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The Rise of Multi-Level Governance for Biodiversity Conservation in Belarus

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Abstract:

We describe the emergence of multi-level policy in biodiversity governance in Belarus – a country with a strongly hierarchical and centralized political system. We analyze the biodiversity protection policies from the collapse of the Soviet Union to the present day. Our evidence is based on document analysis and in-depth interviews with representatives of key stakeholder groups, including the Belarusian government and representatives of legalized as well as banned NGOs. We observe that the importance of local government and non-state actors is increasing, as the government enters and implements more international programs and agreements. Although the changes have contributed to an improved monitoring of protected areas and are in general seen as positive by the majority of stakeholders, the policy innovation process taking place in Belarus is still very different from policy innovation processes observed in Western Democracies. Many changes are introduced on an ad hoc basis and they are not supported by the development of legal standards and procedures. Furthermore, a portion of innovative legislation exists only on paper and is never enforced. In the area of biodiversity governance, effective and urgent measures are most needed to support access to information, development of formal channels of cooperation between stakeholders, and sanctioning of mechanisms in cases of mismanagement.¹

1. Introduction

Biodiversity protection in Belarus has a long history. The first protected area in the modern understanding of this term was established in Belarus in 1925. However, the institutional mechanisms for biodiversity protection were developed in Soviet time

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and the overall style of governance has remained largely unchanged since then. Private property in its conventional form was introduced only after the collapse of the Soviet Union in 1990-91. Even now however, privatized land is restricted to small domestic patches. Furthermore, the development of civil society institutions has been frozen for more than a decade. Nevertheless, the collapse of the Soviet Union and growing influences of international organizations have initiated the transformation of environmental policy and adoption of new policy instruments by national governments that involve supranational and subnational actors. There are, as yet rare, cases of bottom-up initiation of policy change. The governance standards originating from the European Union (EU), UN agencies, and other international organizations are starting to have an impact on the national legislation.

In this paper we trace the rise of the multi-level policy in biodiversity governance in Belarus. Our objective is to characterize the changes that have been introduced and the response of different administrative levels of the Belarusian governance structures, characterized by a long, highly hierarchical, tradition. We focus on the period from the collapse of the Soviet Union until the present day and we determine how changes in environmental policies emerge and develop where there is a strong centralized and hierarchical system monopolizing the political discourse.

There is a broad range of literature investigating the implementation of new policies. The literature focuses mostly on the policy innovation process in western democracies characterized by multi-actor discourse and deliberative change. For example Voß (2007) categorizes studies of policy innovations into three groups: (i) implementation studies, which argue that policies and instruments used in the design of action programs often undergo considerable change in the process of implementation, due to political programs being drafted far away from the agencies

that have to implement them; (ii) policy diffusion and transfer studies track policies as they occur across various governance domains. Explanation for patterns is sought by correlating variables of governance domains with a point in time in which a policy becomes adopted. Thus leaders and laggards of the policy adoption process are identified and conditions for the innovativeness of the policy pioneers are statistically tested. Policy transfer studies focus on the transfer of policy ideas from one focal domain to another; (iii) policy learning studies view the innovation process as an accumulation of experience and know-how across several instances of policy-making and focus more on general problem frames and policy goals embodied in beliefs and ideology than on instrumental aspects of the policy (Voß, 2007). Berry (1994), using a U.S. example, furthermore argues that the primary factors leading to policy changes are internal political, social and economic characteristics. However, some policies are also adopted following changes in nearby states due to regional diffusion. National communication networks also play a certain role in this process. The interactions of state officials spread the changes from adopting states to non-adopters. Deyle (1994) draws attention to the conflict and uncertainties in policy changes. Stakeholder perceptions of the consequences of different types of policy-change influence the level of political conflict in a particular policy innovation. Uncertainty influences both the level of conflict and the choice of innovation process. The statutory authority held by an agency can also influence the choice of a particular innovation process. If a policy innovation requires new statutory powers, an initial legislative process is necessary.

Several studies discuss policy changes in top-down and centralized systems in Eastern Europe (Pickvance, 1997; Elander, 1997; Zsomboki and Bell, 1997; Banaszak and Beckmann, 2008; Bosse and Korosteleva-Polglase, 2009; Bosse, 2009;

Korosteleva, 2009). In the context of natural resource management, Kluvankova-Oravska et al. (2009) show how the combination of newly emerging institutions with the ruins of communism influences the restructuring of governance from hierarchical to multilevel structures in Central and Eastern Europe. The problem of transforming former socialistic natural resource management institutions is also addressed by Gazweiler and Hagedorn (2002) and Chobotova (2007). For Belarus however, with its special development path, the communist governance system is not in ruins to the same extent as in other former USSR countries, and the old institutions are trying to cope with the new reality and keep the status-quo. This configuration, apparently much more pronounced in this country than in Russia, Moldova or Ukraine, is the focus of this paper.

The article is organized as follows. Section 2 presents the concept of multi-level governance as applied to this study, describes the data and methods used for their collection, and gives background information about the development of the biodiversity conservation system in Belarus during the Communist time and its subsequent transition. Section 3 describes the new elements caused by the policy change paying particular attention to the introduction of market governance, increasing role of local communities, emergence of independent non-governmental organizations, and the role of international organizations and funds. Section 4 evaluates the policy changes, including the perception of change by stakeholders, level of policy conflict, uncertainties related to the policy change and possible future changes. Finally Section 5 concludes.

2. The analytical strategy

2.1. The concept of multi-level governance in biodiversity protection

Hodgson (2004) defines institutions for biodiversity governance as systems of established and embedded social rules that structure interactions between social and ecological systems. Individual institutions are often linked together through various types of interdependencies. Environmental changes that act as a trigger for change together with an increasing density of international institutions lead to an increase in interactions between and among institutions (Young, 2002). The nature of cross-scale and dynamic relationships between ecological, economic and social systems, as well as processes such as natural resource use intensification and commodification of natural resources, impose multi-level challenges on linkages among different actors and institutions. In practice it implies that decision-making responsibilities are often shifted down to the local level, stakeholders are encouraged to participate in decision-making concerning the natural resource and, efforts are undertaken to strengthen collaboration among actors at different levels (Armitage, 2008).

Hooghe and Marks (2003) refer to the process of the dispersion of central government authority both vertically and horizontally as multi-level governance. Multi-level governance can either be related to the dispersion of governmental authority to general purpose territorial jurisdictions with non-intersecting membership or to special purpose jurisdictions tailoring membership, rules of operation, and functions to a particular policy problem. This process is also referred to as polycentric governance which describes co-existence of many centers of decision-making that are formally independent of each other (Ostrom et al., 1961; McGinnis, 1999). A central characteristic of multi-level governance is an increasing participation of non-state

actors in political decision-making (Bache and Flinders, 2005). A few authors argue that participatory processes are a key component of multi-level governance since they contribute to legitimacy and effectiveness of governance solutions (e.g. Fiorino, 1989, Meadowcroft, 2002, Stirling, 2006) and can lower costs of policy implementation (Rauschmayer et al., 2009). Rauschmayer and Wittmer (2006) present evidence showing that participatory methods can support new resolutions to environmental management challenges. Although their uptake remains slow, they have been recognized as useful for improving multi-level governance. This is reflected in an increasing number of international environmental laws and regulations such as the Convention on Biological Diversity and Aarhus Convention (Rauschmayer et al., 2009).

Following Kluvankova-Oravska et al. (2009), the emergence of multi-level biodiversity governance in transition countries is demonstrated by processes such as an increasing role for market governance, decentralization, and democratization in institutions concerned with biodiversity protection. Market governance is defined as an assignment of previously collective and state property rights to specific owners by means of restitution, sale or other forms of privatization. More broadly, market governance can be understood as a resource allocating mechanism or measurement of efficiency through monetary criteria (Pierre and Peters, 2000). Among market mechanisms that can be applied in biodiversity governance we may find market based instruments such as taxes, fees and charges, forms of subsidies and compensations, tradable permits, and eco-labeling (Bräuer et al., 2006). The concepts of democratization and decentralization are discussed broadly by Pickvance (1997). Democratization can be measured by the degree of inclusiveness of citizens and direct participation in decision-making (Pickvance, 1997). It also refers to freedom of

joining associations, freedom of expression, right to vote, eligibility for public office, right of political leaders to compete for support, access to alternative sources of information, free and fair elections, and dependence on institutions for making government policies based on votes and other expressions of preference (Dahl, 1971). Decentralization is characterized by empowering lower government levels through the range of functions they carry out, the degree of autonomy over how these functions are carried out, and the degree to which they are funded from their own resources (Pickvance, 1997).

In Central and Eastern Europe, the communist period and the treatment of common property as open access, resulted in over-exploration of natural resources and inefficient institutional design of biodiversity governance (Kluvankova-Oravska and Chobotova, 2006). Several authors argue that multi-level governance and inclusion of non-state actors may lead to reaching higher ecological standards and improved compliance with environmental legislation (e.g. Dryzek, 1997; Smith, 2003, Sabatier et al., 2005). Newig and Fritsch (2009) have undertaken a broad literature review analysis that suggests that a highly polycentric governance system comprised of many agencies and levels of governance yields higher environmental outputs than monocentric governance. They take more ecologically rational decisions, improve compliance with decisions, and thus achieve better outcomes and impacts in ecological terms.

In the subsequent parts of the article we will examine the drivers that lead to opening up the hierarchical and centralized environmental governance system in Belarus to non-state actors and the effects of these changes. We follow the framework of analysis developed by Kluvankova-Oravska et al. (2009) paying particular attention to (i) the emergence of market governance in biodiversity protection in

Belarus, (ii) the processes of decentralization and democratization through investigating the role of local communities and local governments, and (iii) the opening of political decision-making to non-state actors. In addition, we undertake an evaluation of these policy innovations based on Deyle (1994), who proposes to focus on the perception of change by stakeholders, the level of political conflicts, and the uncertainty that surrounds the policy change. As Deyle (1994) argues, the level of public controversy about the new policy influences the legitimacy of the process and increases the likelihood of legal challenge by one interest or another. The uncertainty (e.g. attributed to scientific measurement and evaluation or technological complexity underlying alternative policies) aggravates the tendency towards conflict among stakeholders.

2.2. Data and methods

In order to investigate the policy change process in Belarus we carried out a literature review and 14 in-depth interviews. The literature reviewed included national and international scientific publications, reports, planning documents, and decisions and regulations of governmental and international agencies involved in biodiversity conservation in Belarus. During our literature review we identified key stakeholders and organizations involved in the development of biodiversity conservation policies or biodiversity management, and/or affected by management measures at national parks, in particular at Belavezhskaya Pushcha. Afterwards, we arranged appointments and carried out in-depth interviews with those willing to talk to us officials from the Ministries involved in biodiversity governance, management of the Belavezhskaya Pushcha National Park, NGO representatives, local authorities from districts where

the Belavezhskaya Pushcha National Park is located, and scientists from the Belarusian Academy of Sciences and Belarus State University. The Belavezhskaya Pushcha National Park was chosen as a reference case in our research, since the uniqueness of the Park is recognized internationally and the Park has a relatively long record of cooperating with international organizations. It has been on the UNESCO World Heritage List since 1979 and it is still the only nature protected area in Belarus included in the List. Additionally, at the time the research was carried out, several international media and internet websites reported mismanagement of the Park's resources, and conflicts between the Park's administration, local population and NGOs.

A detailed list of interviewees is presented in Table 1. Most of interviews were carried out in July 2008, however, in a few cases we completed the interviews a few months later depending on the availability of our interviewees and our ability to travel to Belarus. One interview with a representative from the Ministry of Natural Resources and Environmental Protection was carried out earlier – in January 2008 - in a pilot project recognizing the potential and importance of the research.

The interviews were divided into two sections: (i) the new processes observed by the interviewees in biodiversity governance in Belarus and (ii) the evaluation of these changes by the interviewees. The responses from interviewees have been furthermore divided in regard to the research questions of the study and compared against each other and the specific context of the research.

Table 1: List of interviews

Organization	Positions	No. of persons interviewed	Date
Ministry of Forestry	A representative of the national forestry company “Belgosles”	1	Oct 2008
Ministry of Natural Resources and Environmental Protection	Representatives of the Ministry related to the management of international projects, biodiversity conservation and climate change	3	Jan 2008, Jul 2008
Presidential Management Department	Representative of the administration of the National Park “Belavezhskaya Pushcha”	1	Jul 2008
National Academy of Sciences	Research officers of the Conservation Sector of the Research Center for Biological Resources designing management plans for protected areas, including Belavezhskaya Pushcha	3	Jul 2008, Nov 2009
Ministry of Education	Researchers at Belarusian State University involved into the strategic planning for biodiversity conservation	2	Jul 2008, Oct 2009
Local Authorities	Representatives of Kamianec District Council and Pruzhany District Executive Committee	2	Jul 2008
NGOs	Representatives of the initiative group “Belavezhskaya Pushcha - XXI Century”, NGO “Ecopravo” and NGO “Geographical Society of Belarus”	3	May 2009

2.3. Historical development of biodiversity governance in Belarus

The history of building a Communist state started in Belarus in 1917. In 1921 under the Peace of Riga, Western Belarus became a part of Poland, while the Central area remained a part of the Belarusian Soviet Socialist Republic (BSSR) and Eastern Belarus until 1924-26 belonged to the Russian Soviet Federal Socialist Republic. In Central and Eastern Belarus all the privately and community owned land and forests were nationalized immediately after the communists took control.

There is a large body of literature about the history of biodiversity conservation in the Soviet Union (e.g. Weiner, 1999; Mnatsakanian, 1992). The first protected area in Soviet Belarus, Biarezinsky Reserve (*Zapavednik*) was established in 1925. For this, 30 farms were removed from the protected area in 1928-30 (Stavrovsky and Kovaliov, 1996), although land use and property conflicts were not officially reported. There has always been tension between different governmental institutions sharing in the use of nature resources and environmental protection. The growth of the socialistic economy was an absolute priority, as it was considered important not only to support growing welfare costs and military expenses, but also to demonstrate the superiority of the socialist social and economic model. Ministries and government agencies had always put pressure on environmental resources. After the Second World War, when both the national economy and general population urgently needed substantial supplies of construction materials, the Biarazinsky Reserve became an arena of large-scale logging operations. In 1951, on an initiative of the USSR Minister of Forestry, the reserve was abolished and renewed only in 1959. The Belavezhskaya Pushcha National Park, although it was recognized and sustained as a natural protected park, had been drastically modified and transformed into a game reserve extensively used by top party officials (Kozulko, 2005).

The situation improved slightly by the mid 1970s when it was firmly established that natural protected areas were sites for conservation, research and learning, and the government did not make serious attempts to use them for other purposes. Most reserves possessed some tourist infrastructure, but this was not well developed. Principles of management were in an early stage of development until the mid 1970s, and since then they have not substantially changed. Table 2 presents detailed profiles of existing categories of protected areas in Belarus.

The only quasi non-governmental actors involved in environmental decision-making in the Soviet times were researchers, since universities and research institutes were controlled by the Party. The basing of all major decisions on scientific evidence was deeply rooted in the technocratic Communist ideology. “Wise” use of nature was opposed to the capitalist profit-driven ways (Mnatsakanian, 1992). Scientists have always been consulted before new decisions and policies on biodiversity conservation are adopted, although this has tended to become ritualized rather than actually consultative. In the Soviet decision-making process, the USSR Academy of Science and its regional branches were very important institutions, and partially substituted the role NGOs play in western societies.

In 1990 land property rights were re-established in Belarus (*Land Code*, 1990; *Act on the Land Property Rights*, 1993). However the size of land plots and eligible ways of using them were restricted. The situation has not changed much since then, and in the 2nd National Referendum in November 1996, any further developments of the land market were banned by an overwhelming majority of voters (Sakovich, 2005). Under the current legislation and administration practices, land can only be privatized for limited agricultural use, and large plots can only be given away under long-term rent. Privately owned land is allowed in nature protected areas, with exception of zones of strict protection in *Zapavedniks* and *National Parks*, but its use is restricted in many ways. Although the legislation guarantees compensation for such restrictions, evaluation and payment procedures have not been developed, and therefore compensation is not provided. The land restitution never took place in Belarus, and it is not expected to happen in the foreseeable future.

The environmental protection in the country is coordinated overall by the Ministry of Natural Resources and Environmental Protection (Ministry of

Environment). A large portion of biodiversity management tasks are also allocated to the Ministry of Forestry. In 1994 national parks and natural reserves were transferred from the Ministry of Environment to the Presidential Management Department. For other governmental agencies as well as the public and citizens organizations the transfer resulted in reduced access to information about the management activities within these protected areas.

Table 2. Categories of Specially Protected Natural Areas (SPNAs) defined by Belarusian *Act on Specially Protected Natural Areas* (2000)

Category	Functions	Management	Area, thousand ha	Share in total protected area, %
National Park	Preservation of natural ecosystems and objects. Restoration of disturbed ecosystems with high ecological, historical, cultural, and aesthetic values, and their sustainable use for the purposes of environmental research, education, health, and recreation.	A legal entity is set up to manage the area. The land of national parks is in permanent use by the managing entities or/and other land users and land owners. There is functional zoning.	395.7	25
Reserve (<i>Zapavednik</i>)	Preservation of natural ecosystems and objects. The research of the gene pool of flora and fauna and of typical and unique ecological systems and landscapes.	A legal entity is created to manage the area. This entity can not be a profit generating organization. All lands of <i>zapavedniks</i> are excluded from economic use.	85.2	5.4
Preserve (<i>Zakaznik</i>)	Preservation, reproduction, and restoration of ecosystems and objects, natural resources of one or many types with restricted usage of other natural resources. With respect to the objectives of conservation, landscape, biological,	No legal entity is created to manage the area. The lands of <i>zakazniks</i> remain in permanent use and/or private ownership unless land users and land owners are violating the protective regime set up by the statute	1085	68.8

	hydrological, geological, and paleontological <i>zakazniks</i> can be established.	documents. <i>Zakazniks</i> can be of national or local significance.		
Nature Monument	Preservation of unique and irreplaceable ecosystems or objects with special ecological, historical, cultural and aesthetical features for future generations. There are 3 types of nature monuments: botanical, hydrological, and geological.	Land patches adjacent to nature monuments may remain in permanent use or private ownership. No legal entity is established to manage these areas. There are national and local monuments of nature.	11.9	0.8

Source: Ministry of Environment (2010)

Protected natural areas cover approximately 7.6% of Belarus (Ministry of Environment, 2010). Table 3 presents changes in the number and area of protected natural areas. The reasons behind the increase of the size of protected areas in 1995-2005 are related to an abandonment of military grounds and some low-productive or remote agricultural areas, which were often converted to *Zakazniks*. Despite a slight decrease in the area of SPNAs after 2005 caused by the liquidation of several biological *zakazniks* (Zenina, 2009), as we will discuss later, biodiversity conservation was becoming a higher priority in the national policy. This also explains the growth observed in 2000-2005.

Table 3. Change of the number and area of specially protected natural areas in 1980 - 2010 (excluding nature monuments and local *zakazniks*)

Parameter	Year						
	1980	1985	1990	1995	2000	2005	2010
Number of sites	58	63	67	80	102	104	89
Area, ha	884,600	882,900	900,700	799,300	974,400	1,416,400	1,315,400
% of the country's area	4.2	4.2	4.3	3.8	4.7	6.8	6.3

Sources: Second National Communication 2006, Ministry of Environment (2010)

3. Characteristics of the policy change

3.1. Introduction of Market Governance

After the political transformation, the Soviet economy collapsed and the financing of protected areas decreased dramatically. From 1991, when the Belarusian state emerged, markets became a necessity for the management of protected areas in order to survive. An emphasis was on timber production and tourism, including hunting. These activities were however, kept within limits set up by relevant legislation where possible.

In 1994 the Presidential Management Department took over the management of National Parks and *Zapovedniks*. Initially not much changed, but from 2001 the protected areas were required to generate profits, and this demand increased every year. Currently, there are a few agencies designated to coordinate biodiversity conservation in Belarus. These agencies have different purposes: profit making in the case of the Presidential Management Department; forest management by the Ministry of Forestry; and environmental protection by the Ministry of Environment and the State Inspectorate. The legislation underlines the need for close cooperation and coordination between each agency, but this does not often happen. Kozulka (2005) and Parnikoza (2008) point out that the subordination of the management to such a business-minded body as the Presidential Management Department leads to multiple violations of conservation regimes.

Industrial facilities, tourism activities and other services in national parks and reserves are run by the Presidential Management Department. Park managers, acting on its behalf are very active in the development of business projects with a particular focus on tourism (including game tourism with increasingly developing flow-line

production features), logging operations, food production and woodwork. In fact, logging and wood products have become central to the activities of national parks in Belarus. According to Zenina (2003) and Kozulko (2005), the park management bodies have launched large-scale timber-harvesting operations under the cover of sanitary felling. After new woodwork production lines were launched in the National Parks Belavezhskaya Pushcha and Pripyatsky, more forested areas have been transferred from the Ministry of Forestry to the Presidential Management Department to secure timber supply. For instance, the area occupied by the national park Pripyatsky increased three times. A good illustration for increased use of parks for wood products is the Pripyatsky Park's web-page (<http://www.npp.by/>, accessed November 16, 2009) which contains exhaustive information about wood products manufactured there. Information about research, a declared core activity, is given much less space than specifications of ecologically safe parquet manufactured by the park.

Smaller scale tourist facilities can be privately owned, e.g. agro/ecotourism infrastructure etc. The latter is even supported by the Government and (in cooperation with the Government) by international donors (e.g. GEF – Global Environmental fund, UNDP – United Nations Development Program, TACIS - Technical Aid to the Commonwealth of Independent States, INTERREG - Interregional Cooperation Program). These facilities are run on small privately owned land plots that surround houses in the villages situated within or next to the parks' boundaries.

The Ministry of Environment is designated by legislation as a chief supervisory body where environmental protection is concerned, and should act to stop an overuse of natural resources in protected areas. However, our interviewees pointed out that the Ministry has limited capacities compared to the Presidential Management

Department and even though there are quite a few complaints, they cannot be expected to intervene. This may be a result of the considerably higher position of the Presidential Management Department in the informal hierarchy of governmental bodies.

Compensation schemes are new elements of market governance that appeared after the change and separation from the Soviet Union. According to the new legislation, damages made by protected species are subjected to compensation. Nevertheless, due to gaps in the executive law, according to the knowledge of our interviewees, compensation was never paid. As pointed out by an interviewee from the Bioresource Research Centre, “it is only written that losses should be compensated, but there are no working mechanisms, nobody even tried to do it”.

3.2. Increasing Role of Local Communities

Public environmental awareness is increasing due to easier access to information since the early 1990s (e.g. Internet, satellite TV channels etc), increased education level, and the rise in private property. Property ownership improves perception of the value of the environment. Big disasters, such as Chernobyl, and their long-term negative consequences have also played a role. However, there are still institutional gaps that make the organization and coordination of protest actions difficult. A professor of law from the Belarusian State University made the following statement: “we notice that the public has a tendency to become more active, but they are not always able to use legal tools. There is a lack of a good institutional basis: consultancies, organizations providing high-quality help [...] here there is a need in the ‘advocacy’ process, promotion of public interest.”

A recent example of the increasing public environmental awareness is a campaign of people from the District of Pukhavichy (the Region of Minsk) against an agrochemical production facility (AvgustBel) to be constructed in the neighborhood. Despite constant administrative pressure, potential danger of loss of jobs, penalties being imposed on activists etc., people continued to protest. A few thousand signatures were collected against this project (close to 50% of local electorate), a few street actions were held (broken up by the police; activists charged as participants of an unauthorized gathering), and a meeting organized by local authorities failed with locals walking out, because the officials present (including a Minister) had refused to have any dialogue. Nevertheless, the logistics of the campaign show that if nothing really extraordinary happens (though these vigorous protests are extraordinary in themselves) the facility will be constructed anyway, as apparently big economic interests are involved.

Community protests were also organized to protect the Sevastopalski City Park in Minsk (Karol, 2008). The City of Minsk has attempted a few times to reduce the park's area in order to make space for a highway or some other construction. Interestingly enough, every time this happens, the locals manage to assert their rights for green surroundings. A possible explanation is that many apartments in the neighborhood have been historically occupied by, mostly retired, staff from public prosecutors offices. These former officials have a broad knowledge of the procedures and possible legal tricks that could be used and this may explain their success. It is remarkable that they usually appeal to the *Act on Addresses of Citizens* (1996) which guarantees that any citizens' appeals to any governmental agency shall be properly examined and answered within a firmly set term. This Act was introduced by the

President and was considered by many as a populist gesture, but in this instance it has worked in the citizens' interests.

Local communities participated further in protesting against intensive logging in Belavezhskaya Pushcha (Kozulko, 2005), but in most cases they do not have enough knowledge to appeal to relevant legislation. Such legislation includes the *Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters*. The Convention was ratified by Belarus in 2000 and can be used by Belarusians as a legal basis in asking for more information about governmental decision-making. However, these cases are still rather exceptional. In many cases public participation is very hard to initiate. Public meetings are almost impossible due to the law that prohibits unapproved meetings. Furthermore, according to the *Act on Gatherings, Meetings, Street Processions, Demonstrations, and Picketing* (1997), local meetings are considered as representative of local population only if they are attended by over 25% of local permanent residents over 18 years old, and are convened by local governments or upon the initiative of at least 10% of local permanent residents aged over 18.

3.3. Emergence of independent non-governmental organizations

Although scientists were, for a long time, the only formal group of non-state actors included in consultations and political decision-making, this involvement increasingly became a formality: understandably, scientists want to secure governmental research funding, which in most cases is the only funding opportunity available, and they often tend to compromise. However, research departments of Special Protected Natural

Areas (including national parks) are losing their importance (Zenina, 2003; Parnikoza, 2008).

In order to decrease the direct dependence on governmental funds and to ease access to international assistance and cooperation programs, some scientists working on internationally attractive topics, have set up non-governmental organizations or re-oriented existing organizations. These are so called “research” NGOs, usually associated with a research institute or department (even if the NGO has a national status). Good examples are Bird Protection in Belarus and the National Geographical Society. Some of these NGOs can be very successful with fundraising. Research NGOs are trying to avoid any suggestions of criticizing governmental policies where possible, because they either depend on international assistance, or are hosted by a governmental institution. International assistance requires them to register with the government and normally needs endorsements from The Ministry of Environment.

Other non-governmental organizations can be referred to as “activist” NGOs. Activist NGOs manage to get support from international or national sources without registration, or survive without any external support. These NGOs are either registered as legal entities in Belarus and operate on the verge of being closed down, or manage to work without support at the risk of being persecuted for “activities on behalf of an unregistered organization” (Criminal Code of the Republic of Belarus, 2009), which leads to imprisonment in Belarus. An example is NGO Belavezhskaya Pushcha – 21st Century which runs a very successful webpage (<http://bp21.org.by>) and campaigns against current management practices in Belarusian Special Protected Natural Areas.

The last group of non-governmental organizations are so called “governmental” NGOs. These organizations were partly established in Soviet times,

and since then have served as departments of governmental agencies performing functions outsourced by them, e.g. issuing hunting or fishing licenses, as done by the Society of Hunters and Fishers. Although these organizations are formally non-governmental, in fact they are fully controlled, or rather run, by the Government.

The research and activist types of NGOs have to struggle for their survival. They need to comply with an increasing number of rules and regulations ranging from requirements for their office (e.g. having a separate entrance from the street and complying with many specific requirements to fire and sanitary safety etc. rather than being registered as a housing unit) to their eligible activities. The Government strongly controls their budgets.

Non-governmental organizations are nevertheless still tolerated since they are recognized as an important attribute of an open society which improves the image of the country in foreign politics. Representatives of NGOs are often called to attend meetings with international guests. Furthermore, there can be a need to create a competition when distributing international funds made available to non-governmental initiatives within priority areas identified by the Government, or to invite NGO representatives for consultations that formally require (e.g. under international regulations or conditions of co-funding) participation of non-governmental institutions. In the end, and perhaps most importantly, NGOs are still considered relatively harmless and can be easily closed down if they become too radical.

Despite this, even loyal NGOs are regarded as potentially rebellious, simply because they are not governmental. A representative of the NGO Geographical Society of Belarus, stated that the broader public shares a view supported by their lifelong experience, that the easiest (and often the only possible) way to deal with the

Government is to apply small trickery and half-truth rather than to become a member of a non-governmental organization.

As a representative of the NGO Ecopravo stated: “the legal situation of NGOs is getting worse. Fewer and fewer of them remain, and those which remain are not always able to pay rent, as rent fee rates are increasing. They cannot defend citizens due to the deficient legislation that allows NGOs only to defend the rights of their own members, but not of others. The regulation also stipulates that new members can be enrolled only on the meetings of NGOs’ governing bodies; and if you want to hold such a meeting you should inform the authorities about the meeting time and venue two weeks prior to the meeting. So you can imagine, how difficult that gets, especially if an urgent action is needed...”

It is worth mentioning that, but for a few exceptions, NGOs usually prefer not to disclose information on their current activities and, in particular, fundraising opportunities. The same applies to the environmental research community, which is very segregated. The public, in particular older people, do not usually trust NGOs and any initiatives, actions or campaigns that take place outwit Government. That makes it somewhat difficult for NGOs to approach other stakeholder groups.

If fulfilling international agreements requires involvement of non-state actors, only scientists or government-friendly NGOs are invited, which makes way for “false participation.” As the professor of law from the Belarusian State University stated: “they acknowledge the [Aarhus] convention in the ministry, but at the same time they have learned mimicry. So if there is a discussion they invite loyal NGOs, or state-controlled NGOs, and have even created a number of them for this purpose.”

3.4. Increasing role of international organizations and funds

Belarus is a beneficiary of environmentally oriented international funds, such as from the World Bank, GEF – Global Environmental Fund, UNDP – United Nations Development Program, funds of United Nations conventions (e.g. the Ramsar), FAO – Food and Agriculture Organization, TACIS - Technical Aid to the Commonwealth of Independent States etc. The funded projects certainly had an impact on existing legislation and, in particular, conservation practices. For example EU TACIS funded projects mostly focused on water management, environmental monitoring, waste management, circulation of chemicals, waste water treatment facilities etc.

Most of the international granting activities are coordinated or advised by the Ministry of the Environment or other Governmental institutions (e.g. GEF grants), and all forms of international assistance should be registered by the Government. This registration, however, is not necessarily granted. Funds are distributed among a limited number of NGOs that are loyal to the government. Heads of these NGOs often hold key positions in organizations that are subordinate to the Ministry of the Environment (Kozulko, 2005). Similar arguments are raised by Falaleeva and Rauschmayer (2009), who evaluate the outcomes of a World Bank Biodiversity Project carried out in Belavezhskaya Pushcha National Park in 1992-1997. The authors point out that in a country with strong traditions of centralized top-down governance such as Belarus, international aid projects are unlikely to be a success without active support of governmental authorities. Nevertheless, the involvement of the government also leads to an unbalanced representation of stakeholders and, in general, to a weaker role of NGOs and local actors as partners for donor organizations. This is due to the fear of international managers that by involving a

large number of non-governmental stakeholders they will lose the support of government officials. Another reason can be that cooperation with a higher number of actors usually requires additional effort. The interference by high-level government officials is often purposely tolerated by international organizations since it guarantees a “smoother” and quicker project implementation (Falaleeva and Rauschmayer, 2009).

A new EU neighborhood policy is currently being set-up. It will replace existing TACIS programs and promises to be more specific in terms of priorities set by the EU. Belarus ratified a number of international environmental agreements, including the Kyoto Protocol, Helsinki Convention and Aarhus Convention. One of our interviewees, a professor of law from the Belarusian State University, mentioned that the main incentive to ratify international agreements or conventions is the availability of technical assistance, “because unfortunately Belarus is not rich enough to pay for the quite expensive environmental protection.” However, ratification also depends on the initiative of certain people from the Ministry of the Environment. If someone identifies an opportunity to get either financial or expert help by entering international agreements, they encourage the Government to sign the agreement through the Minister or vice-minister.

Furthermore, UNESCO recognition and Diplomas of the Council of Europe, are important drivers. For instance, the Belavezhskaya Pushcha received the Diploma in 1997, which was extended by the Council in 2002 but not renewed in 2007, because it did not have a management plan. To address this, Belavezhskaya Pushcha commissioned the management plan submitted to the Council in 2009. Nevertheless, the Diploma has not been renewed; this time because of the negative reviews of the new Management Plan.

4. Evaluation of the policy change process

4.1. Perception of change by stakeholders

The strongest criticism expressed by interviewees relating to the biodiversity governance, refers to the lack of control and monitoring of the protected areas under the Presidential Management Department. The changes involving democratization and decentralization are mostly perceived as positive and having positive effects on environmental protection. In particular, the influence of international organizations and international cooperation is seen as an important opportunity. International programs are often sources of additional funding for the state administration which is thus usually eager to comply with the program requirements.

Nevertheless, impacts of many international projects are only short-term and the funds are often spent on business trips and office equipment with no long-term impacts. Our interviewees particularly criticized international projects which are carried out by external experts and which are concluded with reports that have no real impact.

Practically all the interviewed stakeholders hope that the changes will empower them to gain independence from the Presidential Management Department. They hope it would improve public awareness, the quality of the environment, and in many cases give them more income, financial support or development opportunities. A representative of the Kamianec District Council pointed out that as a result of cooperation within the Euroregion that involved national parks and local communities, road signs and information boards were installed. A representative of Belavezhskaya Pushcha said that international projects are regularly implemented in

the Park which contribute to the restoration of the environment. For instance, as a result of a project funded by the Agricultural Ministry of the Netherlands, some wetlands in the Park were restored.

The pressure of the international community is seen as necessary to provide information for citizens and to involve the Ministries in international projects, making them feel that what they are doing is important. Although there are no actual sanctions for not fulfilling international agreements, reputation is also important. A professor of law from the Belarusian State University stated that “the political image of the country also means a lot, because you will be told that if you do not comply with an international agreement, in a broader sense you do not comply with the main principal of Vienna convention that says that all agreements should be implemented. It is a slap in the face of the country.”

Institutional gaps are often compensated for by informal practices. On the international level, NGOs from Ukraine or Poland represent banned NGOs from Belarus. On the local level despite the lack of formal communication channels, local authorities have informal contacts with National Park’s administration and cooperate in various educational and other activities. For instance, local inhabitants have informal rights to use dead wood and hay in some parts of the protected areas. In the Belavezhskaya Pushcha, although there are no formal cooperation channels between the National Park Administration and local authorities, the Park’s General Director was elected as one of 37 members of the District Council to facilitate such cooperation. As a representative of the Kamianec District stated “cooperation is very regular for us; for instance the National Park has a school bus collecting children from remote areas. [...] They also participate in our activities, including financial assistance to certain persons.”

Another informal practice accommodating the lack of mechanism to compensate for land requisitioned for protected areas is to simply exclude private land from such protected areas. A researcher from the Bioresource Research Centre reported that, “because we do not have compensation mechanisms, when drawing the boundaries of special protected areas, lands of settlements, summer house cooperatives, and engineering constructions are excluded. They have very complicated contours with lots of holes.”

4.2. Level of Political Conflict

As NGOs representatives report, the conflicts are, in particular, related to the division of responsibilities between various government agencies and lack of control over the Presidential Management Department. However, although the interviewees from the Ministry of Environment mention disagreement, they do not intervene in the conflicting issues and submit to the presidential administration. When we inquired into over-logging in the Belavezhskaya Pushcha, the representative of the Conservation Inspectorate interviewed, insisted that in her opinion there were no problems. The interviewee also said that according to the legislation, local government also had rights to control compliance with environmental legislation. However, they did not do so since they lacked political will and personnel to take responsibility for it.

An interviewed research officer from the Bioresource Research Centre reported that there are conflicts between managers of protected areas who belong to the Presidential Management Department and local land users. Since the Presidential Management Department has much larger than other actors financial and

administrative power, they do not treat other land users or local governments as partners. There are also conflicts within the Presidential Management Department. One such conflict is between national parks' directorates tasks. On the one hand they exist to protect nature, but on the other they are under pressure to maximize income generated from the protected areas. Thus they develop agricultural, hunting and logging activities within parks and build tourist infrastructure themselves within protected areas rather than contracting with outside businessmen and tourist agencies. A representative of Belavezhskaya Pushcha referred to this situation: "we still have a planned economy in our country. It means that we get certain plans (i.e. assignments) for earning money from higher levels. [...] You see the management of the National Park is often criticized for cutting a lot of trees and so on. But it is not an issue. We just have the plan. If we do not comply with it, then we are punished or fired. Maybe the director does not even want to cut a lot [of trees], but he has to do so. The only way to escape this is to transfer land to the forbidden zone as much as possible." Nevertheless, transference of all areas to the forbidden zone would disable any kind of human intervention there.

The Presidential Management Department controls all the units subjected to it and all the information flows. The interviewed representative of Belavezhskaya Pushcha said, "all National Parks are subordinated directly to the Management Department of the President. If all other forests are managed by the Ministry of Forestry, National Parks are managed by the Management Department. Accordingly, this makes a lot of difference. On the one hand we are well backed by the State budget, on the other, there is a stricter regime, e.g. concerning relations with media, contacts with the public."

There are also a few reports about social conflicts at protected areas: Zenina (2003), Kozulko (2005) and Parnikoza (2008) report mass dismissals of local contracted workers, forest officers and research staff. In their place, people from other parts of Belarus or even abroad are contracted. The message transmitted in these reports is that being “foreigners” to these forests, the newcomers do not care about the environment and do not feel it is wrong to cut trees in natural reserves. This was probably the reason for replacing local people with “strangers”, who are easier to manipulate. Some other conflicts (destroying crops etc) also exist, although have not as yet been broadly publicized.

Since the state owns most of the land, however, it is relatively easy to establish new protected areas. In neighboring Poland, enlargement or establishment of national parks is usually strongly opposed by local communities who are afraid of hampering development activities. On the contrary in Belarus such protests do not occur, and local inhabitants usually support the establishment of protected areas. Local governments even provide a protection status to valuable local environmental sites within their administrative borders. The interviewed members of local governments stressed that for the local community the parks in their area are very important tourist attractions and they see nature as an asset.

Nevertheless, a source of potential conflict between local communities and protected areas administration is the lack of enforcement of compensation for damage by wild animals. As a representative of the Kamianec District Council pointed out, “ungulate animals are too abundant, and a portion of agricultural lands has been transferred to the Park. Some animals are protected, some are hunted. Nowadays they also appear on nearby crops and cause damage, both to individuals and agricultural

companies. We are now coming up with proposals to the Administration of the President in order to find optimal solutions.”

Illegal NGOs and activists are clearly in conflict with both the government and the Presidential Management Department. Interestingly, in order to get into the park and inspect activities, the activists often have to conspire with the local population within the National Park. The activists often witness many examples of overuse of the park’s resources by locals, but they never report this officially.

4.3. Uncertainties related to the policy change

Uncertainties are related to the reaction of the Presidential Management Department. It is still a highly centralized and very much top-down system. Practically all actors bear in mind that if they are openly against the current governmental policy they may lose their jobs or be prosecuted.

An interviewee from the Bioresource Research Centre pointed out uncertainties related to the availability of the public funding both from the Presidential Management Department and from the Government. Certain categories of protected areas such as, for instance, so-called Special Protected Areas have very small budgets and they are under threat that the funding will be discontinued.

As personal connections and relationships with the President and people close to him are very important, a big source of uncertainty is related to who, will be supported by the President, and for how long,. People favored by the President do not have to comply with the law and the attempts to bring an action against them would not help. A representative of the NGO Belavezhskaya Pushcha – 21st Century mentioned that citizens, national or international organizations may complain, but the

complaints can be useless if the person or agency mentioned in the complaint enjoys some support from the presidential administration. According to the interviewee from the Belavezhskaya Pushcha – 21st Century NGO, the law monitoring nature protected areas is not enforced by the government due to the uncertainty of the reactions of the President’s Administration, “although there is a monitoring law, the people from the Ministry [of the Environment] are afraid of touching this.” The national legislation recognizes the Ministry of Environment as an authority responsible for the monitoring and coordination of nature protection in all the protected areas, including the areas administered by the Presidential Management Department. Nevertheless, due to the fear of upsetting someone potentially close to, or favored by, the presidential administration, the monitoring is practically non-existent and the law has never been properly enforced.

Sources of other uncertainties are global environmental changes and, in particular, climate change. As expressed by the interviewee from the Ministry of the Environment, climate change affects many fields of the economy such as energy, agriculture, and forestry. The Ministry and national science institutes have limited capacity to deal with these impacts. The authorities are thus more open to the advice and assistance of international organizations and experts.

4.4. Perspectives on the future of the process

Weak monitoring and law enforcement, as well as practically monopolistic control of the Presidential Management Department over protected areas, suggests that although there are clear signs of emerging multi-level governance, the changes are slow. In the Soviet times there were no consultations with locals and there were no independent

NGOs. In comparison, what is happening now is very different. At the majority of levels new actors appear and demand action.

Practically all interviewed actors see that future changes are inevitable; they clearly see their benefits and they are not afraid of talking about them. The representative of the Belavezhskaya Pushcha, although he is a part of the Presidential Management Department, stated, “I believe the most efficient projects are where representatives of various parties are involved, not only from one institution, but from several institutions, with joint control over the implementation. It is important because it often happens that the project is formally implemented, the report is written, and that’s it, and the country cannot really benefit from the any tangible project outputs. [...] We have a big problem with NGOs in our country in general, because they are almost absent. [...] You know, there is a proverb that one head is good to have, but two heads are even better. [...] It is always good to listen to different opinions.”

Despite the fact that NGOs are not encouraged to be active, their representatives are aware, and proud of, the benefits generated by their action. Although the Head of the Belavezhskaya Pushcha – 21st Century NGO, lost his job because of his activism, and the presidential administration keeps prosecuting him, he is proud he changed history and helped to save the National Park: “I can say now that our activity changed the history of Belavezha Forest. If there had been none of our activities the history could have been different. Due to our activities, the history has radically changed. [...] Another activist from Minsk wrote a letter to the UNESCO about the world heritage being in danger. After that mission a group of experts were sent to control the Park, volunteers visited the Park. [...] the UNESCO experts accepted our point of view and the Park administration was afraid to be scandalized [...]” The NGO also provided information to the Council of Europe to show that 20

recommendations they gave regarding how to maintain and conserve the Park were broken by the Park's administration. It was an international scandal which undermined the reputation of the country, thus the administration is afraid of breaking the international agreements again.

To sum up, we believe that the increasing number of international programs as well as inclusion of non-state actors and active involvement of citizens and local governments will continue to improve monitoring and enforcement of environmental legislation. Support of international organizations, particularly for local activists who bear high personal costs of their activism, could strengthen and speed up these positive tendencies.

5. Conclusions

The paper analyzes an emergence of multi-level biodiversity governance in Belarus. The country has been under a strongly centralized political regime since 1994. The Presidential Management Department took over the management of national parks and some other protected areas in the country. This seriously diminished access to information about the state of the biodiversity and management activities within the protected areas under the administration of the Presidential Management Department.

Nevertheless, mostly due to a combination of external and internal factors, we observe that the Belarusian hierarchical and centralized political system is slowly opening up and is sharing some of its powers with non-governmental actors. Non-governmental stakeholders are becoming more involved in the decision-making and governance of natural resources.

In the article we characterize the policy changes that entail an introduction of the elements of market governance in protected areas, collaboration of protected areas' administration with local communities, an emergence of independent non-governmental organizations, and an increasing role of international organizations and funds. In the evaluation of the policy changes we compare perceptions of the changes by different stakeholder groups, and assess the level of political conflict and uncertainties surrounding the changes. Our empirical evidence is based on literature and document review, as well as on in-depth interviews carried out with key stakeholders.

There are clear signs of emerging multi-level environmental governance in Belarus. The signs observed include the dispersion of governmental authority to general purpose territorial jurisdictions and empowering of local governments characterized by Hooge and Marks (2003). There is also an increasing participation of non-governmental actors in political decision making, which is identified by Bache and Flinders (2005) as a key characteristic of multi-level governance. What is nevertheless different from western democracies and findings reported e.g. by Deyle (1994), Berry (1994), and Voß (2007) is that this process is weakly supported by the development of corresponding legislation that would recognize and regularize interactions with new actors and statutory powers. It is even less supported by institutional mechanisms which may not be present even if relevant legislation is formally in force. The policy innovation in the Belarusian biodiversity protection is not an outcome of a consciously designed and implemented process supported by the development of subsequent legal frameworks, but rather a necessity and an outcome of the coping strategies taken by governmental agencies. For instance, market instruments used in national parks have been developed in response to an increasing

pressure from the Presidential Management Department to deliver profits. Ad hoc public participation in decision-making in the national parks is often organized in order to comply with the requirements of international programs. It is also required where organizations will only release their funds, or other forms of support, if non-governmental actors are participating.

Apparently, these developments were not followed by the introduction of legal standards and procedures ensuring equal access to information and providing sanctioning tools in cases of mismanagement. For example innovatory practices such as the use of market instruments, e.g. charges on tourist activities and permits on logging operations on protected areas, are carried out although private property and private companies are practically non-existent and there is no contract law relevant to public organizations. Such a law would ensure equal access to information for all potentially interested parties, the choice of the most competitive offer, and would specify sanctions in case of misconduct. On the other hand, as we mentioned above, in a few cases some innovative pieces of legislation cannot be implemented because the relevant institutional mechanisms have not been developed. This is the case with the law on compensating damage done by wild animals, or the law on the monitoring of protected areas by the Ministry of Environment.

In Belarus, newly emerging institutions recombine with the remains of the communist and the centralized autocrat political system. This is in line with the observations of Kluvankova-Oravska et al. (2009) performed in other transition countries. There are strongly visible power asymmetries between the Presidential Management Department and other actors, which generates a fear and an expected uncertainty in possible interactions with the Presidential officials; it is believed that disagreements with the Department may result in a cut in public funding for research

institutions, lost support for the registration and implementation of international projects, closing down of NGOs, and loss of jobs for individuals.

Nevertheless, it is remarkable that, all interviewed actors perceive the multi-level policy changes as inevitable and the interviewees believe that the changes lead to an improved quality of the environment through stronger monitoring and more transparent decision-making in protected areas. Various forms of support from international organizations are required to ensure the continuity of this process.

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