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## Legitimacy analysis of multi-level governance of biodiversity: Evidence from 12 case studies across the EU

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# UFZ-Discussion Papers

10/2010 – GoverNat 13, September 2010

## Legitimacy Analysis of Multi-level Governance of Biodiversity: Evidence from 12 Case Studies across the EU

Monika Suškevičs

**“Multi-level Governance of Natural Resources:  
Tools and Processes for Water and Biodiversity Governance in Europe”  
(GoverNat)**

**Objectives**

The **overall objective** of GoverNat is to develop new solutions for multi-level environmental governance and to facilitate their use by decision makers in an enlarged EU. The **central research objective** is to test the hypothesis that certain participatory processes and analytical decision tools are particularly useful for improving multi-level environmental governance. **Specific research objectives** therefore address the enhanced understanding of multi-level governance of natural resources, the development of methods of public and stakeholder participation to be used in such contexts, the effective utilisation of specific analytical decision tools in multi-level governance, and the reflective evaluation of such use. These four tasks are necessarily interdisciplinary. The **central training objective** is to give 9 doctoral and 3 post-doctoral fellows an interdisciplinary training 1) in research on environmental governance, particularly of biodiversity and water, in Europe, and 2) in designing legitimate and effective solutions for communication between policy makers, scientists and the public in science/policy interfaces.

**Consortium**

1. UFZ – Helmholtz-Centre for Environmental Research, Germany (F. Rauschmayer);
2. ECOMAN - Ecological Economics and Management, Lisbon, Portugal (P. Antunes);
3. NERI - Danish Environmental Research Institute, Copenhagen, Denmark (M. S. Andersen);
4. SRI - Sustainable Research Institute, Leeds, United Kingdom (J. Paavola);
5. ICTA – Institute for Environmental Science and Technology, Barcelona, Spain (S. van den Hove);
6. CSWM – Centre for the Sustainable Water Management, Lancaster, United Kingdom (W. Medd);
7. UStutt - Institute for Sociology, Stuttgart, Germany (O. Renn);
8. IF - Institute of Forecasting, Slovak Academy of Sciences, Bratislava, Slovak Republic (T. Kluvánková-Oravská);
9. IELM-SIU - St. Istvan University, Budapest, Hungary (G. Pataki);
10. IREAS - Institute for Structural Policy, Slovak Republic (V. Chobotova).

**Characteristics**

- EU Marie Curie Research Training Network with 9 doctoral and 3 post-doc fellows
- Duration: 4 years (10/06 – 9/10)
  - Doctoral fellows: 4/07-6/10
  - Post-docs: 7/07-1/10
- 10 partners and several praxis affiliates in 9 European countries
- Coordination: Helmholtz-Centre for Environmental Research – UFZ (Dr. Felix Rauschmayer)
- Total contribution of European Commission: 2.4 Mio €
- Links water and biodiversity, participation and decision tools in a governance perspective

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# **Legitimacy Analysis of Multi-level Governance of Biodiversity: Evidence from 12 Case Studies across the EU**

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## **Abstract**

Legitimacy is regarded as one critical aspect of biodiversity management and nature conservation arrangements. Multi-level governance is claimed to pose several challenges to legitimacy. The aim of this paper is to review some legitimacy challenges in multilevel governance contexts, and to analyse empirically biodiversity governance in different EU countries in the light of these challenges. Four legitimacy criteria – legal compatibility, accountability, representation and inclusion, and transparency – serve as a framework for theoretical and empirical analysis. The analysis is based on twelve cases of multilevel biodiversity governance from different EU countries. The results show that several of the legitimacy challenges in multilevel governance can be observed in the cases, for example the poor inclusion of certain concerns at some time points of the decision process, difficulties in being accountable towards multiple levels simultaneously, or the weak visibility of the decision process either for the general public or for the immediate participants.

**Keywords:** multi-level governance; biodiversity; legitimacy; legal compatibility; accountability; inclusion; transparency

## **1. Introduction: legitimacy and multilevel governance of biodiversity**

In a broad understanding, legitimacy refers to the acceptance of the entire political system (van Tatenhove 2008), or, in a narrower sense, to the approval of a specific law, policy, or a single decision by the public or stakeholders. Legitimacy presupposes authority – a legitimate authority is the one that is recognized as valid or justified by those to whom it applies (Bekkers and Edwards 2007). Thus, awarding legitimacy means to voluntarily comply with the rules of the governing authority (Scharpf 2009).

Legitimacy concerns the question of how and why processes and their outcomes that lead to collectively binding decisions should be accepted or supported by those whose interests are affected by the decisions (Engelen et al. 2008). Foundations of legitimacy are usually divided into two strands: substantive and procedural (Coglianese 2007). Substantive sources of legitimacy, such as religion, charisma, tradition, or scientific evidence, have increasingly lost their legitimating force (Engelen et al. 2008). However, at the same time, procedural legitimacy

has gained importance (ibid.). It has three dimensions:

- input legitimacy: to what extent can decision subjects (co)determine the agenda,
- output legitimacy: the extent to which the outcomes of decision processes serve the interests of decision subjects, and
- throughput legitimacy: to what extent the design of the actual decision-making procedure is perceived as fair and inclusive in order to transfer individual interests into collective reasons (van Tatenhove 2008).

In liberal democratic societies, governments are typically legitimized through electoral processes, and their decisions are given weight by legislation and other forms of regulation or policy (Lockwood 2010). However, in addition to elections, more direct forms of citizen influence in political decision-making – participatory approaches – are regarded as an essential source of legitimacy (Fung 2006; Kessler 2004) since they are expected to allow more interactive communication between decision-makers and stakeholders, and to create better chances for the stakeholders to be heard in early stages of decision processes.

Legitimacy can encompass different dimensions. On the one hand, it is connected to different legal norms. Here, legitimacy is closely related to legality (the word *lex* in Latin refers to law): a decision is legitimate if it is lawful, i.e. its content is in accordance with the law (Bekkers and Edwards 2007). A decision may also obtain its legitimacy from correctly following procedural rules in order to reach that decision (ibid.). On the other hand, legitimacy usually goes beyond mere legality (van Tatenhove 2008) because rules cannot justify themselves simply being rules, so that in order a rule to be accepted, it also has to correspond to some moral principles (Jentoft 2000). For example, legal legitimacy based on laws may depend much more on their present social acceptance – and thus its social legitimacy – than upon the (questionable) legality of their formal ratification (Fallon 2005). Thus, political forms of legitimacy, i.e. principles such as democratic representativeness and openness in decision-making, transparency, and accountability are important dimensions of legitimacy (Coglianese 2007).

The concept “multi-level governance” (MLG) highlights the significance of multiple layers of governing and the increasing influence of non-state actors (NGOs, private actors) in decision processes (Hooghe and Marks 2004). Since its emergence in the 1990s, the concept has gained popularity in the environmental arena. Environmental disturbances are usually intertwined across different levels: global changes are linked to a series of local phenomena and vice versa (Cash et al. 2006). Biodiversity loss, degradation of habitats and the subsequent decrease in the quality of the services ecosystems provide to humans are examples of such issues that expand over spatial,

jurisdictional, institutional etc. scales. In order to respond to such scale-sensitive problem, governing biodiversity issues encompasses different governance frameworks (e.g. the EU regulations like the Habitats and Birds Directive) and wider governance regimes (from international biodiversity agreements to local traditions and rules of biodiversity resources) (Baker 2003; Paavola 2007). In conclusion, governance of environmental issues has to take place at multiple levels, since the complexity of governance solutions allows the system to be more flexible, resilient and to address issues on scales that correspond to wider physical and social impacts of environmental disturbances (Meadowcroft 2002; Paavola 2007).

Legitimacy is regarded as one critical aspect of biodiversity management systems and nature conservation arrangements (Brechin et al. 2002). Adopting an authoritarian protectionist approach could easily lead to morally and pragmatically questionable prescriptions that most likely will not safeguard biodiversity conservation and sustainable management in the long term (ibid.). However, increasingly more debates revolve around the implications of multi-level governance on various aspects of legitimacy (Altides and Kohler-Koch 2009; Bekkers and Edwards 2007; Benz 2001; Hooghe and Marks 2004; Kohler-Koch and Rittberger 2006; Papadopoulos 2008; Peters and Pierre 2004; Rauschmayer and Behrens 2008). Multi-level governance is claimed to pose several challenges to legitimacy, for example by complicating the establishment of clear accountability relationships (e.g. Papadopoulos 2008), or hindering the inclusion of relevant concerns in decision-making (see for example Peters and Pierre 2004).

The aim of this paper is to review some of the legitimacy challenges in multilevel governance contexts, and to analyse empirically biodiversity governance in different EU countries in the light of these challenges. Four legitimacy criteria – **legal compatibility, accountability, representation and inclusion, and transparency** – serve as a framework for theoretical and empirical analysis. This framework has been applied elsewhere, e.g. by Rauschmayer and Behrens (2008) to assess the legitimacy of species management in the example of the Great Cormorant in the EU. The empirical part of this paper is a meta-analysis of original case studies that have been conducted in the framework of a Marie Curie Research and Training Network GoverNat: Multi-level Governance of Natural Resources: Tools and Processes for Water and Biodiversity Governance in Europe.

## 2. Analysis framework

### 2.1. Legitimacy criteria and their challenges in a multilevel governance context

Based on a literature review, Table 1 defines the four legitimacy criteria and provides an overview of some of their potential challenges in multilevel governance. A more detailed discussion of the criteria and of the challenges follows in the four sub-paragraphs below (2.1.1 – 2.1.4).

Table 1. Legitimacy criteria and some examples of their challenges in multilevel governance

<i>Criterion</i>	<i>Includes...</i>	<i>Some examples of its challenges in a MLG context</i>
<b>Legal compatibility</b>	...legal legitimacy: <b>lawfulness, legality</b> of a decision, process, etc. in a given context, considering relevant formal as well as informal rules	<ul style="list-style-type: none"> <li>• difficult to consider multiple legal frameworks from different levels simultaneously</li> <li>• possible gaps in legal support for participation across levels → how can decisions taken in participatory processes at lower levels have a genuine impact on policies at higher levels?</li> </ul>
<b>Accountability</b>	...democratic control mechanisms that require a) defining <b>responsibilities</b> and those being responsible (accountability holdees); b) the <b>responsiveness</b> of accountability holdees towards other actors (accountability forum)	<ul style="list-style-type: none"> <li>• responsibilities shared between actors across different levels → less clarity, who is responsible of what (the problem of “many hands”)</li> <li>• accountability holders are accountable towards forums at different levels → difficult to “satisfy” multiple levels</li> </ul>
<b>Representation &amp; inclusion</b>	...provision of equal opportunities to participate and influence decision-making for all relevant stakeholders Ideally, <b>all relevant interests and needs</b> should be <b>included</b> in the final decision or at least <b>represented in the process</b>	<ul style="list-style-type: none"> <li>• MLG favours organized interests → formally less organized interest groups are less represented &amp; included</li> <li>• national / international level interests are better included → power is shifted away from sub-national levels</li> </ul>
<b>Transparency</b>	...making decision-making process <b>visible</b> and clearly <b>understandable</b> to all relevant parties (insiders and outsiders)	<ul style="list-style-type: none"> <li>• transparency is weakened because of the informality of decision-processes → issues may be clearly visible for mostly those actors who stand close to network members</li> </ul>

#### 2.1.1. Legal compatibility

In a broad sense, compatibility means that parts of a system work smoothly together (Adams 1996). The decision process and its outcomes can be considered as legitimate when they comply with formal and informal procedures recognized as adequate in the respective context by all parties affected (Rauschmayer and Behrens 2008). These formal and informal procedures may include legal rules and regulations, as well as social norms (Licht et al. 2002). The concept of legal compatibility further implies that these rules have to be accepted by those to whom they apply. Thus, in order to ensure that decision processes will be conducted and outcomes



implemented in a legitimate way, one needs to consider at least legal frameworks and other formal but also informal rules in a given socio-political context, as well as understand and respect the ways how these rules are perceived by the relevant parties.

Governing in multilevel contexts is rather a coordinative and interactive process between different actors from various levels than a hierarchical implementation of international or EU laws and policies at national and sub-national levels. Thus, designing and conducting decision processes that simultaneously consider legal frameworks from different levels while respecting other sets of rules can be challenging. Ensuring such compatibility has proven to be difficult in several cases of the European biodiversity governance. For example, current legal frameworks at national as well as at EU level are less conducive to species management than to species conservation (Rauschmayer and Behrens 2008; Rauschmayer et al. 2008). This mismatch has brought about conflicts between different resource users and conservation-oriented stakeholders (ibid.).

Another challenge in multi-level governance contexts concerns legal support for participation across different levels. How do participatory arenas developed at different levels relate to each other, e.g. in terms of power distribution (Berghöfer et al. 2008)? For example, the implementation of the ecosystem approach in fisheries management in the EU has shown that in several cases participatory arenas at lower levels have had only little influence on relevant policies at higher levels (ibid.).

### ***2.1.2. Accountability***

Accountability refers to the processes of holding someone answerable and responsible for its performance (van Kersbergen and van Waarden 2001). Accountability can be understood as a relationship between an actor (accountability holdee) and a forum (accountability holder, agent of accountability), in which the actor has an obligation to inform the forum, to explain and to justify his or her conduct; the forum can pose questions and pass judgement, and the actor may face consequences (Bovens 2007). Accountability holdees are usually governmental bodies who are expected to be responsive towards their constituencies – the people who are the ultimate source of their legitimacy (Lockwood 2010). In representative democracies, governmental bodies are supposed to gain such legitimacy through voting: people have delegated their sovereignty to the government, and accountability is supposed to function in the opposite direction of delegation (Bovens 2007). Thus, in order to establish clear accountability relationships, first, the roles and

responsibilities of accountability holdees should be defined (Lockwood 2010), and second, effective communication and feedback mechanisms should be established between accountability holders and actors.

Accountability may face several challenges in multilevel governance. First, institutional complexity of multilevel governance can obscure, who is accountable, and for what (Rhodes 1998). The “problem of many hands” makes accountability relationships unclear (Bovens 2007): since decisions pass on from many actors, it is finally difficult to identify, who exactly is responsible for which outcome.

Second, in multilevel governance, accountability holdees face multiple forums, each of them requiring different types of accountability relationships. In addition to traditional electoral accountability (political or democratic accountability), accountability holdees are expected to be responsive towards courts (legal accountability), towards professional bodies (peer accountability), or towards stakeholders and interest groups (social accountability) (Bovens 2007). However, in multilevel governance contexts accountability mechanisms are claimed to be too diffuse to form a coherent system and direct democratic accountability of policy-makers is regarded to be weak (Papadopoulos 2008). Moreover, since accountability holders in multi-level governance are usually positioned at different policy levels, it is necessary that accountability functions both upwardly – governing bodies are responsive towards upper levels – and downwardly – constituencies can hold governing bodies accountable (Lockwood 2010). This creates though a situation of “two-level” accountability where satisfying both levels at the same time can be a considerable challenge (Papadopoulos 2008).

Third, non-state actors have a growing influence in policy-making on multi-level governance contexts but only some of them might be politically accountable (Altides and Kohler-Koch 2009). Thus, a further cause for the democratic deficit of multi-level governance is the transfer of political authority from directly accountable governments to non-accountable political actors, e.g. NGOs, private parties (Skogstad 2002). For example, supra-national institutions are not strongly democratically accountable towards sub-national actors but their role in multilevel governance is increasingly more influential (van Kersbergen and van Waarden 2001).

### ***2.1.3. Representation and inclusion***

Legitimacy is affected by the extent to which all relevant interests are represented and included in the decision-making process and/or its outcomes (Rauschmayer and Behrens 2008; Rauschmayer and Risse 2005; Rauschmayer and Wittmer 2006; Wittmer et al. 2006). It has an ethical ground – each person should have a say in decisions which will affect him/her, and it also means to provide opportunities to participate for marginalized groups (Lockwood 2010). However, the actual practice of representation and inclusion depends on many factors which are either the attributes of the conveners of participation (such as whether the interests are known, what is the goal of participation), the capacity and motivation of participants, or the wider institutional context (e.g. the legislative framework) (Dietz and Stern 2008). Further, defining “relevant interests and needs” or drawing appropriate boundaries of participatory processes need case-by-case consideration and may still remain highly contested issues (Billgren and Holmen 2008; Mostert et al. 2007).

The multilevel context of participatory decision processes poses some further difficulties for representation and inclusion. It is doubted whether all relevant interests gain access to political processes or are sufficiently taken into account in policy-making of multilevel governance (Benz 2001). To take an example from biodiversity policies, ensuring adequate inclusion of all relevant interests from various policy levels has remained challenging in the case of the EU-wide cormorant action plan idea (Rauschmayer and Behrens 2008).

One possible reason for decreased inclusiveness in multilevel governance might be its reliance on informality in decision-processes (Peters and Pierre 2004): formal arrangements, such as legislation, are considered as too rigid frameworks for multilevel governance. However, formal rules though ensure equal rights for all groups to be heard; thus – to what extent informality means inequality (ibid.)? Regarding the input side of the political system, multilevel governance has the advantage of providing a multitude of access points for organized interests (Benz 2001). Thus, formally less organized stakeholders are less likely to have good opportunities to participate and have a say in decision-making processes (Peters and Pierre 2004). Furthermore, to what extent informality entails outcomes reflecting the interests of dominant players, i.e. more influential stakeholders? In the EU, multilevel governance may in practice favour the interests of nation states – even though structurally less powerful sub-national actors are claimed to gain greater influence in multi-level governance contexts; regional and / or local governments are nevertheless often likely to find their interests poorly represented in practice (ibid.).

#### **2.1.4. Transparency**

Transparency refers to the visibility of decision-making processes, the clarity with which the reasoning behind decisions is communicated, and the ready availability of relevant information about a governance authority's performance (Lockwood 2010). As inclusiveness, transparency is a normative requirement grounded in ethics, stating that stakeholders should have at least the right to know about the issues that affect them (*ibid.*), if they cannot affect decision-processes over those issues. Therefore, if participatory processes cannot ensure that all relevant interests are taken into account, decision-makers should at least make the process transparent for those affected (Rauschmayer and Behrens 2008; Rauschmayer and Risse 2005; Rauschmayer and Wittmer 2006; Wittmer et al. 2006). Additionally, transparency is connected to accountability in the sense that actors responsible for final decisions are obliged to inform others about their conduct, which implies clear communication of decision-making rules as well as the content of decisions.

However, in multilevel governance systems, the complexity of decision-making structures might impede achieving transparency of decision-processes, making it difficult for supervisory organisations and for citizens to hold those participating in decision-making accountable (Benz 2001). Since decision-processes are often informal – informality is believed to enhance negotiations and the achievement of compromise –, they can also be weakly visible (Papadopoulos 2008). Policy processes are claimed to be well-visible for only those principals who stand closer to the actors directly involved in decision-making (*ibid.*). Thus, internal transparency of a decision process in multilevel governance may be higher than transparency for outsiders, i.e. for the general public or media.

### 3. Legitimacy analysis of the cases

#### 3.1. Description of the cases

Twelve cases are summarized (Table 2) on the basis of their country, topic (central governance issue), time period of decision processes, main decision-making levels concerned, and the nature of the participatory processes. All case descriptions are based on materials gathered in the GoverNat project, with the support from the GoverNat PhD fellows<sup>2</sup>.

Data has been gathered from nine EU countries, including older member states as well as some of the recently accessed countries, like Slovakia [4], [5] or Hungary [11], [12]. Most of the cases, e.g. [2], [4], [5], [6], [11], [12] concern protected areas' governance, such as Natura 2000 designations or management. They however differ in their focus on administrative level and in terms of specificity: the Finnish Natura 2000 case [2] examines designations at national level, the case of implementing the Habitats and Birds Directives in Spain [6] analyses designations and management at national, regional and local level, and the Portuguese Natura 2000 case [9] addresses specifically the drafting of a management plan for a certain Natura 2000 area. Some other cases examine biodiversity governance at a more abstract level: drafting of biodiversity strategies and action plans, e.g. cases [1] and [8]. Among other issues, cases [4] and [10] study the role of species management (bark beetles) in protected area governance.

In many of the cases, decisions tend to be ultimately taken by national institutions (i.e. key decision-making level is national); however, other levels are involved as well or indirectly affect governance processes. In fewer cases, key decisions were made at local level. In many of the cases, decision-processes are still ongoing; in some other cases, such as [1], [2], [8], [9], some final decisions have been made. The nature of the participatory process as a whole differs from case to case. Several cases, like [1], [2], [6], [7], [8], [9] represent more formally organised participation (processes initiated and / or led by an (external) convenor) which, in some cases is quite specifically targeted towards certain stakeholders, e.g. involving the amateur naturalists in case [1]. In contrast, some other cases, such as [3], [4], [5], [10], [11], [12] are quite unstructured

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<sup>2</sup> The GoverNat PhD fellows have supported to the compilation of the respective cases as follows: Minna Santaoja – cases 1, 2, 3; Sonja Trifunovova – cases 4 and 5; Mireia Pecurul – cases 6, 7, 8; Catrin Egerton (with Carla Gonzalez) – case 9; and Cordula Mertens – cases 10, 11, and 12. The work on the cases has been between integrating information from different sources that were available for the fellows at the time of analysis (see references in the last column of Table 2) and their own analysis. The intellectual rights regarding the case 7 fully belong to Papageorgiou et al. (2008) and regarding the case 8 to Nordbeck and Pregernig (2008).

and open discussions, cooperation initiatives or opposition movements, without a central coordinator / organizer.

Table 2. Case descriptions

Nr.	Country	Central issue	Time period	Key decision-making level; main other levels involved	Nature of the participatory process	References used by the GoverNat fellows <sup>2</sup>
[1]	UK	Different knowledge claims in the national biodiversity action planning according to CBD	1994 - 2002	NATIONAL international, EU, local	Organized process, initiative from national governmental actors who directly contacted certain local level stakeholders (amateur naturalists)	<p>Department for Environment, Food and Rural Affairs (Defra). 2007. Conserving Biodiversity – the UK Approach. <a href="http://www.ukbap.org.uk/library/UKSC/DEF-PB12772-ConBio-UK.pdf">http://www.ukbap.org.uk/library/UKSC/DEF-PB12772-ConBio-UK.pdf</a></p> <p>Ellis, R., Grove-White, R., Vogel, J. and Waterton, C. 2005 Nature: Who Knows? English Nature/CSEC/Natural History Museum Publication. <a href="http://www.lancs.ac.uk/fass/centres/csec/pubs.htm">http://www.lancs.ac.uk/fass/centres/csec/pubs.htm</a>.</p> <p>Ellis, Rebecca &amp; Waterton, Claire. 2004. Environmental citizenship in the making: the participation of volunteer naturalists in UK biological recording and biodiversity policy. Science and Public Policy. Volume 31, number 2.</p> <p>Ellis, Rebecca &amp; Waterton, Claire. 2005. Caught between the cartographic and the ethnographic imagination: the whereabouts of amateurs, professionals, and nature in knowing biodiversity. Environment and Planning D: Society and Space 2005, volume 23, pages 673 – 693.</p> <p>Waterton, Claire &amp; Ellis, Rebecca. 2003. "Anglers, Ramblers and British Naturalists: the creation of records and much, much more". Paper for presentation at the Workshop "Science and Democracy", JF Kennedy School of Government, Harvard University, USA, 29 June – 1 July 2003.</p> <p>Waterton, C and Ellis, R (2006) Amateurs as Experts: Harnessing New Networks for Biodiversity, End of Award Report, Lancaster: CSEC, Lancaster University. <a href="http://www.lancs.ac.uk/fass/centres/csec/pubs.htm">http://www.lancs.ac.uk/fass/centres/csec/pubs.htm</a>.</p>
[2]	Finland	Participation and conflicts during Natura 2000 designations	1994 - 2003	NATIONAL EU, regional, local	Organized consultations by national governmental actors for national level organized interest groups, opposition from local landowners (complaints, hunger strike)	<p>Heikkinen 2007; Hiedanpää, 2002; 2004; Hilden et al. 2005; 1998; Kangas et al. 2005; Malmsten 2007; Oksanen 2003; Sairinen et al. 1999; Veistola 1997; Heikkinen, Ilkka (ed.) and interministerial group of editors. 2007. Saving nature for people. National strategy and action plan for conservation and sustainable use of biodiversity in Finland 2006-2016. Ministry of the Environment. Edita Publishing, Helsinki. [In Finnish; with English abstract.]</p> <p>Hiedanpää, Juha. 2004. Making Environmental Policies Reasonable. A Study of the Consequences of Social Diversity for Regional Forest Policy of SW Finland. Academic dissertation. Acta Universitatis Tamperensis 1030. Tampere University Press, Tampere.</p> <p>Hiedanpää, Juha. 2002. European-wide conservation versus local well-being: the reception of the Natura 2000 Reserve Network in Karvia, SW Finland. Landscape and Urban Planning 61 (2002) 113-123.</p> <p>Hildén, Mikael; Auvinen, Ari-Pekka &amp; Primmer, Eeva. 2005. Evaluation of the Finnish National Action Plan for Biodiversity. Ministry of the Environment, The Finnish Environment 770. Edita Publishing, Helsinki. [In Finnish; with English abstract.]</p> <p>Hildén, Mikael; Tahvonen, Olli; Valsta, Lauri; Ostamo, Eira; Niininen, Iris; Leppänen, Jussi &amp; Herkiä, Liisa. 1998. Impacts of the Natura 2000 network in Finland. The Finnish Environment 201, Finnish Environment Institute. Edita, Helsinki. [In Finnish; with English abstract.]</p> <p>Kangas, Pekka, Jäppinen, Jukka-Pekka &amp; von Weissenberg, Marina (ed.) 2005. The Implementation of the National Action Plan for Biodiversity in Finland 2002-2004. Third Progress Report. Ministry of the Environment. Edita Prima Ltd, Helsinki. [In Finnish; with English abstract.]</p> <p>Malmsten, Annukka. 2007. Rajaaminen. In: Laine, Markus; Bamberg, Jarkko &amp; Jokinen, Pekka (eds.) Tapaustutkimuksen taito. Gaudeamus, Helsinki.</p> <p>Oksanen, Annukka. 2003. Confrontation between local and international interests in matters of nature conservation. A case study of the Natura 2000 controversy in South-Western Finland. Academic dissertation, Annales Universitatis Turkuensis C 192. University of Turku, Department of Geography. [In Finnish; with English abstract.]</p> <p>Sairinen, Rauno; Viinikainen, Tytti; Kanninen, Vesa &amp; Lindholm, Arto. 1999. Suomen ympäristöpolitiikan tulevaisuuskuva. Ympäristöministeriö, Yhdyskuntasuunnittelun tutkimus- ja koulutuskeskus. Gaudeamus, Helsinki.</p> <p>Veistola, Tapani. 1997. Miten Natura-soppa oikein keitettiin? Luonnonsuojelija No 8/1997.</p>
[3]	Finland	Cooperation initiative to restore the lake of Ahtialanjärvi	2001 - ...	LOCAL international, EU, national, regional, local	Self-organised informal cooperation between local amateur naturalists and regional, local partners, open to all interested parties	<p>Itkonen, Tatu (2008) Lempäälän Ahtialanjärvelle suunniteltavasta lintutornista. E-mail posted on the Pirkanmaan lintutieteellinen yhdistys, BirdLife's regional association's, email list, 30.5.2008.</p> <p>Mäkelä, Rainer (2005) Lintuveden tarina. Lempäälän Ahtialanjärven kehityksestä. In: Aro, Seppo et al (2005) Pirkanmaan lintutornit ja luontopolut. Suomen luonnonsuojeluliiton Pirkanmaan luonnonsuojelupiiri ry., Tampere.</p> <p>Mäkelä, Rainer (2005) Pirkanmaan muuttuvat lintuvedet. In: Aro, Seppo et al (2005) Pirkanmaan lintutornit ja luontopolut. Suomen luonnonsuojeluliiton Pirkanmaan luonnonsuojelupiiri ry., Tampere.</p> <p>Pitkänen, Marja-Liisa (2005) Pirkanmaan Natura 2000 -verkoston hoidon ja käytön yleissuunnitelma. Alueelliset ympäristöjulkaisut 373. Pirkanmaan ympäristökeskus, Tampere.</p>

						<p>Pitkänen, Marja-Liisa and Tavast, Mauno (2005) Lintuvesien hoito. In: Aro, Seppo et al (2005) Pirkanmaan lintutornit ja luontopolut. Suomen luonnonsuojeluliiton Pirkanmaan luonnonsuojelupiiri ry., Tampere.</p> <p>Ruokonen, Pekka and Laurinolli, Tuire (2005) Lintuvesien suojelu. In: Aro, Seppo et al (2005) Pirkanmaan lintutornit ja luontopolut. Suomen luonnonsuojeluliiton Pirkanmaan luonnonsuojelupiiri ry., Tampere.</p> <p>Salo, Erkki (2003) Lempäälässä pyöritään nyt Ahtialanjärvellä. Tampereen seudun luonto 1/2003. Tampereen ympäristönsuojeluyhdistys ry, Tampere.</p> <p>Www.lempaala.fi. The web pages of the municipality of Lempäälä.</p>
[4]	Slovakia	Conflict about forest management regimes and practice in the Tatras National Park (TANAP)	2004 - ...	NATIONAL International, EU, regional, local	Conflicts between foresters and conservationists at various levels, creation of a non-governmental body in contrast to a powerful governmental committee	<p>Klúvanková-Oravská, T., Kozová, M. a ostatný (2005), Smerom k Trvalo Udržateľnému Tatranskému Regiónu (nezávislá štúdia strategického charakteru), REC Slovensko v spolupráci so spoločnosťou pre trvalo udržateľný život v Slovenskej Republike, Bratislava</p> <p>Křenová, Z., Polák, P. (2007), Hodnotenie Dokumentu, NPR Tichá a Kôprová- Štúdia Posúdenia Vplyvu Navrhovanej Činnosti na Priaznivý Stav Predmetu Ochrany, Štátna Ochrana Prírody, SR</p> <p>Renn, O., (2007), Glossary for GoverNat (manuscript).</p> <p>Vološčuk, I. (2000), Trvalo Udržateľný Rozvoj v Biosférickej Rezervácii Tatry, Vydavateľstvo Technickej Univerzity vo Zvolene</p>
[5]	Slovakia	PAN-Parks certification in the Slovensky Raj National Park (SRNAP)	1999 - ...	LOCAL International, local	Self-organised cooperation initiative from SRNAP administration to join with the PAN-Parks certification system, opposition from foresters and local tourism entrepreneurs to the initiative	<p>Klúvanková-Oravská, T., Chobotova, V. (2006) Shifting governance. Managing the commons: the case of Slovensky Raj National Park. Sociologia 38: 221-244.</p>
[6]	Spain	Participation in Natura 2000 designations and management in Catalonia and Lleida	1995 - ...	SUB-NATIONAL (autonomous region) International, EU, regional, local	Organised consultations and information disclosure for the public at national (Spain) and sub-national level (Catalonia); cooperative agri-environmental measure launched by a sub-national governmental body, involving local farmers and irrigation company at local level (Lleida)	<p>Aubin, A. (2004): Owners Escape Unharmd. Activation of Institutional Rules in Rivalries between Heterogenous Water Users. Paper presentation in "The commons in Age of Global Transition: Challenges, Risks and Oportunities". 10<sup>th</sup> IASCP Biennal Conference Oaxaca (Mexico), 9-10 August. 30 pp.</p> <p>Brown, K. (2003). Integrating conservation and development: a case of institutional misfit. <i>Frontiers in Ecology and the Environment</i> 1:479-487.</p> <p>Fernandez-Aguilar, S. (2008). Legitimacy Problems in Spanish Nature Policy. Legitimacy in European Nature Conservation Policy: Case studies in Multilevel Governance. J. K. a. G. Leistra, Springer: 83-100.</p> <p>Eichener, V. (1997): Effective European problem-solving: lessons from the regulation of occupational safety and environment protection. <i>Journal of European Public Policy</i> 4:4 pp: 591-608.</p> <p>Muniz, S. &amp; Batalla, G. (2006). El canal segarra-garrigues i xarxa Natura 2000. Una analisi participativa des de les Garrigues baixes. Ed. Fundacio Territori i Paisatge (Unpublished).</p>
[7]	Greece	Participation in the restructuring of protected areas' governance	1994 - ...	NATIONAL EU, regional, local	Organised participation of stakeholders in the form of national park management boards (problems with representativeness); increased number of scientific advisory bodies; participation of general public in the environmental impact assessment on protected areas	<p>Papageorgiou, K., Kassioumis, K., Vakkas, M. 2008. Restructuring of management bodies for protected areas in Greece. Universität für Bodenkultur Wien, Department für Wirtschafts- und Sozialwissenschaften. <a href="http://www.boku.ac.at/sfh/reports/Research_report_3_2008.pdf">http://www.boku.ac.at/sfh/reports/Research_report_3_2008.pdf</a></p>
[8]	Austria	Drafting of the Austrian Biodiversity Strategy	1994 - 2007	NATIONAL International, EU, sub-national (federal provinces), regional, local	Organised participation in the form of a) meetings of the National Biodiversity Commission; b) involvement in the editorial group, and c) commenting on the drafts of the Biodiversity Strategy. In addition, some activities to introduce the process to the wider public were arranged.	<p>Nordbeck, R., Pregernig, M. 2008. The Austrian Biodiversity Strategy: A Blocked Governance Process. Universität für Bodenkultur Wien, Department für Wirtschafts- und Sozialwissenschaften. <a href="http://www.boku.ac.at/sfh/reports/Research_report_2_2008.pdf">http://www.boku.ac.at/sfh/reports/Research_report_2_2008.pdf</a></p>
[9]	Portugal	Participation in developing the Monfurado Natura 2000 management plan	2003 - 2008	LOCAL EU, national, regional	Organised process: local authorities (the municipality of Montemor-o-Novo in the Alentejo region) arranged workshops and information events for a wide range of stakeholders in order to negotiate with	<p>Gonzalez, Carla (personal communication)</p> <p>Renn, O., (2007), Glossary for GoverNat (manuscript).</p> <p>Rede Natura 2000: Sitio de Monfurado (online: <a href="http://www.cm-montemornovo.pt/natura/monfurado.htm">http://www.cm-montemornovo.pt/natura/monfurado.htm</a>, accessed March and May 2008)</p> <p>Santos, Fernando Teigao (2005) The region of Alentejo in search of a new development model based in human</p>



					them the management measures and to build their support for the Monfurado Natura 2000 area management plan	capital: reality, rhetoric, or utopia? (Paper presented at the International Conference on Regional Growth Agendas, Aalborg, Denmark, 2005, online: <a href="http://www.regional-studies-assoc.ac.uk/events/aalborg05/teigao.pdf">http://www.regional-studies-assoc.ac.uk/events/aalborg05/teigao.pdf</a> )
[10]	Germany	Conflict over bark beetle management in the Bavarian Forest National Park	1983 - ...	SUB-NATIONAL (state) International, EU, national, local	Opposition from local stakeholders (local dwellers, tourism companies, municipalities) and their negotiations with nature conservation authorities from different levels. Open discussions from which everybody could take part of	<p><u>Nationalparkverwaltung Bayerischer Wald (1999a): Nationalparkplan: Leitbild, Ziele (draft).</u>  <u>Nationalparkverwaltung Bayerischer Wald (1999b): Nationalparkplan; Walderhaltungs-, und Waldpflegemaßnahmen (draft).</u>  <u>Nationalparkverwaltung Bayerischer Wald (2001a): Nationalparkplan; Bildungs-, Informations-, und Öffentlichkeitsarbeit (draft).</u>  <u>Nationalparkverwaltung Bayerischer Wald (2001b): Waldentwicklung im Bergwald nach Windwurf und Bornekäferbefall; Wissenschaftliche Reihe, Heft 14.</u>  <u>Nationalparkverwaltung Bayerischer Wald (2005): Wilde Waldnatur.</u>  <u>Nationalparkverwaltung Bayerischer Wald (2007): Jahresbericht 2006.</u>  Renn, O., (2007): Glossary for GoverNat (manuscript).  Rauschmayer, F., H. Wittmer, J. Paavola, (2007): Multi-level Governance of Natural Resources: Tools and Processes for Water and Biodiversity Governance in Europe – A European Research and Training Network. UFZ-Discussion Papers 3/2007 – GoverNat 1, March 2007.  RUBICODE (2008): D 7.1 Web report on the effectiveness and appropriateness of existing conservation policies and their integration into other policy sectors; case study on Biodiversity policy in Germany (unpublished draft).  Wittmer, H., F. Raushmayer, B. Klauer, (2006). How to select instruments for the resolution of environmental conflicts?. Land Use Policy, 23 (2006), 1-9.  <a href="http://www.freyung-grafenau.de/">http://www.freyung-grafenau.de/</a>  <a href="http://www.iap2.org/associations/4748/files/Spectrum.pdf">http://www.iap2.org/associations/4748/files/Spectrum.pdf</a>  <a href="http://www.landkreis-regen.de/leben/index.html">http://www.landkreis-regen.de/leben/index.html</a>  <a href="http://www.nationalpark-bayerischer-wald.de/">http://www.nationalpark-bayerischer-wald.de/</a></p>
[11]	Hungary	Land use conflicts in the Kiskunság National Park	1975 - ...	NATIONAL International, EU, local	Opposition from local stakeholders (mostly farmers) about the rights to use the land under the conditions of poor financing and water scarcity; informal cooperation among stakeholders	<p>Flachner, Zs., Kovács, E. (2003): Cooperation between the Kiskunság National Park Directorate and a local farmer. Case study for the OECD Working Group on Economic Aspects of Biodiversity, Budapest.  Gilly, Zs. (1999): The Mosaic of alkaline plains and moving sand dunes – The Kiskunság National Park, pp.155-166, in Tardy, J. (chief ed.): Conserving Hungary's Heritage –The National Parks and World Heritage Sites, TermészetBÜVÁR Alapítvány Kiadó, Budapest, 1999.  Gómez-Baggethun, E., Kelemen, E. (2008): Linking Institutional Change and the Flows of Ecosystem Services: Case Studies from Spain and Hungary. Proceedings of the 2ndTHEMES Summer School: 118-145 (draft version).  Renn, O. (2007): Glossary for GoverNat (manuscript).  Homepage of the Kiskunság National Park <a href="http://www.knp.hu/">http://www.knp.hu/</a>  <a href="http://en.wikipedia.org/wiki/Cumans">http://en.wikipedia.org/wiki/Cumans</a>  Kiskunság Biosphere Reserve:  <a href="http://www.unesco.org/mabdb/br/brdir/directory/biores.asp?mode=all&amp;code=HUN+03">http://www.unesco.org/mabdb/br/brdir/directory/biores.asp?mode=all&amp;code=HUN+03</a></p>
[12]	Hungary	Participation in the foundation and governance of the Körös-Maros National Park	1980s - ...	LOCAL International, EU, national, regional	Negotiation between ENGOs and national park administration, informal cooperation between farmers and national park administration (farmers and national park administrators attend each others' meetings, national park directorate consults farmers regarding agri-environmental schemes)	<p>Bird Life Hungary: <a href="http://www.mme.hu/">http://www.mme.hu/</a>  Bolno-Takács, K. (1997): Körös-Maros National Park Directorate. Brochure by: European Centre for Nature Conservation; The European Union PHARE programme; Ministry for the Environment, Hungary; National Authority for Nature Conservation, Hungary.  Domokos, A. (1999): An oasis wedged among cultivated lands –The Körös-Maros National Park., pp.167-178, in Tardy, J. (chief ed.): Conserving Hungary's Heritage –The National Parks and World Heritage Sites, TermészetBÜVÁR Alapítvány Kiadó, Budapest, 1999.  Fehér, I.: Review of the land market and institutions in Hungary. PowerPoint presentation. GTK, SZIE  Hungarian Central Statistical Office: <a href="http://portal.ksh.hu">http://portal.ksh.hu</a>  Kalotás, Zs. (2004): Körös-Maros National Park. pp.130-151, Kalotás, Zs.: Hungary's National Parks –Nature and landscape, Alexandra Kiadó, Pécs.  Körös-Maros National Park: <a href="http://kmnp.nemzetipark.gov.hu/">http://kmnp.nemzetipark.gov.hu/</a>  Körös-Maros Nemzeti Park Igazgatóság, Szarvas, current flyer, 2008  Renn, O. (2007): Glossary for GoverNat (manuscript).  State Secretariat for Nature and Environment Protection: <a href="http://www.termeszvedelem.hu/">http://www.termeszvedelem.hu/</a></p>

### **3.2. Legal compatibility**

International and / or EU legislation has been an important driver for initiating national and sub-national decision-making processes in many of the cases, such as implementing the Birds and Habitats Directives across various levels in Finland [2], Spain [6] and Portugal [9]; or developing the National Biodiversity Strategy in Austria [8] and compiling the National Biodiversity Action Plan in the UK [1] according to the Convention on Biological Diversity (CBD). However, in some cases national decision processes had a more complex relationship to the international institutional arena. For example, in the case of [5], decision-making was initiated by local nature conservation administration who tried to employ the international PAN-Parks certification scheme as the main measure to fulfil their responsibilities concerning nature conservation. However, the bottom-up initiative in this case has not yet managed to find enough support from other stakeholders to build a cooperative network. In the bark beetle management conflict of the Bavarian Forest National Park [10], national and sub-national nature conservation authorities were inspired by international recognitions for the natural state of the park (the IUCN award and Europe Diploma for national parks), using these as means to comply with national and sub-national nature conservation legislation.

What role does legislation play in supporting or constraining participatory approaches in the cases? Participation in several of the cases, like [4], [5] and [10], is more of informal nature, i.e. networked interactions between different stakeholders, members of the public, and scientists. Here, it is more difficult to examine the impact of legal requirements on participation because of the prevailing impact of the informal institutional environment. In addition, decision-processes in several of the cases are ongoing, so it is still too early to depict the exact relationships between the legal requirements and actual participatory practice.

Other cases give mixed results in terms of implications of legislation on the practice of participatory approaches. For example, from the international level, the COP guidance for developing and implementing national biodiversity strategies and action plans according to the CBD (COP 2008) encourages “*preparing, updating and implementing national biodiversity strategies and action plans with the participation of a broad set of representatives from all major groups to build ownership and commitment*”. However, in the case of drafting the National Biodiversity Strategy in Austria [8], the participatory platforms (mainly the National Biodiversity Commission, NBC) provided opportunities to be involved for actors from multiple levels but

their participation did not have much influence on the actual biodiversity policies, e.g. most of the outputs of the NBC are not legally binding. This could be one reason why the participants' degree of motivation to contribute considerably decreased in the latter phases of the initiative, and the National Biodiversity Commission suffers from declining participation in recent years. In some of the Natura 2000 cases, e.g. [2] or [6], the nature of informative and participatory approaches was compatible with the legal requirements for participation at EU and national levels. However, these requirements turned out to be insufficient in practice, e.g. in terms of leaving little room for deliberation between different stakeholders and various governmental bodies, which resulted in antagonism and opposition among these parties. For example, in the case of the Natura 2000 areas' designations in Catalonia [6], information distribution was foreseen by the national legislation but the information events and some consultations were held only after the conflicts over site designations between different parties already turned out to be clearly visible.

It seems that guaranteeing compatibility between formal international / EU requirements, national legislative frameworks and the practice of biodiversity governance is not a remarkable problem as such. For example, in the case of the bark beetle management conflict in the Bavarian Forest National Park [10], decisions taken by governmental actors were compatible with supra-national, national or sub-national legal principles of nature conservation, but the decision process and its outcome were not accepted by local people until their concerns were considered and taken into account. Instead, implementing supra-national requirements in a way that the informal social norms in a given context are respected has proven to be rather problematic in several of the cases. The case of the Finnish Natura 2000 designations [2] shows that the conflicts between environmental authorities and local people, farmers and foresters were in part caused by the fact that the historically important autonomy of local landowners was not adequately considered when communicating the messages about the Natura 2000 network to them. A similar example is the governance of Kiskunság National Park (Hungary) [11] where farmers' traditional independence in land use decisions has possibly made their cooperation with each other as well as with the administration challenging. Moreover, it seems that incompatibilities between the way how international formal biodiversity protection rules are implemented with regard to local social norms, can result in further problems with formal legal compliance. For example, problems emerged with implementing the Habitats and Birds Directives as regards to meeting the deadlines of submitting the national lists of potential Natura 2000 areas [2] or the sufficiency of those proposals in Finland [2] and Spain [6], or EC court cases about the impact of development projects on the favourable status of Natura 2000 areas in the Slovak Tatras National Park

management case [4] or the Catalanian Natura 2000 implementation case [6].

### **3.3. Accountability**

The cases demonstrate well the complexity of accountability relationships in multilevel biodiversity governance, e.g. the multiplicity of accountability forums (accountability holders) at different levels, and respectively different types of accountability. The central decision of the BAP process in the UK [1] – validity of biodiversity knowledge – is made at several policy levels, from international to local. However, in this process, the national government has the final mandate for decision making and can also be held accountable towards international institutions for the national biodiversity action planning. In those cases that focus on Natura 2000 designations and management in Finland [2], Spain [6], Slovakia [4], or Portugal [9], national and sub-national governmental bodies (depending on the country-specific administrative context) can be held legally accountable towards EU institutions. In some other cases, where international biodiversity agreements have significant influence, national governments should be accountable towards international institutions, such as the UK national government towards COP of the CBD regarding the national BAP [1]. Thus, the cases suggest that in addition to being democratically accountable towards their electorates, governmental bodies are also expected to be upwardly accountable towards supra-national bodies, as well as be socially accountable towards their stakeholders, e.g. local people, economic actors, and other interest groups.

Responsibilities for biodiversity governance are in many cases shared between actors from different levels. However, in several cases, such as [5], [6], [7], responsibilities are not clearly defined, or are shared without proper resources necessary for effective implementation. For example, in the case of the Slovak PAN-Parks certification process [5], since some responsibilities for nature conservation are not very clearly defined between State Nature Conservancy and State Forests (two major governmental actors dealing with biodiversity and forestry issues respectively), their relationships are rather antagonistic. Moreover, the State Nature Conservancy has much less legal and other resources to carry out its duties than the forestry body. Similarly, in recent years the national government has transferred many responsibilities for environmental issues to the regional government, however, without proper resources.

In the case of implementing the Natura 2000 network in Catalonia, Spain [6], the responsibilities and resources for nature conservation are somewhat ill-defined between two sub-national

governmental departments. Department of Environment and Housing (DMAiH) – the main body responsible for implementing the Natura 2000 network in Catalonia (sub-national level) – shares some responsibilities for Natura 2000 with another governmental body – Department of Agriculture, Cattle Farming and Fishing (DAR). However, the latter has much more financial resources, including finances for biodiversity from the rural development funds, to fulfil its responsibilities than the first. This, together with their controversial interests (biodiversity conservation versus agricultural production respectively) has caused some conflicts between the two departments.

In a similar way, responsibilities for protected areas' management are somewhat vaguely defined in case [7] between the newly established Greek Ministry of Environment, Planning and Public Works (MoEPPW) and the Ministry of Rural Development and Foods, which has long carried the primary responsibility for nature conservation issues. National park management boards – core administrative bodies at local level – comprise of actors from different sectors and levels, but struggle to deliver their duties because they get limited technical assistance and advice from upper levels (e.g. from the MoEPPW).

### ***3.4. Representation and inclusion***

In most of the cases, stakeholder settings connected to different biodiversity issues are numerous and heterogeneous, representing different levels, policy sectors and public-private affiliations. The case of bark beetle management in the Bavarian Forest National Park [10] is a good example of biodiversity matters spanning across different policy levels and the various stakeholders associated to these levels. The international level, represented by the IUCN, affects the issue by awarding the international recognition to the national park; the European level (Council of Europe) awards the European Diploma for national parks; the sub-national level (German state) is the central actor who has the power to finally decide on all nature conservation issues within the state. At lower levels, the national park administration, local national park committee, local authorities, but also farmers, foresters and other local people, tourism companies, environmental NGOs are important stakeholders affected by the park management decisions.

Several cases, e.g. [2], [4], [5], [6], [10] began with antagonistic relationships or conflicts between key stakeholders. Irreconcilable interests emerged between, e.g. biodiversity protection at one side and unsustainable use of natural resources – intensive agriculture, forestry, or tourism – at the other side. However, inclusion turns out to be a complex issue that is affected by several

factors, such as by the object of inclusion, by the way different concerns and world-views are communicated, and by the institutional background on inclusion.

The object of inclusion is an important matter for example in the case of the BAP planning in the UK [1]. Here, the participatory process was organised for a specific purpose (to fulfil the expert knowledge gaps on certain species) and not adequate attention was paid to the concerns of the participants: their personal experiences, value systems, etc. Thus, in this case only certain aspects like knowledge claims in a pre-defined format were included, but at the same time, different interests were not well-represented or included.

In several cases conflicts were aggravated because of the poor ability of different parties to address the differences in their world-views and problem perceptions. Nature had different meanings for the local landowners and for environmental authorities in the Finnish Natura 2000 designations case [2]: for the landowners, it was a place for economic production, for environmental authorities, it was something valuable to conserve. In this case, the landowners were disappointed with the mistrust shown by the environmental administration towards their ability to conserve the natural values as part of their normal agricultural practices. In the Tatras National Park forest management debate [4], foresters argued that bark beetles constitute a considerable risk for the forest ecosystem, whereas nature conservationists claimed the bark beetles to be an everlasting natural phenomenon. Similarly, in the bark beetle management conflict in the Bavarian Forest National Park [10] local peoples' notion of a well-managed forest differed considerably from that of the nature conservation authorities, but this difference was initially not adequately addressed in the decision process.

In some cases, the socio-political context of the case (e.g. the historical background) strongly affected the inclusion of different concerns. In the case of the governance of the Kőrös-Maros National Park [12], expert knowledge has long had a high status in the society, for example during the communist regime in Hungary. Thus, scientific, expert, and environmental-NGO interests tend to be better included in the decision-making over the park management than local farmer's interests.

However, several of the cases where some relevant concerns were initially not included, evolved towards better acknowledgement and inclusion of different interests, values, or knowledge claims. The conflict in Finland over the Natura 2000 designations [2] eventually made the environmental authorities better understand the locals' needs, and the whole process functioned

as a learning process for the future. The BAP process in the UK [1] initially considered mainly the interests of national level governmental stakeholders. However, in the course of the participation process of amateur naturalists, the stakeholders (government, scientists and naturalists) eventually started to be better informed about each others' expectations. Similarly, through an interactive public discussion, the conflict over bark beetle management in the Bavarian Forest National Park [10] turned into an agreement, balancing local concerns as well as conservation interests.

### ***3.5. Transparency***

Transparency turns out to be problematic in several cases. Since the expectations of amateur naturalists, governmental actors and scientists in the knowledge production process while compiling the UK Biodiversity Action Plan [1] were initially not clearly communicated, amateur naturalists were dissatisfied with the process. One reason for this might be that the expectations were not clear to the relevant parties when the decision process started, but turned better visible in the course of the process. In the Ahtialanjärvi lake restoration initiative in Finland [3], rules and assumptions were clearly communicated among the network of naturalists who were directly involved in the restoration works, but the visibility of the process was somewhat poor for the wider public and for the environmental administration.

Problems of transparency also emerged in the Finnish Natura 2000 case [2] where landowners' opposition towards Natura 2000 was primarily caused by farmers' misunderstandings of the nature conservation requirements to be stricter than they actually were. In the case of Körös-Maros national park [12], the farmers did not initially well understand the requirements of agri-environmental schemes.

In several cases, the problem was rather the inability to communicate the perceptions or expectations of different stakeholders than transparency of the process as such. For example, in the cases [2], [4] and [10], the stakeholders initially opposed to each other's notions of sustainable forestry and biodiversity management, and this non-recognition of each other's perspectives has been one of the causes for the initially antagonistic relationships between the stakeholders.

However, like the inclusion of different interests, decision-making processes also became more transparent in the latter phases of several cases: conflictual processes functioned as learning

devices that made the authorities and other stakeholders to accept and recognise better each other's problem perceptions, needs and values.



#### **4. Discussion: revisiting legitimacy challenges in multilevel context**

##### *Compatibility with legislation*

Incompatibilities between informal social norms and formal rules, rather than legal compatibility *per se* were problematic in several of the cases. Informal rules included for example historically embedded patterns of land use rights which give basis for local stakeholders' rights and duties regarding natural resource management and for their perceptions about nature conservation requirements. This finding reinforces the need to equally consider formal and informal institutions, in order to ensure effective governance in the environmental arena: the goals of formal and informal rules should, in an ideal case, be compatible and complement each other (Pahl-Wostl 2009). However, since informal rules tend not to be documented and they are usually enforced outside of the legally sanctioned channels (*ibid.*), being aware of these rules and taking them into account might be more difficult than to comply with formal rules.

The cases do not provide a straightforward answer to the question of how do legal frameworks and actual participatory practice most meaningfully relate to each other in multilevel contexts. One may argue that since the Habitats and Birds Directive are in principle not compatible with interactive participation, the implementation of the Natura 2000 network has triggered many conflicts in various EU member states, like the Finnish and Spanish Natura 2000 cases analysed in this paper, and some other studies, e.g. Alphantery and Fortier (2001), Eben (2006), or Sauer (2006) have shown. However, some other cases where participation has primarily been based on informal interactions, as has been for example the case of the lake restoration in Lempäälä [3], suggest that legislative support of participation might not always be a considerable factor to ensure legitimate decisions.

##### *Accountability*

The complexity of accountability relationships in multilevel governance systems – diversity of relevant policy levels, different accountability forums and types of accountability – (Lockwood 2010; Papadopoulos 2008; Rhodes 1998) is well illustrated by the analysed biodiversity cases. Many cases have problems with defining and/or sharing of responsibilities between different actors from various levels. It refers to poorly conducted decentralisation (Lockwood 2010; Ribot et al. 2006) – when duties are diffused to a wide range of different actors who however do not have much control over these issues. Under such conditions, accountability may be ultimately weakened (*ibid.*), supposedly because the actors are struggling to carry out their responsibilities

and may eventually not be able to conduct the duties they are expected to perform. Some of the analysed cases show how lower levels are searching for new ways of exerting influence in order to achieve their aims under the conditions of poor distribution of power and resources. For example, in the Slovak PAN-Parks certification case [5] local conservation authorities used the PAN-Parks certification scheme to fulfil their nature conservation duties. However, since decision-processes in many cases are still ongoing, it is too early to test the hypothesis whether accountability in such cases will ultimately be weakened or not.

As noted by previous studies (Lockwood 2010; Papadopoulos 2008), some cases suggest that being equally effectively accountable in two directions at the same time might be a significant challenge. During the Natura 2000 designations in Finland [2], national governmental bodies are finally accountable towards EU authorities with regard to complying with the requirements of the Birds and Habitats Directives, and the national governmental bodies struggled hard to comply with the requirement of submitting a national proposal of Natura 2000 areas to the EU Commission within a given time-frame. At the same time, they did not have enough time and other resources to organize a proper communication and consultation campaign for the lower levels' stakeholders. In this case, upward as well as downward accountability was initially weak: national government did not meet the deadline of submitting the Natura 2000 areas' proposal, and it did not manage to inform local and regional stakeholders adequately. Nevertheless, in this case, local stakeholders' (farmers, foresters, landowners) protests made governmental actors to respond to their concerns and resulted in a better communication between the lower and upper level, which eventually can also result in better accountability.

However, the case materials did not contain sufficient information on the character and on the actual functioning of accountability mechanisms, i.e. what are the paths of information provision and the ways of how people can question the actions of decision-makers. Since a clearer picture of accountability mechanisms would help to understand the implications of the problems with decentralization, two-level accountability, etc. that can be observed in the cases, taking a closer look at the accountability mechanisms and their effectiveness would be a relevant topic for further research.

### Representation and inclusion

The question of inclusion and representation has perhaps brought up the most issues from the four analysis criteria, foremost in terms of the relationships between informal processes and inclusiveness, the dynamics and the object of inclusion.

Multi-level governance settings often rely on informal decision-making rather than formal structures (Hooghe and Marks 2004; Peters and Pierre 2004) which is claimed to favour the inclusion of upper levels' concerns and organized interests better than others. Since most of the analysed cases in this paper deal with stakeholder participation and much less with public participation (i.e. with fully non-organised interests), it is difficult to examine whether non-organised interests are more weakly included in the cases. Nevertheless, the issues of representation and inclusion come up in some cases. For instance, the case of the Austrian biodiversity strategy [8] shows that initially the National Biodiversity Commission was designed to be a promising device of involvement, representing a diverse set of stakeholders from multiple sectors and levels. In practice, participation in this body has rather been a state-driven process (dominated by public authorities) and although it has been a forum open for all interest groups and NGOs, the power relations in it are biased towards more resourceful interest groups with good relations to the ministries. Do MLG settings favour the inclusion of interests from some levels, especially upper levels, more than others (Peters and Pierre 2004)? Indeed, participation was initially mainly organised for national level interest groups in the Finnish Natura 2000 case [2]; and in the current debates about forest management in Tatra National Park [4], national governmental interests dominate whereas local and especially environmental concerns do not have much influence. Conversely, in the lake restoration case in Finland [3], local as well as international interests are represented in the decision-process. However, this representation of interests from various levels has though lead to a conflict and up to now, no solution has been found that would satisfy both sides: environmental administration and volunteer naturalists (Santaoja 2010).

In their analysis of legitimacy of the EU-wide cormorant action planning, Rauschmayer and Behrens (2008) found that various interests were better included in latter phases of the decision-process than in the beginning. Inclusion of concerns from different levels has proven to be a dynamic process in most of the cases in this paper as well. In some conflictual cases, local interests were initially not adequately considered, but in several cases, such as [2] and [10], the processes evolved towards better accepting and including local concerns too. Thus, one has to examine inclusion at different time points of decision-processes, in order to make adequate claims about inclusiveness. The cases also indicate that conflicts, when addressed constructively, have the potential to function as learning processes, providing a good basis for mutual understanding and acknowledgement of interests. Additionally, the object of inclusion can be a significant issue. Some of the analysed cases suggest that not inclusion *per se* but rather what is

included (values, interests, knowledge claims, etc. (Berghöfer et al. 2008)), is problematic. The case of the amateur naturalists' participation in the BAP planning in UK [1] demonstrates a mismatch between the expectations of the conveners of participation and the participants regarding what should be included. Initially the BAP process primarily focussed on the inclusion of the knowledge claims of amateur naturalists, since this was the priority of the governmental actors, and was somewhat insensitive to other aspects of inclusion that were important for participants (their personal experiences, aesthetic values of biodiversity, etc.).

To conclude, the cases do not provide a straightforward answer to the question of what role does informality play in favouring or hindering the inclusion of different interests in decision-making processes. Some of the informal cases, like [3], [10], [11], [12], even better include different interests than those cases where participation has taken a more structured format. This tends to support the idea that informal communication can form a crucial part of formal participatory approaches (Buanes et al. 2005; Lee 2007). Formally organized participatory arenas, like public meetings, require certain capacities from the participants, such as good knowledge on local issues, facility in talking about them as well as time and resources to attend meetings (Lee 2007). However, participation in more informalized contexts, like repeated direct contact between farmers and nature conservation authorities where park administration seeks constructively contact with the farmers (for example by attending farmers' meetings), have been quite effective to build trust and mutual understanding between local stakeholders and nature conservation authorities in the Körös-Maros National Park [12].

### Transparency

As inclusion, transparency in multi-level contexts is claimed to be weak, mainly because of the informality of decision-making processes (Benz 2001; Papadopoulos 2008). Similarly, several cases analysed in this paper have shown that ensuring transparent decision-making is not an easy criterion to fulfil. Transparency for the general public has indeed been questionable in the more informal cases, like [3] and [12]. However, transparency has proven to be problematic also in some more structured decision processes, such as the cases [1] or [2], though, in these cases respective processes were somewhat poorly visible for the participants (insiders).

Causes for poor transparency in these cases seem to be rooted in divergent problem perceptions (cases [2], [4], [12]) and expectations (case [1]). These perceptions give basis for the assumptions what the stakeholders regard as adequate, how the participants relate to each other and how they communicate their assumptions, expectations and world-views.

## 5. Conclusions

Since decision-making in many of the cases is still ongoing, it is too early to draw overarching conclusions, and as the cases differ from each other to a great extent – foremost in terms of study focus, country-specific political-administrative context, and the nature of the participatory process –, it would not be appropriate to make deep generalizations on the basis of all case studies.

However, what the cases have shown so far is that each of the four legitimacy criteria is a complex concept, encompassing many different aspects. For example, understanding inclusion needs the consideration of the object as well as the dynamics of inclusion that relate to different time points of decision process. In several of the cases, responsibilities and resources have been ineffectively shared between different actors from various governance levels; however, the exact implications of these observations on accountability are still questionable. Several of the legitimacy challenges in multilevel governance can be observed in the cases, for example the poor inclusion of certain concerns at some time points of the decision process, difficulties in being accountable towards multiple levels simultaneously, or the poor visibility of the decision process either for the general public or for the immediate participants. However, the causes of these problems are not very straightforward. For example, the informality-formality interface comes up almost in all of the four legitimacy criteria, but it is not very clear how does this exactly relate to the legitimacy problems in case of each criterion, e.g. to what extent should participation be formalized in multilevel governance contexts, or how does informality affect inclusion or transparency? If one intends to gain better understanding of the causes for the legitimacy challenges in multi-level governance of biodiversity, these issues deserve attention in further research.

However, several of the cases have demonstrated that conflictive situations can well be turned into agreements where different interests are better acknowledged and included, actors are more responsive about their performance, and processes are more clearly visible for those affected by them. Achieving acceptable outcomes in such processes requires from all participants openness and willingness to learn from the process as well as from each other.

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