



The implementation of Natura 2000 in Austria—A European policy in a federal system



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ABSTRACT

The implementation of EU policies is far from linear and straightforward, and this is also true of the establishment of the Natura 2000 network. In this article, we contribute to the discussion of how the implementation of EU directives can be explained by various approaches to implementation research and examine the explanatory strength of these approaches using the example of the implementation of Natura 2000 in Austria. First, we review the body of literature on both Natura 2000 and the theoretical approaches to implementation theory. Second, we develop a theoretical framework that includes as explanatory factors the pressure of the problem, administrative capacities, pressure for institutional change, and the role of actors and the culture of compliance. Using this framework to analyse the implementation of Natura 2000 in seven Austrian federal states, we observe three different modes of implementation that are related to different outputs: (a) a landowner-oriented mode, (b) a compromise-oriented mode, and (c) a non-participatory, top-down mode of implementation.

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1. Introduction

Biodiversity in the EU is declining at alarming rates. A baseline report by the European Environment Agency reports that “a large proportion of European species and habitats are either facing extinction, have an unfavourable conservation status or their status is unknown” (European Environment Agency, 2010). In May 2011, after it became widely recognised that the previous EU target of halting biodiversity loss by 2010 (European Commission, 2006a) had not been achieved, the European Commission adopted a new Biodiversity Strategy that includes the primary targets of halting the loss of biodiversity and the degradation of ecosystem services in the EU by 2020 and restoring them to the greatest extent possible (European Commission, 2011b). Natura 2000 is considered a centrepiece of this effort (European Commission, 2011b).

Based on the Birds (Council Directive 79/409/EEC) and Habitats (Council Directive 92/43/EEC) Directives, Natura 2000 seeks to protect European biodiversity by establishing a systematic network of conservation sites. The Habitats Directive protects more than 1000 species and approximately 230 habitat types (Sundseth, 2012); in

addition, it defines procedures for establishing the network of sites, transposing requirements into national law, making proposals for appropriate sites (proposed Sites of Community Interest, pSCI), reconciling these lists at the EU level, and engaging in management planning and implementation with respect to the measures.

Article 4 of the Habitats Directive, which is the younger and more comprehensive of the two directives, both prescribes the implementation steps and establishes a clear timeline. The selection of the sites and transmission of the relevant information to the European Commission were expected to take a maximum of 3 years (i.e., until June 1995). The adequacy of the network of proposed sites was then to be assessed on a biogeographical basis by the Commission and the Member States (Art. 4, para 2, 92/43/EEC) in a biogeographical process. The biogeographical process is a multi-stakeholder process that involves national authorities, the European Commission, the European Topic Centre on Biological Diversity (ETC/BD), environmental non-governmental organisations (ENGOS) and (where available, independent) experts. This process aims to facilitate effective implementation of the Natura 2000 directives (Evans, 2012). The consolidated list of sites was to be ready not more than 6 years after the notification of the Habitats Directive. The agreed-upon sites were required to be protected and designated as special areas of conservation (SACs) within 6 years (i.e., by June 2004). The transposition of the Directive into national

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law and regulations was to be completed within two years of the notification (Art. 23, para. 1) (i.e., by June 1994). Extended deadlines were defined for countries such as Austria that joined the EU later. However, the deadlines could not be met. Only in 2012 was the site-selection process (as regards terrestrial ecosystems) generally considered “close to complete” (Evans, 2012).

The most crucial steps in implementation are largely left to the discretion of the Member States. However, only ecological parameters are to be considered when selecting protected sites to propose to the EU Commission (Art. 4, para. 1, and Annex III, 92/43/EEC). Furthermore, it is left to the Member States which “statutory, administrative or contractual measures” they deem necessary (Art. 6, para. 1, 92/43/EEC) “to maintain or restore, at favourable conservation status, natural habitats and species of wild fauna and flora of Community interest” (Art. 2, para. 2, 92/43/EEC).

Key features of Natura 2000 include the coherence and interconnectedness of the protected areas. Until the 1970s, protected areas were predominantly established on land with little economic value without considering the surrounding area, devising long-term strategies or seeking economic benefits (Jones-Walters and Čivić, 2013). This has changed in recent decades, as observed in international agreements such as the Bern Convention, which is considered one of the roots of Natura 2000 (Jones-Walters and Čivić, 2013). Natura 2000 proposes a concept of nature conservation that is also to be conducted on profitably managed land (“integrated nature conservation”). Accordingly, nature conservation increasingly affects land management interests, increases the importance of stakeholder participation, and renders the question of financing much more important.

Overall, extreme delays in implementation and questionable EU-wide coherence of the network of sites caused by the leeway provided to national authorities raise serious doubts about the effectiveness of the Natura 2000 policy. Research shows that although countries take extremely different approaches to implementation, they often experience similar challenges at the domestic level (see Section 2.1). Significant delays and complaints regarding deficient site designation and management also mark the implementation of Natura 2000 in Austria. The European Commission only recently requested the nomination of an additional 220 sites (see Table 3), which requires doubling the number of existing Austrian Natura 2000 sites. Such requests of the Commission are inter alia based on decisions made by all participants in meetings of the biogeographical process. Austria was part of the first Alpine Seminar in 1997 (ETC/BD, 2015d). The latest bilateral meeting in this process concerning the Austrian Natura 2000 network was held in March 2015 in Vienna (ETC/BD, 2015d), which indicates that the network is still insufficient (ETC/BD, 2015a,b,c). Furthermore, Austria is a particularly interesting case to study because the sole authority for policy formation and implementation in the domain of nature protection policy rests not with the central state, but with the nine federal states. Thus, to the extent that the EU policy on Nature 2000 provides political leeway, the federal-state governments have decision-making discretion.

Initial observations suggest that the Austrian federal states feature quite different patterns of implementation that correspond to a variety of outputs; these patterns are accompanied by different levels of conflict among the main actors in the implementation of Natura 2000. These similarities and differences are the focus of this article, which seeks to analyse Austria’s implementation of the EU Natura 2000 policy, both to increase understanding and to explain similarities and variations in implementation across Austria’s federal states. We are interested in how the federal state governments and the actors in the implementation networks exercise discretion in the “interpretative space” (cf. Hill and Hupe, 2014) provided by Natura 2000 and how this discretion relates to variations in imple-

mentation outputs. Accordingly, the guiding research questions are as follows:

- How is Natura 2000 implemented in the Austrian federal states, and what are the similarities and differences?
- Which factors crucially influence implementation, and how can we explain similarities and differences in the federal states implementation outputs?

Our research is conceptually informed by two primary strands of literature: the empirical state of knowledge on Natura 2000 implementation and implementation research scholars conceptual work and theory development, especially scholarship on the implementation of EU policies. From these bodies of literature, we elicit categories of potential explanatory factors that inform our analytical framework. Thus, this study is concerned with explaining “what has occurred” but not with judging “success”, “failure” or “implementation deficits” (cf. Hupe et al., 2014). The dependent variable is the implementation outputs; it is not the achievement of the goals prescribed in the Natura 2000 directives. Accordingly, we follow Hill and Hupe (2014, 11 and 141f) and define implementation “output” as activities comprising specific national-level or federal states’ legislation, site selection and management planning as well as the provision of resources for implementation. Thus, we aim to explain variation in these activities but clearly distinguish them from the actual effects in terms of the degree to which a favourable conservation status of natural habitats and species has been maintained or restored.

The article proceeds with a condensed presentation and discussion of the state of the art (Section 2) in both the implementation of Natura 2000 and the scholarly work on the implementation of EU policies. By synthesising core insights from these strands of literature, Section 3 outlines our analytical framework by summarising clusters of potential explanatory factors and delimits our research interests and objects (cases). Section 4 describes the methods applied. The empirical core of the paper is presented in Section 5 and 6, which comparatively describe and analyse Natura 2000 implementation in seven Austrian federal states. The paper ends with a discussion and our conclusions (Section 7).

2. State of the art

Numerous factors can be expected to influence the behavior of implementation actors and therefore, implementation outputs. To address the problem of “too many variables” (cf. Hill and Hupe, 2014; Hupe, 2014) – i.e., for selecting from and structuring the vast array of factors that potentially explain variation in outputs – we consider two bodies of literature: scholarly work on Natura 2000 implementation and scholarly work on the implementation of EU policies more generally.

2.1. Implementation of Natura 2000: the state of empirical research

Policy research on the implementation of Natura 2000 is most often based on single case studies. Few studies apply comparative case-study research designs (e.g., Borrass, 2014; Borrass et al., 2015; Cent et al., 2013; Ferranti et al., 2010). However, all of these studies hint at major categories of factors that strongly affect national implementation: conflicts with landowners (based on competing interests, core values, and claims of insufficient involvement); the role of stakeholder participation more generally; the venues for and roles of ENGOs that influence national implementation; matters of financing; changes in actor networks and the related issue of the extent to which domestic institutions must be adapted; the role of

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