

**Coping with mandated public participation: the case of implementing the
EU Water Framework Directive in the Netherlands**

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Abstract

An important aspect of contemporary European policy-making is public participation. The European Commission increasingly mandates its Member States to involve the general public in policy-making through public participation. Public participation is generally considered to improve the legitimacy and democracy of the policy-making process and its outcomes. However, *mandated public participation* creates severe difficulties for Member States whose policy-making process may be characterized as a (neo)corporatist system of interest representation. This paper presents the case of the implementation of the EU Water Framework Directive in the Netherlands, aiming to highlight these difficulties, to provide an example of how a Member State may cope with forced public participation in a (neo)corporatist environment, and to question whether

and, if so, how mandated public participation actually results in a more democratic and legitimate policy-making process.

Keywords

Policy-making, interest group representation, corporatism, public participation, water policy

Introduction

Public participation is gaining increasing attention in European environmental policy-making. The European Commission (EC) considers public participation to be key for interest representation, especially in environmental and water policy (e.g. EC, 2000, 2001; EC, 2003a, 2003b). In general, public participation is considered to be a strategy to increase the legitimacy, democracy, quality, effectiveness and efficiency of the public policy-making process and its policy outcomes (Bischof & Davis, 2002; Giddens, 2000; Offe, 1984).

In the first years of this century, public participation in the EU was found to '[remain] stubbornly low, public support for it is highly variable across the Member States, and public understanding of the EU is somewhat patchy' (Greenwood, 2011: 5). This paper discusses an EC solution for increasing public participation across the Member States: 'mandated public participation'. By the term 'mandated public participation', we refer to a situation in which the EC requires the Member States to ensure public participation when implementing policies. We address an illustrative case: the implementation of the Water Framework Directive (WFD) (EC, 2000) in the Netherlands. This EC directive aims to improve water quality throughout Europe. The WFD is an intriguing case, as it was the first piece of EC legislation that forced the Member States to ensure public participation through information sharing, consultation, and the involvement of the public in policy-making and implementation (cf. Newig, Pahl-Wostl, & Sigel, 2005).

We question, however, how this requirement for public participation, and especially the involvement of the public, fits with the Member States' approach to interest representation within their policy-making processes. After all, the different Member States have different institutionalized traditions and approaches for the representation of different interests. Using a broad brush of generalization, these lie on a sliding scale from pluralist to corporate systems of interest representation (e.g. Bischof & Davis, 2002). Public participation through involving the public, however, is a typical pluralist tool for interest representation that, at first glance, seems to clash with corporate systems (e.g. Greenwood, 2011). Mandated public participation may then raise serious concerns for EU Member States with corporate systems of interest representation.

In order to understand whether there is indeed a clash between mandated public participation and corporatist systems of interest representation, we discuss the implementation of the WFD in the Netherlands; the Netherlands is a typical example of a country with a corporate system (Woldendorp & Keman, 2007). The Netherlands further is a particularly interesting case to study. Between 2000 and 2009 it invested a great deal of time and effort in meeting the EC's requirement for public participation in implementing the WFD, and is assessed positively by the EC for doing so (EC, 2012a). At first glance the Netherlands thus do conflict with our hypothesis. As such it provides us with a 'telling' case from which valuable insights and lessons may be drawn (McKeown, 2004).

This paper is structured as follows. We start with a brief discussion of the WFD, and focus especially on the relevance of the WFD as the first piece of EC

legislation that actually mandates Member States to achieve public participation. We continue with a brief discussion of corporate and pluralist systems of interest representation, and the role of public participation within these systems. We then discuss the Dutch case, in a discussion based on a series of in-depth interviews (n=53) and an online survey questionnaire (n=298). Finally, we conclude this article by discussing the main lessons learnt.

The Water Framework Directive and public participation

The background, history and content of the WFD have been discussed at great length elsewhere (e.g. Hoornbeek, 2004; Kaika & Page, 2003; Page & Kaika, 2003)¹; here we just discuss those aspects of the WFD that are relevant for our study.

The WFD aims for ‘good ecological status’ and ‘good chemical status’ for waters in Europe, by a set deadline of 22 December 2015 (EC, 2000, annex V and IX). What is innovative about the WFD is the organization of water management around *river basins* instead of around existing political or administrative boundaries which was the situation prior to its implementation (also, Page & Kaika, 2003). A river basin is a natural geographical and hydrological unit that defines a river; a unit that may – and often does – cross national borders and that requires coordination and cooperation between existing administrative units of the Member States.

The WFD requires a Member State to draw up a river basin management plan for each river basin within its national boundaries. The plan should be a

detailed account of how the goals of the WFD are to be reached in a Member State before the deadline. For our study it is relevant to stress once more that the WFD is the first European Directive that explicitly *mandates* Member States to ensure public participation as part of the policy-making process (the development of river basin management plans). Preamble 14 to the WFD (referred to as Article 14) provides a clear rationale for public participation: 'The success of [the WFD] relies on close cooperation and coherent action at Community, Member State and local level as well as on information, consultation and involvement of the public, including users' (EC, 2000: 2; see also, EU Working Group on Public Participation, 2002: 21). Article 14 mentions three forms of public participation (EC, 2000: 16): information supply, consultation and active involvement. Information supply and consultation have to be ensured by the Member States, while active involvement is encouraged but not required by the EC (EU Working Group on Public Participation, 2002: 17).

Article 14 leaves much room for interpretation by the Member States – as do many provisions of the WFD. Various working groups have drawn up so-called implementation strategies aiming to support Member States in the implementation of the WFD. One of these groups, the informal Working Group on Public Participation, focused on public participation; this group consisted of representatives of a number of Member States *and* the EC. We consider their final document (EU Working Group on Public Participation, 2002), a source that provides valuable additional information on the role of public participation in the

implementation of the WFD – but that is also an additional ‘official’ view of the Commission on public participation in the implementation of the WFD.

The EU Working Group on Public Participation defines public participation as: ‘allowing people to influence the outcome of plans and working processes’ (EU Working Group on Public Participation, 2002: 19). According to this Working Group ‘the main purpose for public participation is to improve decision-making, by ensuring that decisions are soundly based on shared knowledge, experiences and scientific evidence, that decisions are influenced by the views and experience of those affected by them, that innovative and creative options are considered and that new arrangements are workable, and acceptable to the public’ (EU Working Group on Public Participation, 2002: 21).

For the Member States the open-ended structure of Article 14 results in at least two challenging issues. First, it does not state *who* should be involved in this process of public participation – it refers to ‘all interested parties in the implementation of [the WFD]’ (EC, 2000: 16). Following a discussion of the EU Working Group on Public Participation we find that ‘interested parties’ include both stakeholders and the public (EU Working Group on Public Participation, 2002).

Second, the WFD does not pre-determine at what *scale* public participation should take place. Nevertheless, from Article 14 it may be concluded that public participation is relevant at all scales where activities take place to implement the WFD – the areas where actual measures are taken, but

also the areas where the impact of such measures is felt (cf. EU Working Group on Public Participation, 2002: 26).

Mandated public participation and corporate systems of interest representation

Moreover, the requirement for public participation may not only challenge the Member States, but it may even clash with the traditional approaches of some of them towards involving the public and other stakeholders in policy-making and implementation – more broadly referred to as interest representation (Arnstein, 1969; Bishop & Davis, 2002; Greenwood, 2011). This seems to be the case especially in corporatist systems of interest representation.

Generally speaking, two overarching systems of interest representation can be distinguished: pluralism and corporatism. We understand that these concepts are widely contested and debated, and we simply use them to refer to differences in the Member States' approaches to interest representation (for further discussions on the concepts see, among others, Cohen & Pavoncello, 1987; Dahl, 1978; G. Jordan, 1984; Molina & Rhodes, 2002; Smith, 1990).

Corporatism is generally used to refer to a system of interest representation:

in which the constituent units are organized into a limited number of singular, compulsory, noncompetitive, hierarchically ordered, and functionally differentiated categories, recognized or licensed (if not created) by the state, and granted a deliberate representational

monopoly within their respective categories in exchange for observing certain controls on their selection of leaders and articulation of demand and supports (Schmitter, 1974: 94-5).

The advantages of corporatism are expected to come from the long 'working relationship' between interest groups and the State: extreme demands tend to be moderated as the parties will meet each other again some other time; and decision making might be expedited since the parties know each other and do not have to spend time on exploring one another's character and area of interest (cf. Magagna, 1988).

Then, *pluralism* refers to a system of interest representation:

in which the constituent units are organized into an unspecified number of multiple, voluntary, competitive, non-hierarchically ordered, and self-determined (as to the type and scope of interest) categories that are not specifically licensed, recognized, subsidized or otherwise controlled in leadership selection or interest articulation by the state and that do not exercise a monopoly of representational activity within their respective categories (Schmitter, 1977: 9).

Corporatism is sometimes criticised for leading to a lack of meaningful participation of the public in policy-making and implementation, and the advantage of pluralism is the mere fact that anyone who has the resources to do

so can gain representation of her or his interests and access to State power. As such, pluralism is sometimes considered to be more democratic than corporatism (cf. Hunold, 2001; Magagna, 1988). Further, it may be argued that public participation, as discussed in the WFD, and especially the involvement of the public, fits well with the open structure of pluralist systems of interest representation, but less well with the more closed structure of corporatist systems (e.g. Greenwood, 2011). In the long run this EC requirement for public participation may change Member States' systems of interest representation. Or, in the eyes of some scholars, 'the Commission is often a deliberate instigator of pluralism' (Wallace, 1997: 13).

This raises the question of how countries characterized by corporate systems of interest representation deal with 'mandated' public participation. After all, governments cannot change their systems of interest representation overnight. The EC's requirement is expected to result in incremental changes to existing systems of interest representation. In what follows we discuss how mandated public participation was dealt with in the Netherlands, a typical example of a country with a corporate system of interest representation.² As already highlighted, the Netherlands is a particularly interesting case to study. Between 2000 and 2009 it invested a great deal of time and effort in meeting the EC's requirement for public participation, which we will discuss in what follows; and, is assessed positively by the EC for doing so: 'Public participation has been carried out very extensively [in the Netherlands], and stakeholder involvement

seems to be of great importance through the entire RBM development process' (EC, 2012a). At first glance the Netherlands do thus conflict with our hypothesis.

Research approach

The research presented here is part of an analysis of the implementation of the WFD in the Netherlands which was commissioned by the Dutch Ministry of Traffic, Public Works and Water Management (Anonymous, 2010). One of the aspects covered in this analysis was public participation, and especially the involvement of the public. We carried out this analysis between January and July 2010. In order to understand the implementation of public participation and its effects we questioned: (i) which parties were involved; (ii) how those parties were involved; and (iii) how close those parties were to the actual decision making.

We used a four-step approach for data collection and validation of findings. First, we built a story-line and topic list of the implementation process, based on an extensive study of existing documentation (cf. Venesson, 2008). The story-line consisted of a chronological overview of the implementation process: the decisions made, the actors involved, the critiques expressed, the reports produced, etc. The topic list summed up topics such as the specific implementation structure, a number of reports that either hampered or supported the implementation process, the different groups of stakeholders involved in the process, etc. (these are all discussed later in this article). We discussed this story-line and topic list in three interviews with key representatives of the

implementation process – a former director at the Dutch Ministry of Traffic, Public Works and Water Management responsible for the implementation of the WFD; a representative from a non-governmental organization; and a former Dutch lobbyist at the EC.

Second, based on the story-line, topic list and interviews, we carried out a series of 50 semi-structured and open-ended interviews with key players in the implementation process (cf. McCracken, 1988; Richards, 1996). We targeted three groups of interviewees, who represented a wide range of stakeholders at national, regional and local levels. The interviewees were national, regional and local policy-makers and government representatives (from Ministries, provinces, municipalities and Water Boards), specific interest group representatives (farmers and environmentalists), and industry stakeholder representatives (drinking water suppliers and land developers). Interviews were analysed using a structured coding scheme; inter-coder reliability tests were carried out by the various researchers involved (cf. Seale & Silverman, 1997; Silverman, 2001).

Third, the interviews provided the questions for an online survey questionnaire (cf. Wright, 2005). We targeted a wide range of actors involved in the implementation process: public officials at various levels of government, private sector and NGO representatives, interest group representatives, and the like. We asked 1,172 people to respond, of whom 298 filled out the questionnaire (response: 25.4%).

Fourth, and finally, based on an analysis of both the quantitative and the qualitative data we drew up an interim research report. Findings from this report

were presented and discussed in three expert meetings with key actors from government, NGOs, and other stakeholder organizations and interest groups. During the expert meetings, our findings were discussed and validated. Additional data from the meetings were processed in the final analysis.

Implementing the Water Framework Directive in the Netherlands: significant institutional changes

The Netherlands is renowned for its long history of water policy. Over the years – or, rather, centuries – a complex institutional structure has developed. (for good overviews of the history of Dutch water policy and past and current institutional structure see, Havekes, Koemans, Lazaroms, Poos, & Uijterlinde, 2004; Kuks, 2002). The pre-WFD institutional setting may be considered to be highly corporatist. That is, interest representation was put into practice by a small number of organizations, which were hierarchically ordered and recognized by the Dutch national government. Relevant actors in this pre-WFD institutional setting were the Association of Water Boards, the Association of Municipalities, the Association of Provinces, and a small number of stakeholder organizations (representing farmers, landowners and environmentalists) who promoted the interests of their members at a national and European level (Havekes et al., 2004; Kuks, 2002).

This pre-WFD corporatist structure of interest representation in the Netherlands *partly* fits the EC's requirement for public participation as laid down in Article 14 of the WFD and as interpreted by the EU Working Group on Public

Participation. After all, the Working Group interprets the wording ‘all interested parties in the implementation of [the WFD]’ (EC, 2000: 16) to mean two groups: stakeholders and the public (EU Working Group on Public Participation, 2002). The interests of stakeholders were represented under the pre-WFD institutional structure through associations and interest groups. Yet there is no *direct* representation of individual stakeholders, or the public in general, in the pre-WFD institutional structure.

Towards broader stakeholder and public representation

How then has the Netherlands met the EC’s requirement for public participation, and especially the involvement of the general public? After all, based on our literature review we hypothesized that (mandated) public participation conflicts with corporatist systems of interest representation. In order to understand how the Ministry of Water, Public Works and Transport³ (from here on referred to as ‘the Ministry’) has dealt with this puzzle, we have to look closely at the implementation structure.

The Ministry introduced a complex organizational structure to implement the WFD. The complex structure was necessary in order to bring together all relevant stakeholders of the former institutional structure for water policy in the Netherlands into the new river basin based structure. That is, a change had to be made from a structure following traditional geographical boundaries (i.e. 12 Provinces, 26 Water Boards, and about 470 Municipalities) to a structure based on seven (sub)river basins. Furthermore, the Ministry quickly understood that it

did not have sufficient expertise to implement the WFD itself – note that WFD Article 3 requires the Member States to identify an ‘appropriate competent authority’ for the application of the WFD for each river basin (EC, 2000: 8). In the Netherlands the Ministry was appointed as this authority. Figure 1 represents the organizational structure.

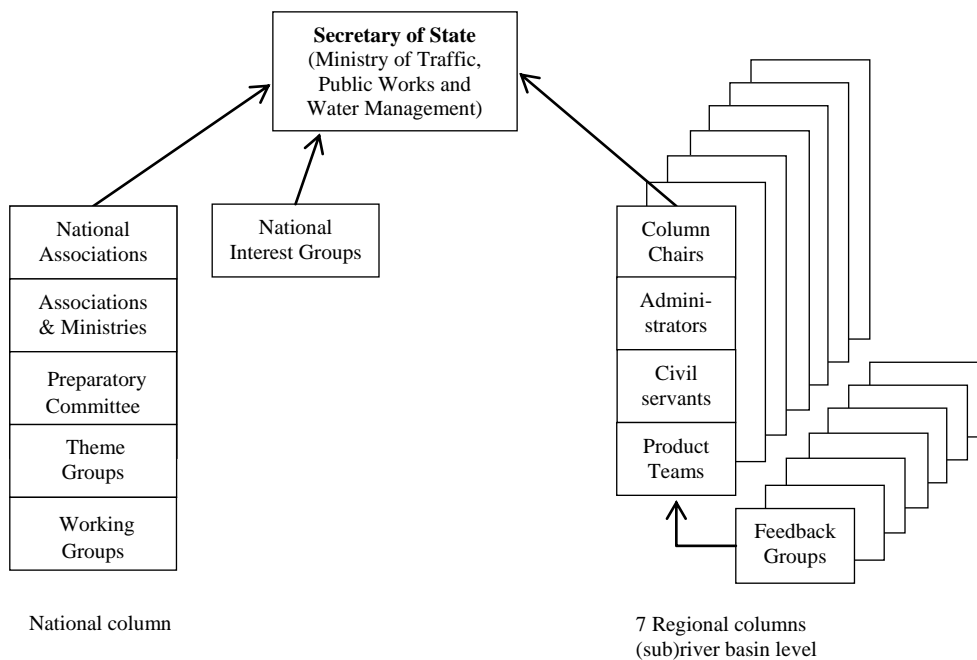


Figure 1 – simplified overview of the Dutch WFD implementation structure

(Source: Anonymous, 2010)

Put simply, the organizational structure for the implementation of the WFD in the Netherlands consisted of a set of columns: a national column and seven regional columns – one per (sub)river basin. This structure was designed and implemented by the Ministry in collaboration with the relevant stakeholders. The

national column was the arena for debates between representatives of national associations, ministerial departments and the Secretary of State responsible for the WFD implementation. The top of this column is key in interest representation: it is here that representatives of national associations had direct contact with the Secretary of State. It is also here that the framework for the implementation at (sub)river basin level was set. All other layers of this column may be considered preparatory – i.e., the two lower layers (Associations & Ministries and the Preparatory Committee) provided input for the debates at the top of the column; the Theme Groups provided input to the Preparatory Committee; and the Working Groups provided input to the Theme Groups. Interestingly, a separate arena was organized in parallel with the top of the national column. Here we find an arena in which national interest groups (i.e., groups representing industry, commerce, nature and the environment, and leisure) advised the Secretary of State on the implementation of the WFD.

The regional columns were the arenas for debates at the (sub)river basin level. In these columns we find that a regular debate took place between the chairs of the columns and the Secretary of State. The columns themselves were governed by administrators in the Provinces and Water Boards. These administrators took decisions on the implementation at (sub)river basin level. In doing this they were supported by civil servants from their own organizations. These were, in their turn, supported by Product Teams – comparable to the Theme Groups in the national column. A specific role was assigned to Feedback Groups – a mixture of representatives of prominent land owners (mostly nature

and environmental conservation organizations) and interest groups (i.e., groups representing industry, agriculture, commerce and leisure). The formal function of these groups was to provide input to the Product Teams.

This implementation structure clearly shows an understanding of the relevance of Article 14 of the WFD (public participation) in the Netherlands: interest representation is organized at various levels. Besides this formal structure, another specific approach was chosen to meet the EC's demands for public participation: 140 so-called 'Area Processes' were started, to involve citizens and local interest groups in the WFD implementation process.

However, another way of looking at this implementation structure is to see it as more or less continuing the traditional institutional setting (with the national column), and adding two new structures, the regional columns and the Area Processes, to aim to meet Article 14. This 'layering' of new to old institutions is not unique to the Dutch case (cf. Kampa, Kranz, & Hansen, 2003; Slavíková & Jílková, 2011) and brings to the fore questions of redundancy, interdependency, and the impact of such overlapping institutions (cf. Landau, 1969; Mahoney & Thelen, 2010).

Experiences of involving 'the public'

Although the EC in their assessment of the WFD implementation process speaks positively about public participation in the WFD implementation processes of the Netherlands (EC, 2012a), our respondents generally assess public participation in the Netherlands as a failure. Active citizen participation started late in the

implementation process, in 2008. This late start appears to be an outcome of an initial long struggle to develop the implementation structure as illustrated in Figure 1, and then the various involved parties having difficulty in getting used to it – that is, in accepting new power balances, developing new working structures, and starting new working relationships. Note further that citizens, as such, were not included in this implementation structure.

In 2007 the Ministry issued a report on the then first five years of the WFD implementation process. In this report the involvement of the public in the WFD implementation process was evaluated as negative: ‘Almost all respondents [in the Ministry’s study] indicate that during this first phase of implementing the WFD public participation has been mostly absent’ (Ministry of WPW&T, 2007, 24). The report further mentions that most respondents in the study saw the need for public participation, but that active involvement of the public was not planned to start before 2008.

By 2008, citizens (or, to use the EU Working Group on Public Participation’s wording, ‘the public’) were already faced with a large quantity of information through websites, newsletters, and brochures. Yet this supply of information may be considered to be a passive involvement of citizens – it is only a one-way stream of information. The active forms of involvement of citizens, through consultation or activities with a greater reach, which started later in the process, were limited. Citizens could participate in Area Processes or visit a series of seven information meetings throughout the Netherlands – that is, one meeting for each (sub)river basin. Yet few did so.

This low participation of citizens in Area Processes may partly be an outcome of their goals (cf. MB Advies, 2009). Area Processes were started to share local experiences of the WFD Implementation, to assess whether or not local solutions were 'WFD proof', and to gain insight into the various local measures taken throughout the Netherlands and their overall costs. These goals are relevant to landowners, farmers, and the like, so our interviewees explained, but they hardly appeal to citizens. Further, by 2008 many decisions had already been taken, which raises questions as to how meaningful the involvement of the public was at that point in time. Area Processes were mostly joined by interest groups – see, further, the discussion below.

Furthermore, citizens appeared to have limited interest in visiting the information meetings that were organized in parallel to the Area Processes. An anecdote is illustrative here: one of our interviewees recalled one of these meetings. Twelve people attended the meeting, but eleven of them were professionally involved in the WFD implementation. When they quizzed number twelve, they found that she was one of our researchers (in an earlier position), who had joined the meeting out of research interest. In short, no citizen attended this particular meeting – and the interviewees recalled similar experiences with other meetings. Interviewees shared an opinion that citizens are not interested in complex water issues when these are still vague and in policy papers. Following interview accounts, citizens start caring about such issues once the policies are implemented – e.g. once their house is due to be demolished because of the construction of a dike (for comparable experiences, see Slavíková & Jílková,

2011; Trajekovic, Kolakovic, & Ignjatovic, 2005). Also, one should ask to what extent citizens can get involved when they have only one chance to attend a meeting relating to their (sub)river basin, and how a citizen's voice makes it all the way up to the actual decision making process. After all, these meetings, which were not even included in the Dutch implementation structure (see Figure 1), took place at a great distance from the Secretary of State. One of our interviewees' criticism of these meetings is illustrative here: 'not much should be expected from putting a tablecloth on a table, sitting some bureaucrats on one end of it, and hoping that citizens will come to discuss matters at the other end of the table.'

To conclude, the chosen approach to involving the public – town-hall meetings and printed documentation – seems out of date. In addition to these traditional approaches, much information was provided through websites. Web-based public participation is generally considered to improve traditional public participation; yet, web-based public participation has been shown to be limited when potential participants have restricted or no internet access, or have only partial knowledge of operating computers and websites, or when the interface of the website is too complex (Stern, Gudes, & Svoray, 2009). Besides, the Dutch websites provided few if any possibilities for citizens to use their voices actively, because the websites mostly just contained information (for comparable experiences, see Kampa et al., 2003). As Bishop and Davis had already noted, information campaigns are 'hardly meaningful participation, since the flow is only one-way' (Bishop & Davis, 2002: 20). Having said that, only a small majority of

our respondents (51%, n= 266) feel that more active citizen involvement is needed in (future) WFD implementation processes.

Experiences of involving ‘stakeholders’

Although our data provides rather limited insights into the (active) involvement of citizens in the Dutch case, for the simple reason that there was hardly any involvement, more insight was gained into the involvement of stakeholders such as land owners, Water Boards, and interest groups. These stakeholders were involved in the implementation process through Feedback Groups and Area Processes, and their national representative bodies were involved in the national column of the implementation structure (see Figure 1). In the same way as active citizen involvement, these forms of participation faced severe criticism from our respondents.

First, Feedback Groups were introduced as the most prominent platform both for informing stakeholders in the (sub)river basins on the implementation process, *and* for giving these stakeholders a voice in the process (cf. Aquaterra, 2008). However, our respondents considered the Feedback Groups to be platforms where stakeholders just obtained information and were not given much chance to express their wishes and needs (also, IBT, 2006). Participants in the Feedback Groups mentioned the ‘cosmetic’ nature of their role in the consultation. As one of our interviewees put it, ‘our comments were added *to* formal policy documents, but are not reflected *in* policy’. Furthermore, the Feedback Groups were not formally included in the implementation structure

(see Figure 1), but were considered to be advisory bodies for it. This significantly distances them from the real centre of power within the implementation process. As an interviewee stated, 'although we were able to find consensus on a regional level, the distance between us [regional interest groups] and the Secretary of State was too large'. A majority of the respondents from the Feedback Groups considered that these groups had insufficient power in the implementation process (51.3%, n=39).

These experiences and considerations directly relate to what Arnstein (1969) refers to as 'empty rituals'. Although being consulted is an easy way to be involved in the policy process, stakeholders in this role do not have to affect the outcome of the process per se (Arnstein, 1969; A. G. Jordan & Richardson, 1987). The frustration of our interviewees sounded somewhat familiar: 'participation without redistribution of power is an empty and frustrating process for the powerless' (Arnstein, 1969: 216). Arnstein clearly places informing and consultation in the category of tokenism: 'the groundrules allow have-nots to advise, but retain for the powerholders the continued right to decide' (Arnstein, 1969: 217).

Second, Area Processes were, as discussed before, set up to share local experiences on the WFD implementation, to assess whether or not local solutions were 'WFD proof', and to gain insight into the various local measures taken throughout the Netherlands and their overall costs. The Water Boards were responsible for the initialization of these processes, which resulted in major differences in the various Area Processes. Furthermore, early on in the WFD

implementation process the Water Boards wondered exactly what was meant by public participation, who should be involved and at what level. In certain regions, interviewees explained, this resulted in a late start to the Area Processes and, under the strict deadlines of the WFD, a lack of time for structural discussions. One interviewee recalled: 'We only had three meetings to come to decisions. We didn't have time to sort things out if anyone disagreed with them.'

Further, severe criticism of the wide range of actors involved in such Area Processes was expressed. Bringing together a wide range of stakeholders makes it difficult actually to come to agreement on the issues, and agreements were felt to be 'watered down compromises between a wide range of actors'. Especially in water policy, the wishes and needs of different interest groups – for instance, those of farmers and ecologists – might clash, and in the Netherlands especially these two groups did clash early on in the implementation process (cf. van der Bolt et al., 2003). Also, like the Feedback Groups, the Area Processes may be considered as only giving advice to the formal decision making process. They are relatively distanced from the centre of power. It is therefore not surprising that our respondents wonder whether this type of consultation should be used in future policy-making processes (48%, n=116, think it should).

Third, besides these forms of direct involvement at a local level, stakeholders were also involved in the implementation process through their national representative bodies (in the national column, see Figure 1). As discussed earlier, this national column by and large reflects the traditional institutional setting of interest representation. Again, this structure leaves

individual organizations relatively remote from the actual centre of power, as their voice has to travel through the national representative bodies before reaching the Secretary of State.

Also, the in-built redundancy of the national column and regional columns resulted in a doubling of the policy arenas where the various interested actors could have their voice heard. Some of our respondents were very frustrated by the fact that they had to attend many meetings in different policy arenas, which led to severe staffing problems for the smaller interest groups. Here the complex implementation structure, with a wide range of formal consultation platforms, in-built redundancy and duplication, negatively affects public participation: when interest groups cannot represent themselves and use their voice, they are not heard. As one of the interviewees noted: 'for staffless interest groups there is a lot of pressure on its members, especially given the strict timeframe and the ocean of documents we had to deal with'. Other interviewees described the in-built redundancy as 'an administrative overload'. Moreover, a number of respondents representing regional interest groups considered that the in-built redundancy blurred the power relationships and allowed the Ministry 'to play chess on two different boards'. They also criticized the Ministry for being more involved in the national than in the regional columns: 'decisions were made in the national column, without waiting for the regional columns to give their opinions'. A large majority of these respondents assess their influence on the implementation process as negative (95%, n=18).

Finally, during the interviews we repeatedly noticed interviewees discussing the tension between *thoroughness* and *timeliness*. The WFD puts the Member States in a difficult position: on the one hand it requires timely implementation and provides a strict timeframe; on the other hand it requires thorough public participation (Article 14 WFD). The greater the number of parties involved in a policy-making process, however, the longer it takes actually to implement the policy. And time was short during the WFD implementation. Both in the Feedback Groups and in the Area Processes the choices made may be traced back to exactly this dilemma. As an Area Process Coordinator mentioned during an interview: 'At first we aimed for a very democratic and collaborative process. Yet, this took too many meetings. Over time the strategy was changed. The Water Board took over and set the goals.' Another interviewee mentioned: 'Time was leading, and this held for interest groups as well. Everyone was allowed to get on board, but not everyone did.' As discussed above, not all interest groups had the means or the staff to meet the strict timeframe and attend all the relevant meetings. As a result, as the interviewees noted, not all interest groups support the river basin management plans, which calls into question the legitimacy and democracy of the implementation process and the plans (cf. Bishop & Davis, 2002).

To conclude, through both Feedback Groups and Area Processes interest groups had only an advisory role in the implementation process. Their insights, expressed wishes and needs had to travel a long way to the centre of power before making it into policy documents. According to our respondents, most

formal power remained where it was traditionally based: in the national column, a structure that largely reflects the traditional institutional arrangement of water policy in the Netherlands. When asked whether the Dutch WFD policies reflect the voice of interest groups, or stakeholders in the terminology of the EU Working Group on Public Participation, a majority of administrators and civil servants stated that they do (respectively 81%, n=13; and 74%, n=123); however, a majority of the representatives of these interest groups feel these policies do not reflect their voices (59%, n=40) – a statistically significant difference between the groups ($\text{Chi}^2=24.415$; $\text{df}=2$; $p<0.001$; Cramer's $V=0.321$).

Conclusion and discussion

This paper addressed the increasing attention that is being paid to public participation in European environmental policy-making. It specifically addressed the EC's move towards what we termed *mandated public participation* in response to a low level of public participation in the Member States' policy-making processes in the early years of this century (cf. Greenwood, 2011).

Based on a review of the literature on corporatist and pluralist forms of interest representation, we argued that the pluralist tool of public participation may very well clash with the more corporatist systems of interest representation of some of the Member States. We studied the implementation of the WFD in the Netherlands to test this hypothesis. This case is of interest as (i) the country is generally considered to have a typical example of a corporatist system of interest representation (Woldendorp & Keman, 2007); (ii) the Netherlands has invested

much time and effort in meeting the EC's requirement to ensure public participation; (iii) public participation in the Dutch case is assessed positively in a recent EC evaluation of the WFD implementation in the various Member States (EC, 2012a, 2012b); yet, public participation in the WFD implementation process of the Netherlands is assessed negatively by our respondents. As such the country provides us with a telling case from which important lessons may be drawn. Such lessons are of relevance. That is, it took the EC almost three years (since the formal end of the first phase of the implementation of the WFD) to assess whether or not the Member States have or have not sufficiently met the requirement for public participation; and as the Dutch case highlights, this assessment is contestable. How then can the Member States strengthen their approaches to public participation for the second phase of implementing the WFD, which ends in December 2015?

We understand that a single country study has limitations. In what follows we therefore do not claim empirical generalizability. The lessons we present may best be understood as analytical or moderatum generalizations (Payne & Williams, 2005): bounded insights and lessons on mandated public participation that may be similar, but not identical, to what is found in other EU Member States with corporatist systems of interest representation.

First, contrary to our expectation, the Dutch corporatist system of interest representation does not clash with public participation. Yet, as our study showed, the complex combined implementation structure of overlapping and redundant policy arenas was found to result in serious issues. That is, from the study we

learned that *de jure* the Netherlands has succeeded in meeting the EC's requirement for public participation. *De facto*, however, the Netherlands has failed to do so: interviewees and survey respondents feel that the active involvement of the public was unsuccessful, and the stakeholders themselves do not see their voice represented in the policy documents that are the result of the implementation process. Further, the consultative nature of the approaches chosen – a series of information and consultation meetings and information supply, the formation of Feedback Groups, and Area Processes – were considered to be a one-way flow of information and not a true sharing of political power (see also Bischof & Davis, 2002).

Second, in the Netherlands the EC's requirement for public participation resulted in a time-consuming process of developing an implementation structure that added a new institutional setting (regional columns) to a more or less unchanged traditional institutional structure of water policy (the national column) – see Figure 1. Such layering may be preferable to a full replacement of an existing institutional setting if powerful actors remain and existing power relationships are valued. Further, (most) countries simply cannot change their system of interest representation overnight (cf. Mahoney & Thelen, 2010). Our respondents stressed that in the Netherlands it has taken individuals and organizations a great deal of time to get used to the new institutional setting, and to build new relationships; time that could not be used for effective public participation.

Third, following the EU Working Group on Public Participation, public participation implies involving ‘stakeholders’ and ‘the public’ (EU Working Group on Public Participation, 2002). Yet involving the public is somewhat foreign to corporatist systems of interest representation. As the Dutch case shows, in a country with a weaker history of public participation public officials may enter into too *technocratic* an application of the tool – i.e. applying it without actually understanding its possibilities or value (see also Stirling, 2004). The seven information meetings throughout the Netherlands may *de jure* be considered to represent involvement of the public; in practice, their outcomes may be questioned.

Fourth and finally, particularly where there is a corporatist system of interest representation, one may wonder whether mandated public participation strengthens or weakens democracy. After all, with a corporatist system of interest representation the interests of many groups are already represented by various organizations. We expect that the Dutch approach of layering a new institutional setting into an existing traditional institutional setting of water policy is not unique (cf. Kampa et al., 2003; Slavíková & Jílková, 2011). Such layering may then lead to the danger of the *overrepresentation* of certain groups within the implementation process (see also Baiocchi, 2005). As one of our interviewees noted: ‘it is always the same people who attend the meetings’. The more these groups or individuals who are actively involved use their voice, the weaker is the unheard voice of those not attending the meetings – whether they fail to attend because they lack interest, or because they lack the means to do so.

To conclude, this article identifies a number of issues resulting from the EC's move towards mandated public participation in environmental policy-making. We expect that these are but a few examples of a larger set of issues that may result from mandated public participation – although we are aware of the caveats of our research approach. This asks for more critical studies than those currently provided on the actual impact of mandated public participation (e.g., EC, 2012a, 2012b). More empirical research (cross-country, cross-sectorial) is needed to gain a better understanding of the merits and shortcomings of mandated public participation. Through this paper we aim merely to put the topic on the research agenda.

Endnotes

1. See also the EU website on the WFD:

http://ec.europa.eu/environment/water/water-framework/index_en.html.

2. It should be noted that both corporatism and pluralism are ideals. No country should be considered to be either corporatist or pluralistic. Nevertheless, some consensus exists on the classification of EU Member States on a 'corporatism–pluralism' scale. In particular, the northern Member States of the European Union – including the Netherlands (Magagna, 1988; Paloheimo, 1984; Siaroff, 1999; Woldendorp & Keman, 2007) – are considered to have more corporatist systems of interest representation (Damgaard & Eliassen, 1978; Pallesen, 2006).

3. This was the name of the responsible Ministry when we carried out our research. After the 2010 elections a new Ministry became responsible for water

policy in the Netherlands: the Ministry of Infrastructure and the Environment. The latter Ministry is a combination of the former ministry of Traffic, Public Works and Water Management and the Ministry of Housing, Urban Planning and the Environment.

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