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Multi-level governance and policy contestation: Ambiguity and conflict in the implementation of peatland conservation in Ireland¹

Gobernanza multinivel y contestación de políticas: ambigüedad y conflicto en la implementación de la conservación de las turberas en Irlanda

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ABSTRACT

Biodiversity represents one of the most controversial areas of environmental governance. **Objectives:** Compliance with the EU regulatory framework is contained in the Habitats Directive (92/43/EEC) and in the designation of special areas of conservation which has prompted contestation in relationships between public authorities, farmers, and local landholders across all levels of governance. **Methodology:** Using Matland's ambiguity-conflict model as a lens to view the implementation experience, the discussion uses official documentation and literature sources to explore Ireland's compliance with EU biodiversity regulation with reference to peatlands. **Results:** This article uses the case of Ireland to explore inadequate implementation which led to prolonged legal proceedings culminating in an unfavourable judgement against the Irish state on 29th June 2023. In Case C-444/21 the Court of Justice of the European Union (CJEU) ruled that Ireland failed to fulfil its obligations under the directive, namely the appropriate designation of a Natura 2000 network of sites for important habitat and a protection regime for them. Central to Irish debates on the habitats directive is the protection of raised bogs which has resulted in considerable conflict, politicisation, and prolonged negotiations between peat-cutters and public authorities at national and local levels. **Conclusions:** The discussion highlights the difficulties in changing ingrained attitudes and practices for managing nature conservation in privately owned land and in securing collaborative engagement with stakeholders.

KEYWORDS

Habitats directive; implementation; Ireland; multi-level governance; peat.

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RESUMEN

La biodiversidad representa uno de los ámbitos más controvertidos de la gobernanza medioambiental. **Objetivos:** el cumplimiento del marco normativo de la UE se recoge en la Directiva sobre hábitats (92/43/CEE) y en la designación de zonas especiales de conservación, lo que ha suscitado contestación en las relaciones entre autoridades públicas, agricultores y terratenientes locales en todos los niveles de gobernanza. **Metodología:** utilizando el modelo de ambigüedad-conflicto de Matland como lente para ver la experiencia de aplicación, el debate utiliza documentación oficial y fuentes bibliográficas para explorar el cumplimiento por parte de Irlanda de la normativa de la UE sobre biodiversidad con referencia a las turberas. **Resultados:** este artículo utiliza el caso de Irlanda para analizar la aplicación inadecuada que dio lugar a prolongados procedimientos judiciales que culminaron en una sentencia desfavorable contra el Estado irlandés el 29 de junio de 2023. En el asunto C-444/21, el Tribunal de Justicia de la Unión Europea (TJUE) dictaminó que Irlanda había incumplido las obligaciones que le incumbían en virtud de la directiva, a saber, la designación adecuada de una red Natura 2000 de lugares para hábitats importantes y un régimen de protección de los mismos. En el centro de los debates irlandeses sobre la directiva de hábitats está la protección de las turberas elevadas, que ha dado lugar a considerables conflictos, politización y prolongadas negociaciones entre los cortadores de turba y las autoridades públicas a nivel nacional y local. **Conclusiones:** el debate pone de relieve las dificultades para cambiar actitudes y prácticas arraigadas en la gestión de la conservación de la naturaleza en tierras de propiedad privada y para garantizar el compromiso de colaboración con las partes interesadas.

PALABRAS CLAVE

Directiva hábitat; implementación; Irlanda; gobierno multinivel; turbera.

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1. INTRODUCTION

Biodiversity is the world's natural capital, and the protection of ecosystems is a long-standing priority in the European Union's sustainable development policies. Biodiversity loss is regarded as the most critical global environmental threat alongside climate change, and the two are inextricably linked (Citizens' Assembly, 2023; IPCC, 2023; UN, 2023). Ireland's biodiversity resources are the combination of climatic, geological, topographical, and historical factors and, despite having fewer endemic species, several of Ireland's habitats are internationally important due to their scarcity. Ireland's raised blanket bogs fall into this category, and it is estimated that they constitute approximately fifty per cent of Europe's remaining active raised bog network (DoCH&G, 2019). Active raised bogs both support biodiversity and are an important carbon sink, and the Irish state has a responsibility to preserve these sites. The main legal instrument governing biodiversity protection in the EU is the Habitats Directive (92/43/EEC). It aims to safeguard species and habitat types by ensuring their maintenance and restoration to a favourable conservation status.

The implementation of the habitats directive takes place within a system of EU multi-level governance (Beunen & Duineveld, 2010; Laffan & O'Mahony, 2008) as distinct to those arenas in which national level authorities are the main arbiters (Heidbreder, 2017). Further, individual member states are unlikely to be neutral mediators of environmental policy implementation since their responses are strongly influenced by domestic politics, bureaucratic, and economic interests (Connaughton, 2019). This is evident in Ireland's experience of designating Natura 2000 sites and in adopting appropriate conservation measures. Using Matland's (1995) implementation model of ambiguity and conflict this article explores Irish public administration's attempts to comply with EU biodiversity regulation, with specific reference to peatlands. Matland's model recognises that central authorities influence policy implementation through decisions on funding and jurisdiction, even when goal ambiguity exists. It is also perceptive to the interdependency of actors working across different levels

of governance in contexts that are openly characterised by conflict (Matland, 1995, pp. 170-171). Ireland's implementation of the habitats directive differs from that of other EU member states since a considerable proportion of designated sites are on privately owned, farmed land, and landowners enjoy strong legal protection. Central to these challenges is a reality that many people living in rural Ireland retain a social value to domestic peat cutting and do not necessarily recognise this contradiction with peatland conservation.

Following the commencement of European Commission infringement actions against Ireland peat cutting on designated sites was banned in 2011. This led to a decade of considerable conflict, political controversy, and prolonged negotiations between turf-cutters and public authorities at national and local levels. It included efforts to ensure adequate compensation, realise appropriate mediation initiatives, and guarantee support for a national policy shift from peat harvesting to restoration. The Commission gave Ireland a final deadline to fulfil its obligations by January 2019 and when they were not met the case progressed to the Court of Justice of the European Union (CJEU). In a largely anticipated judgement, the court ruled that Ireland had failed to adequately implement the directive and had a consistent record of failing in conservation measures for certain priority habitat types that include blanket bogs (EU, 2023).

The article is organised as follows. The first section sets out the significance of peatlands for habitat conservation and climate action, and how this contrasts with Ireland's poor record in conservation. This is contextualised by highlighting the complicated cultural, economic, and social factors underpinning peatland management. The incremental development of the institutional and regulatory framework is then outlined. The next section discusses EU policy implementation and methodologies in implementation theory. Matland's (1995) ambiguity-conflict model is identified as a suitable framework for analysing top-down and bottom-up policy implementation in the heavily politicised atmosphere of managing Irish peatlands. This is followed by a discussion of the Irish administration's experience of complying with EU biodiversity regulation, the difficulties in changing ingrained attitudes and practices for managing nature conservation and securing collaborative engagement with stakeholders across multiple levels of governance.

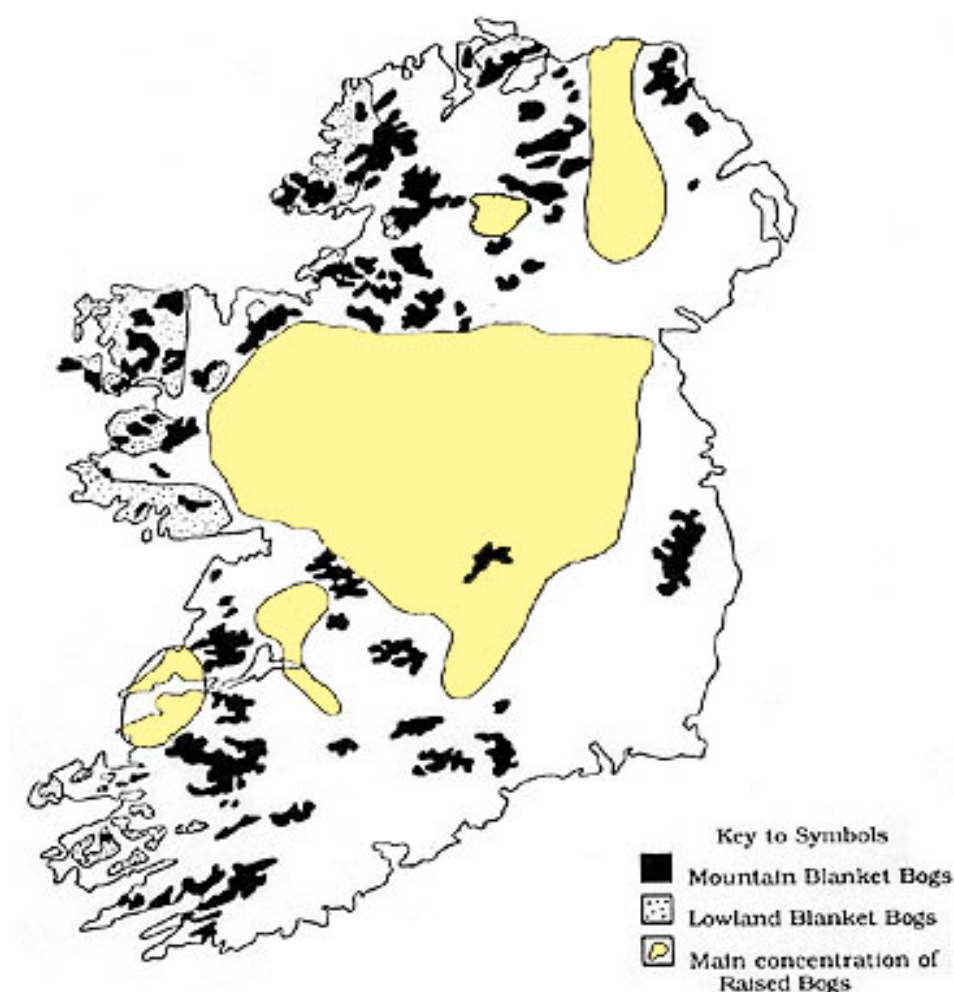
2. THE BIRDS, THE BEES... AND THE BOGS IN IRELAND

2.1. The state of Ireland's peatlands. Past and present

Despite having fewer endemic species many of Ireland's habitats are internationally important due to their scarcity in Europe. This is illustrated in Ireland's peatlands (also known as bogs) which are unique in terms of heritage, habitat, and their wealth as a natural resource. The wet climate is a key factor in influencing the formation of different types of peatlands that accommodate species in combinations not found elsewhere. Peatlands cover approximately twenty per cent of the national land area which includes a significant proportion of some of Europe's most at risk peatland habitats (EPA, 2020; Stout & Ó'Cinnéide, 2021). They provide many important ecosystem services, including maintaining biodiversity, carbon storage, supporting agriculture and forestry, water regulation and flood attenuation. The condition of peatlands and associated biodiversity is poor, however, including those protected under national and European legislation. It is reported that seventy-five per cent of peatland habitat has been either mined or drained and just one per cent is actively growing (Citizens' Assembly, 2023). The wet and wild landscape of the bogland areas was historically discounted as unproductive farmland and large tracts were afforested. From the 1950s drainage and extraction measures halted in other countries but the practice continued and was even scaled up in Ireland's "wastelands" (Bresnihan & Brodie, 2023). This entirely altered the habitat system and demonstrated a lack of official and community awareness of the importance of biodiversity.

Peatlands are carbon sinks and have a role to play in sequestering and storing CO₂ as protection against climate change (Fluet-Chouinard *et al.*, 2023). When degraded and drained the peatlands become a source of greenhouse gas emissions and biodiversity is damaged. It is now acknowledged that Ireland's peatlands are currently a large net source of carbon emissions, and they continue to be spoiled due to land drainage for agricultural purposes, afforestation, and peat extraction (Houses of the Oireachtas, 2019). This is despite the evidence that climate change and the biodiversity crisis are closely interlinked and solutions like peatland rewetting are considered "low hanging fruit" in terms of viable options for mitigating climate change (O'Connell *et al.*, 2021). The evidence presents a depressing picture of the state of Ireland's peatlands but there are shifts towards conservation and restoration. Between 1997 and 2002, Ireland nominated fifty-one raised bog sites for designation as Special Areas of Conservation (SACs). Seventy-five raised bog Natural Heritage Areas (NHAs)

were also designated to support the network. To augment these actions government policy and EU sponsored restoration projects, such as the Living Bog Project funded by the EU LIFE programme and launched in 2016, aim to reverse peatland losses through sustainable management and rehabilitation (Stout & Ó'Cinnéide, 2021). Further, the cutting of peat in Ireland's active raised bog network was officially banned in 2011 to safeguard—somewhat late—internationally important sites listed as priority habitat for protection under EU law. The state acquisition of raised bogs is regarded as a potential solution since these habitats don't require grazing regimes (Craig, 2001, p. 148) and this is perceived as better value for money as opposed to compensating landowners (Renou-Wilson *et al.*, 2011). Figure 1 illustrates the principal locations of Ireland's raised bogs.

FIGURE 1. PEATLAND IN IRELAND

Source: Irish Peatland Conservation Council. Available at: <http://www.ipcc.ie/a-to-z-peatlands/raised-bogs/>.

Navigating the preservation of peatland is tied up in complex economic, social, and cultural features of Ireland's history and people. Peat, or turf, is used as domestic fuel and has also been burned to generate electricity in thermal power plants. In post-independence Ireland (1922-) exploiting peatlands was part of a drive for economic self-sufficiency and native industrial development. This involved transforming "the vast waste areas of our bogs into a valuable source of wealth" (Andrews, 2001, p. 114). An Bord na Móna was established as a semi-state company by the Turf Development Act 1946 and began developing Irish peatlands to provide employment and economic benefits to communities in the Midlands region, as well as securing a degree of energy security. The extraction of peat in the Midlands was heavily mechanised and it was not until 1990 that an agreement was reached with Bord na Móna to transfer a portion of ecologically valued raised

bogs to the National Parks and Wildlife Service (NPWS) for conservation (Connaughton, 2019, p. 161). In June 2020 Bord na Móna announced the suspension of peat harvesting on its lands as part of its transition to a more sustainable model. It should be noted, however, that it is not just industrial scale promotion of peat extraction that causes damage to bogs, as local turf cutting is also mechanised since turf is now cut by diggers and not the traditional *sleán*. The Turf Cutters and Contractors Association (TCCA) was founded in 1998 and acts as the main representative body for turf cutters.

“The Bog” also represents an important cultural reference point in rural Ireland. Self-sufficiency was an important principle for individual Irish families who took pride in their ability to “save” their own turf on their land and heat their homes for several generations. The protection of individual turbary rights² is an emotive issue and Ireland’s post-colonial status and history of land agitation influences this. Economic considerations remain important as many turf cutters not only cut turf domestically but also sell it in the community, and previously subsidised their livelihoods by sending turf “to the station”³. Further, “bringing home the turf” –as in cutting, drying, footing, and banking the turf– is a ritualised labour that has played a distinct role in Irish cultural and social life. It signifies values that represent both a rural Irish identity and nostalgia for a way of life (Häyrynen *et al.*, 2021; McGrath & McGonagle, 2016). The issue of turf cutting and attempts to ban it on SACs highlights divisions between core and periphery as it is an issue that largely affects rural communities in the West and Midlands who may feel alienated and “left behind” due to the closure of peat electricity production despite the success of the Irish economy (Banerjee & Schuitema, 2023; Häyrynen *et al.*, 2021). Rural farmers, environmentalists and NPWS officials have a difficult co-existence in managing biodiversity and the preservation of peatlands underscores this. Historically a propensity to introduce top-down approaches to conservation created divisions whereas bottom-up solutions with collaborative approaches should be integral as national policy strives to move from harvesting to restoration. In May 2019 the Irish parliament, Dáil Éireann, declared a climate and biodiversity emergency making Ireland only the second country to do so. Despite this and an abundance of policy frameworks, such rhetoric is not commensurate with practical implementation and consistent action to combat the crisis. The following section explores the national regulatory framework to support compliance with EU environmental policy and legislative measures.

2.2. Institutional and regulatory framework

Ireland’s national biodiversity policy is allied to European Union and international nature conservation commitments. The most significant driver of domestic habitat conservation is EU legislation as it denotes an intervention into the control of land use. At the European level peatlands have been recognised as performing an important role in contributing to international climate change commitments. This is a pillar of the EU Biodiversity Strategy to 2030 which is derived from the European Green Deal, and the strategy prioritises restoration. A watered-down Nature Restoration Law was narrowly passed by the European Parliament (EP) in July 2023, and a provisional political agreement was achieved between the Council presidency and EP representatives in November 2023. What this demonstrates is that biodiversity is securing a more prominent position on the institutional agenda, and this is also evident at national level. In 2022 Ireland became the first country in the world to hold a national Citizens’ Assembly on Biodiversity Loss and its findings to government were published in April 2023⁴. Central to this was an expression of disappointment in the Irish state for its shortcomings in addressing biodiversity loss and its failure to implement EU and national policy and law appropriately (Citizens’ Assembly, 2023).

The responsibility for biodiversity is vested in the Minister for Housing, Local Government and Heritage (HLG&H) but its overall implementation necessitates active involvement from areas managed outside the department, such climate change, environment, agriculture, and marine. The institutional framework for biodiversity is influenced by the “lead department” model in public administration, and the horizontal and cross-

² Turbary rights relate to the right to cut turf on an area of bogland and can be customary and/or historical ensuing from the re-settlement of confiscated lands.

³ Between 1950 and 1967 peat powered stations were built as part of a strategy to ensure fuel diversification. In 1957 an Electricity Supply Board (ESB) power station was completed and located at Deelis, Cahersiveen, Co. Kerry. The turf brought to this station was produced by local suppliers and these turf producers formed the Iveragh Cooperative Society Ltd. in 1969. The author’s father worked with the Iveragh Cooperative Society Ltd. and also supplied turf to the station. The Cahersiveen power station closed in 2003.

⁴ The Citizens’ Assembly was composed of 99 randomly selected –but representative– Irish citizens and an independent chairperson. Their report published on 5th April 2023 included 159 recommendations covering 86 sectoral specific recommendations and 73 high-level recommendations.

cutting approaches required to address such challenges are tested by the endurance of this architecture in the official system (Connaughton & Devane, 2023). For example, the principal farming interest groups traditionally liaise with the agriculture department. The National Parks and Wildlife Services (NPWS) falls under HLG&H and is responsible for the conservation of raised bogs. They have a field management staff located throughout the country and administer a licensing system to regulate certain activities that impact on designated areas for conservation. Local authorities have key nature conservation roles through the operation of the planning system and An Garda Síochána (Police Service) and Customs also have enforcement duties. The Irish physical planning system is governed by the Local Government (Planning and Development) Acts which date back to 1963. But large-scale forestry and peat extraction was brought into the planning system late through the environmental impact assessment process.

Under the 1992 Habitats Directive 92/43/EEC member states were required to protect certain habitats and submit a list of SACs according to criteria established at EU level. The Habitats Directive was transposed into national law in 1997 and represented a radical change in nature conservation policy and law (Grist, 1997). The European Communities (Birds and Natural Habitats) Regulations 2011 revises and consolidates the birds and habitats regulations and clarifies the roles of certain departments and agencies. They also enable prosecution in the courts of those who do not comply with conservation measures. From 1998 Ireland had to submit peatlands for protection in Natura 2000 and in the case of active raised bogs any extraction from them can only be allowed if a specific legal process is followed. This involves an assessment of impacts, non-availability of alternative solutions and provision of compensatory habitats. The, albeit belated, policy attention to peatlands over the past decade prompted the introduction of a National Peatlands Strategy 2015, the National Raised Bog SAC Management Plan 2017-2022, and the Wildlife (Amendment) Act 2012 which provided for the implementation of a reconfiguration of the Raised Bog NHA network, and further legislation, usually in the form of statutory instruments (SIs) to clarify designations.

The development of this legal and policy framework has been incremental and complex to apply in practical implementation involving local landowners and turf cutters. Its establishment is also driven by the threat and reality of European Commission infringement proceedings against Ireland. For example, in June 2011 a reasoned opinion requested that Ireland take urgent action to halt the destruction of peat habitat on SACs. These infringements involve systemic breaches of both the habitats and environmental impact assessment directives and led to formal engagement between the Irish authorities and the European Commission. When a member state persistently fails to address the breach in the implementation of the directive the Commission may refer the matter to the Court of Justice of the European Union (CJEU) which may impose financial penalties. From 2011 the Irish government strove to stop turf cutting on SACs, provided compensation to turf cutters and enacted restoration projects on various bogs –but the destruction of important habitat continued. In September 2022 Ireland was sent an additional reasoned opinion as part of the ongoing infringement case against Ireland citing stalled enforcement actions and the pace of remedial action as “too slow given the importance of this priority habitat” (European Commission, 2022). On 29th June 2023 the CJEU ruled against Ireland in Case C-444/21 citing a failure to fulfil obligations under Directive 92/43/EEC. The tensions arising from attempts to protect valuable habitat or diminishing species by banning traditional practices and methods considered damaging is not unique to Ireland’s engagement with EU biodiversity policy. It is an implementation dilemma experienced across member states and an illustration of this in 2021 is a CJEU decision against France that insisted on the ban of a traditional hunting technique. The prohibition of using the so-called glue traps to capture birds angered the country’s national hunting federation and became a politicised issue.

3. THE AMBIGUITY-CONFLICT MODEL

Implementation studies, anchored in the field of public administration, are a systematic effort to understand the factors that facilitate or constrain carrying out public policy (Hill & Hupe, 2022; Pressman & Wildavsky, 1973). Traditional implementation studies identify two principal methods, “top-down” and “bottom-up”. The “top-down” approach is useful where a dominant public programme in the policy field is under consideration or where the analyst is solely interested in the effectiveness of a programme (Sabatier, 1986, p. 36). Whereas a “bottom-up” approach is better employed when the analyst strives for a better understanding of local conditions, in particular the dynamics of local variation and large numbers of actors without power dependency (Hjern & Porter, 1981). Both stances have been criticised and referred to as “normatively biased” (Hupe, 2010, p. 66) since they both tend to ignore the portion of the implementation reality explained by the other.

EU policy implementation is influenced by the contextual factors of multi-level governance and an expectation that EU policy prescriptions will encourage modifications in target groups’ behaviour to resolve collective problems. It is generally analysed by taking compliance (as in conformity with the EU directive) as a conceptual starting point and this has an inherently top-down –and state-centred– focus (Thomann & Sager, 2017). Further, EU policies may change as they undergo “customisation” following “undifferentiated” implementation processes since member states may alter the EU rulebook during the transposition phase (Zhelyazkova & Thomann, 2022). Whereas research paying attention to practical implementation (or “law in action”) is less prominent in the literature (Connaughton, 2019; Versluis, 2007) but it is much more likely to illustrate the outworkings of implementation taking place in a system of multi-level governance. Practical implementation refers to the process “in which rules are enforced and applied by the relevant administrative actors and target groups, not through intentions ‘on paper’, but through activities ‘in action’” (Zhelyazkova & Thomann, 2022, p. 431), and can result in incongruent outcomes.

Efforts to synthesise the “top-down” and “bottom-up” methodologies in implementation theory (Sabatier, 1986; Matland, 1995; Winter, 2015) and reconcile conformity with practice in our understandings of implementation in EU multi-level governance (Heidbreder, 2017) has led to a variety of conceptual frameworks and studies informing us about how the implementation gap is influenced by governance factors. In addition, implementation is a highly politicised issue and process, and several factors can be attributed to the increasing politicisation of implementation problems. They include the salience of the issue, CJEU judgements, economic and social criteria, inability to meet deadlines, and resistance from target groups. All serving to highlight the complexities and how what unfolds at local level implementation may sharply differ from what policy designers originally envisaged.

The analysis of efforts to address peatland conservation in Ireland and comply with the requirements of the Habitats Directive necessitates attention to both top-down and bottom-up approaches to implementation, and exploration of the contestation between actors operating at different levels of governance. Matland’s (1995) synthesis of implementation literature in the ambiguity-conflict model is deemed a “parsimonious” attempt (Zarb & Taylor, 2023; Thomann, 2019) to resolve the various shortcomings in earlier implementation literature by deliberating how the policy is accepted and understood by (local) implementers, as well as the conditions under which it must be implemented. The objective is to “explain when the two approaches [top-down/bottom-up] are most appropriate rather than to develop a model that combines both simultaneously” (Matland, 1995, p. 153). He considers the extent that ambiguity and conflict affect decision making and how this determines the nature of policy implementation that is likely to ensue. Matland’s (1995) model has been applied to an assortment of policy areas and governance contexts, including public education (Hordern, 2015), health and social care (Coleman *et al.*, 2021; Ellis, 2015), disaster mitigation (Zarb & Taylor, 2023), and funded project implementation in conflict societies (Knox *et al.*, 2023).

Matland contends that ambiguity and conflict are intrinsic features of policy rather than factors that policy designers try to eliminate. Policies are classified along these axes and cross-referenced to create a matrix (see figure 2) that presents different types of implementation process and the central outcomes for each implementation type (Matland, 1995, pp. 159-160).

FIGURE 2. AMBIGUITY-CONFLICT MODEL

	Low Conflict	High Conflict
	ADMINISTRATIVE IMPLEMENTATION	POLITICAL IMPLEMENTATION
Low Ambiguity	Goals Implementation Key organising concept: determined by resources	Goals Implementation Key organising concept: decided by power
	EXPERIMENTAL IMPLEMENTATION	SYMBOLIC IMPLEMENTATION
High Ambiguity	Goals Implementation Key organising concept: determined by contextual conditions	Goals Implementation Key organising concept: outcomes are organised by coalitional strength

Source: Adapted from Matland (1995) and Coleman *et al.* (2021).

The ambiguity axis relates to the extent to which the goals of the policy are clear and this is categorised in terms of two categories: ambiguity of goals (aims) and ambiguity of means (process). This is not necessarily a problem, but it does highlight that implementers may agree on the policy goal but that the policy means to achieve it are difficult, or there is uncertainty about what roles actors should play in the implementation process. In EU environmental policy the inclusion of increasing “rules”, or technical requirements may introduce ambiguity and lead to an implementation deficit. A tendency for member states to introduce exemptions, ignore, misapply, or simply do things “their own way” will result in a dilution in the legislative intentions (Thomann & Sager, 2017). And yet, policy ambiguity serves as an important part of policy formulation because it facilitates the “political deal making” that eases the way forward to introduce policy change (Zarb & Taylor, 2023). But it may undermine implementation if agents apply considerable discretion or disagreements arise between different agencies on their roles and strategies in giving effect to policies (Pressman & Wildavsky, 1973).

The conflict axis indicates that policy conflict permits implementation to be regarded as a political outcome but that this does not necessarily assume conflict in terms of outright opposition. Rather this is where a set of policy intentions may have political support, but they remain conflictual because the “goals as set out are incompatible” and mutual benefit is not always observed (Coleman *et al.*, 2021, p. 288). Implementation may be adversely affected by the actions of (interdependent) local implementers or controversies that arise among them due to their disagreements with the “rules”. Matland (1995, p. 157) notes that, “the intensity of conflict increases with an increase in incompatibility of concerns, and with an increase in the perceived stakes for each actor”. The mechanisms for conflict resolution will vary between persuasion or problem solving in circumstances of low-level conflict and are likely to resort to bargaining and coercion when conflict is high. The currency employed is power and a system of implementation that is contingent on political preferences will be uneven.

The types of implementation processes are: Low Ambiguity Low Conflict (Administrative) where there is a clear description of goals, administrative resources, and ability to solve the problem. Low Ambiguity High Conflict (Political) reflects situations where technologies/means are known but the implementation outcomes are decided by power. This is more open to external environmental influences than administrative implementation. High Ambiguity Low Conflict (Experimental) describes implementation outcomes that depend largely on which actors are most involved and contextual conditions dominate. High Ambiguity High Conflict (Symbolic) suggest intractable conditions and potentially a lack of implementation outcome. This should not be confused with symbolic –as in cosmetic– policy and refers to implementation shortcomings impacted by local implementers’ commitment to new goals or important values and principles (Zarb & Taylor, 2023).

The following discussion uses Matland’s configuration to unpack features of the implementation process for EU biodiversity policy in Ireland. It presents evidence of administrative implementation where at the introduction of the habitats directive initial efforts were made to implement new conditions. From the late 1990s the designation of SACs on peatlands became more politicised and subject to heightened conflict as the Irish authorities sought to find solutions to turf cutting on SACs. A decade later the state introduced a turf cutting ban under pressure from European Commission infringement proceedings, highlighting the extent of political implementation. The third phase is characterised by contextual conditions at local level, coalitional strength, and the endurance of what Matland (1995, p. 168) refers to as “policies that invoke highly salient symbols [and] often produce high levels of conflict”. Rather than “reconciling conflict away” Matland’s framework focuses on understanding its role in policy implementation (Knox *et al.*, 2023; Coleman *et al.*, 2021). The discussion is informed by secondary sources (academic literature and official publications) to trace Ireland’s efforts to apply the directive and address peatlands conservation.

4. DISCUSSION

4.1. Administrative implementation: Ill-defined goals and simmering conflict

EU nature policies are by their complexion dynamic and contested in that they are as much about the solutions and governance approaches taken to achieve the goals as they are about the species and areas to be protected (Beunen & Duineveld, 2010, p. 323). Although conflict is not a feature of many biodiversity legislative impacts, disputes have arisen within several European states through a clash between agricultural and forestry practices, on the one hand, and the introduction of programmes to address habitat and species conservation on the other (Henle *et al.*, 2008). This was evident in the experience of managing farmland

biodiversity in the islands and uplands of Scotland whereby conservation goals competed with securing agricultural payments and other government policy goals (Young *et al.*, 2010). The content rather than the quantity of regulation will determine the degree of problem solving required (Zhelyazkova & Thomann, 2022). In the case of habitat protection, government interventions may not only incite the opposition of farmers who work and own the land in protected areas, but also elicit criticism from environmentalists. For example, the perceived failure of the Andalusian regional government to actively safeguard the wetlands of Doñana from water extraction for unlicensed strawberry farming has drawn the ire of both environmental groups and European Union institutions (WWF, 2022). The success of the implementation of the habitats directive in a multi-level governance environment requires social behavioural shifts and meaningful engagement with the stakeholders involved. Across member states the schedule for implementing the directive proved impractical as no state met the deadline for transferring their list of candidate SACs by 1995.

In terms of Ireland's attention to the negotiations on the directive it appears that "there wasn't a huge realisation in the system as to what the implications would eventually be...we went into it a little bit too blind" (personal interview cited in Connaughton, 2019, p. 169). The National Parks and Wildlife Service (NPWS)⁵ was designated by the Department as the responsible agency for implementing the directive. Although little transposition progress was visible between 1992 and 1994, there were extensive behind the scenes consultations ongoing between the NPWS and the Department of Agriculture on the form of the regulations (Grist, 1997, p. 92). The Irish Farmers Association (IFA), being a far more influential interest group than environmentalists, effectively vetoed progress until compensation was provided. Under pressure to halt infringement proceedings the directive was transposed into Irish law by the European Communities (Natural Habitats) Regulations on 26 February 1997.

The use of secondary legislation methods meant that a broad public debate on the directive's provisions and their consequences was largely absent (Laffan & O'Mahony, 2008). The stand-alone regulation was also divorced from the core planning Acts, and its consent bodies. The notifications for the first phase of proposed SACs occurred in March 1997 and focused on sites supporting "priority" listed habitats, involving over 200 sites covering an area of approximately 550,000 hectares which included peatlands. This had significant consequences for landowners as it ushered in constraints on their land management use. It was remarkable that primary legislation was not utilised given that Ireland's constitutional and legal environment grants considerable protection to landowners and the proposals sought to integrate controls into areas that had previously been unregulated or inadequately so (Connaughton, 2019, p. 170). By April 1998 all member states, except Ireland and Luxembourg, had sent lists of definitive sites to the Commission and a letter of formal notice was issued to the Irish government on 24 April 1996.

Ireland's implementing regulations did make provision for notice to certain parties of the inclusion of land in the candidate list. The way that it went about this was in line with top-down methodology using technocratic procedures and employing a scientific methodology. Many landowners were extremely frustrated with "the science-first, top-down, non-communicative manner" in which designations were made and implemented (Bryan, 2012, p. 86). This was despite the argument that the Commission advocated collaborative principles and consideration for economic, social and cultural issues were enshrined in the habitats directive (O'Riordan *et al.*, 2015). Communication with landowners was attempted through public announcements and site notifications but actual engagement and dialogue with the target stakeholders was poor, and landowners argued that communications were often misleading and inconsistent (O'Riordan *et al.*, 2015; Laffan & O'Mahony, 2008). Domestic turf cutters were affected by the decision to give designated sites of both blanket and raised bogs protected status albeit these bogs generally amount to less than five per cent of the bogland available for cutting (Häyrynen *et al.*, 2021, p. 78). It appeared inevitable that some landowners would inadvertently be overlooked in communication, particularly on bogs whereby a family's grandparents may have been cutting there but it was unregistered. Designations could only be objected to on scientific considerations and landowners were informed that a list of activities considered to be potentially damaging to habitat could not be carried out without ministerial consent. Where agreement was not achieved, the matter was referred to an SAC Appeals Advisory Committee. In practice, although directives provide some flexibility in approach, they include stringent regulatory targets which places pressures on implementers to ensure they are met (Thomann, 2019). It is argued that officials see scientific definitions in site selection as essential for the "credibility and proper application" of EU directives whereas local people are annoyed by them (Häyrynen *et al.*, 2021).

⁵ Formerly undertaken by the Heritage Service under the organisation called Dúchas.

Turf cutters perceived an unfair dismissal of their property rights, disrespect for their local knowledge, and a lack of attention to compensation in lieu of the fuel security provided by their turbarry rights (O’Riordan *et al.*, 2016, p. 432).

4.2. Political implementation: Heightened conflict and politicisation

The upset that farmers/landowners felt over the notification and consultation processes led to problems in enforcing the directive and their cooperation is crucial since the majority of lands within Irish SACs are and will continue to be owned and managed by private landowners. This raises questions about “technocratic environmentalism” and legitimacy –in the sense that the governance processes and outcome must be accepted by those whose interests are affected (O’Riordan *et al.*, 2019). Between 1997 and 2007 the ministers charged with responsibility for the heritage portfolio were individuals who were extremely attentive to local political constituency concerns. In 1999 the Commission highlighted Ireland’s laggard status on transferring the full list of designated sites under the habitats directive and warned the government of punitive measures arising from this. Considerable efforts were made by Irish ministers to convey local concerns about the directive and the imperative of cooperation from landowners to sustain conservation activities. It was ensured that commercial and highly mechanised turf cutting on raised bogs came to an end on sites. However, the minister took an unorthodox decision in respect of domestic turf cutters who were granted a ten-year derogation on turf cutting to give them the time to make new arrangements. This applied to thirty-one raised bogs designated between 1997 and 1999 (Häyrynen *et al.*, 2021). Essentially, this was “a derogation granted by Ireland to itself” and although the minister informed the Commission of this action, the EU did not move against Ireland (Connaughton, 2019, p. 173). Following an EU review in 2002 Ireland designated twenty-four more SACs and in 2004 a further seventy-five raised bogs were designated in National Heritage Areas (NHAs) for protection under national legislation. In 2006 evidence-based research pointed to the destruction of priority habitat over a ten year period (Fernández Valverde *et al.*, 2006) and it was apparent that the derogation Ireland had administered itself regarding turf cutting on raised bogs was irreversibly destructive. While the “science first” approach to designation in the earlier phase was criticised, the intervening period did not provide any way forward in terms of supporting people who depend on turf for home fuel or livelihoods to adopt alternatives (Connaughton, 2019). Ministerial acquiescence towards landowners, particularly farmers’ concerns, clearly influenced the implementation trajectory towards political (see Laffan & O’Mahony, 2008, p. 193).

In 2010 a Green Party minister announced an immediate ban on turf cutting on thirty-one raised bogs and a further ban on twenty-four additional active raised bogs to take place at the end of 2011. A further decision reversing the commitment to allow cutting in the 2011 season was taken by the new Fine Gael minister on 23rd May 2011. This was driven by the threat of EU sanctions and Dáil Éireann passed legislation to allow the confiscation of turf cutting machinery on the protected bogs. In all the major political parties there were individual TDs who quite vocally supported the turf cutters, and the latter were frustrated by the sudden political u-turn. Some landowners blocked the access to their bogs so that NPWS rangers could not enter and continued turf cutting by machine. Garda (police) were present at locations of conflict and the illegal turf cutters/contractors openly defied the law, often strongly supported by members of their local communities. Protesting turf cutters appeared before court in connection with illegal turf cutting and, while insisting on their turbarry rights heritage, faced fines due to their rejection of the directive. The media focussed on the highly mobilised resistance by TCCA members although three quarters of those who had cut turf on the SACs had stopped by 2012 (Quirke, 2012). This implementation phase highlights the role of central authority and the power to make changes in respect to the right to harvest peat, the political divisions arising, and clashes with local culture.

4.3. Symbolic implementation: Proliferation of “Wicked problems” and coalition action

Over the past decade it is evident that the NPWS have introduced more coordinated efforts to address consultation and staff have also demonstrated an aptitude to adapt and “learn skills in community engagement, stewardship and partnership” (Stout & Ó’Cinnéide, 2021, p. 70). Farmers and landowners were perturbed by earlier communications, such as that articulated by a representative of the Irish Rural Link network’s contribution to the Citizens’ Assembly on Biodiversity in 2022. The participant spoke of turf-cutters being asked to cease activities without alternative or process, and receiving letters where landowners were

told they should not be doing certain tasks on their land, “even though they weren’t doing any of those things” (Citizens’ Assembly, 2023). Ironically, good practice in consultation has happened retrospectively – “at the wrong end” – in very resource intensive processes and numerous meetings held to build trust with stakeholders. These positive developments have to some degree been aggravated by a fraught policy of engagement/non-engagement on behalf of the TCCA from 2011. On the 5th April 2011 a non-statutory Peatlands Council was instituted as a “devolved mechanism” for stakeholder inclusion and a collaborative approach to problem solving (O’Riordan *et al.*, 2019). Membership included government departments/bodies, including Bord na Móna, An Taisce, Irish Peatland Conservation Council, IFA, Irish Rural Link and the TCCA. A key grievance expressed by landowners in the meetings was that they had taken care of their property in a state worthy of designation but were being discriminated against. Some progress at resolution was made from 2012 through efforts to secure agreements with groups to relocate to other bogs and facilities. A compensation scheme named the Cessation of Turf Cutting Compensation Fund was agreed but it was viscerally opposed by members of the TCCA. They conducted their own consultation with peatland communities and their findings stressed legitimacy issues surrounding the selection of the designated sites and turbarry rights (O’Riordan *et al.*, 2015).

The divisiveness of the issue in rural Ireland led the Taoiseach (Prime Minister) to convene a four day Peatlands Forum in February 2012 which was independently chaired by a High Court judge who reported on the proceedings. The forum utilised participatory practices and facilitated more than fifty turf cutting communities in voicing their concerns and contributed to resolutions in open plenary sessions (O’Riordan *et al.*, 2015; Quirke, 2012). The forum was regarded as central to shifting the dynamics between government and turf cutting parties, and collaboration through the Peatlands Council also helped with the development of a *National Peatlands Strategy* published in 2015. This presented a new regulatory regime emphasising “an intention to balance the rights of citizens to cut turf for domestic fuel with the conservation objectives and obligations of the state” (McGrath & McGonagle, 2016, p. 310). A scientific review in 2012 raised possibilities for declassification of some sites under Article 6 of the habitats directive if cutting on the contested site did not undercut conservation. Arising from this was a review of natural heritage areas and a further round of negotiations with the EU. This resulted in a comprehensive reconfiguration of the NHA raised bog network which led to turf cutting bans lifted in approximately forty-five sites. This development minimised impact on domestic turf cutters and alternative designations were created with the potential for more to be established on state owned land. The *Bog Management Plan* published in 2017 further attempts to strike a balance between stakeholder needs, the role of communities and the imperative of conserving and restoring bogland (DoCH&G, 2017).

Although these actions suggest a breakthrough in the conflict between the state and a cross-section of the turf cutting community, the problem is far from resolved. Conflict is ongoing in terms of the means to achieve the goals related to the implementation of the habitats directive. This issue depends on the cooperation of local communities and problems arose in relocating some turf cutters from designated sites to suitable, alternative bogs to harvest turf from. Some protesting turf cutters in rural Ireland continued to protest and did not want relocation or compensation, with some turf cutters prepared to go to prison as opposed to giving up the right to cut on their bogs. Such beliefs are associated with the historic and customary nature of turbarry rights and a viewpoint that turf cutting can be compatible with the environment and bogs recover, citing centuries of practice. It also reflects economic arguments whereby local turf contractors do not want to lose their livelihoods or give up a source of fuel to heat their homes. These actions represent opposition built from the bottom-up whereby the standoffs highlight the gaps between various actors and their beliefs regarding the guardianship of the countryside (Connaughton, 2019, pp. 180-181). It is also evident that the top-down implementation guided by scientific evidence is impaired by inconsistent and inadequate enforcement and the trials of regulating dispersed sites in Ireland’s peatlands.

It may be interpreted that the “turf wars” constitute a “wicked” problem as goals are conflictual and implementation is dependent on multiple stakeholders with different agendas, beliefs, and desired outcomes. Further, the tensions between turf cutters and conservation approaches highlights “the complex interdependencies between social issues and the unintended consequences of potential solutions” (McGrath & McGonagle, 2016, p. 318). In relation to the turf cutters the campaign of resistance from the TCCA has had a large influence on participatory and parliamentary processes (O’Riordan *et al.*, 2019). Whereas environmental NGOs are frustrated by a lack of concrete action on behalf of both the national authorities and the EU to proactively protect the sites. The potential for symbolic implementation is suggested in comments from a NPWS official to the Citizens’ Assembly on Biodiversity in 2022: “We’re protecting this land on paper but unless we engage proactively through partnerships, through incentives, through enforcement, with the people who own

and use those lands, we're really at nothing" (Citizens' Assembly, 2023). Under the Bog Management Plan national authorities have started and/or completed works on restoration measures in SAC raised bogs. Simultaneously, a small percentage of turf cutters continue to illegally extract peat in designated bogs despite the bans –and it is widely known about. The sensitivity and toxicity of the issue has led to government failure in intervening and enforcing the full rigour of the law.

Figures released to an ENGO by the government department, on appeal to the Information Commissioner, demonstrated that 330 plots were cut in 2022, and 290 cut in 2021 (O'Sullivan, 2023).

5. CONCLUSION

This article used Matland's (1995) ambiguity-conflict model as lens to survey Ireland's implementation of the EU habitats directive with reference to peatlands. It instructs that policy makers need to pay attention to the clarity and compatibility of goals between policies, and that the potential for conflict is considered. Matland's contingency theory acts as a "clarifying device" in the field of implementation literature which recognises that there is no single best approach and that implementation strategies are contextual (deLeon & deLeon, 2002, p. 471). The discussion has emphasized that cutting turf is very much a mainstay of Irish rural life and provides a stable and economical source of energy. The continuity of land reclamation and peat harvesting have, however, led to a situation where the majority of Ireland's raised bog habitat has been lost. When viewed over time the bogs debate illustrates the abject failure of the practical implementation and enforcement of the habitats directive (Connaughton, 2019, p. 183). The directive involved the first significant intrusion on land use given that agriculture wasn't traditionally subject to planning controls. It also shifted conservation activity from being almost wholly on public lands towards privately owned land. From when a landowner is notified of the proposal to designate a site as an SAC, the site enjoys full protection. It is evident that this protection was largely theoretical and was weakly –if not symbolically– implemented in practice. Severe under resourcing in the NPWS and the lack of acknowledgement of designation from some landowners further entrenched implementation failure across the multi-level governance system.

From the turf cutters perspective, the right to cut turf is rooted in the heritage and the customary practices of rural Ireland and state authorities and environmentalist do not understand this. Nascent technical and administrative approaches to implementation were characterised by poor consultation processes and turf-cutters –particularly landowners– felt disrespected. The early compensation schemes were unsatisfactory, and it was felt that pledges were left dishonored by the authorities, and this bred distrust. As Ireland became subject to infringement proceedings, efforts to ensure compliance resulted in increased politicization of the issues and conflict between the stakeholders. The entrenched views and the community support of legally prosecuted turf-cutters rendered the issue politically poisonous in rural communities, leading to low buy-in from agricultural representatives and across the spectrum of political parties, except the Green Party. It was not until 2017 that a national peatlands management plan was launched to set out how bogs should be conserved, managed, and restored. The issue has become far more urgent in the wake of the biodiversity and climate crisis. In addition, the judgement issued by the CJEU in Case-444/21 means that Ireland must address its challenges in managing its Natura sites. This cannot be done without balancing the needs of the stakeholders whose cooperation is needed to save indigenous and European natural heritage.

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