In practice, the implementation of N2000 caused much anxiety, often taking the form of strong opposition from stakeholders, especially local authorities (Grodzińska-Jurczak et al. 2012; Pietrzyk-Kaszyńska et al. 2012). Stakeholders feared that the introduction of new protected areas would lead to restrictions on the development of municipalities by imposing extensive agricultural methods, limiting the right to freely use their land, or limiting production and infrastructure development (Grodzińska-Jurczak & Cent 2011a). When introducing N2000, the public administration responsible for nature conservation was obliged to collect the opinions of local authorities on the site boundaries (2004–2009); however, no specific requirements for these consultations were stated (Dz.U.2004.92.880; Dz.U.2008.201.1237).

This paper presents an analysis of N2000 implementation in Małopolska, a southern region of Poland, with a special focus on a consultation program conducted in the final stage of the site selection process. It was the first N2000 public participation program that was systematically organised and completed across the country whose results are relevant for the on-going development of management plans. While analysing the case of

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