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Participatory Governance: Promises and Pitfalls

In December 2006, the European Parliament and the Council of Ministers established a supranational system for the regulation of chemicals within the EU: the REACH system (Registration, Evaluation, Authorisation and Restriction of Chemicals). It was a historic decision, in two regards. First, the bill establishing the system was one of the most complex and hotly debated pieces of legislation ever enacted by the EU. The aim of the new system was to protect the population and the environment from dangerous chemicals. In its final form, the bill targeted tens of thousands of existing chemical substances. It replaced 40 previous legislative texts, and took seven years to complete.

Second, and equally important, the policy-making process leading to the adoption of REACH made for an early test of the new participatory-governance strategy, which the European Commission had launched in its White Paper on European Governance in 2001. One of the main aims of this new strategy was to open up “the policy-making process [in order] to get more people and organisations involved in shaping and delivering EU policy” (Commission of the European Communities 2001a: 3). The preparation of the REACH proposal, accordingly, was marked by far-reaching and lengthy consultations with a variety of organisations and citizens. Upon its initial drafting of the legislation, for example, the Commission took the unusual step of organising an Internet consultation on the matter, attracting over 6000 responses from a variety of actors (Persson 2007; Selin 2007).
Commentators remain divided, however, in their assessment of the outcome of this experiment. According to some scholars, the REACH process shows the fruitfulness of the participatory-governance approach. In particular, they argue, the new approach helped – by creating cooperative arenas where “negotiated package deals, elements of joint problem-solving and deliberative processes could be organized” – to moderate conflict and to make an ambitious chemicals reform possible (Hey et al. 2007: 1871; see also Selin 2007). Others, somewhat more cautious in their optimism, describe REACH as “a first firm step towards the beginning of a reform process leading to inclusive governance” (Heyvaert 2008: 213).

According to yet other observers, however, REACH illustrates the inadequacy of the participatory-governance approach to EU policy-making. According to Dieter Pesendorfer, for instance, the design of the policy process was the very reason why the final REACH proposal ended up (as he believes) serving the interest of the chemical industry rather than that of the environment:

The “business” coalition used new modes of governance – developed by the Commission – and shifting the locus of decision-making as well as traditional forms of lobbying to bring the Commission proposal in line with neo-liberal ideas. Often overestimated within the environmental debate, “new governance” did not result in “better regulation” and in a “sound balance between economic, social, and environmental goals”. It reinstalled key players in a veto position and did little to enhance effective participation of the public. (Pesendorfer 2006: 111)

Scholars disagree, then, both about the character of the new regulatory regime and about the nature of the process that led to it. Does the new regime primarily represent a victory for industrialists, or is it sooner a breakthrough for environmentalists? Is it possible, as advocates of this approach argue, to enhance decision-making efficiency and democratic legitimacy by involving organisations and citizens in the formulation and implementation of EU policy? Or does such a strategy mainly serve, as its critics contend, to strengthen the position of already powerful actors yet further?