

**4th Biennial ECPR Standing Group for Regulatory Governance Conference
Regulation and Governance Conference 2012
New Perspectives on Regulation, Governance and Learning
27-29 June 2012, Exeter, UK**

**Regional Politics within European multi-level regulation
Study case: The German federal state Saxony-Anhalt**

Sălăgeanu Romana, PhD student at Otto-von-Guericke University, Magdeburg (Germany) & Babes-Bolyai University, Cluj-Napoca (Romania)

romana.salageanu@ovgu.de

Contents

Abstract

Introduction

1. The participation of regions in the European Multi-level Governance
 - 1.1 Multi-level Governance
 - 1.2 Sub-national mobilisation
 - 1.3 European environmental decision-making
2. The participation of the German *Land* Saxony-Anhalt
 1. The Federal Republic of Germany
 2. The German *Land* Saxony-Anhalt
 3. The Chemical policy in Saxony-Anhalt
 4. The European Chemical Regions Network

Conclusion

References

Abstract

Multilevel regulation has been developing as part of the multilevel governance within the European Union. The dispersion of authority and the intersection of jurisdictions are basic elements of the interaction among the different normative levels. The regional level is gaining more bargaining scope with the European institutions. This way, regions make use of the multilevel structure of opportunity within the European governance system. Regions mobilize and organize their participation within European processes. Smaller regions choose to focus on a particular policy and create a *paradiplomacy*, whereas regional actors operate at the European level, in parallel with the national level. This paper looks into how the German *Land* Saxony-Anhalt is engaging in a comprehensive cooperation with the institutions of the European Union. Saxony-Anhalt has a particular interest for the chemical industry, which is part of the environment policy of the EU. The *Land* (federal state) has initiated the registered association European Chemical Regions Network (ECRN). This network participates actively in the European debate on chemicals policy and decision-making processes at the European level.

Introduction

European policy-making processes are embedded within national and regional policy-making processes of the member states. The national level of member states carries on bringing its part of home policy within the European decision-making level. (see Stubb and Wallace, 2002) This happens within the Council of Ministers, as the main decision-making body. However, the constant development of the European governance allows for a comprehensive policy-making process. Only by bringing in their expertise and know-how, a multitude of different actors located at varying levels may be able to influence and shape specific agendas of the European Commission. A good informed policy formulation is a key element of the European policy-making. (see White Paper on European Governance) The European Commission is aware of the great differences among the twenty-seven member states. Thus actors which are affected by European regulations are invited to express their interests and objections concerning European policies. These processes are based on strategy formulation of the regional and national authorities.

However, the connection between domestic strategies and European policy outcomes is what matters for the domestic actors. (see Hix and Goetz, 2000) The establishment

of domestic strategies is a complex process. It defines the goals of the *European-policy* of domestic actors, namely it pins down the interests of the domestic levels – national and sub-national – and solutions for their achievement. Prevailing these interests is achieved through different channels and at different points in time. There is the formal channel of taking part in European decision-making processes and there is the informal way of shaping legislative procedures during the preparation phase. The formal pathway is being carried out in the Council of Ministers and in the European Parliament where the national delegations can impose their interests and take the interests of their sub-national units into consideration. The informal channel of operating depends on the activity of regional actors, organized interests groups or groups of experts. Moreover, the activity of sub-national actors depends on their mobilisation and participation. These elements point out the multi-level governance of the European integration¹.

This paper looks into how regions of the member states mobilise and take part in the European policy-making process. Due to the high number of regions within the European Union this paper analyses only a specific region. This is the German *Land*² Saxony-Anhalt. This Land re-became a federal unit of the Federal Republic of Germany during the reunification in 1990. Nevertheless, the sub-national authorities of this region have demonstrated that even smaller regions can bring meaning to their contribution within European policy-making processes. Therefore, the research question of this paper is how regions can participate in the European policy-making process. Which actors are involved and which are the measures that provide the participation of sub-national authorities within the European Union are also been looked into.

The first chapter analyses the theoretical frame of the participation of regions in the EU. Using the concepts of multi-level governance and sub-national mobilisation, the chapter provides an overview of regional participation within the environmental European policy-making. The focus is on the environmental policy because this is one of specific interest for the Land Saxony-Anhalt. The second chapter analyses the development of the participation of this particular region at the European level. It brings out the chemicals policy and its importance at the regional and European level.

¹ The understanding of European integration adopted in this paper is the emergence and constant development of the European Union and its institutional structure. On the other hand, the meaning of Europeanization refers more strictly to the adaptation process of member states to the requirements of the accession to the EU and further adaptation after the accession. (See Alemann, Ulrich von, and Claudia Münch 2006)

² The term of *Land* or *Länder* (plural) is the German term for the German federal states within the Federal Republic of Germany. Thus the original term from the German constitution will be used in this paper.

The last part of the second chapter presents the European Chemical Regions Network as the result and source of participation for the *Land Saxony-Anhalt*.

1. The participation of regions in the European Multi-level Governance

1.1 Multi-level Governance

Governance is the meta-concept describing the way the European Union functions. This concept comprises following elements:

- European policy-making processes, which encompass diversified procedures and practices, and combine formalised modes of rule setting with the informal practices of negotiation, cooperation and consensus building;
- A multi-level and multi-actor structure, which puts European policy-making processes into practice;
- Diverging patterns of implementation;
- The umbrella under which all the above occur. (Tömmel and Verdun 2009, p. 1)

The European Governance is built upon several principles: openness, participation, accountability, effectiveness and coherence. The enforcement of these principles through the actions of the EU empowers the application of the principles of proportionality and subsidiarity³. Openness refers to the work of the European institutions. These are accountable for European decisions and operations. The wide participation throughout the policy-making chain delivers the “quality, relevance and effectiveness of EU policies”. Accountability brings transparency to the processes which take place within European institutions. Moreover, it alleviates the understanding of European integration. The principle of effectiveness relies on the provision of adequate regulations and measures which are based on impact evaluations. In many cases, the impact evaluation requires specific know-how. The cooperation between European actors who create policies and actors who deliver expertise plays an important role in this phase. This steady cooperation brings about the coherence of the European integration:

“Coherence requires political leadership and a strong responsibility on the part of the Institutions to ensure a consistent approach within a complex system.”

(White Paper on European Governance, 2001, p. 10)

³ “From the conception of policy to its implementation, the choice of the level at which action is taken (from EU to local) and the selection of the instruments used must be in proportion to the objectives pursued. This means that before launching an initiative, it is essential to check systematically (a) if public action is really necessary, (b) if the European level is the most appropriate one, and (c) if the measures chosen are proportionate to those objectives.”, White Paper on European Governance, 2001, p. 10-11.

The materialisation and enforcement of European regulations are complex processes. There is an incomplete transparency of all consultations which take place within European institutions. However, the European institutions are not the solely actors which take over the task of informing the European public. Many associations and networks provide information as well. Their contribution eases the understanding of European policies. Taking a look at the puzzle of involved actors, one can locate varied levels involved in European policy-making processes. Moreover, the close cooperation among actors from different regions or member states acting in the same areas empowers their influence on the European processes. Therefore, the regional level is growing its influence through building and maintaining close connections and cooperation. These developments are elements of the so-called multi-level governance of the European Union.

Hooghe and Marks define multi-level governance as the dispersion of authoritative decision-making across multiple territorial levels. They also differentiate between two types of multi-level governance. Type one is described as built upon the intellectual foundation of federalism. Its characteristics are: power sharing among governments operating at different levels, bundled functions, non-intersecting membership and system-wide framework. Within this type change means normally reallocating policy functions across existing levels of governance. The second type is based on task-specific jurisdictions, intersecting membership, many jurisdictional levels and flexible design. In Europe the first type of multi-level governance has been pressed forward by the simultaneous empowerment of supranational and sub-national institutions. The EU bundles policy competencies that in other parts of the world are handled by numerous, overlapping and functionally specific jurisdictions. Most EU policies have a single unified jurisdiction. On the other hand, some salient features of the EU architecture are consistent with the second type, such as variable territorial jurisdictions as a result of treaty derogations or distinct governance systems. (Hooghe and Marks, 2010, pp. 18) However, the crucial role of the nation-state is still being considered as the key element of the multi-level governance:

„Contrary to some prophetic views, the nation-state is not about to be replaced as the primary instrument of domestic and global governance [...] Instead, we believe that the nation-state is being supplemented by other actors – private and third sector – in a more complex geography.“ (Keohane and Nye, Jr 2000, p.12)

Therefore, multi-level governance embodies the contrasting visions of the collective European decision-making. Either way, European governance has the recognition of its binding decision-making. The enforcement of these binding legislative acts of the EU is

mostly being accomplished by the sub-national authorities. But, in some cases, these sub-national actors manage to be part of decision-making processes, which they will later implement. This participation is the expression of the prepared organized interests.

According to Hassel (2010), organized interests are an integral part of modern policy-making. The participation and possibility to influence the content of policies depend on the topic and on the institutional access channels. The different types of multi-level governance offer different access and influence frameworks for the interest groups. Type I is constitutionally defined. It corresponds to highly institutionalised private actors, especially to associations. Type II, on the other hand, tends to favour less institutional interest groups. Interest groups are the pieces of the bridge between the different levels of governance and provide at the same time expertise for possible policy solutions. (Hassel, 2010, pp. 154)

Organized interests are the collective non-state actors which take part in the European governance. The civil society organizations participate in the development of policy alternatives and legitimate policy positions. The corporate actors contribute with expertise, resources and managerial capacity. However, they pursue individual corporate interests at the same time. (Ibid.)

Environmental policy is being dealt at all governance levels. It provides a good example of how different private actors have formed coalitions in order to influence the governance in one specific policy area. Institutions are been seen both as veto-players and as opportunity structures because they offer access points to the policy-making process to organized interests, thus facilitating the change of information.

The organized interest groups are not the only actors interested to gain access to the European decision-making. The Commission is likewise interested in the input of these actors, especially for the complicated regulatory policy areas. (Hassel 2010, p. 161)

In return, the Commission has to offer information about the development of policies or contacts. Nevertheless, the lobby activity usually clusters around the regulatory policies of the Commission. However, one can make the difference between specific and diffuse interests. Not all organized interests are specialised on a specific policy area, which makes their influence weak, since they can mainly inform the public. (Ibid.)

1.2 Sub-national mobilisation

The German *Länder* are among the regions of the EU member states which have a strong institutional structure. This structure allows the representation of their interests at the EU level. In addition, the German *Länder* have pursued a cooperative approach in terms of horizontal cooperation within the nation-state. This cooperation is meant to tighten the significance of their representation. Its enforcement involves the regional – so-called sub-national– authorities. The success of this representation is based on the mobilisation of the authorities and their strategies.

Jeffery uses the term of sub-national mobilisation in order to describe the activity of regions within the EU. In this context, he poses the question whether the mobilisation of the sub-national authorities (SNAs) within the European integration does make a difference. Jeffery defines mobilisation as the growing engagement of sub-national governmental actors with the institutions and processes of EU policy-making. He names developments within the European Union which indicate mobilisation, namely:

- the establishment of formal mechanism of involvement for sub-national actors,
- the location of regional information and liaison offices in Brussels,
- the treaty changes which introduced the possibility of sub-national input into the Council of the EU,
- the creation of the Committee of the Regions,
- the establishment of the principle of subsidiarity as part of the currency of sub-national debate about Europe. (Jeffery, 2000, p 1-2)

Jeffery draws the attention upon the variety of sub-national authorities and their ability to influence through their mobilisation. He argues that the influence-creating channels of access to EU policy-making can be found within the Member State. Jeffery pleads that the concept of multi-level governance needs to be complemented with intra-state factors. (Ibid., p. 3) Although extra-state channels exist –such as the Committee of the Regions, regional offices in Brussels– the SNAs are still dependent on the central state, whose interests are primarily being represented within the European institutions. The regional offices can provide first hand information. This allows the regional actors to appoint their own interests.

On the one hand, the status of European Integration as foreign policy of the Member states has changed since the deepening of the Integration process. The affairs of the European Union are no longer dealt with under the umbrella of the foreign policy competence, which belongs solely to the federal government. The central level can no longer hold on to the monopoly of determining the interests of the federation. Most of

the implementation process takes place at regional and local level. These are the levels, which have come to internalise the European policies and have to bear the costs of the implementation. Hence, the regional authorities have begun to act on their own. They mobilised in order to exert some influence on the European policy-making process. (See Börzel, 2002)

On the other hand, the European Union has addressed this matter. It made it possible for sub-national actors to act on their own. Next to the Committee of the Regions, there are also other actors active which bring the voice of sub-national actors at the European level. (e.g. RegLeg, CALRE⁴) Moreover, being able to access European funds for interregional cooperation, sub-national actors have the possibility to create networks and communication platforms. These are instruments that allow the further development of regions and facilitate collective influence exertion on the European institutions. The next chapter brings out the activity of the German *Land* Saxony-Anhalt and its strong mobilisation in the area of the European chemical policy.

Nonetheless, the cooperation between sub-national authorities and the regional industry scene plays a crucial role for the promotion of regional interests as well. The industry is a potential relevant partner, which enables an impact on European decision-making processes. The cooperation between sub-national authorities and industrial respectively corporate actors usually succeeds when it is built on existing cooperation between sub-national authorities and European institutions. In the case of the German *Länder*, the relationship between sub-national and European actors was established in order to compensate the loss of competencies.

The Single European Act (1986) has triggered a significant change and a crucial transfer of competencies. Thus, the regions have adopted different strategies in order to overcome this transfer of competencies. These strategies involved gaining direct access and representation at the European level, intensifying their domestic access to EU policy-making through cooperation with the central state or '*ring-fencing*' regional competencies against the intervention of the EU or of the central state. (Bauer and Börzel, 2010, p. 257) The strategy of gaining direct access and representation at the EU level is usually characterized in the literature as a strategy of circumventing the central state. (See Börzel 2002) The purpose of this strategy is to represent the interests of the region and to convince the EU institutions to take these interests into consideration when the Commission is drafting a legislative proposal. However, the chances of accomplishing the goals increase when the interests of the regions are being promoted and endorsed by the central state as well. Thus, the strategy of gaining direct access to the European arena is closely connected to the strategy of

4 RegLeg: Conference of European regions with legislative powers. CALRE: Conference of European Regional Legislative Assemblies.

intensifying the domestic contribution to the determining of the central state's position within EU decision-making processes. (Bauer and Börzel, 2010) Such is the case for the chemical industry in Germany. Due to the complexity of this policy, the different government levels are coerced to work together in order to surmount the harmonising effects of European regulations.

1.3 European environmental policy-making

The regulation of chemical industry is part of the EU Environment policy. This policy has developed during the last decades to a policy by itself. The environment policy is one of the prime examples of multi-level governance due to its cross-border effects with the need of local solutions. These solutions are decided upon through cooperation of different levels and involving different actors both private and corporate and authorities. In the 1980s the recognition of the limits of central government increased. This coincided with the increasing general trust in and responsibilities for sub-national levels of government. Especially in federal member states, some environmental responsibilities were handed back to sub-national governments. (Wälti 2010, pp. 411)

Through the Single European Act the environmental protection was formally recognised as a competence of the European Community. The new stipulations of the treaty just formalised legal activities which were already occurring for years. Later treaty reforms established the goals of the European environmental policy such as sustainable growth in the Treaty of Maastricht and later sustainable development in the Treaty of Amsterdam. The European environment policy is an example of positive integration as it describes and determines a model by regulating the allocation of goods and activities. This way it creates incentives for private and public actors to bring forward alternatives and ways of increasing efficiency. Therefore, policy learning is favoured through de-politisation and emphasis on expertise. (Haverland 2003, pp. 205)

Haverland describes the setting of environmental standards as a technocratic process, which usually involves experts such as scientists, civil engineers and economists. However, the number of affected actors exceeds the number of involved actors. There is also the difference between the interests of polluters and of those who bring new environmental technologies. Nevertheless, the regulatory procedure of the EU is interested in gaining as much information from both sides, in order to create legislation that satisfies governments and companies which bring innovative

environmental technology on the market as well as polluter companies, which have to implement measures for the protection of the (working-) environment. (Ibid.)

The efficiency of the implementation of European regulations depends much on the adaptation pressure caused by institutional and administrative traditions. However, public and private actors can be involved in the policy-making process before the adaptation and implementation pressure is exerted. Thus, the next chapter looks into the importance of chemical industry in the German *Land* Saxony-Anhalt and the participation of its regional authorities and other private actors in European decision-making processes through the presence of the European Chemical Regions Network in Brussels.

2. The Participation of the German *Land* Saxony-Anhalt

2.1 The Federal Republic of Germany

Multi-level governance is a concept which can be observed in federal states as well. The Federal Republic of Germany has opted for a strong and formalised integration of its *Länder* in the policy formulation. The multi-level governance in Germany is built on the participation of the *Länder* in policy formulation and decision-making at the federal level through the existence of the *Bundesrat*. (Hassel 2010, pp. 158)

The EU is omnipresent in German politics (Sturm und Pehle 2001). The development of transnational cooperation has enhanced the role of the regions. The EU has as well intensified the cooperative federalism in Germany due to the harmonising force of the EU law. On the other hand, the cooperative characteristic of the German federalism gives the *Länder* the opportunity to negotiate domestic problems, deal with the EU and find common ways to defend their competencies and interests. (Braun, 2010, p.172)

“The inclusion of the EU into multi-level governance of Germany has therefore led to more self-conscious member states in Germany, which were not able to avoid a further loss of competencies due to the expansion of EU domains, and which try to use arenas of cooperative federalism in a more intensively way in order to maintain their prerogatives and their influence. [...] the EU has, however, become an endogenous factor in German multi-level governance as the EU is a 'fourth actor', integrated within the arenas of cooperative federalism“. (Ibid., p. 180)

The European integration has offered great incentives for the German *Länder* which were created in 1990. Becoming members of the European Union meant not only

attracting European funds but also implementing European legislation. The adjustment and return to federalism has been a major challenge for the new *Länder*. On the other hand, there is domestic competition between the sixteen *Länder* which boosts sub-national mobilisation. Therefore, the active participation of the *Länder* in European policy-making processes is a crucial instrument for improving their development within the European Union.

2.2 The German Land Saxony-Anhalt

The *Land* Saxony-Anhalt has re-started its existence in 1990. The beginning of its policy towards *Europe* (EU) began at the same time with the preparations for the ratification of the Treaty of Maastricht. This treaty has brought significant changes for the economies of the member states. It brought about the political integration, the common market, the economic and monetary union. As a re-created German *Land*, Saxony-Anhalt became a member of the European Community over night. This crucial transformation triggered high demands for the authorities of Saxony-Anhalt, which were now facing implementation and practice of European law, for which the administration personnel was lacking experience. However, the membership within the European Community was closely connected to the European aid instruments. This meant that Saxony-Anhalt had access to the European Funds since the beginning of its membership. Having benefited from European funding since the beginning, lobbying for further assistance gained more value. Therefore, the mobilisation for participating in policy-making processes of the EU has been an early goal of the politics of the region. (Wobben & Heinke, 2006, p. 221)

The reborn Saxony-Anhalt was considered to be integrated as well within the Federal Republic of Germany as within the European Community. This idea of double belonging became the credo of the *Europe* (EU) policy of Saxony-Anhalt. This was carried out through the establishment of the ministry for Federal and European affairs (Ministerium für Bundes- und Europaangelegenheiten) in 1991. The ministry bundled the responsibilities for European affairs of the regional government in order to compensate and overcome the lacking expertise. This way the European affairs constantly gained importance. In 1991 the minister for Federal and European affairs called on for the establishment of several institutions: a representation office in Brussels, a Euro-Info-Center within the Chamber of Crafts (Handwerkskammer) and as well a consultancy office in Halle. The offices in Saxony-Anhalt have the task of promoting the European funding programs. The representation office in Brussels

gathers essential information from the European Commission, especially in the field of economy and environment. (Wobben and Heinke, 2006, pp. 222)

Not only the interests of the *Land* are to be brought to the knowledge of European actors, but there is also the possibility to influence decision-making processes in early drafting stages. Next to the preparatory work of the German regional representation, there is a large number of different actors involved in representing interests, which operate in different networks. Concerning European Affairs, the German *Länder* have the possibility to exert influence on the national decision-making. However, this channel does not allow any influence during the preparatory phase, such as the influence the representation can carry out at the European level. Nevertheless, building alliance strategies with other *Länder* and with the *Bund* can boost one's position and influence on decision-making.

In order to enhance the *Europe*-expertise, a *Europe*-department was created within the Ministry for Federal and European affairs. Part of the Europeanisation of the regional policy was establishing contacts with members from the European Commission and other European institutions. Moreover, the representation of the regional interests has been extended at the intergovernmental level within Germany through the establishment of the conference of the *Europe*-ministers (Europaministerkonferenzen). Their mission is to coordinate the cooperation of the *Länder*. Thus, they bring forward common interests at the federal and EU level. Main topic of the consultancy processes during these conferences is the political strategy and the institutional challenges. These arose when their extended participatory rights entered into force.⁵ These amendments were connected to the ratification negotiation for the Treaty of Maastricht.

The regional parliament was concerned since the beginning of the 1990s about the democratic element of European decision-making processes and the implementation of the subsidiarity principle. In this respect the regional government started running information events, prepared a lot of informational materials and began the financial support (Förderung) for the activities of unions and associations (Verbände and Vereinigungen). Moreover, the *Land* participated through the work of the representation office in Brussels in consultancy processes of agenda setting and policy formulation phase. Important areas for Saxony-Anhalt were public services (Daseinsvorsorge), greenhouse and gas emission allowance, chemical policy, services and the future structural policy of the EU. Transition regulations were prepared for the implementation of the European law, especially in the area of environment (water economy, air pollution control, waste management) and cross-border cooperation. The

5 See Art. 23 GG (Basic Law of the Federal Republic of Germany).

administration staff had also the opportunity to observe the work of the European Commission for three months. (Wobben & Heinke, 2006, pp. 225)

Towards the end of the 1990s the *Europe* policy of Saxony-Anhalt managed to develop innovative ideas and to bring about the interest of Saxony-Anhalt at the European level. One example of the successful implementation of the *Europe* policy is the success of the contribution of Saxony-Anhalt in interregional projects. This triggered the initiative of Saxony-Anhalt to establish the European Chemical Regions Network. This initiative provided the connection between the biggest industry of the region and the network-skills of the regional administration. The initiative created a network of chemical sites from Europe. This network soon managed to distinguish itself as a representative actor of the member-regions on the European level. Moreover, the *Land* Saxony-Anhalt gained access and communication ties to bigger chemical regions and managed to be perceived at the same level as the other bigger chemical actors. Thus, the participation in interregional projects became an instrument of the *Europe* policy of Saxony-Anhalt. (Wobben & Heinke, 2006, pp. 222)

The regional government of Saxony-Anhalt regards also its strategy for European Union affairs. The current government (the 6th 2011-2015) has joined the internationalisation strategy with the one for European Union affairs. This strategy provides the basis for the activities of the regional government. Partnerships with other European regions, participation within European institutions and networks as well as cultural and economic exchange with other regions have a high value for the international presence of the region Saxony-Anhalt. Moreover, the coalition partners have also called for a strong Saxony-Anhalt. The strength of the region is connected with the great contribution of the EU to the successful development of Saxony-Anhalt. (Internationalisierungs- und Europastrategie für Sachsen-Anhalt, pp. 2)

The international cooperation has provided valuable professional and technical exchange which has contributed to the improvement of the competitiveness of the *Land* Saxony-Anhalt. Moreover, it has enhanced the perception of Saxony-Anhalt as a region in the EU. On the other hand, the region is also a promoter of European Integration. It enjoys participation rights through the German constitution and the representation at the European level. Thus, the *Land* Saxony-Anhalt is an advocate of European integration and a guarantor of citizen closeness (*Bürger Nähe*). (Internationalisierungs- und Europastrategie für Sachsen-Anhalt, pp. 4)

The goal-setting of the government of Saxony-Anhalt is specific to each topic. Thus, each policy goal comprises an European component due to the large intervention of European law and its implications of the policies. The representation of industrial

policy goal-setting at the European level is being further performed by the ECRN. This occurs through the following phases:

- The development of further research initiatives;
- Active participation in discussions about the structural policy and implementation of the European industrial policy;
- The pursuit of European debates on handling industries which use intensively energy;
- The cooperation with associations of chemical industry in Germany – concerning implementation of recommendations of the High level Group on competitiveness of the chemical industry in Europe. (Internationalisierungs- und Europastrategie für Sachsen-Anhalt, p. 15) For all that, the chemical policy is the constitutive feature of politics in Saxony-Anhalt.⁶

2.3 The Chemicals policy in Saxony-Anhalt

The region Saxony-Anhalt is the most important location of the chemistry industry in Eastern-Germany. Around half of the turnover of Eastern-Germany chemical industry is being produced in this region. This industry has been subject to a deep restructuring process. While in 1989 117.000 people worked in the chemical industry, today there are only 13.000. On the other hand, the chemical sites in Saxony-Anhalt are still productive. The former chemical sites have been replaced by new chemical parks. Thus, the Land Saxony-Anhalt developed into a modern chemical headquarters. (Wobben 2007, pp. 78)

Crucial elements for the success of the chemical industry in this region are:

- The convenient location, which allows access to the markets of new member states of the EU,
- Relatively low costs of production,
- High education level,
- The open-mindedness of the people for the chemical industry.

All these factors have favoured the successful restructuring, which ended at the end of the 1990s. However, the restructuring has not eliminated further concerns about the

⁶ The research based on the innovation policy points out the beacons of research within Saxony-Anhalt, namely the Chemical-Biotechnical Process Centre, the Centre for Silico-Photovoltaic, the Institute for mobility competence. See Internationalisierungs- und Europastrategie für Sachsen-Anhalt, pp. 17.

future perspectives of this particular branch. The chemical companies had learned to take into consideration that the European level has a substantive influence on this branch as well. The following aspects have raised questions among the companies:

- Legislation changes concerning the funding period 2007-2013;
- Regulations for government aid and grants in Eastern-Germany which depend on subsidy frameworks;
- Changes of the European environmental and industrial policy frameworks by means of legislative initiatives of the European Commission;
- Opportunities for enlargement of the existing chemical parks.

These aspects would further influence investments in the chemical parks and sites, and the commercialisation processes. (Ibid, p. 79)

In order to plan further investments and their financial and economic future, the chemical companies addressed the sub-national authorities. In 1999 they proposed a strategic dialogue to the regional government. Both the government and the representatives of the chemical industry were interested in discussing and coordinating the chemical industry with the policies of the *Land*. Thus, they could jointly maintain and improve the growth chances of the regional chemical industry. The cooperation between the government and the companies followed on a regular basis. As a consequence the actors agreed upon different initiatives and their implementation, such as:

- Jointly initiative for training professionals in the chemical industry;
- Close cooperation between the research and the chemical companies;
- Initiatives for the *Bundesrat*, in order to promote federal regulations.

However, the European level played as well a crucial role because it is the level where actually 80% of the guidelines on chemical industry and environment policy are being defined. Moreover the EU determines the competition policy which defines the funding scope of action. Thus, the cooperation between the regional government and the companies was driven by upcoming regulation of the chemicals policy by the European institutions, thereby challenging the competitiveness of the whole European chemical industry. (Wobben 2007, p. 79-80; see also White Paper – Strategy for a future Chemicals Policy 2001)

As part of the cooperation strategy with the chemical industry, the regional government looked into its activities concerning the EU legislation on the chemical policy. It was noticed that a clear strategy for representing the interests of the *Land* as a chemical region was deficient. Moreover, the advisory opinions (*Stellungnahme*) prepared by the *Land* Saxony-Anhalt were only worked out within the proceedings of the *Bundesrat*, meaning after the European Commission has presented the legislative

initiative. This practice was classified as inefficient and reactive. Thus, the dialogue strategy between the government of Saxony-Anhalt and the chemical companies was aimed at jointly influencing European decision-making processes during the preparatory process.

The establishment of the representation office of Saxony-Anhalt in Brussels took place at the same time. This was a consequence of an internal development of a pro-active *Europe* policy of the region. This strategy has been combined with the external network strategy of the chemical industry. The insight of this strategy was to influence the European legislation on the chemical policy⁷, especially due to the complex effects of this legislation on the local and regional authorities. (Wobben2007, p. 80)

Moreover, the work of the representation office has included the following steps:

- Contact to representatives of the European Commission and discussions with them over the White Paper – Strategies for a future Chemicals Policy;
 - Preparation of a position paper representing the interests of the region Saxony-Anhalt;
 - Establishing contacts with other chemical regions;
 - Initiative of constitution of a network of chemical regions;
 - Reporting in the *Bundesrat* and preparing a position paper of the *Bundesrat*;
 - High level discussions and events about the chemical policy in Brussels.
- (Wobben 2004, pp. 62)

The chemical industry in Saxony-Anhalt is one of the industries which determines the regional economic structure. Security measures, environment protection and competition regulations – which are regulated by the EU –strongly influence and affect the development opportunities of the local and regional industry structure. The implementation of the European regulations involves the regional authorities. An efficient implementation at the local level depends on the guidelines provided by the European institutions. Thus, the cooperation between the regional authorities and the participants in the implementation is of utmost importance and should be notified to the European actors responsible for this policy. (Wobben 2007, p. 81)

2.4 The European Chemical Regions Network

The Europeanisation of many policies has opened new access channels for private actors. Due to the fast development of the European Integration, private actors are

⁷ An example is the Regulation REACH. The next section will deal with this topic.

still challenged by the need to find their exact roles and access points within the EU. On the one hand, “organized interests have been employed by the Commission and the Council of Ministers to reassure voters about the EU's social agenda”. (Hassel, 2010, pp. 160) On the other hand, the increasing regulatory functions of the EU concerning market regulation motivates the producers to seek access to decision-making procedures.

Towards the end of the 1990s the topic of the EU chemicals policy has started a debate at the European level. The European Commission prepared four important legal instruments for the governing of chemicals in the member states. These instruments regulate testing substances, determination of risk reduction measures, safety duties such as labelling and safety data sheets. The Commission consulted over hundred stakeholders. The result of the consultations was the White Paper Strategy for a future Chemicals Policy from 2001. This strategy has laid down the deficiencies of the existing system. It pointed out the general lack of knowledge about the properties and the uses of the substances, the slow risk assessment process, the inappropriate allocation of responsibilities and deficient legislation. (White paper – Strategy for a future Chemicals Policy 2001, p. 5)

Behind this strategy lie the following political objectives:

- Protection of the human health and of the environment;
- Maintenance and enhancement of the competitiveness of the European chemical industry;
- Prevention of the fragmentation of the internal market;
- Increasing transparency;
- Integration with international efforts and conformity with EU international obligations under the World Trade Organization;
- Promotion of non-animal testing. (Ibid., p.7)

In order to provide an appropriate assessment of the risks of chemicals, the objective of providing a reliable basis for deciding the adequate safety measures had been set. The increasing number of new substances has created the need of a new system of chemicals control. (Ibid., pp. 11) This new system should be able to cope with the large number of existing substances:

“The overriding goal must be to ensure adequate information, made publicly available, and appropriate risk management of existing and new substances within the time frame set out” (Ibid., p. 16)

The White Paper also proposed a system, namely REACH composed of:

- Registration of basic information;
- Evaluation of the registered information for all substances;

- Authorisation of substances with certain hazardous properties.

Moreover, this system provides an accelerated risk assessments. The decision-making process⁸ for the REACH system comprises two kinds of decision-making: decision-making in the evaluation stage and decision-making at the authorisation stage. Both decision-making processes depend on the preliminary risk assessment data provided by the industry.⁹ (Ibid., pp. 24) Therefore, the policy-making process in such a specific domain must rely on a multitude of actors, national, sub-national authorities and private actors from the industry.

The European level has promoted its goal of harmonising European legislation on the chemical industry. Moreover, it has determined the need of cooperation. In these conditions, the authorities of the *Land* Saxony-Anhalt analysed the situation of the chemical industry located in their jurisdiction. As a consequence they mobilised. The chemical companies have contributed as well. They expressed their concerns and specific problems of a comprehensive chemical industry within the region Saxony-Anhalt.

In order to promote and enhance the chemical industry, which is one of the main local employers in the region and is concentrated in a limited number of centres, the *Land* Saxony-Anhalt is running the European network of chemical European regions. The network originally started its work with 13 members. Today it consists of 21 regions and is based in Magdeburg, the capital city of Saxony-Anhalt.

The main objective of this network is described as simplifying the cooperation between chemical industry regions in order to find solutions to joint challenges. This way the chemical industry is being strengthened by means of a mutual learning process. Moreover, the network represents cohesively the chemical industry regions in matters of structural and development policy.

A meeting of the representatives of the chemical regions took place in March 2001 in Brussels in order to facilitate the cooperation strategy. A consensus was met over the similar effects of European legislation on all regions with chemical industry. Chemical sites located in regions with a deficient regional structure were opened to the cooperation strategy. The European Commission regarded the association of the

8 The chemical policy is not part of the exclusive legislation of the German federal government. Due to the intertwined policy-making competencies and the multi-level governance within the Federal Republic of Germany, chemical policy is within Germany also a multi-level policy. There are different authorities at both level. Policy-making and implementation are closely connected. See Art 72. Basic Law. Implementation of European chemical policy (REACH) is dealt with at both levels. See more: Bund/Länder-Arbeitsgemeinschaft Chemikaliensicherheit, <http://www.blac.de/servlet/is/2057/>.

9 The REACH regulation has entered into force on the 1st of June 2007. For more information see: European Commission: Directorate General Enterprise and Industry. *Chemicals* and Directorate General Environment. *REACH*.

chemical sites as a wise access to already existing networks of industry, civil society and European unions. The cooperation of the chemical sites continued. In May 2003 the first Congress of European chemical regions took place in Brussels. It gave the opportunity to corporation boards, regional ministers and representatives of the European institutions to exchange opinions and to take position to issues relevant for the chemical industry. This first Congress was successful because it woke the interest of other actors to take part in this network and to expand the interregional cooperation. (Wobben 2007, p. 81)

In February 2004 the second Congress of the European chemical regions took place in Halle (Saxony-Anhalt). At this congress the minister of economy of Saxony-Anhalt was appointed as the funding President of the network. Over time many regions became members of this network whose goal was to become regional stakeholder for concerns of the chemical industry. Meanwhile, the significant role of the network has been accredited by the European institutions. The European Commission has intensified the cooperation through a strategic partnership with the chemical regions. (Ibid., pp. 81-82)

The involvement of the authorities of the *Land* Saxony-Anhalt was required by the need to take position within the EU. The *Land* prepared position documents for the congresses without relying on documents or information from the *Bundesrat*. The point of these position documents is that the region appoints its own interests. These are then submitted and advocated for at the European level. Moreover, some of these position documents have been drafted by the network as applications which were discussed in the *Bundesrat* or as joint declarations of the regional governments which were communicated to the European institutions. In addition, members of the European Commission were present at the events of the network. (Ibid., p. 82)

The establishment of the European Chemical Regions Network brought the following successes about:

- The regional dimension of chemical venture at the European level was strengthened;
- The *Land* Saxony-Anhalt won a definitive role in the network through the presidency chair;
- The chemical regions bring relevant input for the chemical policy;
- Regional simulations for REACH revealed important details for the implementation;
- Saxony-Anhalt managed to create its profile as a chemical region;

- Contacts and new cooperation were initiated and the region Saxony-Anhalt could bring relevant input during the preparatory European decision-making process.

The work of this network is expressed through group meetings, interregional events and annual Congresses, which join actors from every chemical region which is member of this network. Results of their cooperation are joint statements, policy papers adopted on different aspects of chemical and regional policy of the EU - for example on the REACH directive, further on climate and energy policy, innovation and regional development - and research. The ECRN receives also external input, as it organizes regional partnership meetings twice a year. At this meetings more than 1,600 stakeholders from commercial companies, members of the administration and of research centres participate. This way, the network brings together different actors with highly different interests. They meet in order to discuss opportunities and strategies for:

- A successful development of the companies as vital actors in the economy of the region,
- A qualitative implementation of European legislation which affects the companies through its harmonising character,
- A safer environment, given the fact that chemicals can be dangerous when safety features are not defined. (Ministerium für Landesentwicklung und Verkehr, Ministerium für Wirtschaft und Arbeit Sachsen-Anhalt 2008, p. 31)

Through training seminars the network has provided practical elements needed in order to enable the augmentation of theoretical aspects. It has drawn public attention through the presentation of its chemical industry clusters. The opened network meetings in Brussels have sparked the interest of European actors, "the ECRN was perceived as a relevant, competent point of contact for European institutions and regional chemical industry policy." (Ibid.) Moreover, the network was invited to take part in the work of the High Level Group on the Competitiveness of the European Chemical Industry. Therefore, the network plays an advisory role to the European Commission - 'something which was unprecedented for a regional network at a European level'.

The work of the ECRN evolves in the domain of energy and climate change, the European legislation REACH, regional development, further research and innovation. These are also key elements for the European Commission, innovation been one of the criteria for most policies of the EU.

The ECRN plays not only a vital role by providing a voice for the chemical regions at the European level. It also sets up a starting point for further projects, such as

ChemLog or RegioSusChem. These are also INTERREG projects aiming to improve logistical frameworks for chemical industry locations in Central Europe, respectively to establish regional technology platforms for sustainable chemical industry locations which have chances of success. (See Ministerium für Landesentwicklung und Verkehr, Ministerium für Wirtschaft und Arbeit Sachsen-Anhalt 2008)

The activities of the network go beyond the participation in the High Level Group on the Competitiveness of the European Chemical Industry within the European Commission.¹⁰ The ECRN has been as well appointed as an observer of the implementation of the EU regulation of REACH. Moreover the network provides consultation to the Commission in the field of actions to climate change stretching after the terms of the Kyoto Protocol from 2012. Therefore, the mobilisation of the *Land* Saxony-Anhalt has resulted in a complex and substantive interregional cooperation. The beneficiary is for the sub-national authorities, for the industry and for the European policy-making and its institutions.

Conclusion

This paper shows how regions and sub-national authorities can be relevant within European policy-making processes. Their active mobilisation does make a difference. The analysis of their own interests favours a broad implication within European processes. Part of the successful participation of sub-national authorities is the focus on particular interests, respectively policies. The involvement of private actors is another key element which nails down the participation of the sub-national authorities within European structures.

Participation in the European policy-making process takes place within the legal procedures as laid down in the treaties and outside the procedures through the consultations of the European Commission with different actors. The latter form of participation is yet not invested with proper decision-making power within the decisional structure. However, the input of this participation can still be substantive. (See Mendes, pp. 273) This has been also the case for the chemical industry in Saxony-Anhalt and the way the sub-national authorities have successfully bundled the intertwined decision-making competence of the chemical policy. The European Chemical Regions Network can serve as a prime example of organised interests.

Being part of different networks influences the internal policy of the *Land* and coerces the regional government to deal with European affairs and state own position towards

¹⁰ See more on <http://www.ecrn.net7abouttheecrn/welcomeandoverview.php>.

the activities of the EU. However, European and regional strategies of networking are closely connected and have positive results of the representation of own interests.

Therefore, the multi-level governance concept embodies the contrasting visions of the collective European decision-making. It bundles both the democratic principles and the problem solving strategy. The access channels of the multi-level governance do allow for an active contribution of regions to the European policies, which then affects all member states.

References:

- Alemann, Ulrich von, and Claudia Münch 2006. Europa als Erweiterung des kommunalen Handlungsspielraumes? *Europafähigkeit Der Kommunen: Die Lokale Ebene in Der Europäischen Union* by Alemann, Ulrich von, and Claudia Münch (Hg.), Wiesbaden VS Verlag für Sozialwissenschaften, 479-97.
- Bauer Michael W. and Tanja A. Börzel 2010. Regions and the European Union. *Handbook on Multi-level Governance*. By Henrik Enderlein, Sonja Wälti, and Michael Zürn. Cheltenham, UK: Edward Elgar, 2010, 253-263.
- Braun Dietmar. Multi-level governance in Germany and Switzerland. *Handbook on Multi-level Governance*. By Henrik Enderlein, Sonja Wälti, and Michael Zürn. Cheltenham, UK: Edward Elgar, 2010, 168-183.
- Börzel, Tanja A. 2002. *States and regions in the European Union: Institutional adaptation in Germany and Spain*. Cambridge, UK ; New York: Cambridge University Press.
- Grundgesetz, Basic Law of the Federal Republic of Germany.
- Haverland, Markus. The Impact of Europeanization on Environmental Policies. *The Politics of Europeanization*. By Kevin Featherstone and Claudio M. Radaelli. Oxford: Oxford UP, 2003. 203-22.
- Hassel, Anke. Multi-level Governance and Organized Interests. *Handbook on Multi-level Governance*. By Henrik Enderlein, Sonja Wälti, and Michael Zürn. Cheltenham, UK: Edward Elgar, 2010. 153-67.
- Hix, S. And K. Goetz (2000) Introduction: European Integration and National Political Systems. *West European Politics*, 17 (1) 1-30.
- Hooghe, Liesbet, and Gary Marks. Types of Multi-level Governance. *Handbook on Multi-level Governance*. By Henrik Enderlein, Sonja Wälti, and Michael Zürn. Cheltenham, UK: Edward Elgar, 2010. 18-31.
- Jeffery, Charlie: Sub-National Mobilization and European Integration: Does it Make Any Difference? In *Journal of Common Market Studies*, Vol. 38, No.1, 2000.

- Keohane, Robert O. and Joseph S. Nye, Jr (2000) Introduction. *Governance in a Globalizing World* edited by Joseph Nye and John D. Donahue, Washington, DC: Brookings Institution. 1-41.
- Mendes Joana 2009. Participation rights in EU law and governance. *Legal challenges in EU administrative law: Towards an integrated administration* edited by Hofmann, Herwig & Türk, Alexander, Cheltenham, UK ;, Northampton, MA: E. Elgar, 257-287.
- Ministerium für Landesentwicklung und Verkehr, Ministerium für Wirtschaft und Arbeit Sachsen-Anhalt 2008. *INTERREG B- and C-Projects in Saxony-Anhalt Transnational and Interregional Cooperation*.
- Stubb, Alexander & Helen Wallace, 2002. The Policy-Making Process, *The European Union: How does it work?* By Bomberg, Elizabeth E. & Stubb, Alexander C.-G. (Hg.): Oxford: Oxford University Press, 136-155.
- Sturm, Roland & Pehle, Heinrich 2005. *Das neue deutsche Regierungssystem: Die Europäisierung von Institutionen, Entscheidungsprozessen und Politikfeldern in der Bundesrepublik Deutschland*. 2. Aufl. Wiesbaden: VS, Verl. für Sozialwiss.
- Tömmel, Ingeborg & Verdun, Amy (Hg.) 2009. *Innovative governance in the European Union: The politics of multilevel policymaking*. Boulder, Colo: Lynne Rienner Publishers.
- Wälti, Sonja. Multi-level Environmental Governance. *Handbook on Multi-level Governance*. By Henrik Enderlein, Sonja Wälti, and Michael Zürn. Cheltenham, UK: Edward Elgar, 2010. 411-22.
- Wobben Thomas 2004. Die Vertretung von Landesinteressen in Brüssel - die Arbeit des Verbindungsbüros des Landes Sachsen-Anhalt bei der EU. *Sachsen-Anhalt in Europa - Europa in Sachsen-Anhalt: Zur Europapolitik in einem neuen Bundesland*, By Renzsch, Wolfgang & Böhm, Wolfgang (Hg.): Opladen: Leske + Budrich, 51-64.
- Wobben Thomas und Michael Heinke 2006. Europäisierung der Landespolitik: Sachsen-Anhalts Weg zu einer aktiven Interessenvertretung in Europa. *Landespolitik in Sachsen-Anhalt: Ein Handbuch* By Holtmann, Everhard (Hg.): Mitteldeutscher Verlag, 221-246.
- Wobben Thomas 2007. Strategien der Vorfeldarbeit in Brüssel und der Interessenvertretung für Ostdeutschland am Beispiel der Chemieindustrie. *Perspektiven ostdeutscher Länder in der Europäischen Union*. Baden-Baden By Renzsch, Wolfgang: Nomos, 78-84.

Internet sources:

- *Bund/Länder-Arbeitsgemeinschaft Chemikaliensicherheit*. URL: <http://www.blac.de/servlet/is/2057/>.
- European Commission 2001. *European Governance - White Paper (Microsoft Word - EN COM 428 _27 July 2001_.doc)*. URL: http://eur-lex.europa.eu/LexUriServ/site/en/com/2001/com2001_0428en01.pdf.
- European Commission 2001. *White Paper - Strategy for a future Chemicals Policy*. URL: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2001:0088:FIN:en:PDF>.
- European Chemical Regions Network. URL: <http://www.ecrn.net/abouttheecrn/welcomeandoverview.php>.
- European Commission & Directorate General Enterprise and Industry. *Chemicals*. URL: http://ec.europa.eu/enterprise/sectors/chemicals/reach/index_en.htm.
- European Commission & Directorate General Environment. *REACH*. URL: http://ec.europa.eu/environment/chemicals/reach/reach_intro.htm.
- Landesregierung von Sachsen-Anhalt 2011. *Internationalisierungs- und Europastrategie für Sachsen-Anhalt*. URL: http://www.sachsen-anhalt.de/fileadmin/Elementbibliothek/Bibliothek_Politik_und_Verwaltung/Bibliothek_Internationales/Dokumente/IZ_Strategie_Web.pdf.