

# Attitudes affect implementation of participation in WFD

## GoverNat project finds lack of enthusiasm for participatory approaches

Anna Wesselink<sup>1</sup>, Jouni Paavola<sup>1</sup>, Patricia Quillacq<sup>2</sup>, Dimitrios Zikos<sup>3</sup>

<sup>1</sup> Sustainability Research Institute, School of Earth and Environment, University of Leeds, United Kingdom

<sup>2</sup> Department of Law, European University Institute, Florence, Italy

<sup>3</sup> OEKUS - Division of Social Sciences, Helmholtz Centre for Environmental Research UFZ, Leipzig, Germany

## 1 Background

This policy brief presents an introduction to multi-level governance of water resources in the European context, focussing on participatory processes. A total of 49 interviews were conducted with practitioners involved in water and biodiversity governance in 11 countries: people working in public administrations, academia, NGOs and private consultancies, mainly at regional and local levels. This allows us to sketch a picture of the interpretation of the legal requirements for participation by those who have to implement them. Last, barriers to successful implementation of participatory requirements are identified and explained.

The research we are reporting on here is the first stage of the Marie Curie Research Training Network *Multi-level Governance of Natural Resources: Tools and Processes for Water and Biodiversity Governance in Europe* (GoverNat). Its objective is to develop new solutions for multi-level environmental governance and to facilitate their use by decision makers in an enlarged EU.

## 2 Multi-level governance of natural resources

Water governance presents challenges in common with other natural resources:

1. high levels of uncertainty in the complex natural and social processes involved;
2. search for legitimacy of adopted institutional processes and of their consequences;
3. new modes of governance generate social dynamics;
4. high costs of governance processes, policy implementation, and failed decisions;
5. interdependence across spatial scales and by interactions with other policy fields.

Governance today extends beyond the formal institutions and policy making processes of states and governments to increasingly include private partners and civil society, including NGOs. This shifts power upwards to supranational organisations such as the EU and downwards to sub-national levels, as well as outwards to other actors. In the past decades, the range of institutional measures used in Europe for environmental governance has broadened, and as a result the relevant institutional framework has become more complex. The Water Framework Directive is such an institutional framework at the European level, but water governance includes far greater number of formal and informal institutions at all levels as well as in different policy areas. It also includes legal requirements for participation, which is the focus of this paper.

### 3 Legal requirements for participation

The Water Framework Directive (WFD) (2000/60/EC) takes account of the provisions of the Aarhus Convention for participation and the provision of information<sup>1</sup>. Article 14 of the WFD stipulates that ‘Member States shall encourage the active involvement of all interested parties in the implementation of this Directive, in particular in the production, review and updating of the River Basin Management Plans. Member States shall ensure that, for each river basin district, they publish and make available for comments to the public, including users [...] a timetable [...] an interim overview [...] draft copies of the River Basin Management Plan’. This provision defines the extent of obligatory participation, which is more wide-ranging than stipulated in previous EU Directives. Its emphasis is on the last but second stage of WFD implementation, the establishment of river basin management plans. Also, the WFD distinguishes between two types of participation:

- participation of ‘the public, including users’, who should have access to information and be given the opportunity to comment;
- participation of ‘interested parties’, who ‘should be encouraged to be actively involved in the implementation’.

Altogether, the prescribed participation does not guarantee that public opinion can have an influence on decisions.

However, due to the general wording of the WFD the terminology needed to be further defined in the Common Implementation Strategy document ‘Guidance on Public Participation in Relation to the Water Framework Directive’ (EC 2002). These guidelines were endorsed by the Water Directors but are not legally binding. Table 1 provides a summary of the participation rationale of the EU Directives using four descriptive questions derived from the literature (Wesselink & Paavola 2008).

Question	Observation
who is included	stakeholders and the public
what is included	many technical stipulations are given on what to include and how
how are they included	the public: access to information, opportunity to comment stakeholders: encouraged to be actively involved in the implementation
why are they included like this	with a legal obligation as the starting point, the rationale is primarily instrumental, with addition of substantive and normative arguments.

**Table 1 Summary of characteristics of participation in WFD text**

Although the guidance document recognises that all citizens are stakeholders in environmental management, it suggests limiting the number of actors that are in fact involved: ‘For practical reasons it is impossible to actively involve all potential stakeholders on all issues. A selection will have to be made’ (EU 2002, p.22). By distinguishing between ‘the public’ and ‘stakeholders’, both the guidance document and the WFD itself limit the obligations of competent authorities to provide for participation. The guidance document strongly encourages the member states to use participation tools to engage the public from an early stage in the implementation process. However, the Pilot River Basin projects, which have been conducted since 2002 in various river basins within the EU with the aim of testing the Guidance Documents, have shown that these public participation provisions were not met adequately (European Commission 2007b). We will now explore some reasons why this

<sup>1</sup> ‘Convention on access to information, public participation in decision making and access to justice in environmental matters’, done at Aarhus, Denmark, on 25 June 1998

may be the case. Many others can be identified and what flows is by no means intended to ‘name and shame’ but only to give due attention to some of the difficulties faced by the competent authorities who are in charge of implementing the WFD.

#### 4 What did the interviews with practitioners tell us?

Interviews with key informants highlighted practical issues where administrations have difficulties implementing participation in water governance. Rather than listing the problems themselves, we here aim to explain the reasons why they are encountered. We contend that these problems do not only originate from frustrations, misunderstandings or failures at the practical level of participation, in spite of the fact that they are often presented as such. We argue that the prevalent attitudes towards participation are a major contribution to the supposed failures. The interviews indicate that civil servants’ attitudes are constructed from:

- personal preferences regarding power sharing as expressed in the rationales they reason from;
- the policy style practiced in their surroundings;
- their view of the character of a policy process as linear implementation or as negotiation with other actors.

Only the existing views the desirability of participation are discussed in detail here.

Two attitudes or rationales about the desirability of public participation can be distinguished in the interviews, each with its own moral justification and its own view on the main challenge for participation. The first attitude considers that a lack of citizens’ involvement is not a problem because politicians are elected by these same people and can therefore take decisions on their behalf. These interviewees do not see the need for, or justification of, public participation because the bodies they work for are elected and therefore represent public opinion. For them, the main challenge for participation is to reach agreement with other state organisations, and maybe non-state bodies such as stakeholders in cases when they have power to block decisions or obstruct implementation. However, since participation is prescribed by the EU directives, it is a task that should be done independent of political views and personal motivations. If procedural pressure is the only reason for public participation, it can be expected that minimalist versions of participation will prevail. The main challenge for civil servants is then to show that the regulations have been complied with. This view can be called ‘legal rationale’ (Table 2).

Question	Observation
who is included	as few as possible
what is included	(not discussed in interviews)
how are they included	as prescribed; token participation unless actor is powerful
why are they included like this	participation is a legal obligation

**Table 2 Summary of the legal rationale from interviews**

While the previous view does not see any merit in participation, the second view does. Those who subscribe to this view consider that public participation is needed if a policy can then be implemented where otherwise it could not, and/or when the solutions found through public participation are of better quality. Public participation in this view does not mean a greater extent of power sharing, it means mobilising the public and its knowledge when it serves the purpose of (better) implementing policy. This view is justified by the argument that the policy was agreed upon through the process of representative democracy and does not have to

be re-discussed with the public (Table 3 **Fehler! Verweisquelle konnte nicht gefunden werden.**). This is a combination of the instrumental and substantive rationales found in the literature (e.g. Blackstock et al. 2007); they cannot be distinguished in our interviews. Most civil servants adhered to this second view in which participation can play a useful role, while a considerable minority subscribed to the legal rationale in which participation is only done because it is obligatory. It is obvious that especially the legal rationale may present problems in the implementation of participation. This is discussed in the next section.

<b>Question</b>	<b>Observation</b>
who is included	those who have blocking power and/or additional knowledge
what is included	(not discussed in interviews)
how are they included	where it adds value politically or substantively
why are they included like this	increase the quality of decisions and success of implementation

**Table 3 Summary of the instrumental/substantive rationale from interviews**

## **5 Barriers to participation in implementation of WFD**

### *Participatory processes*

We can conclude that when civil servants speak about stakeholders and public participation their understanding is relatively close to the WFD and the Aarhus Convention. This means that they view participation in terms of information transfer or limited involvement of the general public, and a more intensive but still limited involvement of stakeholders. They reason from a legal, instrumental/substantive rationale, in which any outsider's participation in the implementation of the WFD is limited to the phases where the objective is clear and implementation is the goal. The choice of who is a stakeholder and who isn't therefore greatly affects the initial set-up of the participation they might organise (Lezaun & Soneryd 2007).

Altogether, the way these practitioners present and analyse their experiences shows a considerable degree of reluctance to engage in extensive participation, especially with the general public. We believe this presents an important barrier to successful implementation of the participation requirements of the EU Directives. The GoverNat interviewees identified this reluctance themselves, saying that the administration is not prepared for engagement, both in terms of skills and in terms of attitude. Many interviewees recognised that organising participation requires special skills and additional financial resources, both of which are frequently unavailable to the bodies of public administration charged with implementation of the WFD. In addition some interviewees noted themselves that they face the more profound problem of attitudes to participation, which is not always considered applicable and/or acceptable to different sets of actors.

Our finding is not an exception. In a local level case study Edelenbosch et al. (2008) found a similar reluctance on the part of the public administration to be involved in participation. A resistance or openness to change was also identified by civil servants in the Rhine basin as the most important factor to explain the success of planning and implementation of integrated water resource management (Medema & Jeffrey 2007). The European Commission has recognised this problem. A preliminary screening for all EU27 Member States identified major shortcomings with regard to article 14 on public participation (European Commission 2007a). Some Member States failed completely to transpose properly the obligation regarding

public participation (Article 14) into national procedures, although according to the overall assessment by the EC there is generally a good transposition of article 14 requirements.

#### *Administrative context*

From the interviews it also transpires that for civil servants power struggles within the administration, both between governmental organizations and between levels, are a dominant feature in policy implementation. In addition to the above-mentioned problems with respect to the organisation of participatory processes, these power struggles are a major reason for difficulties with the implementation of EU Directives. For example, a ministry refused to fund regionally agreed solutions because hierarchal decision making procedures were not adhered to; the setting up of regional water bodies was blocked by national and municipal levels which do not want to lose their power. Externally, policies defined by other ministries can be in conflict with the EU Directive and constituting an important barrier to success. Especially, the interviewees find that in concrete situations economic interests usually prevail over other interests such as water management or biodiversity conservation. According to one interviewee, implementation failure is generally due to a lack of political will, which can manifest as an unwillingness to allocate funding for environmental purposes.

In the understanding of the interviewees most of their participation effort is therefore related to involving other administrative parties. This reflects the long established practices of traditional government. The question of interconnection between existing democratic institutions and new forms of governance, including participation, was recently discussed by Edelenbosch et al. (2008). In their case study they found that ‘the main issue [...] was not with the public acceptance of a plan but with the internal workings of the governmental actors’ (Edelenbosch et al. 2008 16). Interpreting Sørensen (2002, 2006), they distinguish five mechanisms for embedding the new practices of interactive governance in existing institutions:

- political embedding: politicians leave some autonomy for stakeholders to govern themselves;
- executive embedding: executives play an active role in, and are committed to, participation;
- professional embedding: experts and civil servants promote joint fact-finding (as opposed to technocracy);
- policy embedding: policy decisions favour participation;
- societal embedding: social processes favour the inclusion of all actors’ knowledges, perceptions and values.

In terms of the rationales discussed above, Edelenbosch et al. (2008) explain the existing attitudes as a failed executive and professional embedding of participatory approaches. The political embedding is much less problematic, while in their case study the social embedding of participatory approaches has succeeded. They contend that without better embedding interactive processes will not fit within the existing representative democracy. This analysis is likely to explain the findings in the GoverNat interviews, too, although more detailed studies would be necessary to confirm this proposition.

## **6 Conclusion**

Successful participation ultimately means redefining roles and power relations, which are fundamental changes and challenging processes. Not surprisingly therefore, ‘the authorities’ dilemma is that they both need and fear people’s participation. They need the agreement and support of diverse groups of people but they tend to fear that greater involvement is less

controllable, less predictable, likely to slow down decision-making, and may challenge the existing distribution of wealth and power. Thus local participation has usually been sought without any meaningful reform of the power relations between government and local communities' (Dalal-Clayton & Bass 2002 180-181). 'This trip has been turbulent, leading through territory that is largely unknown to technocratic experts in administrative agencies. The participation paradigm has to go a long way from its conception at the international and national level to its translation at the local level' (Neef 2008 105).

At the moment there are signs that this road may be too bumpy for many administrations. Their experience of a 'tyranny of participation' and of 'participation fatigue' can be understood as a failed embedding of the new participatory governance. This in turn can be understood as a mismatch between the visions of participation and its advantages presented by proponents of power-less deliberative democracy and the reality of democratic decision making, where power trumps puzzling in politically contested issues (Lundqvist 1980, Hisschemöller & Hoppe 2001). 'Avoiding the illusion of inclusion' (Few et al. 2007) could therefore be a useful mantra in environmental governance.

## **7 Acknowledgements**

We wish to thank our colleagues in the GoverNat project for carrying out the interviews on which this paper is based. This research was financially supported by the European Union (European Commission, Marie Curie RTN GoverNat, contract 0035536, [www.governat.eu](http://www.governat.eu)). For more information on this project see <http://www.governat.eu/> or contact [coord.governat@ufz.de](mailto:coord.governat@ufz.de).

## **8 References**

- Blackstock K L Kelly G J and Horsey B L 2007 Developing and applying a framework to evaluate participatory research for sustainability *Ecological Economics* 60 726-742
- Dalal-Clayton B and Bass S 2002 Participation in strategies for sustainable development. Chapter 6 in *Sustainable Development Strategies: A Resource Book*. Earthscan
- Edelenbosch J, van Schie N and Gerrits L 2008 Democratic anchorage of interactive governance: developing institutional interfaces in water governance. Proceedings of 2008 conference of the Political Science Association <http://www.psa.ac.uk/cps/cps.asp>
- European Commission 2002 Guidance on Public Participation in Relation to the Water Framework Directive, Final version after the Water Directors' meeting, EC, December 2002
- European Commission 2007a Towards Sustainable Water Management in the European Union. Communication from the Commission to the European Parliament and the Council. Commission Staff Working Document COM(2007) 128 final, [SEC(2007) 363], Brussels, 22 March 2007
- European Commission 2007b Pilot River Basin Activity Report phase II: 2005-2006 Water Framework Directive implementation pilot activities – key challenges and recommendations from the Pilot River Basins. Report prepared by Pilot river basins, European Commission, DG Environment and the Joint Research Centre, 13 June, 2007

- Few R Brown K and Tompkins E L 2007 Public participation and climate change adaptation: avoiding the illusion of inclusion *Climate Policy* 7 46–59
- Hisschemöller M and Hoppe R 2001 Coping with intractable controversies: the case for problem structuring in policy design and analysis. In: Hisschemöller M, Hoppe R, Dunn W N and Ravetz J R 2001 *Knowledge, Power and Participation in Environmental Policy Analysis*. Policy Studies Review Annual 12, Transaction Publishers, New Brunswick
- Lezaun J and Soneryd L 2007 Consulting citizens: technologies of elicitation and the mobility of publics. *Public Understanding of Science* 16 279–297
- Lundqvist L 1980 *The hare and the tortoise*. University of Michigan Press, Ann Arbor, MI
- Medema W and Jeffrey P J 2007 Factors That Mediate Implementation Of Integrated Water Resources Management: Evidence From The Rhine Basin. Proceedings of CAIWA conference 2007 <http://www.newater.uos.de/caiwa/papers.htm>
- Neef A 2008. Lost in translation: The participatory imperative and local water governance in North Thailand and Southwest Germany. *Water Alternatives* 1(1): 89 - 110 [www.water-alternatives.org](http://www.water-alternatives.org)
- Sørensen E 2002 Democratic theory and network governance *Administrative Theory and Praxis* 24(4) 693-720
- Sørensen E 2006 Metagovernance: the changing role of politicians in processes of democratic governance *The American Review of Public Administration* 36(1) 98-114
- Wesselink A and Paavola J 2008 Deconstructing and Reconstructing Participation in Environmental Governance. Paper presented at 4S/EASST conference Rotterdam 20-23 August 2008