

# **Sustainable Regions: Making Regions Work**

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# THE IMPLEMENTATION OF THE EU HABITATS DIRECTIVE IN THE GERMAN LAENDER. THE CHALLENGE TO ENFORCE ECOLOGICAL AIMS AND THE RISKS OF TOP-DOWN-PROCEDURES

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European environmental policy is frequently discussed in terms of implementation deficits, little popularity, technocracy etc., whereas the need for action towards environmentally efficient action is widely demanded. Considering the Habitats Directive as an example, this paper sheds light on the role that *spatial concepts* play within environmental governance of the European multi-level system. These comments bring together aspects from implementation research (JORDAN 2002) with a strand of human geography that focuses on the (discursive and social) *construction of space* (CRANG/THRIFT 2000). The aim of this paper and the underlying research project is to better understand space related conflicts in environmental politics.

The Habitats Directive of the European Union<sup>2</sup> aims to protect fauna and flora on a trans-boundary European scale and forms – together with the Birds Directive<sup>3</sup> – the core of EU nature conservation policy. In the long run, more than 10 per cent of the EU territory will be part of the protected 'Natura 2000 network' which will be the outcome of both nature protection directives.

The Habitats Directive has been designed as a very strong instrument to achieve ecological goals, namely the protection of biodiversity and the natural heritage. However, after thirteen years of implementation the impression is somewhat mixed: On the one hand, the comprehensive site selection process is almost completed, on the other hand, the implementation history has been characterised by political controversies, procedural delays and legal combats across the European Union (SCHOLL/CHILLA 2005, LAFFAN 2005, KROTT et al. 2000). In order to explain the wide-spread implementation difficulties, several approaches refer to lacking regulations of procedural or financial aspects, to the very ambitious timetable of the directive etc. (e.g. PAAVOLA 2004; ALPHANDÉRY/FORTIER 2001). In Germany implementation deficits have also been explained with the peculiar domestic competence structure in nature conservation: Whereas the *national* government negotiates exclusively with the European level and is responsible to enact the legal framework, the implementation competence resides solely with the *Laender* (states).

The relevance of *space* and *spatial constructions* on each political level has hardly been assessed so far. A closer look on the negotiation and (re-) interpretation processes of spatial concepts might contribute to a better understanding of the problems encountered on the regional level. This is especially true as nature conservation is a decidedly space related policy.

Already in the early phase of the decision making process on the European level, particular constructions of space have been established. 'New' borders, scales and regions turn out to be important political tools within the formulation of the directive (HIEDANPÄÄ 2002; cp. SWYNGEDOUW 2004): First, the Habitats Directive explicitly aims to protect a 'coherent network' of protection areas on a 'European scale'. However, the implementation process reveals that a coherent system cannot be realised on a *physical* level. Nevertheless, the discursive framing has still served as a *political* tool: If one accepts the necessity of 'transboundary' and 'coherent' action to protect the 'European natural heritage', then obviously the EU can manage this much better than any national authority. Second, the European Commission assesses the scientific integrity of national lists with reference to so called "biogeographic regions" which are not congruent to the national member states' territories. This, too, supports the political argumentation in favour of an EU competence.

The consequences of the directive could hardly be spatially *allocated* before the late 1990s: Although the annexes of the Habitats Directive list in detail the (Latin names of the) species that have to be protected, only few experts have the conservation biology expertise to 'translate' these informations into the spatial consequences. As the relevance had been underestimated, the public political discourse on this issue has not been very vivid until the late 1990s. Given this, the spatial constructions of the directive 'deterritorialise' the later consequences. This is an important point to explain why the Directive could have been enacted without fierce resistance of stakeholders that complained bitterly in later years.

In Germany, the supporting storyline went that the directive mainly addressed the Mediterranean member states. Germany with its long standing nature conservation tradition would easily comply with the directive. By this strategy, sceptical actors could be appeased during the early stage which opened a window of opportunity for enacting the directive.

Today, both opponents and supporters of the Natura 2000 process agree that the shift of the conservation policy onto the European level has profoundly strengthened this issue as it has 'by-passed' barriers on the national level. The preliminary deterritorialisation and, in that, depoliticisation of nature conservation 'claims' has been important for this process.

The directive prescribes a three-step-procedure in order to select the sites: First, the member states have to select areas that meet the requirements of the directive's annexes, which

then – second – the Community assesses. Third, the member states have to undertake measures in order to protect the selected sites. The first two steps are designed as purely technical procedures. Spatial claims that are not issues of pure conservation biology must not be considered before the third step. Due to the dominance of scientific criteria prescribed by the directive and reinforced by the European Court of Justice, an expertocracy has been established: Only arguments based on nature conservation are taken into account and all other claims had to be ‘translated’ into these argumentations.

By this very narrow understanding of participation, a ‘biocentric’ approach has been established, that aims to protect nature while neglecting human interests to a great extent. This biocentric procedure restricts the more multifaceted discursive constructions of the directive that refer to ‘natural heritage’, ‘sustainability’, ‘wild species’ etc. (cp. DEMERITT 2002).

In the late 1990s, the claims of the Habitats Directive and, thus, of the nature conservation authorities, become very clear on a regional level as concrete areas are spatially identified, mapped and negotiated. The conflicts on this level and in this stage get very fierce and tedious also because concerned land users are uncertain about their future legal situation: Until today the legal consequences of the Natura-2000-status are not clarified conclusively. Moreover, in some regions people have lost faith in the planning authorities that have, in the early days, promised the consideration of economic and social claims. In the process, however, these considerations had to be shifted to a later phase.

Against this background, we learn that the construction of space, (de)territorialisation and scaling serve as important political tools. In the case of the Habitats Directive, these strategies have helped to establish a strong instrument of nature conservation policy that might help to protect European nature. At the same time, the narrow understanding of participation and the loss of acceptance of nature conservation and of faith in the authorities seem to be a high price for these achievements. Yet, the implementation process of the Habitats Directive is not completed and until today the long run benefits are not ensured at all, as a complete revision of the directive is still discussed. In that, the strategy of by-passing national barriers and of deterritorialising spatial claims turns out to bear serious risks.

The dilemma of how to enforce ecological instruments without neglecting the concerns of regional and local stakeholders cannot be solved by scientific analyses alone. However, the negotiation of spatial constructions has to be considered more extensively in order to better understand potentially contentious political processes.

#### Footnotes

1 This paper is based on an interdisciplinary research project that is carried out at the University of Cologne (Germany) by geographers and political scientists and which is funded by the German Research Foundation (for further details see [www.raumbilder.uni-koeln.de](http://www.raumbilder.uni-koeln.de)).

2 Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora

3 Council Directive 79/409/EEC of 2 April 1979 on the conservation of wild birds

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