



# Cross-level information and influence in mandated participatory planning: Alternative pathways to sustainable water management in Germany's implementation of the EU Water Framework Directive



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## ABSTRACT

State and non-state actors increasingly work across scales to address complex environmental problems. Prior studies of stakeholder participation have not fully examined how collaborative processes play out in multi-level policymaking. At the same time, multi-level governance studies do not adequately investigate the impacts of stakeholder participation. This study examines the cross-level interactions of influence and information in the participatory implementation of the European Union's Water Framework Directive. This directive is an example of mandated participatory planning, a relatively new approach that engages grassroots collaboration through a top-down structure with nested policy cycles. A case analysis of three collaborative planning units in the *Land* of Lower Saxony, within the federal governance structure of Germany, finds limited influence and information transmission across levels via formal planning and implementation processes. However, the collaborative efforts did yield alternative pathways for achieving substantive progress toward the directive's aims via learning, coordination, and buy-in among participants.

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## Introduction

Environmental challenges have long involved interactions across multiple levels. Creating and implementing policies to solve such challenges is often made difficult by the existence of multiple centers of authority and political jurisdictions. An ongoing policy experiment to address these cross-scale and – jurisdiction interactions has been the evolution of the European Union's environmental directives.

Formerly, EU environmental policies relied on traditional regulatory instruments such as technical standards, then moved toward more procedural policies institutionalizing environmental impact assessment, access to information or strategic environmental assessment (Jordan and Tosun, 2013). Recent environmental directives take a yet different approach. They *mandate the explicit formulation of certain plans or programs* on a national, subnational or even cross-national level. These plans and programs function as the essential element of policy implementation. Typically member

states (or the respective competent sub- or cross-national authorities) are obliged to assess the current state of the policy issue, formulate measures and monitoring programs to attain the material objectives of a directive, involving non-state organized interests or the larger public as required (Newig and Koontz, 2013).

This new generation of directives employs what Newig and Koontz (2013) call the *mandated participatory planning (MPP)* approach to policy implementation. The most elaborate model of this approach is institutionalized in the Water Framework Directive (2000/60/EC – WFD), which we discuss in detail later in this article. MPP combines three important policy making phenomena: multi-level governance, participatory governance, and nested policy cycles.

*Multi-level governance* is the sharing of competent authority across several levels of government. This arrangement is typically for general purpose government, as in a federal system within a nation-state or a supra-national structure such as the European Union ("Type 1"), but it also can be for special purpose governments, such as water management within a watershed that is part of a larger water basin ("Type 2") (Hooghe and Marks, 2003). In MPP, these two types of arrangements co-exist, with a higher level general purpose (Type 1) government mandating the creation of Type 2 arrangements which may themselves be nested. For example the EU Water Framework Directive adds levels to existing

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multi-level governance above and below, in Piattoni's (2010) terms both 'domestic-international' and 'center-periphery'. The logic of multi-level governance for a nested system such as watersheds is compelling. It offers better coordination across adjacent watersheds and engagement of higher levels of government in addressing large spatial scale issues, to mitigate externalities and spillover effects (Benson and Jordan, 2010). However, it remains to be seen how these possible advantages play out in practice.

Numerous studies of EU implementation have examined the interplay of governance levels, especially how EU policies are transposed at the member state level. These studies have identified several sets of factors thought to affect the degree to which member states adopt EU directives, including fit, culture of compliance, and domestic politics (Duina, 1997; Liefferink et al., 2011; Falkner et al., 2007). Conversely, other studies have examined the ability of member states to influence EU policy making, and the degree to which national-level actors pursue policy change at the supra-national level (Schmidt, 1996; Eising, 2007; Beyers and Kerremans, 2012). However, understanding the interactions between higher and lower levels of governance within a nation in *carrying out* policy is important if we are to understand the impacts of EU directives on the ground. After an EU directive is transposed into national policy, its implementation plays out largely within a given country, and often by non-elected officials. This is especially true for policy processes, like the WFD, that involve stakeholders in planning.

*Participatory governance* is the inclusion of affected stakeholders, especially non-governmental parties, in policy making. In the EU context, participatory governance has been defined as "the regular and guaranteed presence when making binding decisions of representatives of those collectivities that will be affected by the policy adopted" (Schmitter, 2002, p. 56). Participatory governance suggests a government reaching down from the top to include stakeholders before it creates policy. Such inclusion can involve a variety of mechanisms for information flow up and down the levels, e.g., notice and comment periods, public meetings, consultations, and workshops (Rowe and Frewer, 2005).

Participatory governance resembles collaborative governance, which also involves stakeholders in decision making. However, collaborative governance often entails efforts generated from the bottom up, where government is involved but does not necessarily lead the process (Koontz et al., 2004). A key feature of collaborative governance, especially for environmental management, is the creation and action over time of deliberative partnerships that create and implement management plans. Several collaborative governance studies in the environmental arena have explicitly addressed the issue of scale, for example Margerum (2011) distinguishes three types of collaborative efforts based on scale: action, organizational, and policy. Others contrast large scale with small scale collaborations (Robinson et al., 2011; Heikkila and Gerlak, 2005; Cheng and Daniels, 2005). However, such studies have not focused on the interactions up and down levels at different scales as plans are created and implemented. The MPP approach encourages researchers to explicitly examine such interplay to explain information and influence, as the top-down participatory mandate meets planning at the local level that generates information, and possibly influence, flowing upwards.

The third key element of MPP is *nested policy cycles*. A top-down mandate to undertake participatory planning and implementation may require lower level governments to undertake a full cycle that mirrors the policy stages of classical policy process theory: assessment of status quo conditions and problem definition (agenda-setting), plan creation (policy making), plan implementation, and evaluation leading to new problem definition. For example the EU Water Framework Directive requires these stages to repeat every six years. The required planning as part of this secondary policy cycle serves as an intermediate step between policy goals

and actions on the ground, making it especially challenging to apply standard concepts of processes, outputs and outcomes in analyzing policy impacts. The nested policy cycle gives considerable leeway to administrators in implementing top-down mandates, as the administrators engage in carrying out as well as crafting policy at the local level. In a sense it institutionalizes the "political" nature of implementation decisions (Newig and Koontz, 2013; Treib et al., 2007). Thus the results of the MPP approach depend in large part on the actions of administrators and their interactions with local stakeholders (horizontal linkages) as well as officials at higher levels of government (vertical linkages) (Newig, 2008). The combination of horizontal and vertical linkages in MPP begs the question of whether participants' impact on implementation arises more from influencing the decisions of policy makers in higher jurisdictions, or from influencing local actors to change behaviors.

In this article we explore whether and how the new mandated participatory planning (MPP) approach actually 'delivers.' In particular, we address the following research question: How do information and influence flow across governance levels in MPP, and how does this affect actions taken on the ground? By information flow, we mean transmission of knowledge relevant for creating plans that identify problems, suggest solutions, and recommend measures that can be used to solve the problems. Such knowledge should include not only technical aspects of cause and effect, but also practical considerations of political feasibility and resources needed to carry them out. By influence, we mean how one actor or set of actors steers the actions of others. In MPP, higher level governments constitute planning bodies at lower levels and require them to develop plans to pass back up to the higher levels. Ultimately, these plans are expected to influence actions on the ground.

To this end, we present results of a case study of implementing the Water Framework Directive (WFD) in a German federal state. The WFD can be considered as the clearest and archetypical example of the mandated participatory planning approach (Newig and Koontz, 2013). After elaborating on the WFD model, we describe the case study context. Subsequently, our analysis shows that while plans are in fact produced, the participatory governance process has little formal impact on higher level plans or policies. However, the process of stakeholder participation does yield concrete actions and results through alternative pathways of local engagement.

### The EU's mandated participatory planning approach as institutionalized in the Water Framework Directive

The Water Framework Directive of 2000 (WFD) requires all EU member states to achieve "good status" of all inland ground and surface waters by 2015. As the central element of implementation, member states must develop River Basin Management Plans (RBMPs) and Programs of Measures (PoM) that assess current water conditions and define actions to be taken to achieve the targets. These plans<sup>2</sup> had to be submitted to the European Commission in Brussels by the end of 2009. Subsequent six-year planning cycles will follow with deadlines for submitting plans in 2015 and 2021.

The WFD provides great detail on procedures for drafting plans, their content and their spatial jurisdiction. Plans must be produced on the level of river basin districts, that is, covering hydrological spatial units rather than political-administrative jurisdictions, to overcome spatial 'misfits' and internalize negative externalities (spillovers) (Moss, 2004). The WFD requires member states to consult with stakeholders and the general public in a three-step procedure in the drafting of RBMP, and encourages them to promote active engagement in planning processes (Lundqvist, 2004;

<sup>2</sup> In the following, we will use the term 'plan' for all plans and programs such as the River Basin Management Plans and Programs of Measures.

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