Title:	**Public Accountability and PPP's**
Subtitle:	How to obtain good public accountability in complex settings?
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In recent times, there has been a shift in public administration from Weberian bureaucracies to network arrangements with joint public and private involvement. This shift influenced significantly the ways to hold the government to account. The rise of new NPM-inspired auditing, monitoring and regulating bodies has not been able to remedy the shortcomings caused by the diminished steering capacity of the minister. In this paper we attempt to describe under which conditions good public accountability can be achieved that is suitable for complex present-day public governance. We assume that public contestation strengthens the accountability process by combining traditional and new mechanisms.

1. Introduction

Both in Flanders and internationally, the number of PPP arrangements is steadily growing. The motivation for choosing PPP is usually economic. It is about efficiency, flexibility, risk sharing and last but not least ESA neutrality (the project should not affect the public budget). One of the most persistent and widely shared critiques on PPP arrangements targets the lack of accountability in the project (Bloomfield, 2006; Flinders, 2005; Hodge & Greve, 2007; Shaoul, 2005). Democratic control over public spending, it is argued, gets obfuscated, mainly due to the diminished direct steering capacity of ministers. This is however rather paradoxical, because PPP promises (in theory) an increased range of checkpoints. Compared to more traditional public investment projects, PPP means more political attention and engagement. This paradox suggests that the shift in public governance also requires a rethinking of public accountability beyond electoral, parliamentary and constitutional means.

Next to the increasing societal relevance, studying the impact of the shift in public governance on public accountability is also explicitly scientific relevant. This research project has the ambition to add to the state of the art in the discipline of Public Administration. First, *thematically*, studies of PPP have until now mainly stressed legal, managerial, financial and technical dimensions of PPP (d' Hooghe & Vandendriessche, 2004; Hodge & Greve, 2005; S. Osborne, 2000). Few studies have addressed accountability issues of PPP's. Secondly, in terms of *disciplines*, in the public management tradition, PPP is often seen a non-contingent management tool. This project explicitly introduces political variables in the analysis. The integration of perspectives from public administration and political science is hopefully one of the refreshing elements of this research project.

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2. Public Accountability

2.1. Definition of Accountability

Accountability is vital to a well-functioning liberal democracy, because it keeps the power of government checked and the public informed. Although all agree on its importance and desirability, a universal definition is missing. However, the basic notion of accountability points to a condition of having to answer to an individual or body for one's actions (Flinders, 2001; Romzek & Dubnick, 1987). Government is held to account by someone (in the name of the public) for the way it uses its discretion and spends tax money. Accountability is the price government has to pay for exercising its authority.

An interesting way to interpret accountability is considering it as a *dynamic process* in which some have to render account to others. Mulgan (2003), for instance, defines accountability as "*a relationship of social interaction and exchange involving complementary rights on the part of the account-holder and obligations on the part of the accountor.*" He stresses a number of defining features. First, it is external which means that the account is given to some other person or body outside the person or body being held accountable. Second, it involves social interaction and exchange. Third, it implies some rights of authority. The relationship is unequal, because the account-holder has some kind of moral authority over the accountor. Yet, this moral authority does not necessarily entail actual or formal power (see below).

A related definition of accountability is elaborated by Bovens (2007). He describes accountability as "*a relationship between an actor and a forum, in which the actor has an obligation to explain and to justify his or her conduct, the forum can pose questions and pass judgment, and the actor may face consequences.*" According to Bovens accountability has three indispensable components: (1) the actor should be obliged to *inform* the forum about his conduct, (2) there should be an opportunity for the forum to *debate* with the actor about his conduct as well as an opportunity for the actor to explain and justify his conduct in the course of the debate and (3) both parties should know that the forum is able not only to pass *judgment* but also to present the actor with certain *consequences*. Moreover, accountability is definitely retrospective or *ex post* in nature, as opposed to *ex ante* control.

Bovens labels the account-holder and accountor respectively actor and forum. The term 'forum' is very interesting, because it evokes a strong image. Yet, its conceptual potential is not fully exploited. Bovens claims that a forum can be an individual, an institution or even an almost virtual entity like the public opinion. By formulating it like this, the idea of a forum looses much of its clarity. For an actor does not give an account *to* a forum, but gives an account to another actor *in* a forum. The forum then refers to the idea of the *Forum Romanum*, namely the Roman marketplace. It captures the notion that accountability is essentially a process of interaction and discussion in a public context.

If we paraphrase Bovens' definition, we can describe accountability as follows: "*a relationship between an accountor and an account-holder in a particular public forum, in which the accountor has an obligation to explain and to justify his or her conduct, the account-holder can pose questions and pass judgment, and the accountor may face consequences.*" In the last part of this definition ('may face consequences') lie the seeds of an important discussion. What is the status of these consequences? Traditionally accountability is described as a principal-agent relationship, in which the principal (account-holder) has a wide range of potential 'remedies' ranging from formal sanctions (e.g. dismissal) to soft influence (e.g. name and shame). The lower limit of accountability

is reached when an accountor is compelled, or feels compelled, to disclose information to the public who has very limited possibilities to ask questions or pass judgement. Informal or voluntary transparency does not amount to accountability (Bovens & Schillemans, 2009a).

Philp (2009) argues that the tendency to see accountability as a principal-agent relationship should be resisted in principle for four reasons: (1) the bilateral relationship between P and A where A is to serve P's interests is too simplistic, (2) it treats contingent conditions as necessary conditions, (3) P-A model carries a heavy ideological 'freight' and (4) risk of an over-encompassing definition of accountability. According to him, accountability is essentially a descriptive claim. Whether we want more or less of it however will be driven by normative commitments. Yet, Philp (2009) defines accountability as follows: *"A is accountable with respect to M when some individual, body or institution Y, can require A to inform and explain/justify his or her conduct with respect to M."* In his definition, he mentions the words 'Y can require A to'. So, the account-holder is in a position to make some kinds of demands of the accountor. Mulgan (2003) calls this the moral priority of the person(s) to whom the account is owed. Again, this does not have to include formal or actual priority. Therefore, this valuable criticism does not impair Mulgan's or Bovens' interpretation of accountability. It only sharpens the focus.

TABLE 1: Visual Definition of Public Accountability
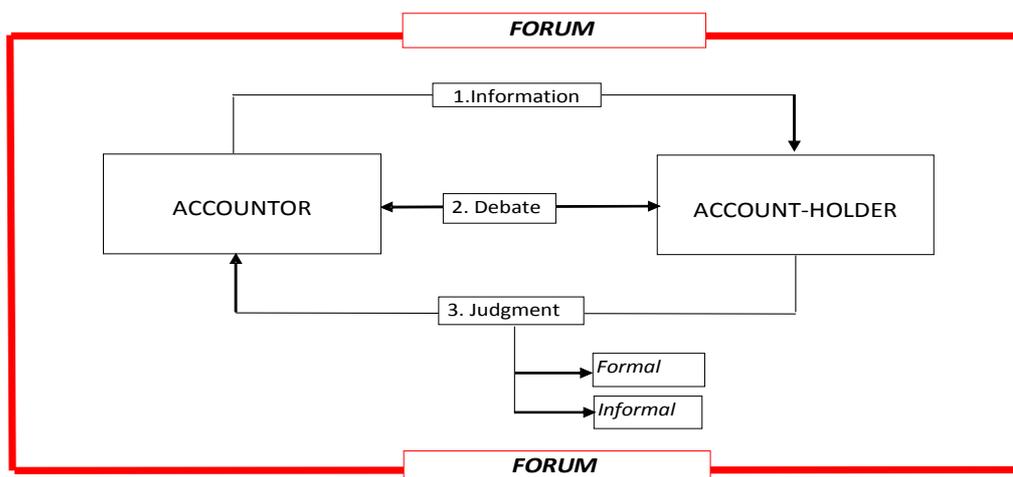
Many authors stress that the traditional hierarchical or vertical conception of accountability, with its one-sided focus on formal sanctions, is becoming less suitable to grasp the real nature of present-day public governance (Aucoin & Heintzman, 2000; Barberis, 1998; Braithwaite, 1999; Considine, 2002; Dowdle, 2006b; Hodge & Coghill, 2007; Scott, 2000; Sinclair, 1995; Stone, 1995). Schillemans (2008) emphasises the promising nature of new horizontal forms of accountability. These processes are horizontal because accountors account for their behaviour towards account-holders who are not their strictly hierarchical superiors (clients, stakeholders and peers). Nevertheless, the accountors are (or do feel) compelled to render account for their actions to these account-holders. This makes the process anything but noncommittal. Yet, its impact should not be exaggerated. Schillemans (2008) admits that they only work effectively in the shadow of hierarchy. To sum up, a full appreciation of the real nature of accountability should include the whole range of possible consequences at the disposal of the account-holder. However, a minimal threshold to speak of public accountability should be kept in mind. There has to be a certain obligation to answer, no matter how small.

2.2 Definition of *Public* Accountability

Processes of accountability – described as social interaction between two people in which one gives an account to another because he has to, or feels he has to – are commonplace in society. A lot of daily social relationships contain an element of giving an account. This study has a focus on *public* accountability. The label 'public' has multiple dimensions (Bovens & Schillemans, 2009a).

First, public can refer to the object of accountability. Public accountability deals with public responsibilities, public money and actions of public institutions or institutions with public functions. Second, public can also signify 'disclosed'. Accountability usually does not occur behind closed doors, but the forum is in principle freely accessible to everyone. Third, public accountability concerns the public matter. It seeks an appreciation by the citizens. Bovens et al. (2009a) describe it as follows: public accountability is about the public, in the public and for the public.

The focus on public accountability is almost natural, given that governments have been the major agents of accountability in society, both by setting a higher standard for the public sector itself and by being the major enforcers on the other sectors in society. Governments are subject to complex and extensive processes of accountability. The reason for this high level lies in the distinctive nature and scope of government power in a liberal democracy.

Mulgan (2003) indicates two broad types of justification for the stringent public accountability. First, the *democratic* principle of the rights of prior authority or ownership, which stipulates that in a democracy a government draws its authority from the people and is ultimately owned by the people. Second, the *liberal* principle that those whose rights or interests are adversely affected by the actions of someone else have the right to hold that person to account for the manner in which they have been treated.

2.3 Forum of Public Accountability

Public accountability is nowadays extremely complex. Governments are being called to account by diverse account-holders in different fora for different aspects of their conduct. The accountability process is each time arranged differently, involves different actors, demands different information, applies different criteria to decide what defines accountable behaviour and has different kinds of 'consequences' at its disposal. Usually the process of holding to account takes place within different public fora at the same time.

Many scholars have attempted to catch the complex diversity of public accountability by formulating different kinds of typologies. The overview above in TABLE 2 shows the abundance of typologies. Based on this overview, we can present a typology of public fora in which the most relevant processes of accountability are being held.

TABLE 2: Different Typologies of Public Accountability

Author				
Romzek & Dubnick (1987) →	Bureaucratic	Legal	Professional	Political
Sinclair (1995) →	Political	Managerial	Public	Professional	Personal
Stone (1995) →	Parliamentary control	Managerialism	(Quasi) Judicial review	Constituency realtions	Market
Deleon (1998) →	Bureaucratic	Political	Professional	Anarchic
Flinders (2003) →	Parliamentary	Judicial	Managerial
Mulgan (2003) →	Political	Judicial	Other
Dowdle (2006) →	Elections	Bureaucracy	Judiciary	Transparency	Market
Mashaw (2006) →	Public governance: 1. Political 2. Administrative 3. Legal	Market	Social
Scott (2006) →	Public law	Markets & competition	Networks & communities	Design
Bovens (2009) →	Political	Legal	Administrative	Professional	Social

1) Political Forum

The intrinsic value of the political forum can hardly be overrated. From a democratic point of view, it is the starting point. However, the political forum *as such* does not exist. It is rather a generic term to capture the various political processes of accountability. These processes have in common that they take place in a political context.

Elections. The prime accountability process is the election where citizens hold the government to account directly through the exercise of their vote. A government (accountor) presents itself to the citizens (account-holder) and seeks a renewal of its mandate to govern. Elections oblige governments to explain and justify their actions. Citizens have the opportunity to listen to the information, ask questions, discuss and finally impose a verdict. The impact of elections even spreads beyond the actual election process through the indirect power of anticipated reactions. Although elections are a vital way to hold governments to account, they have some serious limitations as processes of accountability (Papadopoulos, 2003). First, elections are not necessarily

retrospective in nature. Second, elections as accountability processes require politicians who face re-election and genuine political competition. Third, ideal type citizens vote after a careful process of information and deliberation. Reality is usually different.

Parliament. Between elections, public accountability activity is focused on the legislature which has the constitutional power to scrutinise the actions of the executive. The executive (accountor) needs the support of the legislature to authorise its expenditure and to enact its legislation. In return, the legislature (account-holder) holds the executive accountable through public debate and inquiry.

The principle of *ministerial responsibility* deserves special mention, because of its pivotal place in formal political theory (Barberis, 1998; Stone, 1995). Ministers are accountable to the public, via the parliament, for their own decisions and for the work of their departments. Yet, the public officials are accountable to their political chiefs (i.e. ministers) through a pyramidal chain of delegation. A role-switch takes place: ministers are held to account by parliament, but are themselves holding their departments and public officials to account.

The process of holding ministers to account in parliament has different expressions. In the *plenary assembly*, members of parliament (MP) have the opportunity to question the ministers. The most substantive legislative control takes place in *parliamentary committees*: authorising expenditures, reviewing proposed legislation and investigating particular policy problems. With regard to very serious political problems (in case of a policy disaster), *special committees* with elaborate investigating powers can be established.

Questions of MP's are only one way to get access to reliable information. Legislature obliges governments to report annually on their general performance and on specific matters. Much information in those *accounts and reports* concerns public finances. The executive requires the formal approval of the legislature for both the raising and expenditure of tax money. Next to enacting legislation, the formal approval of the public budget is the most important 'weapon' in the hands of parliament.

Although the formal powers of parliament to hold government to account are extensive, this control function of MP's can be seriously eroded in reality for several reasons. Party discipline can tie down both hands of MP's. The incompetence or unwillingness of MP's to devote time and energy in studying complex public policy can also hollow out public accountability.
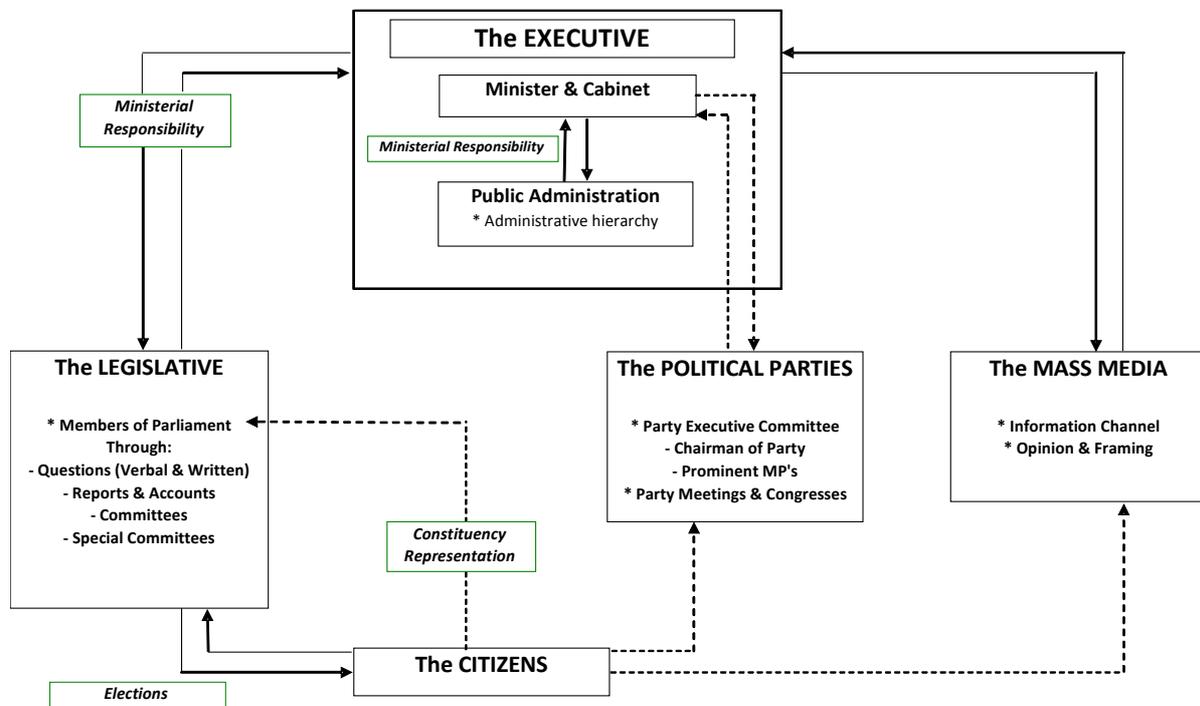
Constituency representation. MP's are also elected as individual representatives of their local constituencies. Citizens (account-holders) are holding the government (accountor) to account through their in-between figure, their political representative. Citizens or companies who have difficulties with some public authority often turn to their local MP for help. Political localism is an important force in the political forum, which has to be reckoned with.

Political parties. Ministers are being held to account by their political parties, especially by the party executive committee. Those party leaders have to render account to the whole of party members. Considering the power of political parties in some countries (like Belgium), it is important to take into account the indirect way in which ministers are being held to account by their own political parties.

Mass media. Governments are increasingly held to account by the mass media, primarily

television, radio and print journalism. They provide the main channels by which information and discussion about government actions are transmitted to a wider public. Yet, the role of the media is wider than just spreading the news. They also frame and initiate messages themselves. They are independent actors in the accountability process with some power to judge and sanction. The media play an increasingly crucial role in the process of holding governments to account.

TABLE 3: The Political Forum

The EXECUTIVE

Minister & Cabinet

Ministerial Responsibility

Public Administration
* Administrative hierarchy

Ministerial Responsibility

The LEGISLATIVE

* Members of Parliament
Through:
- Questions (Verbal & Written)
- Reports & Accounts
- Committees
- Special Committees

Constituency Representation

The POLITICAL PARTIES

* Party Executive Committee
- Chairman of Party
- Prominent MP's
* Party Meetings & Congresses

The MASS MEDIA

* Information Channel
* Opinion & Framing

The CITIZENS

Elections

2) Judicial Forum

Judicial review and scrutiny in the judicial forum can be a very powerful form of public accountability of the executive action. The judicial is a very well-defined and unambiguous forum, especially if compared to the political forum. Judicial processes require governments to publicly disclose information and justify its actions. Moreover, citizens have the opportunity to voice their complaints and challenge government decisions in court when they feel their interests are infringed upon. Although the scope of courts is rather circumscribed, their power can be very comprehensive. They have formal sanctions at their disposal and can force government into certain directions. A general increase in judicial activism and a greater reliance on judicial solutions to policy issues have enhanced considerably the importance of courts as fora of public accountability (Behn, 2001; Harlow & Rawlings, 2007).

Administrative tribunals. Administrative tribunals are judicial fora with the statutory authority to hear and decide appeals against government decisions. Constitutionally, they are usually part of the executive rather than the judicial branch of government and are not required to follow the same technical procedures as courts. In some countries (like Belgium) they are a category *sui generis*. Administrative tribunals hear disputes and decide between competing claims in a broadly judicial fashion, acting as independent arbiters between citizens and government.

Judicial courts. The structure of judicial system varies from country to country, but all have some hierarchy of courts, with law courts and higher courts (which culminates in a highest court of

appeal). Next to administrative tribunals (which are no part of the formal judicial system), civil law courts can be authorized to decide on unlawful executive actions. Even criminal law courts are increasingly holding government to account.

TABLE 4: The Judicial Forum
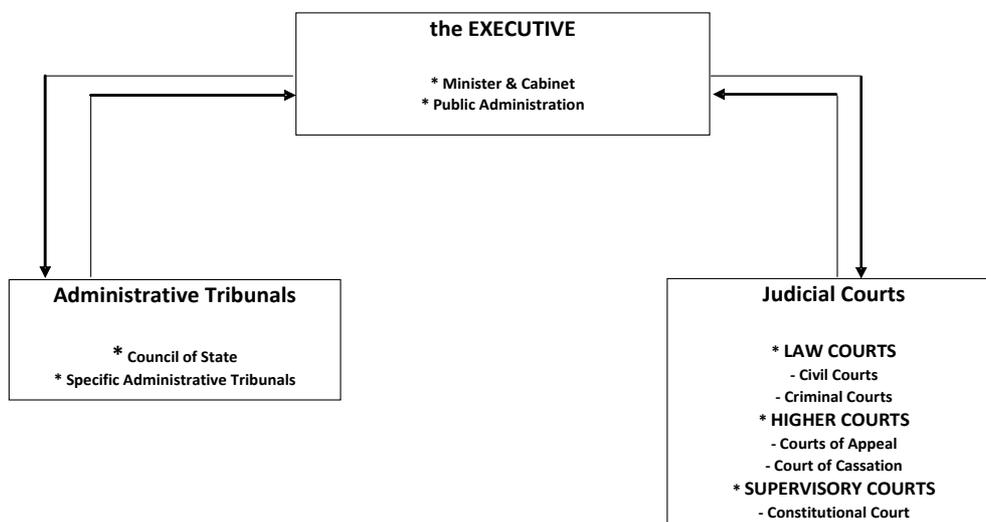
3) Administrative Forum

Next to political and judicial processes, a range of other actors hold government and its public officials to account in a specific administrative context. Most of them inquire government actions and recommend certain courses of action, but do not have the formal power to enforce their preferred remedies.

Administrative hierarchy. According to the principle of ministerial responsibility, ministers are accountable to parliament and the public for the administrative departments under their control. Public officials are accountable to their departmental heads which are accountable to their political chief (following lines of the pyramidal chain of delegation). Accountability through the minister both reflects and reinforces the ministerial control over his or her department. Because the minister is politically responsible for the department, he or she speaks on its behalf. In return, he or she has expects loyalty from its department and can hold it to account when necessary.

Court of Audit. The Court of Audit is a collateral body of parliament. It exerts an external control on the budgetary, accounting and financial operations of the executive. It can perform financial audits, legality audits and it monitors the sound use of public funds. The results of these three kinds of audits lead to information statements and scrutiny reports that are regularly submitted to the legislature. The court has considerable informal power and is highly respected, due to its rigorous critical reports.

Internal audit. An internal audit formulates advices to improve public management. Government audits are usually of two types, financial and performance. Financial audit means checking if financial transactions comply with government legislation. More recently, performance auditing has gained importance, which aims at verifying whether government actions are efficient and effective. The audit reports are normally presented to the legislature. Internal audits can be viewed as a specialised extension of the legislature's own accountability functions, conducting

investigations on the public's behalf.

Inspections. Another traditional category of investigative public officials are the government inspectors which were first established to monitor publicly funded institutions such as schools, child care and public welfare organizations. Government inspectors are also found in other policy areas like environment, security and taxation. Although their scope is rather specialised and therefore limited, their formal impact on the course of action can be considerable.

Visitations. Another way to scrutinise and monitor public administration is based on peer review. These 'visitations' or independent evaluation committees, composed by a number of professional peers, evaluate the overall functioning of certain public organisations and its members. The evaluation reports are published and sent to the minister and parliament. Visitations have usually great informal power to publicise, benchmark and criticise. Their ability to name and shame pressures the actors to (re)act, most of the times following the recommendations of the committee.

Advisory councils. Another type of investigative and monitoring body is the strategic advisory council. An advisory council has to function as a professional sounding board which reacts and anticipates to ideas from the executive. They have to report annually to the authorized minister and parliament. Although they lack formal power to sanction, their influence is considerable.

Ombudsman. Ombudsmen are public officials whose function is to investigate complaints by, or on behalf of, individual citizens. The main characteristics of an ombudsman are: guaranteed independence from the executive through appointment by the legislature, impartiality in investigations and the lack of formal power to change administrative decisions. Ombudsmen usually hold governments accountable for the administrative decisions of public officials rather than the policies determined by politicians. They can have a considerable impact through the force of criticism and publicity.

Commissioners. The commissioner is another specific type of an administrative account-holder who monitors the actions of public administration. He or she is assigned by the government to control a certain area of public policy and can be considered as a political representative with the explicit task to keep a watchful eye on public administration.

External audits. Public administration is increasingly confronted with a widening spectrum of monitoring, regulatory and auditing bodies (Power, 1999). The range of those audits is heterogeneous and diverse. While most are public organizations, some are privately established but have been granted some kind of formal powers. Other have no formal mandate but operate informally as watchdogs of government activities. Moreover, public administration is increasingly buying the knowledge and experience of private commercial auditing firms.

TABLE 5: The Administrative Forum
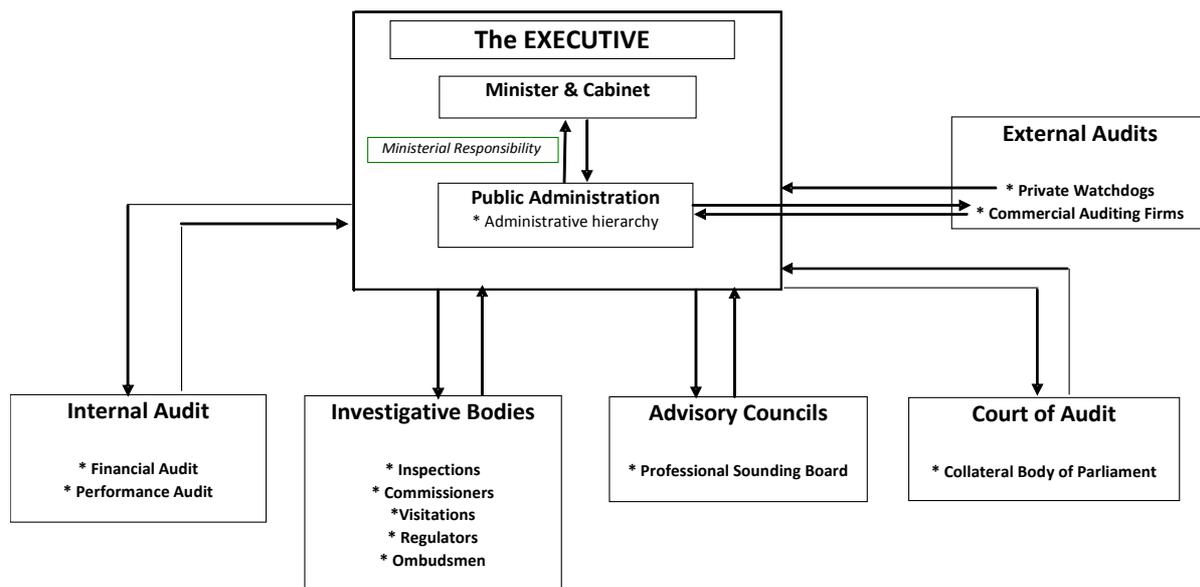
4) Societal Forum

In the societal forum government is being held to account by various interest groups, citizens and other relevant 'stakeholders'. In recent times the public sector has paid more attention to relationships of public accountability which happen outside the traditional political forum. Social partners, interest groups and NGO's are increasingly seen as relevant stakeholders who should participate in designing and evaluating public policy. From this point of view, citizens are considered more as active clients or directly interested persons than mere as passive voters.

Stakeholders. Governments are engaged in a constant political debate with important stakeholders about public policy. Although a large part of this debate is forward-looking, there is also a retrospective accountability aspect. Those stakeholders demand information and explanation. They engage in critical discussions about past government policies. The stakeholders to whom governments are accountable are many and diverse.

Peer review. A special category of stakeholders are peers. Members of professions in all sectors may find themselves answerable to each other through shared networks and collegial relationships. Some professionals are subject to procedures that require them to be accountable to fellow professionals for the maintenance of professional standards. An extreme example of such public accountability is within self-regulating professions like law or medicine, where individual professionals are accountable to disciplinary bodies drawn from the profession itself.

Transparency. In the previous decades the publicity of government actions has expanded steadily. After the publication of most government documents has been institutionalised, there is an irrevocable pressure from society to open up even more. This pressure to publish can be partly attributed to increased digitalisation and the rise of the internet. The costs to spread public information have been reduced in a remarkable way. Although information is a vital condition to public accountability, processes of holding someone to account require more than just having access to information.

Freedom of information. In addition to increasing transparency of government activities, citizens have also rights of direct access to some specified information, especially in relation to decisions made in their own individual cases. Sometimes there are formal procedures when citizens have certain complaints about the way they have been treated by public organizations and their officials. Under Freedom of Information legislation, citizens also have the right to demand access to information on matters of public policy or on individual cases.

Mass Media. We already mentioned the overwhelming power of the mass media with regard to calling the government to account. Their scope is however not limited to the political forum. They have a large impact on society in general. The mass media can reasonably be considered as one of the most powerful account-holders which scrutinise government's behaviour. Although they have no formal power, their critical voice has a huge impact on political actions.

Traditional Voice. Next to these 'new' ways to hold governments to account, stakeholders have also more traditional instruments at their disposal to make their voice heard. They may engage in a critical dialogue with government. In addition, they may organise protest actions ranging from playful happenings to aggressive protest campaigns or strikes. Moreover, special political instruments like the right to petition may be used against some set of policy measures. The overall aim is always to put the executive under pressure and influence the political agenda.
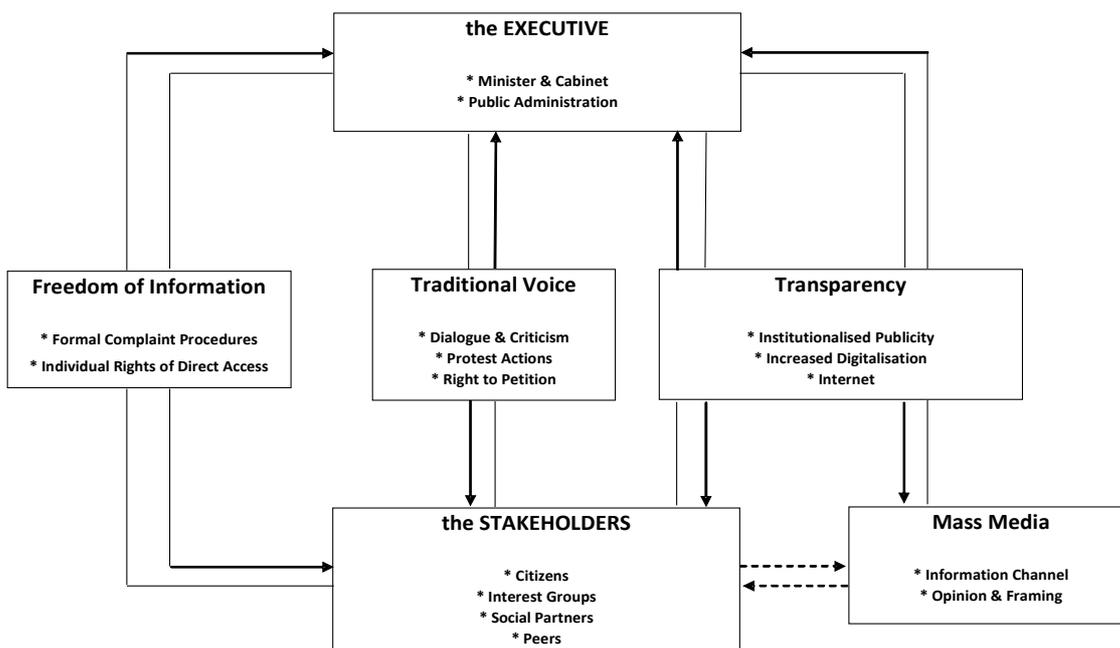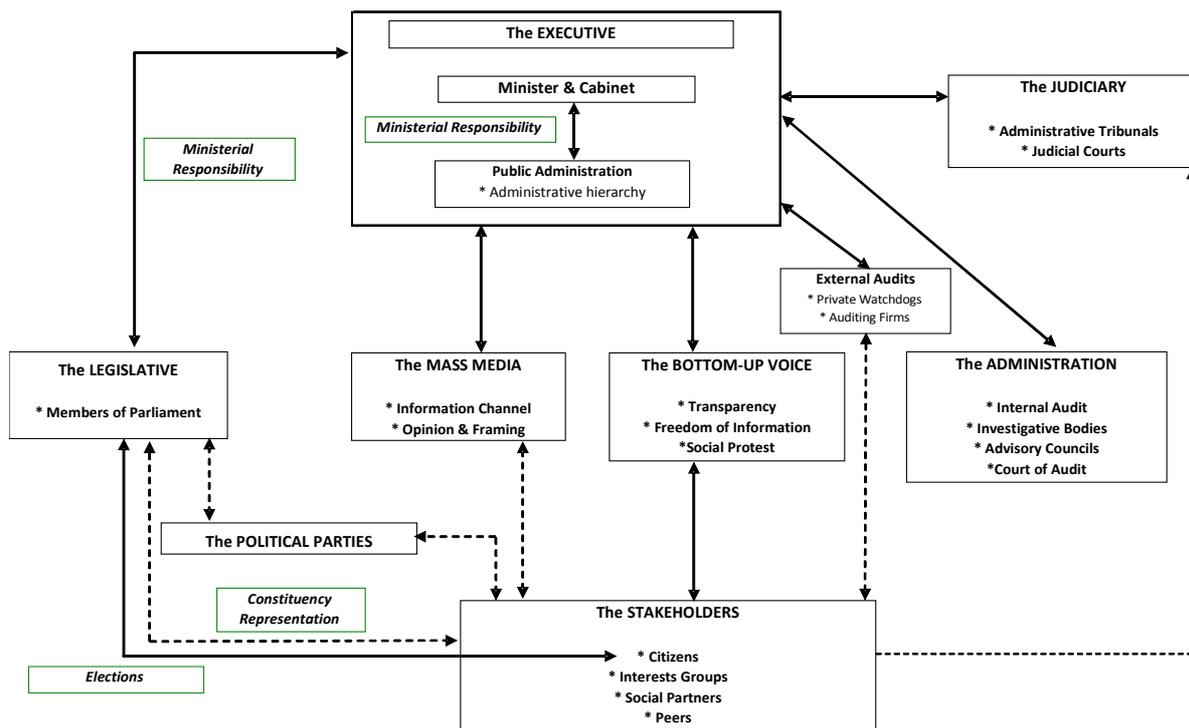
TABLE 6: The Societal Forum

TABLE 7: General Overview

The EXECUTIVE

Minister & Cabinet

Ministerial Responsibility

Public Administration
* Administrative hierarchy

Ministerial Responsibility

The JUDICIARY

* Administrative Tribunals
* Judicial Courts

External Audits
* Private Watchdogs
* Auditing Firms

The LEGISLATIVE

* Members of Parliament

The MASS MEDIA

* Information Channel
* Opinion & Framing

The BOTTOM-UP VOICE

* Transparency
* Freedom of Information
*Social Protest

The ADMINISTRATION

* Internal Audit
* Investigative Bodies
* Advisory Councils
*Court of Audit

The POLITICAL PARTIES

Constituency Representation

Elections

The STAKEHOLDERS

* Citizens
* Interests Groups
* Social Partners
* Peers

2.4 Beyond Ex Post Control?

After defining what public accountability is, it can helpful to distinguish it from other related concepts in order to fully understand its essence. More recently, there is a strong tendency to extend the concept of public accountability beyond its central features. By doing so the risk of over-stretching the concept becomes real (Mulgan, 2000).

For instance, Koppell (2003) offers five dimensions of public accountability. First, transparency is according to him the literal value of accountability. Second, liability attaches culpability to accountability. Third, the dominant substantive conception of accountability emphasises control. Fourth, responsibility refers to internal norms and rules of behaviour. Fifth, responsiveness emphasises an organization's attention to direct expressions of needs and desires. Responsiveness turns accountability outward. Public accountability is those things combined, according to Koppell.

Mulgan (2000) regrets that recently public accountability has increasingly been extended beyond its core sense. The extensions are readily intelligible because they are closely related to the practice of public accountability. *Transparency* is a vital condition of accountability, but it does not capture the whole process. Accountability is indeed somehow linked to the internal *responsibility* of public actors (see below). It is an important part of the institutional checks and balances system, but there are other types of *control* mechanisms besides ex post accountability. It is related to being *responsive* to wishes or needs of citizens by the government, but that does not mean that they are induced to do so by processes of calling to account. It also involves public explanation and discussion in a forum, but it is not the same as the *dialogue* between citizens in a deliberative model of democracy. In short, the extensions of meaning can be challenged as weakening the importance of external ex post scrutiny. The original core of accountability, signifying processes of information, justification and judgement, is sufficiently distinct and important to warrant separate

identification.

Rubin (2006) explains the attempts to extent the notion of accountability by referring to a widespread anti-administrative or anti-bureaucratic impulse. He underlines that true public accountability involves many of the features that are central to the modern administrative state and that many people find so unattractive about it: hierarchy, investigation, evaluation, rules, reporting, etc. He also stresses that public accountability has a well-established meaning: "*the ability of one actor to demand an explanation or justification of another actor for its actions, and to reward or punish that second actor on the basis of its performance or its explanation.*" Again, his view corresponds with our interpretation of public accountability.

2.5 Atlantic Divide

Bovens et al. (Bovens et al., 2008) observed an Atlantic divide in the accountability literature. In the American academic and political discourse, accountability is used predominantly as a normative concept or as a set of standards for the evaluation of the behaviour of public actors. In other words, it is seen as a virtue. This interpretation comes close to a sense of responsibility. In British, Australian or continental European debates, accountability is often used in a narrow, descriptive sense. Accountability is seen as a social mechanism, as an institutional relation in which an actor can be held accountable.

Given our interpretation of public accountability (which builds further upon the work of Mulgan and Bovens), we assume that the instrumental approach is the most solid and promising. Yet, the normative dimension may not be neglected. Discussions about accountability mechanisms may benefit from a perspective on the normative ends which these mechanisms are supposed to serve. Alternatively, norms and values need to be connected into actual mechanisms in order to understand how values come about and change. We need both approaches:

> In order *to identify* a shift in public accountability, an assessment of the quality of accountability is needed (i.e. the quality of information, discussion/justification, and judgment/implications). A list of criteria defining good public accountability will be drafted.
>
> In order *to explain* the social mechanisms that bring about this shift, a good overview of a broad array of accountability instruments is required. The analysis of the social mechanisms would consist of an analysis of the sequence and cross-impacts of accountability instruments in different contexts.

2.6 Mechanisms of Accountability

In this section we identify and discuss the *particular mechanisms, instruments or tools* which are used in the process of public accountability. The types of public accountability mechanisms are fourfold and correspond with the different kinds of public fora: political, judicial, administrative and societal (see above).

Although this section wants to analyse merely the mechanisms (and not the normative grounds of them), it is unavoidable to point to the recent NPM-inspired surge of a new category of auditing, monitoring and evaluating mechanisms which focus specifically on efficiency and performance (Power, 1999). While most traditional accountability mechanisms are applied to government on a

regular basis and in general terms (like annual reports), performance audits are more *ad hoc* and particular, either at the initiative of MP's or the government itself. This extension of auditing and accounting, beyond only financial probity and due process into a wider range of topics, has been facilitated by a growing emphasis on objectives, benchmarks and indicators of performance. The diverse account-holders have a larger spectrum of information at its disposal. The discussion should therefore become more meaningful. It is important to note that this recent surge concerns a growth of accountability *mechanisms*, not the creation of a new kind of public forum. The number of tools which the account-holder can use in a particular forum increases. In some cases a new kind of account-holder enters into a particular forum, but most of the times the 'work sphere' of existing account-holders gets enlarged.

This proliferation of new monitory and scrutiny mechanisms can be an important gain, but it will be crucial how they are used in practice and how they interact with the more traditional mechanisms. It is a delicate balance, but it will decide whether we can speak of a positive or negative sum game. Flyvbjerg et al. (2003) offer a good example of this belief in the 'new approach' of public accountability mechanisms. In order to establish an appropriate process and institutional set-up for the development of major infrastructure projects, they count on four basic instruments of accountability: (1) transparency, (2) performance specifications, (3) explicit formulation of the regulatory regime and clear identification of policy risks before decisions are taken and (4) the involvement of risk capital. In other words, they focus on new ways to hold government to account. This does not mean that traditional processes of public accountability are of no value anymore, but the authors point to new extra mechanisms which can help to call government to account. Flyvbjerg et al. believe that old and new tools can be complementary, even strengthen each other and hopefully produce a fruitful cross-fertilization.

2.7 Normative Framework

The question addressed in this section is whether we can formulate a number of normative criteria or goals to describe a 'state of accountability', without referring to actual instruments and mechanisms?

Given the 'fuss' surrounding accountability, it is remarkable that relatively few studies identify sets of values from which criteria for assessing accountability can be derived. Scott (2000) clarifies the concept of accountability by asking who is accountable, to whom and for what? This last question is of particular interest here. The range of values for which accountability is rendered can be placed in three categories: economic values, social or procedural values and continuity or security values. Behn (2001) makes a similar distinction: accountability for finances, accountability for fairness and accountability for performance. Bovens et al. (2008) formulate a comparable set of perspectives on public accountability in a constitutional democratic state. The democratic perspective stresses the importance of control by citizen's elected representatives. Second, the constitutional perspective aims at the prevention of corruption and abuse of power. Third, the learning perspective should enhance government efficiency and effectiveness.

From these studies, we infer that public accountability has three normative dimensions. First, we want to hold public authorities accountable for a variety of well-established rules and procedures to prevent unfairness or abuse of power. Second, we as citizens (or by means of elected representatives) want to have the final say because the ultimate authority and ownership of the state rests with the citizens. It is not enough that public authorities act fairly and legally, citizens should be able to control and elect the public authorities in a meaningful way. These two

dimensions are concerned with how government functions. But we also care what government actually accomplishes. Third, we want to hold public authorities accountable for their results.

We already stated that the focus on performance is becoming more important. Accountability for performance is on the rise. Behn (2001) talks about an 'accountability bias' in the past. Given the specific well-established rules about finances and fairness, it is much easier to hold someone accountable for a failure in finances and fairness than for a failure in performance. In recent times the problem of performance is increasingly conquering its place on the political agenda.

2.8 Public Accountability Paradox

As mentioned above, recently there has been a renewed interest in ways to hold public authorities to account. The number and scope of these NPM-inspired accountability arrangements have grown considerably. Advocates of the NPM, such as the OECD, have been very persuasive in spreading the mantra of auditing, benchmarking or monitoring (C. Pollitt & Bouckaert, 2004). Many public officials even complain about existing public accountability overloads (Bovens et al., 2008). They refer to the increasingly long catalogue of rules and criteria prescribing their conduct. Not only do they complain about the frequency of the review rituals, they also denounce the nature and course of the evaluation process. Adding new layers to the already gigantic piles of accountability mechanisms creates more red tape and less public gains, according to some public officials.

It is a paradox that in the midst of deregulating government operations, there is a tendency to strengthen public accountability mechanisms (Hodge & Coghill, 2007). NPM has indeed led to a proliferation of various monitoring and regulating bodies designed to safeguard some 'public' standards in the absence of direct ministerial control (C. Hood, James, & Peters, 2004; Scott, 2000). A loss of direct political control is the price to pay for increased managerial flexibility and autonomy in the public sector. It is said that the loss has been counterbalanced by creating extra auditing and accountability mechanisms, most of them of horizontal nature. Supporters of NPM even claim that the rise of the 'entrepreneurial or managerial state' is in fact a win-win situation: increased efficiency and public accountability (Bishop, Kay, & Mayer, 1994; D. Osborne & Gaebler, 1992; Savas, 2000).

Behn (2001), however, talks about an 'accountability dilemma'; a trade-off between public accountability and efficiency. Some authors claim that public accountability is losing ground, in fact is being sacrificed in the name of public sector efficiency (Flinders, 2001; Mulgan, 2003). Flinders (2001) concludes in his study of the functioning of the Home Office that the alternative models of public accountability (i.e. judicial and managerial mechanisms) do not fill the vacuum of accountable government created by the hollowing out of traditional direct political control. The principle of ministerial responsibility to parliament is being eroded by the whole NPM-agenda. In other words, the trade-off appears to turn into a bad bargain with a high political cost.

So, despite the rise of public accountability mechanisms there is a strong feeling that there is something wrong with the way public authorities are being held to account in new, complex governance models. This is illustrated by the much diagnosed 'democratic deficit' or 'accountability gap' of present-day public governance (Dowdle, 2006a; Esmark, 2008; Flinders, 2001; Harrington & Turem, 2006; Mulgan, 2003; Papadopoulos, 2003, 2007). An important area of concern is newly emerging practices of network governance. These include a vast literature on multilateral and multilevel governance such as the European Union. Various types of 'hybrid' organisations, which

mix public and private tasks and responsibilities, are also increasingly portrayed as examples of network governance lacking a decent democratic anchorage (Sörensen & Torfing, 2005).

In short, we can speak of a *public accountability paradox*. By definition, a paradox is a seemingly, and thus not a real contradiction. The extended range of accountability mechanisms apparently does not lead to a satisfying 'state of accountability'. Public accountability as a normative end or goal is insufficiently achieved.

> *The shift from bureaucratic to network arrangements erodes the quality of public accountability.* There is a loss of direct political (i.e. ministerial) control, which harms the process of being called to account by the Parliament. Traditional accountability mechanisms to traditional account-holders are getting obfuscated.
>
> *The new ways to hold government to account by using these network arrangements do not counterbalance this reduced quality of public accountability.* The alternative mechanisms are not capable of fully remedying the shortcomings identified with the loss of ministerial responsibility.

2.9 Looking forwards, not backwards

Although the rise of alternative mechanisms does not automatically counterbalance the loss of direct political control, it remains important to fully explore their potentials. Since, seeking all safety in traditional, hierarchical models of accountability is not an option, given its growing inadequacy in present-day complex governance (Barberis, 1998; Behn, 2001; Dowdle, 2006b; Hodge & Coghill, 2007; Scott, 2000; Stone, 1995). A refreshing interpretation of public accountability is absolutely needed.

Some scholars have tried to capture the ambiguity and complexity of actual public accountability. They have tried to clarify in a subtle manner how these very complicated processes function in practice and interact with each other. For instance, Scott (2000) uses the concept 'extended accountability' to argue that the recent public sector reforms have led to more dense networks of accountability. Traditional accountability mechanisms are only a part of these complex networks. Previously immune actors are now being called to account, the range of values accounted for is extended and new bodies for calling to account are developed. He identifies at least two different models of such complex structures of extended accountability: interdependence and redundancy.

Scott (2006) explores the complexity of accountability regimes further by stressing their spontaneous emergence. He suggests that diffuse modalities of control bring with them, to a greater or lesser degree spontaneously, variety in the ways of holding actors to account. These spontaneous hybrid accountability regimes, which are so typical for contemporary governance, are challenges instead of something to be afraid of. The mixing of control will itself generate the proper mix of accountability structures, according to him. Freeman (2000) suggests the similar notion of 'aggregate accountability' to illustrate the variety of accountability mechanisms which also include new informal, non-traditional and nongovernmental mechanisms. Behn (2001) introduces the notion of '360° accountability', which means that each individual who is part of a public agency's accountability would be accountable to all the others. In sum, all these authors stress the complexity of public accountability regimes. This complexity is a reflection of the need to

incorporate multiple expectations and perspectives (Klingner, Nalbandian, & Romzek, 2002; Koppell, 2005).

This research project aims to solve the public accountability paradox by following the path pointed out by these scholars. Although the sheer number of mechanisms to hold governments to account has grown considerably, the results have been rather disappointing. However, this does not mean that the new NPM-styled monitory and regulatory tools are completely useless. Quite the contrary, they can be important assets in certain circumstances. Moreover, they are necessary tools in current times. Instead of looking backwards, we need to seek a way to maximize the interplay between more traditional and new mechanisms of public accountability. They can be complementary, even strengthen each other and produce a fruitful cross-fertilization. The obvious key question is: how and when? Under which conditions can we achieve good public accountability that is suitable for complex settings?

2.10 Monitory democracy

If we evaluate present-day public governance in terms of public accountability from the perspective of liberal democratic theories, the results are generally negative and discouraging (Sörensen & Torfing, 2008). There is a dominating academic literature about the growing democratic deficits and accountability gaps of complex governance models. These new network arrangements might enhance performance, but they are a threat to liberal representative democracy. However, they do not have to be a threat to democracy as such. There is an urgent need to rethink democracy that goes beyond the traditional beliefs and institutions of the liberal representative model.

In the last two decades several new theories of democracy have surfaced that in different ways transcend the traditional liberal theories of democracy. They renounce the traditional institutions of representative democracy and attempt to develop new, innovative views on democracy. They also challenge the ideas that democracy needs a sharp dichotomy between the public and the private and is limited to decision-making within a territorially defined political community.

John Keane (2009) presents in '*The Life and Death of Democracy*' a grand overview of the past, present and future of democracy. After eras of assembly and representative democracy we are entering a new era of democracy, where the public scrutiny and public control of all kinds of decision makers is primordial. Keane calls this emerging form of democracy 'monitory democracy'. It is defined by the rapid growth of many different kinds of extra-parliamentary, power scrutinising mechanisms. "*(…) the years since 1945 have seen the invention of about a hundred different types of power-monitoring devices that never existed within the world of democracy. These watchdog and guide-dog and barking-dog inventions are changing both the nature political geography and the political dynamics of many democracies, which no longer bear much resemblance to textbook models of representative democracy, which supposed that citizens' needs are best championed through elected parliamentary representatives chosen by political parties.*" (Keane, 2009)

According to Keane, democracy is coming to mean more than elections, political parties and parliaments, although nothing less. They lose their pivotal position in politics, but they do not disappear or decline in importance. Democracy is no longer simply a way of handling the power of elected governments, by electoral, parliamentary and constitutional means. Keane (2009) claims that: "*The number and range of monitory institutions so greatly increases that they point to a world where the old rule of 'one person, one vote, one representative', which is the central demand*

in the struggle for representative democracy, is replaced with the new principle of monitory democracy: 'one person, many interests, many voices, multiple votes, multiple representatives'."

One of the main merits of Keane's monitory democracy is that he provides a comprehensive conceptual umbrella to cover a wide range of contemporary trends. The changing (i.e. extending) nature of public accountability and its respective potentials and problems is placed in a broader perspective, without compromising the straightforwardness of his argumentation. His model of monitory democracy is a useful necessary supplement for ideas suggested by authors like Scott (2000), Freeman (2000), Hodge and Coghill (2007), and Behn (2001). Yet, this dynamic interaction also works in the other direction. Keane's monitory democracy needs the elaborations and specifications put forward by these authors, because otherwise it remains largely on the surface. For instance, Keane does not explain thoroughly how all these scrutiny mechanisms are going to interact. It needs to be further developed and specified to gain (practical) relevance. We want to contribute by exploring the dynamical interplay between old and new accountability mechanisms.

2.11 What is *Good* Public Accountability?

We still need to address two more questions: (1) Why do we focus on public accountability as predominant democratic value? (2) How do we know when there is enough public accountability? In other words, this section attempts to develop some criteria to define good public accountability for complex settings.

Esmark (2008) claims that the democratic norm of accountability is fundamentally premised on the idea of representation. Keane (2009) also stresses that all of the new power-scrutinising experiments rely inevitably on representation. The democratic promise invoked by the norm of accountability is one of proper functioning representation. Although *direct* public participation and deliberation are important democratic values, we can reasonably assume that our forms of *indirect* public participation and deliberation (i.e. political representation) are going to expand given the enormous complexity of public governance. New forms of representation are emerging in the everyday practices of public policy, where governance extends to experts advisory bodies, stakeholder roundtables, citizens' forums, networks of corporations, etc. They all make public claims to represent particular interests. In most cases these new forms of representation are self-authorized, which means that they lack formal authorization from those they represent (Hendriks, 2009; Keane, 2009; Mansbridge, 2003).

So, we primarily focus on public accountability as the predominant democratic value because it is the most feasible option. Other democratic values like *ex ante* direct participation and deliberation face serious limitations in practice. We assume that democratic anchorage is to be found in a better-functioning representative democracy, with an increased emphasis on monitoring and reviewing. Secondly, the enduring dominance of public sector management with its focus on value for money, performance and results will only accentuate *ex post* public accountability as the most valid democratic reference point. Thirdly, the strong call for a transparent government has opened the doors, which will not be closed again in the foreseeable future. On the contrary, the digitalisation and rise of the internet will only fortify the pressure to open up and account for one's actions.

In sum, good and reliable public accountability should have the following key features:

1. *Proper representation*: it should engage (directly or indirectly) all relevant stakeholders

actively in its process. Those people whose interests are affected by political decisions ought to have the possibility to hold those political authorities to account.

2. *Full transparency*: all documents and other information prepared by the government should be made available to the public. Transparency however has both a passive and active dimension. A transparent public authority grants access to the public, press, interest groups and other parties interested in its activities. In addition, government should take an active role in identifying relevant stakeholders and organising a discussion with them.

3. *Ex ante reference frame*: public policy goals and purposes should be formulated as clear as possible. If you want to hold public authorities to account for its actions, it is easier to do on the basis of explicit performance specifications. If there is no agreed upon *ex ante* reference frame, then it is harder to evaluate someone. Difficult discussions about success or failure are likely to rise in that case.

4. *Real responsiveness:* it should be demonstrable that the process of rendering account has led to improved outcomes. The mere revelation of wrongdoing or poor performance does not constitute public accountability. Without the possibility to face public authorities with certain consequences and correct its behaviour for the better, public accountability remains without real value.

5. *Compact information.* Not only should all relevant information be made public by the government, but that information should also be complete. It is not enough that all technical documents are made accessible for the public. Good public accountability requires governments to make these technical documents comprehensible for a larger public. Bovens and Schillemans (2009b) call this accessible form public accountability 2.0 instead of 1.0.

6. *Public contestation:* a vibrant 'agonistic' or adversarial public forum where different political opinions and proposals can be contested is crucial for the existence of good public accountability (Mouffe, 1993, 2006). The agonistic approach contributes to a deepening and revitalisation of public accountability. In other words, contestation, even confrontation, is a catalyst rather than an impediment for good public accountability.

3. Public Private Partnerships

3.1 Definition of PPP

Scholars documented a shift in public administration from Weberian bureaucracies to network arrangements with joint public and private involvement (Agranoff & McGuire, 2003; Koppenjan & Klijn, 2004; Pierre, 2000; Rhodes, 1997; Sullivan & Skelcher, 2002). Traditional boundaries like the distinction between the public and the private are becoming blurred. The rationale behind this policy choice is manifold. Continued constraint on public resources has stimulated governments to seek new, off budget resources. Governments also hoped for efficiency savings when involving the private sector. Some partnerships searched for more integration within an increasingly fragmented landscape. It is also often assumed that the complexity of the challenges facing governments required the involvement of private actors.

The recent growth in hybrid collaborative arrangements expresses itself mainly through public-

private partnerships. PPP promises a new way of public management and is considered by some as the most important new horizontal form of governance today (Bovaird, 2004; Hodge & Greve, 2005; Minow, 2003; S. Osborne, 2000).

Considering the various interpretations of PPP, we definitely need a clear definition. Van Ham and Koppenjan (2001) give a solid, institutional definition of PPP: *"cooperation of some sort of durability between public and private actors in which they jointly develop products and services and share risks, costs and resources which are connected with these products."* If we analyze their definition more closely than we find three distinct features: (1) cooperation has to be relatively enduring, (2) sharing of risks is a crucial part of the deal and (3) actors produce something together and both contribute (financially) to it.

PPP's are basically underpinned by two promises: (1) Reduced pressure on governmental budgets, allowing a greater capacity to spend because of the use of private funding and (2) better value for money in the provision of public services. The evaluations of PPP display a rich pattern of delirious praise on the one extreme and harsh criticism on the other (Bloomfield, 2006; Hodge & Greve, 2007). Serious structural evidence on these claims and counterclaims is scarce. Looking at the two promises, more recent experiences have shown mixed results (both negative and positive) (Hodge, 2005; M. Pollitt, 2005; Shaoul, 2005). Far more debate and empirical research is needed to solve the uncertainty.

To date, the implementation of PPP's has largely been evaluated from a technical, financial, managerial or legal point of view (d' Hooghe & Vandendriessche, 2004; Hodge & Greve, 2005; S. Osborne, 2000). Nevertheless, PPP constructions also raise a host of political problems and questions which receive less attention. They are often conceived as neutral management instruments which can be applied in all contexts. We seek to review the political consequences of hybrid forms of governance like PPP's. One of the most important new elements of PPP's are in fact the changed assumptions concerning governance and public accountability (Flinders, 2005; Hodge & Greve, 2007).

3.2 Public Accountability in PPP arrangements

3.2.1 PPP as an opportunity to strengthen public accountability

Some scholars assess the potential of PPP arrangements in promoting ways to call governments to account as relatively high due to several reasons (Agranoff & McGuire, 2003; Bishop et al., 1994; Savas, 2000; Sullivan & Skelcher, 2002).

Partnership with stakeholders. In a PPP arrangement the government seeks a partnership with private companies. Both partners have specific qualities, which will result in a win-win situation if they are combined well. Governments hope for efficiency savings and know-how gains by involving the private sector. In addition, the 'partnership' is not restricted to the contracting of private companies. Large-scale PPP projects usually include citizen participation and deliberation in the preparatory stage. Information and discussion meetings are more frequent in PPP projects compared to traditional investment projects. Community engagement can increase the potential legitimacy of investment projects.

Primacy of politics. A PPP arrangement could be described as an illustration of the primacy of politics. The public partners lay down the output criteria and shift some operational tasks to the

private sector, but they always have the final say on the project. Once the contract is signed and the implementation starts, the public authorities can focus on contract management. Moreover, in a PPP project private partners are paid for performance. Underperformance will be punished by the financiers, which gives the public partner all the power tools. So PPP builds in a number of long-term and explicit safeguards relating to the quality of service that can deliver a higher level of public accountability.

High transparency. First, there is an all-in price and time frame when the project is assigned. PPP projects have a high transparency with regard to time frame and costs, compared to traditional investment projects. Second, risks are reasonably spread between public and private partners. This means a serious advantage for the public partners, because they do not have to bear all the risks anymore and the responsibility of the private companies is raised. Third, the government can exactly describe what it expects from the public products or services. PPP is totally output and performance orientated. Fourth, a PPP arrangement is described in detail in written contracts. The specific allocation of tasks should lead to clear agreements and ownership. So, there should be an *ex ante* reference frame which everyone has agreed upon. The formulation of explicit performance specifications can simplify the process of holding to account.

High on political agenda. Politicians are generally more interested in PPP arrangements than more traditional investment projects. The reasons are multiple. First, there is a certain international 'fuss' about the promising nature and future of PPP. Second, PPP fits well in the current dominant NPM-inspired mantra of efficient public management. Partnership with efficient private companies is a concept which is hard to argue with. Third, especially in times of financial hardship and scarcity PPP promises an attractive alternative. Fourth, PPP could mean short-term gains and long-term costs, which makes it very attractive for politicians having a short-term electoral cycle in their minds.

3.2.2. PPP as an obstacle to realising public accountability

Other scholars, however, view PPP arrangements as dangerous impediments in holding governments effectively to account (Bloomfield, 2006; Coghill & Woodward, 2005; Flinders, 2005; J. Hood, Fraser, & McGarvey, 2006; Shaoul, 2005). The Belgian Court of Audit follows this line of reasoning and has recently published a critical report on PPP in Flanders (Rekenhof, 2009). This erosion of public accountability can be attributed to several factors.

Loss of direct ministerial control. The increased use of PPP arrangements has undermined the steering capacity of ministers. As more functions are moved away from ministers and their departments, the lines of accountability became increasingly fragmented and segmented. The direct control capacity of ministers is severely diminished, by which ministers are more reluctant to accept responsibility for delegated functions.

Complex and technical information. Reports regarding PPP arrangements are too technical and complex. If the tools and strategies which are used by the government are becoming more complex, then it automatically becomes more difficult to guarantee an adequate way of controlling those working methods. PPP projects budget information does not allow to assess to what extent payment commitments endanger future policy options.

Commercial confidentiality of information. PPP projects reduce transparency because commercial confidentiality requires concealing important information. This information can be considered as

the intellectual property and core business of private companies. Publicising detailed information will impede the functioning of markets. In addition, sometimes governments choose a participative or alliance form of PPP where public and private partners establish a joint corporation. These *special purpose vehicles* (SPVs) are supposed to bring more efficiency and flexibility to the projects, but diminish even more the opportunities for politicians to supervise the projects.

No responsiveness. The lack of responsiveness of governments is also criticised. Reporting is rather symbolic if governments do not take into account the various recommendations of MP's, Court of Audit and several advisory bodies. Although there may be extended rituals of reporting and accounting, if they have no 'power tools' to face the governments with certain consequences the processes of rendering account is nothing more than a paper tiger. Furthermore, it remains to be seen whether the financial penalties applying to private companies are adequate (in case of default). Ministers have been rather reluctant to apply their contractual rights in relation to financial penalties. Moreover, some public services are too important to fail. Governments therefore will de facto always bear the ultimate risk.

Outsourcing public expertise. Given that PPP arrangements are very complex investment projects, governments usually need the support of specialised private law and financial firms. One could say that private consultancy firms are (generously) being paid with tax money to develop their own private expertise and experiences. Public expertise is gradually being eroded.

No political debate. Although PPP projects concern important investment decisions with a huge impact on future generations, they usually are decided upon without an extensive political discussion. Most PPP projects have insufficient societal support and decisions are taken above people's heads. This surprising lack of political attention is driven by several factors. First, PPP is most of the times conceived as a neutral management instrument which can be applied in all contexts. In other words, it is 'de-politicised'. Second, due to the technical complexity few politicians take the effort to study such difficult cases. MP's have other priorities, which demand less energy and have quicker results. Third, ditto for the mass media. In a highly competitive media market, with a 24 hour news cycle, such concerns seem appropriate. Since the media are the main information channel of citizens, they are 'alienated' from technical public policy like PPP arrangements.

3.2.3. Good Public Accountability in PPP arrangements?

As mentioned above, good and reliable public accountability should have 6 key features: proper representation, full transparency, *ex ante* reference frame, real responsiveness, compact information, agonistic contestation. In theory PPP arrangements promise various significant improvements in ways to hold governments to account. Five out of six criteria for good public accountability could be improved.

1. *Proper representation*. PPP promises to engage actively all relevant stakeholders. The government seeks an actual partnership with some private companies and a closer connection with the larger community. Information and discussion meetings with stakeholders are common in PPP projects. In addition, elected political representatives are steadily in the driving seat because they mark the contours of the projects.

2. *Full transparency*. PPP arrangements signify increased transparency towards performance

criteria, costs, risks and timeframe. PPP obliges everyone, including the government, to think about risks, costs and output. The advantages can be considerable: date-certain contract, fixed price and increased responsibility due to the linking of design, construction and maintaining. Moreover, all these criteria are written down in legally binding contracts which can be largely standardised.

3. *Ex ante reference frame.* Government can focus on their core business, namely specifying the output of public products or services. PPP can be totally performance orientated. This should result in an agreed upon *ex ante* reference frame with explicit performance specifications, by which governments easily can be held to account to. The allocation of tasks between public and private partners is normally specified in detailed contracts. Everyone should know his or her tasks and responsibilities, which should simplify the process of calling someone to account.

4. *Real responsiveness.* Governments should have more instruments to 'punish' underperformance of the private partners. Usually there is a liability of ten years in case of a default, which means in practice long and difficult legal battles. In PPP arrangements private partners can be immediately penalised financially, which will be more effective.

5. *Compact information.* Since PPP arrangements can be described in clear output or performance criteria, there is a genuine opportunity to slim down the information overload to the essence. Again, further standardisation of PPP projects and reporting on this will only ameliorate the density of the information.

However, there is one necessary criterion of good public accountability which is not easily fulfilled (theoretically) by PPP arrangements: ***public contestation***. PPP is rather paradigmatic for technical public management, which goes beyond political discussion and opposition. Chantal Mouffe (2006) challenges this dangerous 'post-political' vision. She underlines the need to create a vibrant 'agonistic' public sphere of contestation where different hegemonic political projects can be confronted. This is according to her the *condition sine qua non* for an effective exercise of democracy. Mouffe (2006) claims that: "*The point of departure of my enquiry is our current inability to envisage the problems facing our societies in a political way. What I mean by that is that political questions are not mere technical issues to be solved by experts. Properly political questions always involve decisions which require us to make a choice between conflicting alternatives.*" She summons us to resist the call by some post-political theorists to think 'beyond left and right'. The PPP strategy is one of the ways advocated by Anthony Giddens and New Labour to transcend the old left/right division and turn into a 'third way'. The results for the public services in particular and the future of democratic politics in general are disastrous, according to her.

Although Mouffe's view on democratic politics is quite far-reaching, her argument on the democratic value of public contestation and confrontation is of significant importance. In a more moderated way, Flyvbjerg et al. (2003) refer to the same principle of *maximal* public participation and discussion in the context of mega infrastructure projects. They call the acid test of public scrutiny the main means for enforcing accountability in the public sector. All stakeholders should be invited to participate and discuss from an early stage on in the decision-making process. Furthermore, the government should take an active role in identifying and engaging these groups. The ways of public involvement are manifold: public hearings, independent peer review, scientific conferences, advisory committees, social surveys, citizen panels and other citizen initiatives. In short, Flyvbjerg calls for a full-options public contestation and confrontation, which is initiated by

the government itself. It is the only way to guarantee that the public interests are maximally represented and protected.

Therefore, there are real dangers of seemingly technical, managerial analysis of funding options disguising essentially fundamental political assumptions and choices (Coghill & Woodward, 2005). What are in fact political decisions, tend to be presented to the citizens as tough they were mere technical decisions. People risk getting increasingly alienated from the decision-making process. Negotiations between public and private partners are conducted in closed private settings, so that citizens have little to no input into such negotiations and are faced with accomplished facts in the end. In short, PPP arrangements do not lend themselves easily for political contestation due to their distinct technical and managerial outlook. Although they represent important societal investment projects, they seldom become major political issues.

So far we have discussed *the accountability potential* of PPP arrangements, which means the theoretical assets. However, there is often a considerable gap between prescriptions of social theory and descriptions of social reality. It is necessary to check if PPP does fulfil its accountability potential *in practice*. In practice, however, PPP arrangements do not (yet) live up to their full public accountability potential (Coghill & Woodward, 2005; Flinders, 2005; Hodge & Greve, 2007; S. Osborne, 2000; Shaoul, 2005). The recent study of the Belgian Court of Audit concerning the start and preparation of 11 Flemish PPP projects confirms this pessimistic view (Rekenhof, 2009).

> The lack of public contestation regarding PPP arrangements is a huge problem, both in theory and in practice. The importance of a lively public discussion for obtaining good public accountability may not be underestimated. We therefore assume that contestation in a public context strengthens the accountability process by combining traditional and additional mechanisms.

3.2.4. Example: Antwerp's controversial viaduct "Lange Wapper"

The 'Lange Wapper' in Antwerp was set to become one of the biggest and most impressive viaducts in Belgium. It was designed to be a crucial part of the 'Oosterweel link', completing Antwerp's highway infrastructure by means of a short tunnel under the Scheldt river and a viaduct over parts of the harbour area. The 'Oosterweel link' would close the currently incomplete small ring road (R1). This important investment project was to be executed by the BAM (Management Company Mobility Antwerp) by order of the Flemish Government[2]. The following objectives are pursued in this project: guaranteeing the accessibility of city and port, relieving the southern ring road, good lorry link for through traffic, and increasing traffic safety.

The Flemish Government opted to finance this investment project by a joint venture between government and private companies (PPP). The 'Oosterweel link' assumes the major principles of a *design, build, (partial) financing and maintenance* (DBfM) construction: risk allocation, value for money and life cycle approach. Investments are paid back over time by toll collection. In 2004 the cost of the viaduct was estimated to be around 500 million EUR. Three years later the Flemish Government put a cap of 1,85 billion EUR on the estimated cost price of the infrastructure, excluding VAT and the cost for financing. In April 2009 BAM and Noriant (consortium of construction firms) signed a *design sign off* for the realisation of the 'Oosterweel link' for a total cost of 2,2 billion EUR.

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2 For more information on the Masterplan Mobility Antwerp see following websites: www.antwerken.be and www.bamnv.be

Over the years, several citizens' protest groups have made their opposition to this project clear. *StRaten-Generaal*[3] (which means 'the streets' a wordplay on 'States general') agreed that the ring road should be closed, but proposed to do this by boring an extended tunnel through the port area. Residential areas are avoided by rejoining the Antwerp ring at a more northerly point. They complain that the different alternatives are insufficiently thought through and publicly discussed. The process of public consultation and deliberation was rendered meaningless, because the final decision was already taken and the discussion was consequently one-sided. *Ademloos*[4] (which means 'breathless') opposes the 'Lange Wapper' mainly because of its detrimental health aspects. Frustrated by the lack of public transparency and participation, they launched an aggressive campaign against the viaduct. They have been collecting signatures for their petition in favour of a referendum to allow the citizens of Antwerp to have a say on this project.

In 2009 a survey of all proposed alternatives for the closure of the ring road around Antwerp was commissioned by the Flemish Government and executed by a research team from Arup/Sum Research. They preferred the tunnel alternative proposed by action group stRaten-Generaal to the controversial viaduct. Somewhat surprisingly Arup/Sum added another alternative proposal, an upgraded version of the tunnel alternative. Both stRaten-Generaal and BAM considered themselves to be the winner. StRaten-Generaal observed that despite the fact that BAM spent 80 million EUR on research and design (and the years of preparation), its project could not stand the first independent test and confrontation with a 'layman' alternative. BAM however believed its project to be the only *financial viable* option. The results of the survey have caused serious discord within the Flemish Government and the larger political forum.

The Flemish Government decided to allow the city of Antwerp some time to commission further studies from Arup/Sum. These were completed by the summer and provided additional information. On October 18th 2009 the citizens of Antwerp could cast their vote in a referendum whether or not to build the 'Lange Wapper'. There was a voter turnout of 34,75%. 59,24% voted against the viaduct and 40,76% for the viaduct. The results were interpreted differently by both 'antagonists'. The action groups triumphed because a (legally) significant part of the people voted and the majority rejected the viaduct, in spite of an impressive and expensive campaign (partly paid with taxpayers' money) on television and in newspapers to promote the viaduct. BAM tried to minimise the importance of the referendum by pointing to the low turnout and a NIMBY-effect. Nevertheless, the City of Antwerp formulated a negative recommendation to the Flemish Government as to whether a building permit should be delivered. After the referendum, the decision was delayed. The Flemish Government is expected to decide this summer on the future of the project (Joris, Van Damme, & Brans, 2010).

The decision-making process on the 'Oosterweel link' is extremely complex, both in a technical/managerial sense and as regards content. The project has important consequences for mobility, economy, environment, health, spatial planning, etc. Moreover, there is a certain scientific uncertainty as well as a societal disagreement. The economic interests are very high. It has become a classic example of complex public management which most citizens are alienated from, although it concerns a major societal investment project. Decisions are taken above people's heads and interested citizens struggle to find 'access' to the project. Moreover, even many experienced politicians and journalists lack the technical know-how to comprehend and check what is going on. In general there was not enough intensive interaction and not enough dialogue.

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3 For more information on StRaten-Generaal see following website: www.stratengeneraal.be
4 For more information on Ademloos see following website: www.ademloos.be

This would have been useful to create a necessary broad public support.

The case is on the other hand rather exceptional because a small group of motivated citizens have been able to impede and (temporarily) stop this massive 'undertaking'. They are a group of highly educated citizens who do not feel fully represented by more traditional actors like political parties or social organisations. 'StRaten-Generaal' presented with modest means a valuable alternative which was at least equal with the BAM proposal. 'Ademloos' obtained a referendum on the viaduct and got a majority of the voters behind them. In short, the impact of these actions groups on the decision-making process was huge. The mass media picked up their story and started following the case more closely. Moreover, in their slipstream some MP's gained an exceptionally elaborated and frequent reporting on the 'Oosterweel link' in the Flemish Parliament (which was later on extended to other major PPP projects). Some citizens went to court and addressed their case to the Council of State, because they felt their rights were infringed upon. Although they did not win their case, the government was forced to explain and justify their actions.

To sum op, the gradually growing dynamics of bottom-up public contestation and confrontation transformed the 'Lange Wapper' saga from a technical investment project into a major political issue. Consequently a remarkably lively public discussion developed regarding the issue of mobility in Antwerp. The acquired transparency regarding this mega project has been exceptional. Based on impressions of this case, we therefore assume that public contestation is a necessary catalyst for good public accountability in complex settings. If you want to hold the government effectively to account, you need to get the public really involved.

4. Hypotheses

a) *The shift from bureaucratic to PPP arrangements erodes the quality of public accountability.* The distribution of risks and responsibilities between public and private obfuscates traditional accountability mechanisms to traditional account-holders. There is a loss of direct political (i.e. ministerial) control, which harms the process of being called to account by the Parliament.

b) *The rise of new ways to hold government to account by using PPP arrangements does not counterbalance this reduced quality of public accountability.* The alternative mechanisms are not capable of fully remedying the shortcomings identified with the loss of ministerial responsibility.

c) *This erosion is particularly found in non-contested issues,* because for contested issues the effect is moderated by additional accountability mechanisms. If a public policy is highly contested in a public context, traditional mechanisms are somehow reanimated, even strengthened, by these additional accountability mechanisms. When a policy issue gets publicly contested, the vacuum of accountable government gets filled.

d) From this follows that *public contestation is a catalyst rather than an impediment for good accountability*. This hypothesis builds on Flybjerg's (2003) argument that government has to organize its own opposition against mega infrastructure projects as well as Mouffe's (1993) ideas about the necessity of domesticated conflict for a well functioning democracy. The widely shared perception of PPP as rational managerial technique precisely suppresses this conflict.

5. Further research

Case selection is crucial in qualitative research (Leuffen, 2007; Vennesson, 2008). We seek variation in the cases according to whether they are PPP arrangements or not, and whether they are publicly contested or not. Schools are identified as a non-contested issue in society; not many societal actors seem to be against building schools. Infrastructure is identified as a contested field, with winner and losers. On other accounts, we strive towards similarities in the cases. The structure of the PPP is comparable for both cases. The magnitude of the projects is also in a similar range. Finally, the cluster of cases is under supervision of the same Minister. Case 1 & 2 are the responsibility of Flemish Minister of Education and case 3 & 4 of Flemish Minister of Mobility and Public Works. This should significantly improve the possibilities to compare PPP's and traditional public investment projects.

- *CASE 1: no PPP & not contested.* The Agency for School Infrastructure (Agion) is a public agency responsible for subsidizing the purchase, construction and renovation of school buildings. It has an annual budget of 150 million EUR to subsidy infrastructure projects.

- *CASE 2: PPP & not contested.* In addition to the regular subsidies, the Flemish Government also participates in a PPP via School Invest (211 projects with a value of 1 billion EUR for the duration of the project)

- *CASE 3: no PPP & contested.* The widening of Schipdonk Canal (to improve access to the port of Zeebrugge) is contested by politicians and action groups. A public agency (Waterwegen en Zeekanaal) manages this project with a value of 625 million EUR.

- *CASE 4: PPP & contested.* In addition to regular investment, The Flemish government participates in a PPP called Via-Invest that has to build missing links in the infrastructure. We study the north-south link in the province of Limburg. The project (300 million EUR) is contested by local politicians and action groups.

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