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Public-Private Partnerships: Policy and Regulation: With Comparative and Multi-level Case Studies from Denmark and Ireland

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– With Comparative and Multi-level Case
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Ole Helby Petersen

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Ole Helby Petersen

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Public-Private Partnerships: Policy and Regulation

- With Comparative and Multi-level Case Studies
from Denmark and Ireland

Ole Helby Petersen

PhD-dissertation
Department of Business and Politics
Copenhagen Business School
March 2011

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Ole Helby Petersen

Copenhagen, March 2011

PREFACE

Over the past three decades, governments around the world have launched ambitious efforts to reform the organisation and functioning of the public sector. Under the broad New Public Management (NPM) designation, this trend has challenged the Weberian “classic public administration paradigm” (Pollitt, Thiel & Homburg, 2007:1). As a result of these developments, new words, concepts and tools of governance have been brought into public administration and policy-making. In academic literature, these tendencies have been captured in numerous titles, including ‘A Public Management for all Seasons?’ (Hood, 1991), ‘Reinventing Government’ (Osborne and Gaebler, 1992), ‘Governance Without Government?’ (Peters & Pierre, 1998), and ‘New Public Management’ (Lane, 2000). These developments have also been tracked and described by various governance indicators and benchmark projects, such as the OECD’s PUMA project and the World Bank’s Governance Indicators. Furthermore, in a Danish public administration context, scholars have called our time ‘the era of reforms’ (Pedersen & Greve, 2007).

To a large extent, these public sector reforms have been of a worldwide scope and magnitude, as noted by Donald Kettl in ‘The Global Public Management Revolution’ (2000). However, while recognising the comprehensiveness and evidence of recent changes, a growing strand of literature has challenged the globalisation orthodoxy, which “maintains that NPM is spreading fast around the world and generating convergence between civic systems” (Christensen & Lægreid, 2002: ix). Rather than leading to convergence across administrative systems, this perspective sees public sector reforms as shaped by a complex mix of national policy features and historical and institutional contexts, which create a great deal of divergence and heterogeneity in the actual trajectories of public sector reforms across various national institutional systems (e.g. Barzelay, 2001; Pollitt & Bouckaert, 2004; Pollitt, Thiel and Homburg, 2007). Moreover, many scholars now argue that we are witnessing a new and more diversified post-NPM and new public governance era, which fundamentally departs from the ‘one size fits all’ mentality, which largely characterised the NPM epoch during the 1980s and 1990s (Christensen & Lægreid, 2007; Osborne, 2010).

This PhD dissertation follows in the footsteps of this growing body of public administration and management literature, which stresses the importance of national and institutional contexts in the shaping of public sector reform trajectories and the outcomes of such reforms initiatives. The puzzle guiding the dissertation is the question of why some countries have chosen to make large-scale use

of the public-private partnership (PPP) model, whereas others have been much more reluctant. I find this puzzle interesting because of the fundamental question that it begs; if PPPs are really that attractive as many politicians and academic scholars would like us to believe, why is it that quite a number of countries including Denmark and the remainder of the Scandinavian countries have so far only reluctantly adopted the PPP model? I utilise institutional policy process theories to unpack and analyse in a comparative perspective the policy processes, decision-making games and broader institutional settings within which decisions about PPP policy and regulation were taken in Denmark and Ireland between 1999 and 2009. Furthermore, I also utilise a multi-level governance perspective to supplement the comparative perspective with multi-level analysis of how various levels of government, notably the EU-level, the national level and the local project level, interact to support or constrain uptake of PPPs within different national institutional contexts. By this token, my aim is both to make a comparative and a multi-level contribution to the academic PPP literature.

The argument which I will attempt to substantiate is that policy, regulation and application of PPPs is in fact a much more heterogeneous phenomenon than commonly asserted in policy practice and in the academic literature, and thus is part of a more diversified picture of developments in public administration which ‘transcends NPM’ and is part of a new public governance era characterised by national translations and adaptations within a global public sector reform context (Christensen & Lægreid, 2007; Greve & Hodge, 2007; Osborne, 2000).

At first glance, the arguments presented here which stress the importance of national characteristics and institutional context might seem to fit neatly with the “grand” divergence theories, such as the ‘Varieties of Capitalism’ literature (Hall & Soskice, 2001), or the ‘Welfare-State Regimes’ literature (Esping-Andersen, 1990). However, on closer examination, this study provides a messier and, I will argue, a more nuanced and detailed account of the forces, interests and institutional mechanisms which shape and form national PPP policy and regulation and the formation of concrete PPP projects. Future research may use these results along with other case studies to determine whether there are emerging archetypes of post-NPM governance in the grey zone between public and private sector organisation and regulation. Studying PPPs in a comparative and multi-level perspective provides a particularly informative starting point for such an endeavor as the phenomenon represents a complex redefinition of public and private interaction, which goes beyond the competition and contracting focus in NPM, and thus provides opportunities for understanding how and why modern states attempt to govern such interaction.

The PhD dissertation is divided into two main parts. The first part is a synopsis which provides an introduction to the study's puzzle and research questions, the theoretical frameworks, methodology, data collection, conclusions and discussions of the lessons learned. The second part of the dissertation consists of five papers, which represent the main body of text and analysis. These papers are currently in various phases of writing, review and publication in leading peer-reviewed journals; three papers have been published (Papers 1, 2 and 3), one paper is currently in review with a journal (Paper 4), and the fifth paper has been accepted for presentation at an international conference and will subsequently be submitted to a journal (Paper 5):

I: Petersen, Ole Helby (2010a). Emerging meta-governance as a regulation framework for public-private partnerships: an examination of the European Union's approach. *International Public Management Review*, 11, 3, pp. 1-23.

II: Petersen, Ole Helby (2009). Hvorfor så få offentlig-private partnerskaber (OPP) i Danmark? Et ministerielt spil om indflydelse, interesser og positioner. *Økonomi og Politik*, 82, 1, pp. 60-75.¹

III: Petersen, Ole Helby (2010b). Regulation of public-private partnerships: the Danish case. *Public Money and Management*, 30, 3, pp. 175-182.

IV: Petersen, Ole Helby (2011a). Multi-level governance of public-private partnerships: An analysis of the Irish case. Submitted to *International Public Management Journal*.

V: Petersen, Ole Helby (2011b). Public-private partnerships as converging or diverging trends in public management? A comparative analysis of PPP policy and regulation in Denmark and Ireland. Accepted for presentation at the 15th International Research Symposium for Public Management (IRSPM), Dublin, Ireland, April 2011.²

¹ Title in English: "Why are there so few public-private partnerships (PPPs) in Denmark? A departmental game about influence, interests and positions." *Economy and Politics*, 81, 1, pp. 60-75.

² Planned submission: *Public Management Review*.

PART 1: SYNOPSIS

This PhD dissertation studies national similarities and differences in policy and regulation of public-private partnerships (PPPs), with an empirical focus on Denmark and Ireland. The starting point and motivation for the study is the observation that whereas PPPs are often depicted in the academic literature and in policy practice as a globally disseminated governance scheme, in reality, a closer examination of the PPP reform landscape reveals significant differences in Western governments' policy and regulation of PPPs and in the actual application of the PPP model. By comparing the initiatives taken by the Irish government, which has embraced PPPs, with those of the Danish government, which has been a PPP sceptic, I draw on in-depth case studies to inquire into the fundamental public policy questions as to how, why and to what consequences some governments have launched widespread policy and regulation frameworks to support uptake of the PPP model, whereas others have been much more reluctant.³

The study addresses a gap in previous PPP literature, which has been dominated by single country or single case study research designs, whereas comparative and multi-level aspects of PPPs have hitherto been subject to few academic studies (cf. Reeves, 2003; Klijn & Teisman, 2003; Koppenjan, 2005; Johnston & Gudergan, 2007). The dissertation thus contributes with comparative findings about convergence and divergence in national PPP practices in general, and the Danish and Irish PPP cases in particular. This is supplemented by multi-level analyses of the interplay between various levels of government, notably the EU-level, the national policy-level, and the project level, in key decisions about policy, regulation and application of the PPP model, using the schools sector as test bed. Jointly, these two perspectives enable me to produce a number of insights about national comparative and multi-level aspects of PPP policy and regulation, which have not been adequately addressed in the previous PPP literature (see also Section 1.2). Before moving ahead, though, I will briefly clarify how three central concepts ('regulation', 'policy' and 'PPP') are used in the dissertation.

³ By 'consequences' I here refer to the ways in which PPP policy and regulation serve to facilitate or constrain the formation of concrete PPP projects (see also Paper 3 and 4).

The concept of 'regulation' is commonly defined in various broader and narrower meanings (cf. Baldwin & Cave, 1999; Jordana & Levi-Faur, 2004), and is often also associated with the notion of 'governance' (Rhodes, 1996; Peters & Pierre, 1998; Kooiman, 2003). In the broadest sense, regulation can be characterised as "sustained and focused control exercised by public agency over activities that are valued by a community" (Selznick, 1985: 363). However, I would tend to agree with the editors of the new journal *Regulation and Governance*, which see regulation as a narrower concept than governance: "Regulation can be conceived as that large subset of governance that is about steering the flow of events and behavior, as opposed to providing and distributing" (Braithwaite, Coglianese & Levi-Faur, 2007: 3). Regulation, in the way that I use the term in the dissertation, is thus more about steering, directing and controlling than it is about collecting and redistributing scarce resources. Accordingly, I define regulation as the subset of governance that involve "every mode of political steering involving public and private actors, including traditional modes of government and different types of steering from hierarchical imposition to sheer information measures" (Héritier, 2002: 185). This includes command-and-control (hard law) as well as broader soft law measures, such as economic incentives, supply of information, self-regulation, etc. (Baldwin & Cave, 1999; Mörtz, 2007).

The concept of 'policy' can be characterised broadly as "A set of interrelated decisions taken by a political actor or a group of actors concerning the selection of goals and the means of achieving them within a specified situation where these decisions should, in principle, be within the power of these actors to achieve" (Jenkins, 1997: 30). Furthermore, as argued by Heclo, "As commonly used, the term policy is usually considered to apply to something 'bigger' than particular decisions, but 'smaller' than general social movements" (Heclo, 1972: 84; also cited in Parsons, 1998: 13). In this study, I define a policy as the end-result of a process of public decision-making in which one or several actors invest resources and/or engage in strategic decision-making games with the purpose of advancing a certain decision-outcome over its alternative specifications (Scharpf, 1997). This can for example be the launch of an official PPP programme, the initiation of pilot PPP projects, green and white paper initiatives, sector-specific strategies, or budgetary decisions which earmarks money to PPP projects. Moreover, it can also be decisions more generally aimed at institutional capacity building, such as the launch of a PPP competence unit or an inter-departmental PPP group to coordinate government PPP initiatives (see Paper 2 and 4). The actors involved in policy-making in relation to PPPs can be both public and private actors (Klijn & Teisman, 2003), and actors at multiple levels of government (Jessop, 2005).

Finally, in terms of defining the concept of ‘PPP’, I adopt an adjusted version of Van Ham & Koppenjan’s (2002) and Koppenjan’s (2005) often cited definition of PPP as ‘A form of structured cooperation between public and private partners in the planning/construction and/or maintenance and operation of construction and infrastructural facilities in which the partners share or reallocate risks, costs, benefits, resources and responsibilities over a long time period’. The term ‘structured cooperation’ refers to a relationship with a formal contract-based element, (see also Vrangbæk, 2008), and the definition is confined to arrangements between government and business that combine various planning, construction, finance, maintenance and operation elements, typically for a time-period of 25 to 35 years. This definition corresponds to what is commonly referred to as the ‘financial infrastructure PPP type’ in the partnership literature (Weihe, 2005; Greve & Hodge, 2010). This means that broader and somewhat looser forms of PPP arrangements, such as issue networks or policy communities, are not examined in the dissertation (see also Hodge & Greve, 2005). Section 1.3 provides a more lengthy discussion of the various PPP approaches and definitions, and of how the study places itself in regard to the field of PPP research.

1.1 Introduction: National varieties of PPPs

The past fifteen years have witnessed a steep upwards trend in the formation of public-private partnerships (PPPs) for the provision of various types of public services and infrastructure (e.g. Linder, 1999; Osborne, 2000; Klijn & Teisman 2003; Wettenhall, 2003; Hammerschmid & Angerer 2005; Hodge & Greve, 2005, Koppenjan, 2005; Mörtz, 2007; Ysa, 2007; Vrangbæk, 2008; Weihe, 2008). From 2004 to 2005 alone, around 206 PPP deals were signed in the western world, involving capital investments of approximately \$52 billion (PricewaterhouseCoopers, 2005: 37). In Europe (ex. UK), the capital value of signed PPP contracts rose eight-fold between 2003 and 2006 (Babcock & Brown, 2008:10), while the total capital value of European PPPs approximates €200 billion (Blanc-Brude et al., 2007). PPPs are also endorsed by various European Union (EU) institutions (e.g. European Commission, 2004; see also Paper 1) and international organisations such as the OECD (2008b), the IMF (2006), and the World Bank (2006). Moreover, since the turn of the millennium, the European Investment Bank (EIB) has issued more than €2 billion per annum

in loans and funds to PPP projects in the member states (EIB, 2005). Thus, significant public and private resources are now being redirected to the formation of PPPs in Europe and worldwide⁴.

These staggering numbers, however, cover significant national differences in PPP policy and regulation and in the amount of actually implemented PPP projects. Within an EU context, the countries seem to have followed at least three different PPP reform paths. Some governments have enacted comprehensive policy and regulation frameworks and formed a substantial number of major projects over the last ten to fifteen years. Examples are the UK (Flinders, 2005), Portugal (Monteiro, 2005), Spain (Torres & Pina, 2001) and, more recently, also Ireland (Kay & Reeves, 2004). Other countries, such as France, Germany, Italy, the Netherlands and Greece, have also developed relatively widespread policy and regulation frameworks, but signed a smaller number of actual PPP projects (Babcock & Brown, 2008). Finally, some countries have reacted with a substantial amount of scepticism towards the PPP concept. These countries, where policy and regulation initiatives have been modest and few projects have been signed, include the Scandinavian countries (Greve, 2003), Austria (Hammerschmid & Angerer, 2005), Switzerland (Lienhard, 2006), Belgium and many of the former eastern European countries (Brenck et al., 2005). Thus, within a broader framework of global upsurge in PPP activity, we may say that PPP policy and regulation and the actual application of the PPP model is in fact a highly divergent phenomenon across various national institutional settings.

The idea of PPP as a globally spread reform trend has to a large extent been formed and repeated in the large and rapidly growing international literature on the subject matter (e.g. Grimsey & Lewis, 2002; Ghobadian et al., 2004; Zitron, 2006; Johnston & Gudergan, 2007), although more recently, scholars have increasingly noted that the manifestation and implementation of PPP initiatives have not been the same everywhere (e.g. Greve & Hodge, 2007; Klijn, Edelenbos & Hughes, 2007). A large practice-oriented literature has also emerged, with significant inputs from private consultancy firms (e.g. PricewaterhouseCoopers, 2005; Allen Consulting Group, 2007; Babcock & Brown, 2008), national PPP units (Danish Enterprise and Construction Authority, 2004; HM Treasury, 2006), institutions of the EU (European Commission, 2004; EIB, 2005), and international organisations (World Bank, 2006; IMF, 2006; OECD, 2008b). Indeed, the very notion of PPPs as “a

⁴ Although the financial crisis has temporarily limited the availability of risk willing capital in the financial markets, the current strains on public finances seems to have made the PPP model even more appealing for governments struggling with excessive government deficits (European Partnership Excellence Center, 2009; see also Paper 1).

very-fashionable concept” (Wettenhal, 2003: 77), which “enjoys remarkable acclaim” (Linder, 1999: 35), and “with international acceptance” (Johnston & Gudergan, 2007:570), might lead us to assume similarity and convergence across countries (see also Paper 5).

However, this dissertation, on the contrary, proceeds from the observation that if we look beyond the reports from a small handful of primarily Anglo-Saxon countries, which have so far attracted widespread attention in the PPP literature (Hammerschmid & Angerer, 2005), we observe a much more divergent pattern in governments’ policy and regulation for PPP and the amount of actually implemented PPP projects. The following two brief accounts, from Ireland and Denmark, elaborate on these differing national PPP practices.

The Irish government officially introduced PPPs in 1999 when the Minister for Finance launched eight pilot PPP projects across the roads, schools, public transport and waste treatment sectors to be commenced as PPPs (Irish Government, 1999). Later the same year, the Irish government further endorsed PPPs in the National Development Plan (NDP) 2000-2006, which set a minimum €2.35 billion target for PPP activities in the country (Irish Government, 1999). Further Irish initiatives included the set-up of a Central PPP Policy Unit within the Ministry of Finance, the launch of an Inter-departmental Group on PPPs, enactment of a national PPP law, and the launch of the National Development Finance Agency (NDFA): a dedicated government PPP procurement authority. The Irish PPP programme has developed rapidly and now embraces more than 70 major PPP projects in various phases of planning, procurement and operation (Irish Government, 2010). Thus, when taking size into consideration (compare the country’s 4.3 million inhabitants with the UK’s 59 million), Ireland now boasts one of the world’s most ambitious PPP programmes (see also Paper 4).

Turning now to the case of Denmark, also a small open economy and long-term member of the EU, a highly contrasting story is revealed. The Danish government also launched the PPP model in 1999 (Danish Ministry of Finance, 1999), but no concrete action was taken in the following years, and no money was earmarked for projects. When in 2004 the Danish Government launched a PPP Action Plan with ten initiatives to support the formation of PPPs, it was seen by many as an indication of the government’s serious commitment to PPPs as a means of investing in large-scale infrastructure development. Among the initiatives were the appointment of seven pilot PPP projects, the establishment of a national PPP Competence Unit, a universal PPP testing requirement, and pools of money to support local and regional authorities in the testing of potential projects for PPP

relevance (Danish Government, 2004). In the aftermath, however, it became apparent that the initiatives under the government's PPP action plan were in reality much less ambitious than first expected (see also Paper 2 and 3). The pilot projects were only to be tested for PPP relevance, and many other initiatives were seriously delayed, partly because fundamental regulatory issues were not resolved. Subsequently, the Danish PPP programme has moved slowly, with just five implemented PPP projects and a few projects planned (Petersen & Vrangbæk, 2010).

Thus, although the concept of PPPs was launched more or less simultaneously in Denmark and Ireland, which are both small open economies and part of a larger polity (the EU), which makes them subject to a common meta-governance framework (Jessop, 2005; see also Paper 1), within a time-period of just ten years, PPP policy and regulation and the number of implemented PPP schemes developed very differently in the two countries. These empirical examples are not isolated stories about differing national PPP practices. Even though recent years have seen an upsurge of academic interest in various aspects of PPPs, such as procurement, risk sharing and contracting, we still witness a gap in this literature in terms of accounting for these significant and persisting national differences in PPP policy and regulation and the actual formation of concrete PPP schemes (although see Greve & Hodge, 2007; Klijn, Edelenbos & Hughes, 2007; Ysa, 2007). In this dissertation, I will attempt to open up the 'black box' of policy and regulation of PPPs and examine how, why and to what consequences, within a broader framework of global upsurge in PPP popularity, national governments have chosen particular courses of policy and ways of regulating the formation of these PPPs.⁵

When addressing these national differences in PPP practice and regulation, at least two perspectives seem to be relevant (for a similar argument for NPM-reforms, see Pollitt, Thiel & Homburg, 2007: Chapter 1). The first relates to the observation that the concept of PPP is in itself a heterogeneous and somewhat ambiguous phenomenon with many different forms and meanings (cf. Linder, 1999; Weihe, 2005; Hodge & Greve, 2007). The concept of PPP could thus be used in practice for very different organisational arrangements in Denmark and Ireland, which could explain the observed differences in PPP policy and regulation as well as in the number of implemented projects. This perspective, however, is not my focus in this dissertation, and it would also be less interesting in the two specific countries, because both the Danish and Irish governments have introduced and defined PPPs mainly in relation to physical infrastructure projects such as schools, roads, public buildings,

⁵ By "black box" I mean a problem which has as yet not been adequately examined and accounted for.

etc. (see also section 1.3 for further discussions of the PPP concept). In the study, I therefore focus on a significant and well-defined (and thus comparable) form of PPP: the long-term financial infrastructure partnership.⁶

The second perspective, which I find more captivating because it places PPP initiatives within a broader comparative and institutional context, is to examine the variety of national institutional settings in which this particular type of financial infrastructure PPP arose on the policy agendas of governments, and inquire into how and why the specific national trajectories of policy and regulation were shaped and formed and how they worked to facilitate or hinder formation of concrete PPP projects. This perspective, which corresponds to what Gilardi (2004:67) has called the ‘institutional side of regulatory change’ emphasises how, within a broader framework of institutional settings, various public and private actors and policy entrepreneurs engage in strategic ‘games’ in order to promote their preferred solutions on the policy agenda (Scharpf, 1997; Klijn & Teisman, 2003). This approach is different from much previous research on PPPs, which has adopted single country or single case study research designs (cf. Van Ham & Koppenjan, 2002; Reeves, 2003; Koppenjan, 2005; Johnston & Gudergan, 2007), or focused on legal, financial or technical issues of PPPs (Grimsey & Lewis, 2002; Bing et al., 2005; Tvarnø, 2006; Zitron, 2006), and generally treated the broader institutional environment as something external to the formation of PPPs (although see Klijn & Teisman, 2005; Greve & Hodge, 2007).

The remainder of this synopsis is divided into six parts. In the following section (1.2) the aims and research questions of the dissertation are presented. Section 1.3 then discusses the origins and differing meanings of the PPP concept, and clarifies how the dissertation theoretically positions itself within the literature. Subsequently, Section 1.4 examines the objectives reported in a broad range of literature for governments’ formation of PPPs. This is followed in Section 1.5 by a discussion of methodology, case choice and data collection. Then, Section 1.6 presents an overview of the five papers and extended abstracts of each paper. Finally, Section 1.7 provides an overall conclusion to the dissertation and a discussion of the implications and contributions, and I close the synopsis with an epilogue discussing PPPs in the context of the recent financial crisis.

⁶ This was one of the main points in Guri Weihe’s PhD dissertation; that in order to be able to say anything meaningful about PPPs, we need to define and keep separate various partnership types (see Weihe, 2008).

1.2 Aims and research questions

This PhD dissertation examines a number of issues related to how, why and to what consequences, within a broader institutional context, some governments have developed policy and regulation frameworks to support the formation of PPPs, but equally importantly, also why other governments have been more reluctant towards these PPPs. The empirical puzzle addressed in the study thus concerns the discrepancy between the global proliferations of the PPP concept as a reform receipt and the major difference in actual PPP practice in different groups of countries, with a focus on Denmark, which has been a PPP sceptic, and Ireland, which has embraced PPPs. At the theoretical level, the study attempts to grasp and account for the factors that lead to differences and similarities in governments' PPP initiatives across various national institutional settings; the puzzle being how we can start account for the observed divergence in policy, regulation and application of PPPs within a global context of largely converging PPP reform rhetoric (Linder, 1999; Hodge & Greve, 2007).

It should be noted, though, that the differing practices of governments in the adoption and implementation of different public sector reform formula is widely discussed in comparative public administration and management literature (cf. Barzelay, 2001; Pollitt & Bouckaert, 2004; Christensen & Lægreid, 2007). Previous research regarding various types of NPM, privatisation and contracting reforms has thus revealed a great deal of heterogeneity and national translations within a broader reform context (Christensen & Lægreid, 2002; Pollitt, Thiel & Homburg, 2007). The discrepancy between convergence in reform rhetoric and divergence in concrete reform initiatives has thus been discussed in the broader public administration literature (cf. Pollitt, 2002), but it is a topic which has hitherto been subject to few studies in the PPP literature. Consequently, while major financial commitments are continuously being made under PPP schemes in a number of countries throughout, there seems to have been little academic and political debate about these significant national differences in policy, regulation and actual application of PPPs (although see Greve & Hodge, 2007; Klijn, Edelenbos & Hughes, 2007).

The dissertation addresses the issue of diverging national PPP practices from a comparative as well as multi-level perspective. In the comparative dimension, I examine two countries that display highly contrasting PPP policy and regulation approaches within a common framework of EU-regulations (see also Paper 1). Moreover, in the multi-level dimension, I analyse how various levels of government interact to support or constrain the formation of concrete PPP projects, using the

schools sector as test bed. The comparative and multi-level dimensions constitute supplementing analytical perspectives in regard to the overall focus of the dissertation: differing national PPP practices. The empirical focus is on the period from 1999-2009. This starting point was chosen because both Denmark and Ireland officially introduced PPPs in 1999, and the end point was chosen to allow time to write up the dissertation. I will attempt to answer the following research questions:

1. What are the key actor-constellations, policy-games and institutional conditions that created decisions about policies and regulations for PPPs in Denmark and Ireland?
2. How did PPP policies and regulations in Denmark and Ireland develop in the period from 1999-2009, and how can the national similarities and differences be explained?
3. How do multiple levels of government interact to facilitate or hinder the formation of concrete PPP projects, exemplified by four case studies from the schools sector?
4. What framework conditions does the EU set for PPP activity at national and sub-national levels of government, and why has this common regulatory framework not lead to more convergence among the countries?

The first two research questions concern the comparative analytical dimension, whereas the latter two relate to the multi-level analytical dimension. The first aim of the dissertation is to study comparatively how and why national PPP policy and regulation developed from 1999-2009, with a focus on the empirical cases of Denmark and Ireland (research questions 1 and 2). At the national government level, the study thus contains both diachronic and synchronic analysis. Moreover, I also argue that decisions about PPPs at the national government level also influence – and are influenced by – decisions at supra-national and sub-national levels of government, and thus is part of a multi-level governance system where decisions are influenced by actors at several levels of government (Scharpf, 2001; Klijn & Teisman, 2003; Jessop, 2005). Hence, in order to fully grasp and account for the causes and contours of PPP policy and regulation, in the study I use the comparative and multi-level approaches as supplementing analytical perspectives. The second aim of the dissertation is thus to conduct multi-level analysis of (i) how various levels of government interact to support or hinder uptake of the PPP model, with an empirical focus on the schools sector (research question 3), and (ii) what the EU's role has been in regard to regulation of PPPs at national and sub-national levels of government (research question 4).

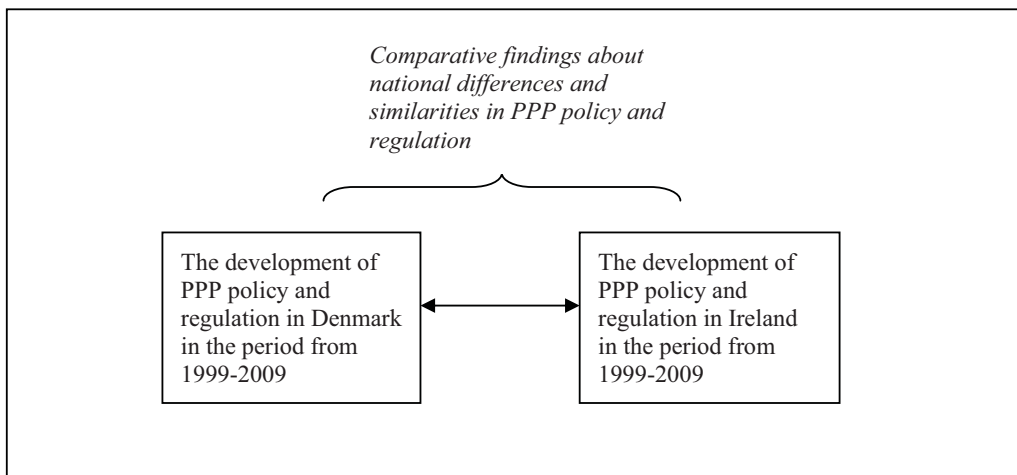
The need to examine at various policy and regulation aspects of PPPs has been identified by several scholars, especially within the Dutch network school (Van Ham & Koppenjan, 2002; Teisman & Klijn, 2002; Koppenjan, 2005), as well as Greve and Hodge (2010), Ysa (2007) and Flinders (2005). But studies dealing with regulation and governance issues have typically operated with single country research designs (cf. Spackman, 2002; Reeves, 2003; Deakin, 2003; Klijn & Teisman, 2003; Flinders, 2005; Koppenjan, 2005; Johnston & Gudergan, 2007), whereas comparative approaches are generally rare in this field of research. Indeed, when reference is in fact made to experiences in other countries, these stories tend to be rather anecdotal, and they are seldom based on actual empirical studies in more than one country (although see Greve & Hodge, 2007; Ysa, 2007; McQuaid & Scherrer, 2010). Hence, as more governments rush forward to implement PPPs, endorsed by numerous policy entrepreneurs, including the private consultancy industry (cf. PricewaterhouseCoopers, 2005; Babcock & Brown, 2008), institutions of the EU (European Commission, 2004; EIB, 2005), and international organisations (World Bank, 2006; IMF, 2006; OECD, 2008b), I will argue that a careful analysis of the actor constellations, policy-games and institutional settings that create policies and regulations for PPPs is timely and warranted.

The first analytical dimension, which corresponds to research questions 1 and 2, is comparative and is designed as a comparative case study of the Danish and Irish governments' development of PPP policy and regulation from 1999-2009. I use institutional policy-process theory (Kingdon, 1995 [1984]; Scharpf, 1997) and qualitative methods to examine the decision-making processes in which PPP policies and regulations developed in the two countries. Institutional policy process theories provide a meso-level analytical perspective which deals with "how problems are defined, agendas set, policy formulated, decisions made and policy evaluated and implemented" (Parsons, 1998; xvii). For PPPs, this can for example be how the PPP idea arose to the policy-agendas of governments by the late 1990s; the formulation of different initiatives to support or constrain uptake of PPPs; the choice of specific courses of PPP policies and regulations; the implementation and formation of PPP projects; and evaluation and revision of PPP policy-programmes and projects (see also Paper 2, 4 and 5).⁷ The theoretical framework of institutional policy-process theories, which I further discuss in Section 1.3, allows me to conduct an in-depth examination of the processes of public policy-making and regulation for PPPs in Denmark and Ireland in the period from 1999-

⁷ It should be noted that the long-term relationship in PPPs means that the time-horizon for evaluation/termination is often between 25 and 35 years.

2009, and thus account for the factors that may explain their comparative differences and similarities (see Figure 1).

Figure 1. The first analytical dimension: comparative case analysis.



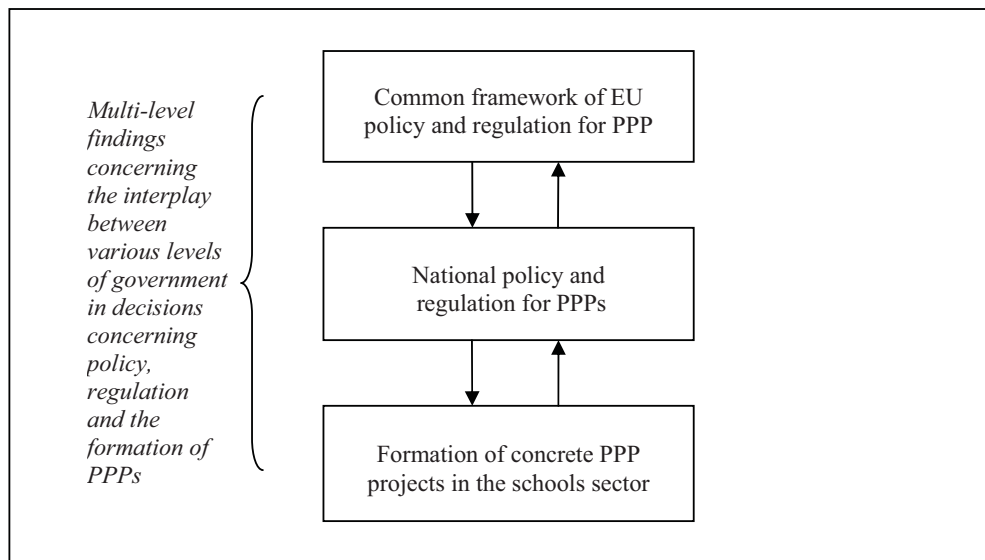
Furthermore, while the academic literature is rich in studies which *either* focus on the project level (Hurst & Reeves, 2004; Johnston & Gudergan, 2007), the national level (cf. Spackman, 2002; Flinders, 2005; Greve & Hodge, 2007) or, in a few instances, the EU level (Teisman & Klijn, 2000; Mörrth, 2007), few studies combine analysis at the project level and the national level, and none combine analysis at the project level with the national level *and* the EU level, although several studies note the existence of common EU-wide procurement procedures and government accounting regulations for PPP projects (Eurostat, 2004; Tvarnø, 2006). Thus, although the existence and importance of a multi-level perspective on PPPs is to some extent recognised in the academic literature, in reality, very little is known about how policies and regulations at the EU level and the national level plays together with decisions at the project level to facilitate or constrain the formation of concrete PPP projects (see also Paper 1).

The second analytical dimension in this study, which corresponds to research questions 3 and 4, is a multi-level analysis of how the EU-level, the national policy-level, and the project level, interact to support or constrain the formation of PPPs, using four PPP schools projects as case examples.⁸ For this part of the analysis, I use multi-level governance theory (Scharpf, 2001; Hooghe & Marks, 2003; Jessop, 2005; Peters, 2010) to analyse the interplay between various levels of government in

⁸ The reasons for choosing the schools sector are discussed in section 1.5.1: the main reason being that it is a primary PPP sector in both countries and that PPP experience in Denmark was very limited within other sectors.

decisions about PPP policy, regulation and formation of PPP projects in Denmark and Ireland (see also Paper 3 and 4). Multi-level governance theory provides an analytical focus on decision-making within a “system of continuous negotiation among nested governments at several territorial tiers – supranational, national, regional and local” (Hooghe & Marks, 2003: 234). For PPPs, this can for example be how EU procurement and budgetary regulations play together with national policies and regulations concerning finance and implementation of PPPs; and the consequences of this for the formation of concrete PPP projects at the local level. The multi-level governance perspective, which is also further discussed in Section 1.3, enables me to supplement the comparative analysis with findings about the interplay between various levels of government in policy, regulation and the formation of PPPs (see Figure 2).

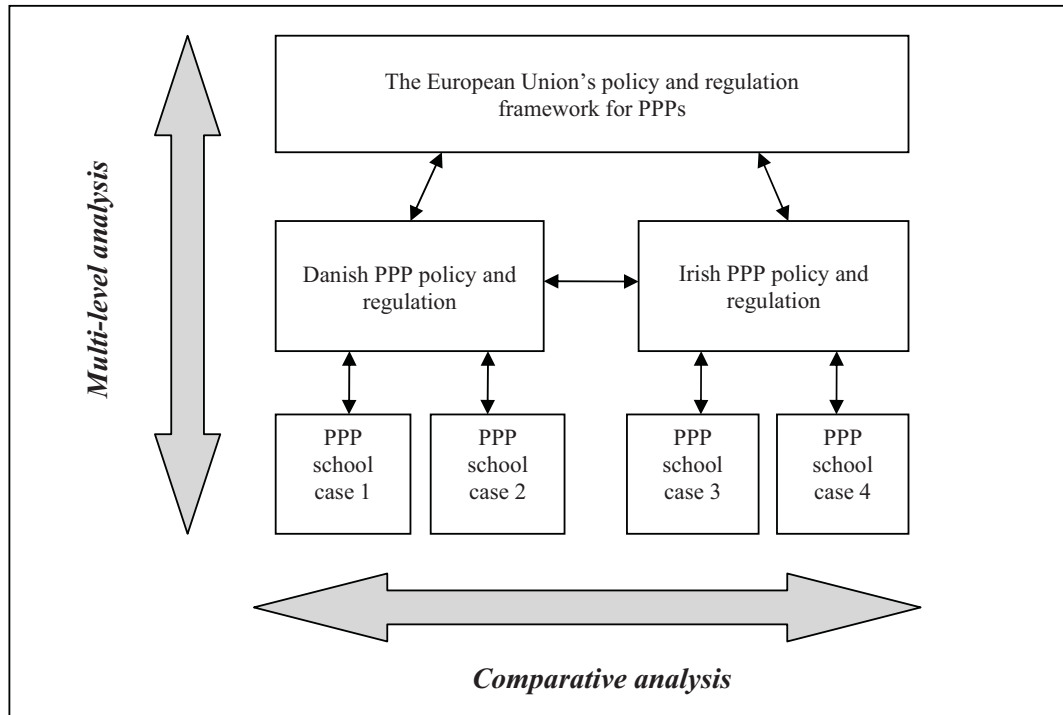
Figure 2. The second analytical dimension: multi-level analysis.



The aims of this dissertation can thus be summarised as follows: to utilise comparative and multi-level analytical perspectives to examine how, why and to what consequences PPP policy and regulation developed so differently in Denmark and Ireland in the time period from 1999-2009. The different parts of the dissertation contribute to this endeavour in the following way: (i) *the comparative analysis*, which draws on institutional policy process theories, provides diachronic and synchronic accounts of the actor-constellations, policy-games and institutional settings that created diverging PPP policies and regulations in Denmark and Ireland from 1999-2009 (research questions 1 and 2); (ii) *the multi-level analysis*, which draw on multi-level governance theory, illustrates how the EU’s common regulation framework for PPPs interact with the differing national policy and

regulation frameworks in the two countries to produce regulatory framework conditions for the formation of concrete PPP projects, using four case examples from the schools sector (research questions 3 and 4). Figure 3 merges these two dimensions to display the comparative and multi-level research design of the dissertation.

Figure 3. The dissertation's comparative and multi-level research design.



1.3 Review of the PPP literature: Trends and gaps

Following the resurgence of PPPs in modern public administration, a large and rapidly growing academic literature on the subject matter has developed over the past ten to fifteen years. This literature is extensively cross-disciplinary with significant inputs from a number of research fields, including public management (Ysa, 2007), public administration (Koppenjan, 2005), construction management (Koch & Buser, 2006), legal studies (Tvarnø, 2006) and accounting (Grimsey & Lewis, 2003), just to mention a few. Most PPP studies link the concept of PPP with new forms of cross-sector collaboration, in which traditional forms of government are gradually being replaced with less hierarchical forms of governance. Many PPP studies also see society as becoming more complex, which creates a need for joint decisions-making in the mixed sphere between public and private (Van Ham & Koppenjan, 2002; Pongsiri, 2002; Ysa, 2007).

However, a closer look at the literature also illustrates that various researchers use the PPP term for very different kinds of organisational arrangements (Hodge & Greve, 2005), and in largely different contexts (Weihe, 2005). The literature also contains a number of interpretations of the objectives pursued by governments with PPPs (Linder, 1999; McQuaid & Scherrer, 2010), and thus of the drivers behind their recent popularity (Hodge & Greve, 2007). All in all, the previous PPP literature seems somewhat fragmented, and as previously mentioned, it has not sufficiently addressed PPP policy and regulation in a comparative and multi-level perspective, with the consequence that our knowledge about these important PPP issues has so far been rather limited.

In this section, I do three things. First, I examine the origins and various meanings of the PPP (Section 1.3.1). Second, I propose a taxonomy that divides previous PPP studies into seven different approaches (Section 1.3.2). Third, I present and discuss the theoretical approaches utilised in the dissertation (Section 1.3.3).

1.3.1 The origins and meanings of PPP

A review of the academic literature illustrates that the concept of ‘PPP’ is an ambiguous term with a number of differing meanings and usages in various contexts (cf. McQuaid, 2000; Wettenhall, 2003; Hodge & Greve, 2005; Weihe, 2005). Moreover, the partnership notion seems to serve as a semantic magnet for a broad and quite diffuse range of public-private interaction forms (Vrangbæk, 2006). A common definition of PPP is that it concerns ‘co-operation of some sort of durability between public and private actors in which they jointly develop products and services and share risks, cost and resources which are connected with these products’ (Van Ham and Koppenjan, 2002: 598; see also Klijn & Teisman, 2005). This definition, however, is rather broad and embraces a variety of different institutional arrangements between public and private sector organisations. It is also common in the academic literature as well as in policy practice to see PPP as an umbrella concept for a broad range of public-private arrangements (Mörth, 2007). Grimsey and Lewis (2004), for example, identify at least ten different types of PPPs, while the European Commission operates with three primary forms of PPP: contract PPPs, concession PPPs, and institutional PPPs (European Commission, 2004; Petersen, 2010a).

In order to clarify the various meanings and approaches, a number of scholars have talked about different ‘PPP families’ or ‘PPP approaches’ (Hodge and Greve 2007; Weihe 2008). A further

distinction has been made between ‘economic type partnerships’ and ‘social type partnerships’, respectively (Hodge & Greve, 2005: Chapter 1). Economic partnerships involve projects where a private sector entity contracts with the public sector to take on the responsibility to design, finance, build, operate and maintain for instance a road, a hospital or a school over a long-term period (typically 25-35 years). The essence of this form of PPP is the involvement of private finance and the sharing (a PPP) or transfer (a PFI) of risks, in a process where the private sector is paid to take onboard risks related to various phases of the project (Bing et al., 2005; Johnston & Gudergan, 2007). Social partnerships, according to Hodge and Greve, involve softer and somewhat less formalised partnerships, as found in issue networks and policy communities (2005: Chapter 1; see also Deakin, 2002).

There are also a number of scholars who discuss the ideological origins of the PPP concept (cf. Linder, 1999; Wettenhall, 2003; Hodge & Greve, 2005; Mörtz, 2007). There seems to be a general agreement in the literature that PPP (i.e. the economic version of it) has its roots in the privatisation movement of the 1970s and 1980s (e.g. Linder, 1999; Savas, 2000; Hodge & Greve, 2005), and moreover, that the NPM reforms of the past decades produced a shift from government to governance (Rhodes, 1996; Kooiman, 2003), which fuelled the further dissemination of the partnership idea (Mörtz, 2007). Many scholars also trace the roots of PPP back to the Blair government’s third way partnership rhetoric (e.g. Hodge, 2004; Flinders, 2005). Furthermore, Linder (1999) argued that the emergence of PPP was in line with the neoliberal focus on efficiency gains, often with an implicit – but sometimes also explicit - assumption about the public sector ceding territory to the private sector. Other commentators, especially within the construction/infrastructure PPP approach, have suggested that the ideological roots can be found in the partnering movement of the 1990s, where PPPs were launched as a means of overcoming the adversarial relationships in the construction industry, whereby added value could be realised (Grimsey & Lewis, 2005).

Looking at partnerships in a historical perspective, Wettenhall (2003, 2005) has been a proponent of the view that PPP, though not originally so called, has in fact existed from as early as in the privateer shipping of the Spanish War of 1585-1603, in mercenary armies of many subsequent wars and in the tax collection systems of previous centuries (see also Hodge & Greve, 2005: Chapter 1). Although these historical examples often differ from the specific organisational forms that PPPs most often take today, they remind us that the idea of partnership between public and private sector

parties might in fact not be all that new. Indeed, Hodge (2004: 37) notes that questions about what should be public and what should be private have existed for centuries, and that “PPPs are simply the latest chapter in the book”. Savas (2000), in his book about privatisation and PPPs, argues that the term partnership might indeed carry less controversial connotations than ‘privatisation’ and ‘contracting out’. Indeed, as noted by Weihe (2008: 8), “The political power of the PPP label is strong and, immediately, it seems to dissolve the traditional left-right ideological debates about pro-against private service delivery and ownership of public assets”.

The PPP concept thus carries a lot of ideological luggage, and it seems fair to say that it has been surrounded by a certain amount of ‘hype’, ‘neologism’, and ‘language games’ (Linder, 1999; Weihe, 2005; Hodge & Greve, 2005: chapter 1). It is also apparent that different studies use the PPP concept in very different meanings and contexts, which sometimes leads to perplexities about what kind of partnership is in fact examined in the concrete circumstance (Petersen & Weihe, 2007). Hence, rather than talking about a single PPP literature, it seems that we are talking about a large and relatively disjointed research field that embraces a number of different partnership approaches, which I shall discuss in more detail in the following.

1.3.2 Seven approaches within the PPP literature

In this section, I provide an overview of the field of PPP research. In so doing, I distinguish between seven distinct approaches, each with a particular empirical focus and/or set of theoretical assumptions. This typology draws on and extends previous classifications of the PPP literature developed by Weihe (2005; 2008) and also used by Hodge and Greve (2007) and Vrangbæk (2008), which operated with five different PPP approaches; a policy-sector approach; a governance approach; a development approach; a local regeneration approach; and a financial infrastructure approach.⁹ In comparison with previous categorisations of the PPP literature, my classification adds two additional dimensions: a classification approach and a historical approach (see below). Moreover, I suggest that a distinction can be made within the PPP governance approach between studies that focus on the governance of operational PPP projects (cf. Hodge, 2004; Ysa, 2007), and studies which focus on the formation phase of PPPs (Klijn & Teisman, 2003; Koppenjan, 2005). This division is important because it highlights that different policy and regulation issues can be studied in regard to the operational phase or the formation phase of PPPs: the latter being the focus

⁹ It should be noted that Weihe (2005) first discussed five PPP approaches, but subsequently narrowed the typology down to four approaches (Weihe, 2008). Other PPP scholars, for example Vrangbæk (2008) and Hodge & Greve (2007), operate with the five approaches originally developed by Weihe (2005).

in this dissertation (for a similar argument; see Koppenjan, 2005). The seven PPP approaches are as follows:

First, a policy sector approach, which studies PPPs within specific policy sectors often with an aim of evaluating existing partnerships and facilitating policy-learning (e.g. Rosenau 2000; Hurst & Reeves, 2004). The definition of PPP is often broad in this literature with a focus on formal as well as informal interaction between government, business and non-profit interest organisations within a given policy sector (Deakin, 2002). The lessons drawn from empirical research within this approach often have a primary focus on evaluating what kinds of cross-sector collaboration works and do not work within the specific policy sector examined. Hence, while many of these studies use the concept of PPP, they often position themselves within and contribute to a specific policy sector literature rather than the broader PPP literature (cf. Trim, 2001; Martinez et al., 2007).

Second, a governance approach, which views the upsurge of partnerships in line with a more general shift from government to governance (Rhodes, 1996), in which various actors at local, national and above-state levels need to collaborate to achieve joint decision-making (Van Ham & Koppenjan, 2002; Teisman & Klijn, 2002; Johnston & Gudergan, 2007). Studies within the PPP governance approach can be broadly divided into two types of contributions: first, studies that focus on the governance of operational (i.e. already established) PPP projects. Key issues examined within this strand of research include the steering of risks (Hodge, 2004), formal contract structures and the incentive systems (Ysa, 2007), and issues regarding financial rewards and payment systems (Johnston & Gudergan, 2007: 575), just to mention a few; second, studies which focus on the formation phase of PPPs (Koppenjan, 2005). Here, various public and private actors are seen as strategic actors that engage in policy-making games about the formation of PPPs within a broader institutional decision-environment, defined as the ‘rules of the game’ (Scharpf, 1997; Klijn & Teisman, 2003). Although these two branches of research share an interest in regulation and governance of PPPs, in reality, they are thus relatively different in terms of empirical and theoretical focus.

Third, a classification approach, which examines the various meanings of the PPP concept, and attempt to make mainly descriptive categorisations of the PPP literature. Hodge and Greve (2005: 6), for example, draw a distinction between PPPs with loose and tight organisational and financial structures, whereas Weihe (2008) makes a distinction between four different PPP approaches based

mainly on the empirical context in which they are used. Other classification attempts focus on the different usages of the partnership concept in a NPM reform context (Linder, 1999; Hammerschmid & Angerer, 2005), while yet again others differentiate between PPPs as mainly contractual or ‘softer’ partnership arrangements (Klijn, Edelenbos & Hughes, 2007). A number of both broad and narrow taxonomies have thus been developed within the PPP literature, often with a focus on different organisational, economic and financial aspects of the partnership relationship (Hodge & Greve, 2005: Chapter 1).

Fourth, a local regeneration approach, which is concerned with partnerships between local authorities and corporations as regards local development projects such as urban renewal plans, joined commercial and public use of land, combined housing and office projects, etc. (Pierre, 1998; Klijn & Teisman, 2003; Ysa, 2007). The understanding of PPP within this approach is relatively broad with a focus on the mutual interests of local authorities and private business in developing joint regeneration and development projects. Studies within the regeneration PPP approach sometimes overlap with the construction/infrastructure approach (see below) in terms of the empirical focus on asset-based physical infrastructure development (cf. Van Ham & Koppenjan, 2002). However, these types of partnerships are often more ad-hoc based and less formalised than the commercial financial infrastructure PPP projects.

Fifth, a third-world development approach, which focuses on partnerships between various national and international donor organisations and public authorities in third-world countries in regard to economic and institutional development, medical programmes and humanitarian aid (Buse & Waxman, 2001; Jamali, 2004). This approach often has a strong normative emphasis on PPPs as something qualitative better than previous means of providing development aid (cf. Buse & Waxman, 2001). Studies within this approach often use the partnership concept broadly to include virtually all kinds of public, private and non-profit organisations that collaborate in a third-world development context (Fife & Hosman, 2007). Some of these initiatives labelled as PPP resemble broader Corporate Social Responsibility (CSR) initiatives, while others are facilitated by the United Nations Office for Partnerships¹⁰. Most research within the third world development PPP approach is published in the development literature, and is seldom referred to in the broader PPP literature; and vice-versa.

¹⁰ <http://www.un.org/partnerships/>

Sixth, a financial infrastructure approach, which has its roots in the UK Private Finance Initiative (PFI), which was launched by the Conservative government in 1992 and subsequently adopted by the Labour government as PPP (Spackman, 2002; Flinders, 2005).¹¹ This approach embraces the alphabet soup of various DBF (Design, Build, and Finance), DBFOM (Design, Build, Finance, Operate, and Maintain), and BOOT (Build, Own, Operate, and Transfer) models (Bing et al., 2005). It is thus rather narrowly confined to construction and infrastructure schemes, such as schools, roads, railways, public buildings, etc. Financial infrastructure PPPs are perhaps the most formalised type of PPP within the partnership literature, and they are typically awarded after a bidding round according to the EU's 'Competitive Dialogue Procedure' (Tvarnø, 2006; see also Paper 1). The contracts are typically long – between 25 and 35 years – and include several or all of the following elements: planning; construction; operation; maintenance; and private finance. Research within this PPP approach often focus on economic, technical and legal aspects, such as risk sharing (Bing et al., 2005), contractor bidding (Zitron, 2006) or procurement (Tvarnø, 2006), whereas studies that examine broader political and regulation issues is more seldom (although see Flinders, 2005; Greve & Hodge, 2010).

Seventh, a historical approach, which examines partnerships in a broader historical and public sector reform context (cf. Linder, 1999; Savas, 2000; Wettenhall, 2005). Studies within this approach often link the resurgence of PPPs with the privatisation and NPM movements of the 1980s and 1990s (Mörth, 2007), and also as part of a broader trend towards a market-based form of public governance (Osborne, 2010), or a 'leaner' government (Linder, 1999). Broadbent and Laughlin (2003) focus rather narrowly on the development of PFI research, while Flinders (2005) applies a broader political perspective with a focus on the development of PPPs within the UK context. Greve and Hodge (2007) have made the perhaps most theoretical contribution in a comparative analysis of the Danish and Victorian (Australia) PPP initiatives; asking if PPPs "represent a continuation of or a break with NPM?" (ibid: 179). They apply a historical institutional theoretical approach to analyse PPP policy and institutional change processes within a theoretical framework of path dependencies and critical junctures (Pierson, 2004). Other scholars apply a longer historical (and mainly descriptive) perspective to trace partnerships centuries back in time (Wettenhall, 2003), although it can be argued that these types of arrangements were quite different from the present forms of PPPs (Hodge, 2004).

¹¹ See www.privatefinance-i.com.

These different PPP approaches cover a broad territory of empirical approaches and theoretical assumptions, and they can be distinguished from one another mainly on a mix of: (i) empirical substance (policy sector studies, local regeneration projects, third world development, financial infrastructure schemes); (ii) which actors participate (government, business, non-profit, local organisations, donor countries etc.), and; (iii) the organisational characteristics (formal contracting or loose organisational arrangements). Another difference is that whereas the governance PPP approach builds on an explicit set of theoretical assumptions about strategic actors and interdependencies within a broader institutional decision-environment (Klijn & Teisman, 2003), the remainder six approaches often build on a less well-defined set of theoretical assumptions, which generally gives these studies a more descriptive than explanatory character (cf. Grimsey & Lewis, 2002; Hurst & Reeves, 2004; Bing et al., 2005; Martinez et al., 2007).

In practice, there are also a number of scholars who combine and cut across several of these approaches. For example, in a study of PPPs within Danish health-care, Vrangbæk (2008) combines the policy sector approach with a governance perspective, where in a comparative study of UK and US urban development projects, Ysa (2007) combines the local regeneration and the governance perspectives. Many scholars within the Dutch network schools also combine a theoretical governance perspective with an empirical focus on local regeneration and construction/infrastructure PPP projects (cf. Van Ham & Koppenjan, 2002; Klijn & Teisman, 2003; Koppenjan, 2005). Moreover, book contributions such as Osborne (2000), Hodge and Greve (2005), and Mörtz and Sahlin-Andersson (2006) also combine various PPP approaches, such as financial infrastructure, governance and historical PPP perspectives. This illustrates that the different PPP approaches should not be conceived as water-tight compartments, but as empirical and theoretical approaches from which various elements can be combined and supplemented, depending on the specific context and research questions posed (Weihe, 2005).

1.3.3 Theoretical frameworks for comparative and multi-level PPP analysis

My focus in the study, as previously mentioned, is on the significant financial infrastructure type of PPP, which emphasises long-term commitment (typically 25-35 years), a systematic sharing of risks and responsibilities (Bing et al., 2005), and various combinations of construction, maintenance and operation elements into a single contract (Hodge, 2004; Zitron, 2006). I thus operate with a relatively narrow understanding of PPP, which I analyse using a broader theoretical framework of institutional policy process theories and multi-governance theory (see below). Moreover, I draw on

elements from the second branch of the governance PPP approach, which focuses on strategic decision-making related to the formation phase of PPPs (Van Ham & Koppenjan, 2002; Koppenjan, 2005; Edelenbos & Klijn, 2007).¹² The governance PPP approach is where the study mainly places itself, although my use of institutional policy-process theories means that this study has a more explicit focus on processes than most previous research within this approach (although see Klijn & Teisman, 2003). Finally, in addition to the financial infrastructure and governance PPP approaches, the dissertation also feeds into the policy PPP approach with four PPP case studies from the schools sector, although it should be noted that in contrast to for example Rosenau (2000) and Hurst and Reeves (2004), my aim is not to evaluate what works and what does not work with PPPs within the school sector, but rather to examine four specific PPP projects as case examples of PPP formation processes in two different countries (see also Paper 3 and 4).

The theoretical starting point for the dissertation is the assertion within policy-network and governance literature that we are witnessing a change from classic government towards the new modes of public governance with participation of various public and private actors drawn from below and above central government (Rhodes, 1996; Kickert, Klijn & Koppenjan, 1997; Peters & Pierre, 1998; Kooiman, 2003). This trend from government to governance has resulted in a dispersal of decision-making authority vertically as well as horizontally; thereby creating a poly-centric and multi-level governing system (Stoker, 1998; Scharpf, 2001; Klijn & Teisman, 2003; Jessop, 2005). The upsurge of the new modes of governance in general, and public-private partnerships in particular, has thus been interpreted as a result of the gradual erosion of boundaries between market and hierarchy (Teisman & Klijn, 2002; Tenbenseel, 2005). As this makes governments and the private sector increasingly interdependent, it has resulted in a search for cooperation, joint decision making and public-private partnerships (Van Ham & Koppenjan, 2002; Ysa, 2007). Thus, as noted by Hooghe and Marks, “Modern governance is – and, according to many, should be – dispersed across multiple centers of authority.” (2003: 233).

The academic literature provides various explanations for why we see this development towards a poly-centric and multi-level governing system (Hooghe & Marks, 2003; Bache & Flinders, 2005). A common argument in the network-governance literature is that modern society is becoming more complex, which creates both a possibility and a need for working together across the traditional

¹² It should be clear by now that my empirical and theoretical focus in the study is on the development of policies and regulations for the formation phase of PPPs, rather than regulation of operational PPP projects.

sector-boundaries (Rhodes, 1996; Teisman & Klijn, 2002; Kooiman, 2003; Edelenbos & Klijn, 2007). Thus, as argued by Teisman and Klijn, “Partnerships are seen as the best way, in the end, to govern the complex relations and interactions in a modern network society” (2002: 198). Yet other scholars emphasise the citizens’ increasing demands for high quality public services and the limited public resources with which to meet these expectations (Kickert, 1997), which has resulted in a search for new organisational arrangements that can deliver better ‘value-for-money’ (Grimsey & Lewis, 2005). There are also a number of EU-policy studies which stress the vertical transfer of decision-making authority to the EU (Scharpf, 2001; Borrás & Jacobsson, 2004), while others link the strains on national policy-making and regulation with the growing significance of the global economic markets (Peters & Pierre, 1998).

The flux in the modes and locus of regulation and governance is also discussed in political science literature about regulation of state and markets (cf. Jordana & Levi-Faur, 2004; Minogue, 2004). Scholars of regulation have suggested that we today live in a ‘regulatory state’ meaning that “(...) a new institutional and policy style has emerged, in which government’s role as regulator advances while its role as a direct employer or property-owner may decline through privatization and bureaucratic downsizing” (Hood, Rothstein and Baldwin, 2001: 4). Others speak of ‘regulatory capitalism’ or ‘regulatory governance’ (Minogue, 2004), and common to these various prescriptions is the assertion that the relationship between market and state is changing with the consequence that the characteristics of the state is itself in flux (Jordana & Levi-Faur, 2004). Furthermore, regulatory reform is today not as much about deregulation and ‘rolling back the state’ of the neo-liberal eras of Thatcherism and Reaganism, as it is about a change in the modes of regulatory governance, with re-regulation and co-regulation becoming more pronounced in the mixed spheres of public and private (Ayres and Braithwaite, 1992; see also the penultimate section of Paper 1).

The changing relationship between government and market has also been examined in the public management and administration literature concerning the New Public Management (NPM) (Hood, 1991 Lane, 2000; Barzelay, 2001). From the early 1990s onwards the NPM epoch fashioned a series of public administration reforms with a focus on privatization, ‘managerialism’, performance management, contract-steering, results orientation, efficiency and value for money (Hood, 1991). Hence, as noted by Pollitt, Thiel and Homburg (2007: 2), “in many Western states, the preference for policy implementation by monolithic bureaucracies has changed in favour of alternative arrangements, such as privatization, or the creation of quasi-autonomous organizations or public-

private partnerships.” However, after the turn of the millennium, scholars began to talk about post-NPM (Christensen & Lægreid, 2007), and new public governance (Osborne, 2010), within a field of increasingly comparative research which critically examined the national similarities and differences in the actual implementation and manifestation of these reforms (Christensen & Lægreid, 2002; Pollitt & Bouckaert, 2004; Pollitt, Thiel and Homburg, 2007). Moreover, although the focus has so far mainly been on public sector reforms in a national comparative perspective, there now seems to be a growing awareness in this literature about multi-level governance issues as well (cf. Osborne, 2010; Peters, 2010).

Previous PPP literature, as I mentioned in Section 1.2, has seen an upsurge of interest in various partnership aspects such as procurement, risk sharing, contracting and performance, whereas studies of broader policy and regulation issues of PPPs have so far been few, although the literature has to some extent recognised the significance of these aspects (cf. Pongsiri, 2002; Flinders, 2005; Greve & Hodge, 2010). Moreover, previous PPP studies have largely operated with single case or single country research designs, with the consequence that our knowledge about comparative and multi-level aspects of PPPs has hitherto been limited (although see Greve & Hodge, 2007; Ysa, 2007; Klijn, Edelenbos & Hughes, 2007). PPP research has also, with the PPP governance approach as the exception, been primarily descriptive and less explanatory in nature (Greve & Hodge, 2010). All in all, as PPP practices do in fact vary considerably across different countries, especially if we look beyond a small handful of primarily Anglo-Saxon countries, it seems timely that we intellectually start to address comparative and multi-level aspects of policy, regulation and application of PPPs.

In this study I begin addressing this gap in the literature by using institutional policy process theories and multi-level governance theory to analyse PPP policy and regulation in a comparative and multi-level fashion. Both analytical dimensions focus on PPP policy and regulation, but in different ways. In the comparative dimension, which is mainly informed by the institutional policy-process theories, the focus is on the emergence and development of PPP policy and regulation over time. Compared to previous research in regard to PPP policy and institutional change, which have applied macro-level historical institutional theories of path dependency (Greve & Hodge, 2007) and sociological institutional analyses of PPP-enabling fields (Jooste & Scott, 2011), my theoretical approach is more sensitive to the process characteristics of policy-making, which makes it suitable for diachronic and synchronic analysis. Policy and regulation for PPPs is here analysed in a process perspective, with a focus on examining and accounting for comparative differences and similarities

(see Paper 2, 4 and 5). Conversely, in the multi-level dimension, I mainly use multi-level governance theory to examine the interplay between various levels of government in decisions concerning policy, regulation and the formation of PPPs (Hooghe & Marks, 2003; Jessop, 2005). PPPs are here analysed in a governance perspective, with a focus on how different levels of government interact and the consequences this has for concrete PPP activity in the two countries (see Paper 1, 3 and 4). In conjunction, these theoretical perspectives, which I shall discuss in more detail below, enable me to address the overall topic of this dissertation: PPP policy and regulation in a comparative and multi-level perspective.

Policy-process theories include a number of approaches to the analysis of public policy-making, including the classic ‘stages model’ as well as theoretical frameworks with a stronger emphasis on institutional features of the policy process; hereafter institutional policy process theories (Sabatier, 1999). In this study, I apply two different frameworks of institutional policy-process theory, which present two relatively different pictures of the process of public policy-making (Kingdon, 1995; Scharpf, 1997; see also below). The dissertation follows the strategy of ‘filling out’ (Antonsen, Greve & Jørgensen, 2000; see also Bundgaard & Vrangbæk, 2007), which means that I analyse the same empirical material using various theoretical angles. In so doing, I do not attempt to test which of these theory frameworks ‘works better’, or is most ‘fit’ in terms of accounting for the differing national PPP approaches, but to gain a breadth and depth in the study’s overall theoretical explanatory framework that would not have been achieved using a single theoretical approach (Allison, 1971). The relation between the different theoretical frameworks in the dissertation is thus that they provide supplementing theoretical perspectives, each of which contributes to elucidate the empirical data that I have collected. In the following, I present these theoretical framework structured according to how they are used in the five papers.

Paper 1 draws on the concept of meta-governance to analyse the EU’s common framework of policies and regulations for PPP activity at national and sub-national levels of government. The notion of meta-governance is a special variant of the multi-level governance discussion, which views public policy-making and regulation as a multi-level activity involving local, national as well as international players in complex networks of interrelated decision arenas (Scharpf, 1997; Hooghe & Marks, 2003; Bache & Flinders, 2005). Meta-governance is broadly defined as “a regulatory framework and environment, and umbrella, for PPP networks” (Koch & Buser 2006: 548). Meta-governance is thus the common and overall framework of conditions, structures, rules and

guidelines - an overarching framework - which taps into and sets the 'rules of the game' (Scharpf, 1997) for PPP activities at national and sub-national levels of government in the EU's member states. The paper illustrates that this EU framework has hitherto been characterised by contradictions between budgetary and procurement regulations, which has prevented any direct regulations of PPP at national and sub-national levels. The meta-governance analysis thus establishes a first account of differing national PPP practices in Denmark and Ireland: the absence of a consistent regulatory meta-framework at the EU-level.

Paper 2 and 3 examine the Danish PPP approach using the theoretical framework of Actor-Centered Institutionalism (ACI) that was developed by Fritz Scharpf and Renate Mayntz (Mayntz & Scharpf, 1995; Scharpf, 1994, 2001) based upon a combination of rational choice institutionalism and a more sociological model of the actor. The actor model within this framework thus includes both motives based on self-interest and more subjective norms and value-systems (Scharpf, 1997: 62-66). The ACI framework, or at least the game-theoretic version of it (Scharpf, 1994, 1997), views the process of policy-making as a series of games that takes place within one or several relatively well-defined decision-arenas. Each arena is characterised by limited substitutability, which makes the policy-players interdependent (Klijn & Teisman, 2003; Edelenbos & Klijn, 2007). This is reflected in the Danish case where the ministries must continue to play the policy-games although they fundamentally disagree on what outcome is desirable, and some ministries such as the Tax Authority would even prefer not to play the game at all (see Paper 2). In ACI, institutions are seen as the 'rules of the game' (Scharpf, 1994; Stoker, 1998), and an important assumption is that the institutional settings differ in their capacity for conflict resolution between the policy-players (Scharpf, 1997: 47).

Thus using the ACI framework, in Paper 2, I find a fundamental interest-conflict inside the Danish government between budgetary concerns (Ministry of Finance) and pro-PPP solutions (Ministry of Economic and Business Affairs), while the institutional capacity for conflict resolution is too low to solve these fundamental interest disputes between the two key policy-player within the decision-arena (see also Section 1.7.3). This has resulted in the development of a partly uncoordinated PPP policy and regulation framework at the national level in Denmark, which is given strategic and institutional explanations. These findings are extended in Paper 3, which also includes the local project level and procurement regulations at the EU-level. The paper supplements the strategic actor perspective with a multi-level analysis of the interplay between policy and regulation and the

concrete formation of two PPP projects in the schools sector. The reluctant Danish PPP approach are here also given strategic explanations, and the multi-level analysis supplements these findings by illustrating how the unresolved policy- and regulation games at the national level, and to a minor extent the EU level, creates significant difficulties for public and private actors engaging in PPP activity in Denmark.¹³

Paper 4 analyses the Irish PPP approach using also the theoretical framework of Actor-Centered Institutionalism (Scharpf, 1994; 1997), but as the interplay between supra-national, national and the sub-national levels turns out to have played a stronger role in the development of Ireland PPP approach, in this paper I combine the ACI framework with multi-level governance theory (Marks, Hooghe & Blank, 1996; Scharpf, 2001; Hooghe & Marks, 2003; Bache & Flinders, 2005). The theoretical backbone of the analysis is thus the assumption that the complexity of decision-making in PPPs occurs not only in the horizontal (public-private) dimension, which has been the focus of previous governance PPP research (e.g. Van Ham & Koppenjan, 2002; Teisman & Klijn, 2002; Koppenjan, 2005), but also in the vertical dimension, where strategic actors at multiple levels of government engage in decision-making games about policy, regulation and application of PPPs. I argue in the paper that the ACI and the multi-level governance frameworks provide inputs that can be combined to create a more realistic (although more complex) picture of the policy-making process in a political system characterised by vertically interdependent decision-arenas.

The ACI framework contributes with a theoretical focus on strategic decision-making in policy-arenas characterised by limited substitutability, which makes the actors and arenas interdependent (Scharpf, 1997; Klijn & Teisman, 2003). The multi-level governance perspective does not refuse decision-making at the national arena as important, but it asserts that recent years have not only witnessed a horizontal (which is the assumption in mainstream governance theory) but also a vertical dispersion of decision authority to supra-national and sub-national levels (Hooghe & Marks, 2003; Bache & Flinders, 2005). The constellation of actors and their strategies is complex in the Irish case, because actors are drawn from above and below central government, and moreover, from the Irish business sector and the labour unions (although the latter have been less active). The paper identifies a tension in the EU between on the one hand supporting the procurement of PPPs, and on the other ensuring that PPPs are not merely used as a financial tool with which to circumvent

¹³ It should be noted that Paper 3 conduct multi-level analysis across the EU-level, the national level and the project level, but due to space limitation it does not contain an explicit discussion of multi-level governance theory.

appropriate budget procedures in the member states. The course of action taken by the Irish government, and in particular the Ministry of Finance, is largely motivated by the prospects of removing major capital investments from government balance sheets. The analysis thus reveals a direct conflict of interest here between the budgetary concerns at the EU-level and the strategies of national policy-players. At the project level, the two case studies from the schools sector reveal that the EU level and the national level have in fact only partly played together to support the formation of PPPs in Ireland. In paper 4, in line with the analyses of PPPs in Denmark, the development of Irish policy and regulation and application of PPPs are given strategic explanations, but the vertical interdependencies and institutional complexities created by the multi-level governance structure are here emphasised more than in Paper 2 and 3.

Paper 5 builds on Kingdon's (1995) multiple streams model of public policy-making and Barzelay's event-centered method which I use as a structuring device for keeping track of events and contextual factors that can influence the three process streams in Kingdon's model (Barzelay et al., 2003; see Section 1.5.3 for a discussion of Barzelay's event-method). Drawing on a revised version of the 'garbage can' model of organisational behavior (Cohen, March & Olsen, 1972), Kingdon sees the policy process as a function of three distinct streams: (i) *the problem stream*, where a given situation is identified and formulated as a problem or issue that calls for political attention; (ii) *the policy stream* where ideas and alternatives float around, waiting to be turned into policy alternatives and proposals; (iii) *the political stream* operates separately from the other two streams, and political events in this stream can reshuffle the environment in which problems and policies battle for attention (Kingdon, 1995; see also Zahariadis, 1999). The three streams are separate with their own logics, dynamics and dominant policy-entrepreneurs, but occasionally, policy-entrepreneurs successfully link a problem with a feasible solution that is salient in the political environment (Zahariadis, 2003). If such a coupling is successful, a policy window opens, which makes a decision feasible (Kingdon, 1995; Travis & Zahariadis, 2002). For example, supporters of a given PPP policy may use a political context that is prone to market-based solutions in the public sector, while claiming that they present a solution to an existing problem of financing essential infrastructure development. However, policy-windows can be unforeseeable, and they can close again without any decisions being taken if policy-entrepreneurs are not successful in coupling the problem to a feasible solution that can be supported by the political environment. This makes the policy process inherently ambiguous and dependent upon the temporal coupling of the three process streams (Zahariadis, 1999).

The notion of three separate streams that each work on their own terms provides a useful framework for supplementing the ACI framework as it paints a considerably more ambiguous picture of the policy process. Kingdon's model has more focus on agenda-setting and broader politico-economic context events, and the overall system-rationality is significantly lower than in the ACI framework. It should be kept in mind, though, that the multiple-streams model was originally developed to explain major policy change within a North-American two-party system with changing majority rule of a single party, whereas policy-making in Denmark and Ireland is characterised by shifting coalition governments, which may render policy-change more incremental here than in the US system. Several scholars have illustrated the usefulness of the multiple streams model for a European context (cf. Zahariadis & Allen, 1995; Zahariades, 2003; Bundgaard & Vrangbæk, 2007; Brunner, 2008), and for the analysis of more incremental policy-change as well (Travis & Zahariades, 2002). The general points about attention as a limited resource and the temporality/timing as key features of policy-change thus seem relevant in a European setting too, although in the present cases I would expect a more incremental policy-change than the "irresistible movement that sweeps over our politics and our society, pushing aside everything that might stand in its path", which was originally envisaged by Kingdon (1995:1).

Thus using the multiple-streams model, in Paper 5 I supplement the findings from the previous papers with a comparative analysis of how PPPs emerged and developed on the policy-agendas in Denmark and Ireland, the temporal couplings and the opening of decision-windows, the influence of broader context variables such as economic situation or changes in the political elite, the consequences of shocks in the political system caused by contemporaneous events (such as a major sale and lease-back scandal in Denmark), and the historic preference for public versus private provision of public services and infrastructure in both countries. The explanation of the different development of PPP policy and regulation in the two countries here focus on temporality/timing, broader politico-economic context events, and ambiguity in the policy process.

Table 1 summarises my use of theories in the dissertation's five papers.

Table 1. Theoretical frameworks in the five papers.

Paper	Litterature	Empirical focus	Theoretical assumptions
Paper 1	Meta-governance and EU governance theory (Stoker, 1998; Scharpf, 2001; Bórras & Jacobsson, 2004; Jessop, 2005; Koch & Buser, 2006; Peters, 2010).	EU-level	Blurring of boundaries between public and private has led to a dispersal of decision-making authority to actors drawn both from above and below central government. This makes PPPs policy and regulation subject to a multi-level governance situation. Meta-governance is the overarching level within this multi-level governance system, which taps into and sets the 'rules of the game' for PPP activities at national and sub-national levels of government. The assumption is that actors at various national and sub-national levels of government - to various degrees - will comply with this meta-governance framework.
Paper 2 and 3	Actor-Centered Institutionalism (Scharpf, 1994, 1997; Mayntz & Scharpf, 1995; Stoker, 1998; Klijn & Teisman, 2003; Jensen, 2003).	Denmark	Strategic actors pursue organisational self-interest within an institutional framework defined as the 'rules of the game'. Policy-games are being played within one or several relatively well-defined decision-arenas. Limited substitutability makes the actors interdependent. The institutional settings differ in their capacity for conflict resolution, which means that the solving of interest conflicts between policy-players requires a strong institutional framework. PPP policy and regulation and application of PPPs are given strategic and institutional explanations.
Paper 4	Actor-Centered Institutionalism and multi-level governance theory (Scharpf, 1994, 1997, 2001; Hooghe & Marks, 2003; Bache & Flinders, 2005; Jessop, 2005).	Ireland	Actors are assumed to be strategic policy-players pursuing their preferred policy-outcomes within an institutional framework that sets the 'rules of the game'. Decision-making for PPPs is assumed to be subject to an institutional and a strategic complexity both in the horizontal dimension and in the vertical dimension where decision-arenas are interconnected. The development of PPP policy and regulation and application of PPPs are given strategic explanations, but the vertical interdependencies and institutional complexities created by this multi-level governance are more strongly emphasised here than in paper 2 and 3.
Paper 5	Multiple-Streams Framework (and Barzelay's event centered approach) (Kingdon, 1995; Zahariadis, 1999; Travis & Zahariades, 2002; Barzelay et al., 2003; Zahariades, 2003; Bundgaard & Vrangbæk, 2007).	Denmark and Ireland	The policy process consists of a problem stream, a policy stream and a politics stream. The three streams operate in independent ways, but can be successfully coupled by policy-entrepreneurs to open a 'policy-window'. When this happens, it increases the likely-hood of policy-change, but the window can also close without any decision is taken. The process of policy-making is characterised by bounded rational policy-entrepreneurs and a fundamental ambiguity. Development of PPP policy and regulation is here explained as a function of temporality/timing, successful policy-entrepreneurs, and broader politico-economic context events in the political stream.

The use of - and link between - the theoretical frameworks in the dissertation can thus be summarised as follows. First, I apply meta-governance theory to examine the common framework of EU regulations for PPP activity in all the EU member states including Denmark and Ireland (Paper 1). The insights thereby gained concerning the lack of a common regulatory meta-framework

at the EU-level provide the starting point for examining and accounting for the differing PPP practices at the national level. For this part of the analyses, I draw on ACI to analyse how and why PPP policy and regulation developed at the national level in Denmark (Paper 2). These insights are extended by in a further analysis of the Danish PPP case, which examines the interplay between various levels of government, notably the national and local levels and to a minor extent the EU-level, in the formation of Danish PPP projects exemplified by two case studies from the schools sector (Paper 3). Turning then to Ireland, I also apply theoretical elements from the ACI framework, but as the EU turns out to have played a significant role in the development of Irish PPPs, I combine the ACI framework with elements from multi-level governance theory in the analysis which includes the EU-level, the national level, and the local project level (Paper 4). Jointly, Paper 2, 3 and 4 draw on strategic and institutional explanations with emphasis on interdependencies and institutional complexity in the horizontal as well as the vertical (multi-level) dimensions. Finally, these analyses are supplemented by an additional theoretical framework in Paper 5, where I use Kingdon's (1995) multiple-streams model to comparatively examine how and why PPP policy and regulation developed so differently in Denmark and Ireland in the period from 1999 to 2009.

Figure 4. Overview of the five papers in relation to the dissertation's research design.

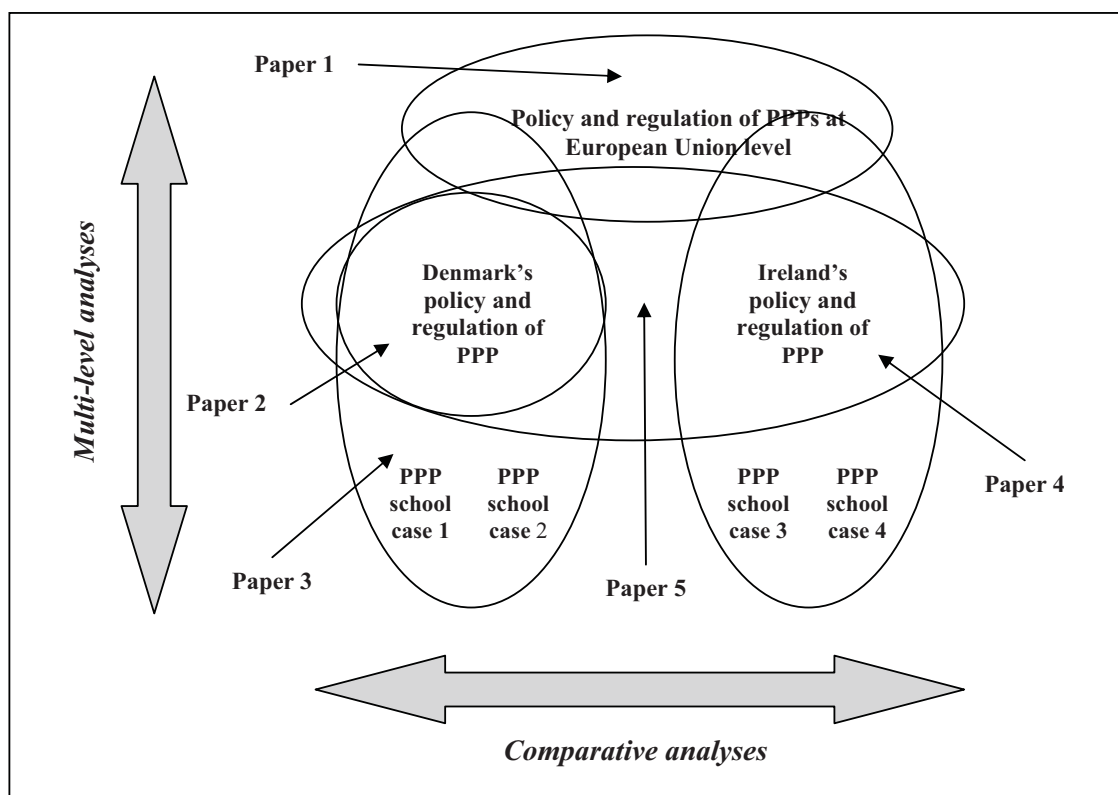


Figure 4 outlines how the five papers informed by the theories, which I discussed in the above, each relates to and jointly covers the dissertation's research design, which was outlined in Section 1.2.

1.4 The objectives of PPPs

My comparative and multi-level interest in studying national PPP policy and regulation arises both from an interest in understanding their similarities and differences, and from an interest in the fundamental question as to why governments would in the first place choose to resort to PPPs (or not) rather than the traditional public provision, or the 'pure' privatisation alternative (see also Hodge & Greve, 2005: Chapter 1). Not surprisingly, like the discussions about the various forms and meanings of the PPP concept, the question about governments' rationales for forming PPPs has also been subject to heated debate in the academic literature (cf. Linder, 1999; Mörtz, 2007; Hodge & Greve, 2009). Having made this observation, finding a path between the most upbeat reform language and the fiercest criticism is constructive, as I would argue that understanding the various objectives of PPPs is fundamental to understanding and accounting for their different usages and regulations in various national institutional contexts.

Accordingly, in this section I review a broad selection of literature regarding the objectives of PPPs from the perspective of governments, which is summarised in Table 2. These objectives include economic and political aspects as well as broader societal issues, although my focus here will mainly be on the political and economic rationales (see also McQuaid & Scherrer, 2010).¹⁴

Table 2. PPP objectives from the perspective of governments.

Objectives	Examples/Key findings	Reference
Macro-economic <i>Placing capital investments off balance sheet</i> <i>Address underinvestment in public infrastructure</i>	"Limiting the Government's financial deficit...is often the motivation for favouring public-private partnerships." (p. 596)	Van Ham & Koppenjan (2002)
	"the overriding attraction of the PPP model...has been the opportunity of keeping capital investments off balance-sheet." (p. 164)	Reeves (2003)
	"In political and popular debate - in the UK as elsewhere - the fact that privately financed capital spending is off-budget is often the main reason advanced for private financing." (p. 288)	Spackman (2002)
	PPP/PFI "address the under investment in public assets to secure the long-term future of public services." (p. 6)	Ghobadian et. al. (2004)
	"Faced with pressure to reduce public sector debt and, at the same time, expand and improve public facilities, governments have looked to private sector finance." (p. 107)	Grimsey & Lewis (2002)
Micro-economic	"the principal aim for the public sector is to achieve value-for-money in the	Grimsey & Lewis

¹⁴ I here use the words 'objectives' and 'rationales' interchangeably.

<i>Value for money</i>	services provided...” (p. 117)	(2002)
	“In all but a few cases the project would proceed only if the figures showed that the PFI option gave better value.” (p. 296)	Spackman (2002)
	“PPPs may have the potential to provide infrastructure at more reasonable prices than comparative delivery...” (p. 46)	Hodge (2004)
	The authors note ten different government objectives for forming PPPs but focuses exclusively on “better value for money in the provision of public infrastructure.” (p. 548).	Hodge & Greve (2007)
<i>Risk sharing/transfer</i>	“The ethos of allocating risks in a contract is that they go to the party best able to control them.” (p. 39)	Hodge (2004)
	“PPP/PFI are now being seen as essentially a new approach to risk allocation in public infrastructure projects” (p. 25)	Bing et al. (2005)
	The microeconomic argument used to justify the PFI is that efficiency savings accrue in PFI deals due to the transfer of risk to the private sector.	Flinders (2005)
	“PPP/PFI arrangements are founded on the transfer of risk from the public to the private sector under circumstances where the private sector is best placed to manage the risk.” (p. 117)	Grimsey & Lewis (2002)
<i>Reduce costs and time overruns</i>	An important element of PPP/PFI is to “effect risk transfer” (p. xiii)	Ghobadian et. al. (2004)
	“UK government procurement policy rests on Treasury claims that the private finance initiative (PFI) has reduced cost and time overruns “ (p. 127)	Pollock, Price & Player (2007)
	“There is a long history of publicly procured contracts being delayed and turning out to be more expensive than budgeted” (p. 346)	Grimsey & Lewis (2005)
	“the main rewards from partnering...are improvement of programme performance, cost-efficiencies, better service provisions...” (p. 489)	Pongsiri (2002)
<i>Competition for public services</i>	“Also supporting the PPP case is the reality that traditional public sector infrastructure project delivery has hardly been a model of efficiency” (p. 38)	Hodge (2004)
	“PFI/PPP is quite simply best-practice procurement of goods and services from private sector providers.” (p. 29)	Glaister (1999)
	“All PPPs must go through a competitive tendering process...any PPP project is...contingent on the public sector receiving enough acceptable bids” (p. 53)	Hodge & Greve (2007, 2009)
	PPP is “a new governance tool that will replace the traditional method of contracting for public services through competitive tendering.” (p. 545)	Zitron (2006)
Achieving collaborative advantage	Private partners “possess the market experience and innovative creativity which public parties often lack.” (p. 597)	Van Ham & Koppenjan (2002)
	PPP may provide “the essential pre-conditions to support innovation and embed changes in practice” (p. 284)	Diamond (2006)
	“Because assets and services provided under the PPP model are designed on the basis of open output specification...there is potentially scope for greater private sector innovation” (p. 166)	Reeves (2003)
	“PPPs...are based on the idea of mutual added value.” (p. 137)	Klijn & Teisman (2003)
<i>Mutual added value</i>	“The achievement of the goals of each individual actor requires activities by the other actors” (p. 199)	Teisman & Klijn (2002)
	PPP “can be seen as an appropriate institutional means of dealing with particular sources of market failure...through co-operative behavior” (p. 487)	Pongsiri (2002)
	“public and private products and services are increasingly complex...partnerships are increasingly viewed as a solution for bundling and juxtaposing the necessary material and immaterial elements of products and services (p. 550)	Koch & Buser (2006)
	PPP is a means of moving activities from public to private; both operation and financing of services and infrastructure.	Spackman (2002)
<i>Political</i>	The PPP/PFI “reflects a re-evaluation of the appropriate role of the state, nothing less than ‘a seismic switch in the business of government itself’.” (p. 227)	Flinders (2005)
	“If privatization is a story about private organizations delivering government services over the past few centuries, PPPs appear to be the latest chapter in the book” (p. 3)	Hodge & Greve (2005)
	‘Partnership gives the government new legitimacy: the efficiency of the private sector and the involvement of civil society’ (p. 197)	Teisman & Klijn, (2002)
	PPP has a “focus on delivery and output legitimacy. From a liberal democratic point of view this emphasis on efficiency is problematic.” (p. 605)	Mörth (2007)
<i>Minimising the size of the public sector</i>		
<i>Improving public sector legitimacy</i>		

Private sector objectives	“...the private sector expects to have a better investment potential...reasonable profit, and...more opportunities to expand business” (p. 489)	Pongsiri (2002)
	PPPs “open up new markets and offer investment opportunities.” (p. 507)	Van Ham & Koppenjan (2002)

What can be learned from Table 1.2? It is apparent that a broad array of PPP rationales from the perspective of governments is reported in the academic literature, with many studies reporting several potential objectives for using the PPP model. These objectives encompass a wide range of economic and political aspects, including the following: *macro-economic objectives* (placing investments off balance sheet, addressing underinvestment), *micro-economic objectives* (value-for-money, risk sharing¹⁵), *achieving collaborative advantage* (innovation, mutual added value, cooperative behaviour), and *political objectives* (minimising the public sector, improving public sector legitimacy). The review moreover illustrates that the rationales for forming infrastructure PPPs have gradually changed over time since they were originally introduced in the UK under the PFI prescription (Flinders, 2005), and that even within the relatively confined PPP/PFI approach various (and sometimes conflicting) objectives are reported (McQuaid & Scherrer, 2010).

There seems to be a general agreement in the literature that, when introduced by the UK Conservative government in 1992, the primary rationale behind the PPP/PFI model was to attract private investments in order to remedy macro-economic constraints on public capital budgets by placing major investments off government balance sheets (cf. Osborne, 2000; Spackman, 2002; Ghobadian et al., 2004; Kay & Reeves, 2004). However, recent academic literature which increasingly discuss PPP in a broader legitimacy and accountability context, has been overtly critical towards the macro-economic rationales because, it is argued, there is always a bill for the public sector to pay for the asset in the long run (Spackman, 2002; Pollock & Price, 2008; Hodge & Greve, 2009)¹⁶. Thus, as noted by Hodge and Greve, “The early claim that private financing of public infrastructure reduces pressure on public sector budgets and provides more infrastructure than is otherwise achievable is seen, therefore, to be largely false. A mechanism through which governments may turn a large, once-off capital expenditure into a series of smaller, annualized expenditures has simply been provided.” (Hodge & Greve, 2007: 549). It was thus only later, when

¹⁵ As opposed to merely risk transfer, which was one of the core principles of the PFI (Spackman, 2002).

¹⁶ Although, as noted by Hodge and Greve, “There is one important exception, however. In the case in which a government enters into an infrastructure deal requiring users or citizens to pay directly, such as tolls on a new road, it is clear that there is little impact on public budgets. Such an arrangement does reduce pressure on public sector budgets, but only because government has essentially purchased the infrastructure through the private credit cards of future road users rather than using its own resources.” (Hodge & Greve, 2007: 549)

the Blair government came into office in 1997, that PPP came to be commonly associated with a broader range of micro-economic and political objectives, which are now often seen as rationales for implementing PPPs (Flinders, 2005).

Furthermore, although PPPs clearly involve both public and private partners (see also Section 1.5), it is noticeable from Table 2 that only few public administration and management studies actually discuss the objectives of PPPs from the private sector partners' perspectives. Further, when private rationales are indeed examined, they are often associated relatively narrowly with maximising profit, access to new markets, and new investment opportunities (Pongsiri, 2002; Van Ham & Koppenjan, 2002; European Commission, 2004). This is somewhat paradoxical since several of the objectives discussed on the public sector side explicitly or implicitly assume a less profit-oriented and more collaborative private sector approach (for example sharing of responsibilities, collaborative advantage, mutual added value, etc.). Against this background, in this study I have chosen to examine both the rationales and opinions of the public and private organisational representatives engaged in PPP activity (see Section 1.5.2).

So, based on this review of a broad array of literature, it is clear that not only the meaning of the PPP concept but also the objectives of PPPs are characterised by greatly differing interpretations and meanings. Clearly, the objectives reported in the literature are much wider in nature than simply macro-economic ones, and to see the PPP concept merely as a specific management, procurement or financing tool would thus seem to greatly underestimate the range of objectives and interests which are potentially pursued with PPPs. Although I would tend to agree with Linder (1999) and Mörtz (2007) that PPP is not a neutral concept, and furthermore, that it does seem to bear a resemblance to earlier waves of NPM and privatisation, it is overtly difficult to draw a single statement or conclusion about the rationales of governments in resorting to PPPs. Accordingly, in this dissertation, I will make this issue subject to empirical analysis by use of qualitative methods and in-depth case studies, which I shall present in the following section.

1.5 Methodology and data collection

In this section, I present the dissertation's methodology and empirical data collection. First, the case method is outlined and the choice of cases is discussed (Section 1.5.1). Second, an overview of the collected data and a discussion of the methods of data collection are provided (Section 1.5.2). Third, I present the various techniques of empirical data analysis utilised in the study (Section 1.5.3).

1.5.1 Case method and case choice

The research questions of this dissertation were addressed by means of a comparative case study research design¹⁷, drawing in particular on the comparative political science tradition (e.g. Lasswell, 1956; Lijphart, 1971, 1975; Peters, 1998), and the literature on qualitative case study research (cf. Kvale, 1997; Flyvbjerg, 2001; Barzelay et. al., 2003; Yin, 2003). According to Yin (2003), the case study is “an empirical inquiry that investigates a contemporary phenomenon within its real-life context, especially when the boundaries between phenomenon and context are not clearly evident” (Yin, 2003: 13). The case study method has an advantage compared with large-N-studies “in respect to the ‘depth’ of the analysis, where depth can be understood as empirical completeness and natural wholeness or as conceptual richness and theoretical consistency” (Blatter, 2008). Moreover, the case study approach allows for the use of multiple sources of empirical data through the method of *data triangulation*, which increases the reliability of the results and conclusions because “any finding or conclusion in a case study is likely to be much more convincing and accurate if it is based on several different sources of information” (Yin, 2003: 98; see also Flick, 1992; Peters, 1998).

Furthermore, in terms of choosing cases for comparison, the case study method is fundamentally different from the statistical method by relying on fewer cases which have been strategically chosen, based on “expectations about their information content” (Flyvbjerg, 2006: 230). This PhD dissertation is designed as an *embedded multiple case study* (Yin, 2003: 40) with seven cases in total: two country cases (Denmark and Ireland), four schools sector cases (two in each country), and the EU¹⁸. What I find especially interesting is a comparative study focusing on countries that are at the same time members of the EU *and* vary with regard to the use of PPPs. EU member states all carry out PPP projects within a common overall regulatory framework of the Single Market, fiscal convergence criteria, common public procurement rules and value-added tax. Placing the study within the EU gives a common general economic regulatory framework to the cases, thereby holding some factors constant while studying variance in national modes of PPP regulation. Moreover, choosing cases within the EU brings with it some unique opportunities for boosting our knowledge on the interplay between multiple levels of policy and regulation: 1) the national level; 2) the specific project level, and; 3) the EU level (see also Figure 3 in Section 1.2).

¹⁷ This is equivalent to what Yin refers to as a ‘multiple case study design’ (2003: 39).

¹⁸ The EU can be seen as a case study of the roles of international organisations in influencing, both directly and indirectly, policy-making and regulation of PPPs at the national and sub-national levels.

The choice of Denmark and Ireland for the comparison was motivated by their display of differences in PPP policy and regulation and the number of actually implemented PPP projects. The two countries have thus been chosen because they offer a contrasting empirical situation, which means that in this dissertation I seek a theoretical replication; i.e. contrasting results across the two cases but for predictable reasons (Yin, 2003: 47; see also Greve, 1997). Although I would ideally have chosen a ‘most similar cases’ or a ‘most different cases’ research design (Peters, 1998), this was not possible because the cases were both similar and different across a number of dimensions (see Table 3). For example, both countries are small, open economies with a population of respectively 5.5 million (Denmark) and 4.3 million (Ireland), they were both late adopters of PPPs as well as wider privatisation measures (Greve, 1997; Reeves, 2003), and they are both part of a larger polity (the EU), which makes them subject to common EU regulations such as the public procurement directive and on/off balance sheet regulations for PPP projects (Eurostat 2004; see also paper 1).

But the two countries also differ in a number of dimensions. Whereas Denmark has a strong tradition of decentralised local government, Ireland still has a centralised state structure in spite of recent decentralisation initiatives (Coakley & Gallagher, 2008).¹⁹ Another difference lies between the civil law (Denmark) and the common law (Ireland) traditions, and likewise, in terms of public administration and civil service cultures, the difference between an Anglo-Saxon ‘public interest’ model and a Scandinavian²⁰ public administration model (Christensen & Lægreid, 2002; Pollitt & Bouckaert, 2004: 52). Thus, on balance, I will argue that the two countries primarily display differences in relation to the explanandum, and both differences and similarities in regard to the explanans. Accordingly, in line with Christensen and Lægreid (2007), the research design of this PhD dissertation can be characterised as a “mixed system research design”, which means that there are variations both in regard to the explanandum and the explanans (Christensen & Lægreid, 2007: 14). Thus, to sum up, Denmark and Ireland have been chosen because they provide contrasting empirical situations in regard to PPP policy and regulation and the number of actually implemented PPP projects, while holding constant a number of background variables, which were assumed to be

¹⁹ For PPPs this means that whereas most PPP projects in Denmark would potentially be carried out by local governments, in Ireland most PPP projects would be carried out by sector departments and agencies in direct collaboration with the management of a school (this is, for example, the case in both the two Irish PPP school cases).

²⁰ In Pollitt and Bouckaert’s classification, Denmark could thus be compared with the Swedish, Finnish and Dutch models, which are a form of hybrid between the German *Rechtsstadt* model and the Anglo-Saxon ‘public interest’ model (Pollitt & Bouckaert, 2004: 52-54).

important (such as long-term membership of the EU, small, open economies, late introduction of PPPs).

Table 3. Key features of Denmark and Ireland's political and administrative systems.

	Denmark	Ireland
Population	5.5 million	4.3 million
GDP per capita (current prices)	€42,300	€41,800
State system	Unitary state	Unitary state
Membership of EU	Yes	Yes
Legal system	Civil law	Common law (with some moderations)
Centralised versus decentralised structure	Decentralised (major structural reform strengthened local governments but weakened regional authorities)	Centralised (although with some recent reforms towards more decentralised government)
Government composition and ideology	Coalition governments: 1993-2001: Centre-Left government 2001-present: Liberal-Conservative government	Coalition governments: 1993-1994: Fianna Fáil and Labour 1994-1997: Fine Gael, Labour and Democratic Left 1997-2007: Fianna Fáil and Progressive Democrats 2007-present: Fianna Fáil, Green Party, Progressive Democrats/Independent
Public sector reforms	Reluctant adoption of privatisation measures Reforms primarily directed at the internal functioning of the public administration	Slow adoption of privatisation measures until 1999 More comprehensive market reforms adopted after the turn of the millennium

Sources: Gallagher, Laver & Mair (1999); Greve (2003); Reeves (2003); Barrett (2004); OECD (2008a) Economic Outlook.

Schools sector case studies

In terms of case choice at the project level, as previously mentioned, four schools sector PPP projects, two in Denmark and two in Ireland, were researched. The schools sector was chosen because, at the time this PhD project was commenced in January 2007, this was the only sector in Denmark where two PPP projects had in fact been considered as PPPs. In Denmark, two primary schools projects of similar size and scope were chosen: Vildbjerg School in the western part of the country, and Hoeng School in the municipality of Kalundborg in the middle of the country. These two projects were the only two schools sector projects in Denmark at the time (although a third PPP school project has now been built). In Ireland, even though PPP activity was more widespread, most projects had been seen in the roads sector, whereas just three projects had been finished in the schools sector: a bundle of five PPP primary schools, Cork School of Music and the National Maritime College of Ireland (located in the suburbs of Cork in southern Ireland).

In order to maximise variance among the cases and thus elucidate both how policy and regulation can facilitate and hinder the formation of concrete PPP projects, I chose a school project where PPP had been successfully implemented, but very importantly, also a project where the PPP model had been seriously considered but *not* chosen or had run into serious problems in the formation stage (see Table 4). Using cases with both decisions and non-decisions allowed me to carefully examine, in both Denmark and Ireland, how PPP policy and regulation facilitated or hindered the decisions as to whether or not to initiate a PPP project. Clearly, the cases cannot be statistically representative of the total population of PPP projects in the two countries, but they can provide the basis for applying analytical concepts and theories to the empirical case studies and thus provide the basis for “analytical generalisation” about how and why PPP policy and regulation served to support or hinder the formation of concrete PPP schemes (Yin, 2003: 32; see also Flyvbjerg, 1999).

Table 4. Cases chosen from the schools sector.

	Successful formation of PPP project	PPP project cancelled/ran into serious problems in formation phase
<i>Denmark</i>	Case 1: Vildbjerg school	Case 2: Kalundborg school
<i>Ireland</i>	Case 3: National Maritime College of Ireland	Case 4: Cork School of Music

1.5.2 Data collection

The data collected for the purpose of the study consists mainly of qualitative sources, which is supplemented by Eurostat archive data containing key economic figures about government sector spending and deficits in the two countries. In accordance with the comparative and multi-level analytical framework of the study (see Section 1.2), I have collected written sources and conducted interviews at the EU-level with key informants in the Commission and other EU bodies involved with regulation of PPPs; at the national level in Denmark and Ireland with centrally placed civil servants in the ministries developing policy and regulation of PPPs as well as key representatives of affected interest organisations; and, finally, at the project level with public and private projects managers involved in the planning and formation of the four PPP projects and, if relevant, civil servants in local or national administrations involved in the concrete projects.

These data were collected for the period from 1999 (when PPPs were introduced in the two countries) to the end of 2009, when I stopped collecting new empirical data except for material on

how the financial crises has affected PPP, which was collected during 2010 (see Section 1.7.4 on PPPs and the financial crisis). I have collected the following sources:

- Semi-structured expert interviews (with public as well as private informants at national level, project level and EU level)
- Official policy documents, government reports, legislation, guidance material, press releases, private reports and background notes
- Government archives of speeches, questions to ministers, parliamentary debates, etc.
- Secondary sources, in particular background information regarding the Irish political and economic system
- Material relating to the four case studies of schools sector projects: project outline, tender material, consultant reports, press releases, background documents, etc.
- Statistical Office of the European Communities (Eurostat) and the Organization for Economic Development (OECD) Outlook archive data containing key economic figures about government sector spending and deficits

To organise and keep track of the large body of data, I formed a database to register central information including type of source; date of publication; and the responsible authority (see Table 5). This database was gradually extended during the data collection phases, and by giving an overview over and easy access to the written sources, it subsequently provided the basis for a common and systematic analytical treatment of the collected material (see also Section 1.5.3).

Table 5. Overview of documents in the database

Type of source	Ireland	Denmark	EU
Policy papers	12	10	6
Dedicated PPP legislation and binding decisions	4	2	-
Other legislation and binding decisions of relevance to PPPs	3	8	7
Government guidance papers	14	7	2
Major reports and analyses	15	8	3
Framework contracts and comparator tools	4	5	-
Press releases and transcripts of speeches etc.	12	4	1
Documents and reports related to schools sector PPP cases	25	6	-
Total number of sources (sum)	89	50	19

The collection of empirical data started with a course of broad desk research with searches on, for example, ‘Public-Private Partnerships Ireland’, ‘Public-Private Partnerships European Union’, and

‘Offentlig-Private Partnerskaber Danmark’ [Public-Private Partnerships Denmark]. This first round of searches established an overview of the relevant public and private organizations, web pages, and of the type and amount of material available online. This was followed up by a second phase of systematic searches on all official government material in relation to PPPs in the two countries and in the EU. By using this method, I in a manner of speaking ‘emptied’ all government and business websites for relevant PPP material, which was stored in a database (see below). Then, in the third search phase, I turned the focus from government material to material on PPPs published by business confederations, major consultancy firms²¹, labour unions etc. (see Appendix 4-6 for an overview of all the collected sources). In the fourth phase, the written sources were supplemented by face-to-face expert interviews in the EU (Brussels and Luxembourg), Denmark and Ireland (see discussion of interviewing below). This was, finally, followed up by a round of shorter follow-up talks and telephone-interviews to validate facts and interpretations that came up during the course of interviewing, and collection of additional collection of written sources, which came up during the rounds of interviewing. Table 6 summarises the five phases in my data collection process.

Table 6. The five phases of data collection in the study.

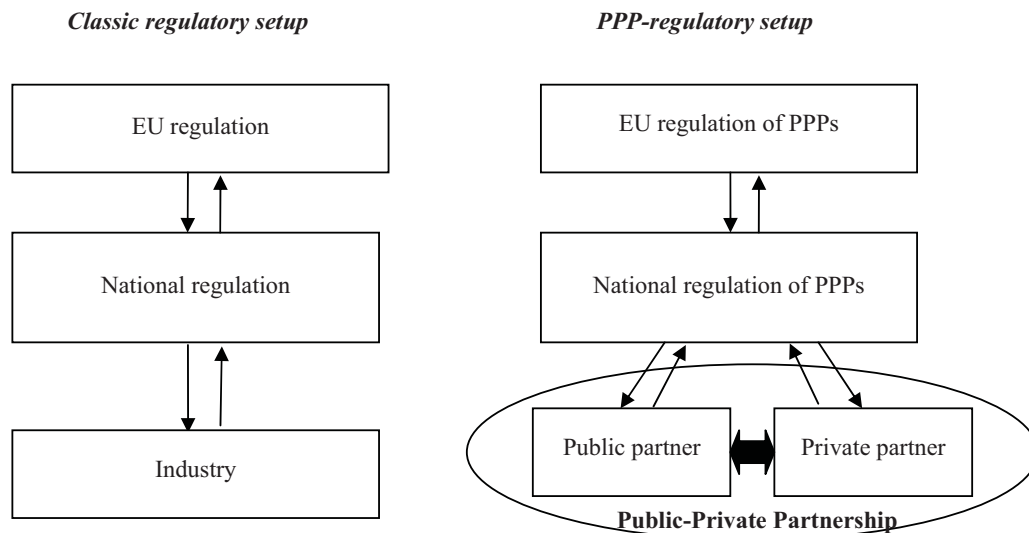
Data collection step 1	Broad searches on ‘Public-Private Partnership’ in Denmark, Ireland, and at the EU-level.	Results: A preliminary overview of relevant web-pages, significant PPP policy papers and regulations, and public and private organizations which were subsequently appointed for interviews.
Data collection step 2	Detailed search on all official government web-pages, including Danish, Irish and EU-level organisations.	Results: Systematic overview of all official written PPP sources, including guideline material, legal sources, reports, project descriptions, technical notes about tax and value-added tax, competition regulation, green and white papers, etc.
Data collection step 3	Detailed search on all private sector organisations’ web-pages, including interest organisations and private PPP companies involved in the four school projects.	Results: Collection of analyses, reports, policy-papers, project descriptions, position papers, press releases, etc. published by private PPP organisations.
Data collection step 4	Face-to-face expert interviewing with public and private interviewees at the EU-level, the national policy-level in Denmark and Ireland, and in relation to the four PPP school projects.	Results: Digital recordings of 29 face-to-face sessions with PPP experts covering all aspects of the empirical research design. Interviews in the EU and Ireland were conducted in English, the remainder in Danish.
Data collection step 5	Follow-up talks and shorter telephone interviews with respondents, and additional collection of material which came up during the rounds of interviewing.	Results: Validation of facts and interpretations from the interviews and additional written material, including material handed out by the respondents, which was not publicly available (for example internal documents and notes).

In terms of how the data collection strategy is linked to the topic of the study, an important observation in this respect concerns compared way in which the institutional organisation of PPP

²¹ I chose three major consultancy firms for this search: PricewaterhouseCoopers, Ernst & Young and Deloitte.

regulation deviates from a ‘classic’ government-industry set-up, because this makes it fundamental to source both public and private PPP partners (see also Weihe, 2008). Compared to a ‘classic’ industry regulation set-up, a PPP involves not only a public regulator and a private partner, but actually two public sides and a private partner. The public side is divided into, first, regulatory authorities operating at the national level with formation of the regulation framework for PPPs, and second, public partners that engage in concrete PPP projects together with a private partner (see right handside in Figure 5). Accordingly, in order to collect material about the various actors that are participating in decisions about policy, regulation and application of PPPs, I have sourced organisations from both the public and private sectors and at multiple levels of government for interviews and written sources.

Figure 5. The institutional organisation of PPP regulation versus traditional industry regulation.



The expert interviews and the primary documents display a certain division of labour in the dissertation. For example, a government green paper or guideline document can provide detailed information about the official government initiatives and the formal regulation of PPPs, but such documents provide little if any information about the policy processes, negotiations and informal procedures which are an essential part of public policy making (Barzelay et. al., 2003). The interviews contained such process knowledge about policy negotiations, interest positions, and intermediate outcomes of processes, bargains, compromises and differences of views among key policy actors and institutions, which do not display in the final texts of official government material. Thus, while the written sources provided the primary source information in terms of addressing

‘what’ and ‘when’ types of questions (what happened, when did it happen?), the interviews provided the primary sources of information related to answering ‘how’ and ‘why’ types of questions (how was a specific decision taken, why was it taken?).

Interviewing

The use of in-depth, semi-structured expert interviews provides one of the fundamental sources of obtaining knowledge in case study research, because it allows access to empirical information accumulated at the personal level and therefore not necessarily appearing in official policy documents (Kvale, 1997; Barzelay et al., 2003). In this study, interviews were utilised as a means of:

- Getting access to information about processes: for example, how often an intergovernmental group on PPPs meets; how the relationship between various government departments is organised; how major decisions are taken.
- Consolidating and cross-checking facts about specific events.
- Identifying critical events in the data set and establishing relationships between events, sequences of actions, and changes in actor positions.
- Identifying and understanding intermediate outcomes of processes and negotiations which often do not appear in the final documents that are officially available.
- Interpreting differences and conflicts of views among various key actors.

The interviews were elite interviews in the sense that they were conducted with official representatives of government departments and agencies and senior managers in the private companies, which had been closely involved in the specific decisions, and not, for example, with end users of a PPP school facility, such as teachers, pupils, parents, etc. (see Greve, 1997). A total number of 37 respondents were interviewed for the purpose of this dissertation in 29 sessions. All interviews were conducted face-to-face at the location of the respondent’s workplace, because I considered it important to meet the respondents in their surroundings to establish a trust-based interview situation (Kvale, 1997). These interviews were supplemented by around 15 shorter interviews and follow-up talks over telephone or email to verify or discuss specific facts or issues, or to collect additional information on developments and decisions which took place after the interview.

The interviews were conducted in three rounds. In the first round of interviewing, which concerned the EU's common regulation and policy framework for PPPs, interviews with EU representatives were conducted in Brussels and Luxembourg in July 2008. Next, interviews relating to the Danish PPP policy and regulation as well as the two PPP school projects were carried out in Copenhagen, Århus, Herning and Kalundborg between September and November 2008. Finally, I travelled to Ireland in November 2008 and again in December 2008 to conduct interviews at the national level with government ministries and departments as well as private sector representatives in Dublin and Belfast (Northern Ireland), and to Cork and Tullamore to conduct interviews regarding the two Irish PPP school cases (see Table 7).

Table 7. List of interviews.

Organisation	Number of respondents	Location of interview	Date of interview
DG Energy and Transport (DG Tren)	1	Brussels, Belgium	July 1. 2008
DG Internal Market and Services (DG Markt)	1	Brussels, Belgium	July 2. 2008
DG Research	1	Brussels, Belgium	July 3. 2008
Joint Assistance to Support Projects in European Regions (Jaspers)	1	Brussels, Belgium	July 3. 2008
Statistical Office of the European Communities (Eurostat)	1	Luxembourg, Luxembourg	July 4. 2008
European Investment Bank (EIB)	1	Luxembourg, Luxembourg	July 4. 2008
Danish PPP Competence Unit	1	Copenhagen, Denmark	October 6. 2008
Danish Construction Association	1	Copenhagen, Denmark	October 6. 2008
Danish Tax Authority	3	Copenhagen, Denmark	October 6. 2008
Danish Chamber of Commerce	2	Copenhagen, Denmark	October 8. 2008
Danish Ministry of Finance	2	Copenhagen, Denmark	October 8. 2008
Local Government Denmark	2	Copenhagen, Denmark	October 10. 2008
Danish Ministry of Transport	1	Copenhagen, Denmark	October 15. 2008
Danish Ministry of the Interior	1	Copenhagen, Denmark	October 21. 2008
Danish Transport and Logistics Association	1	Copenhagen, Denmark	October 22. 2008
Confederation of Danish Industry	1	Copenhagen, Denmark	October 28. 2008
Irish Central PPP Policy Unit	3	Dublin, Republic of Ireland	November 4. 2008
Irish National Roads Authority	1	Dublin, Republic of Ireland	November 4. 2008
Ernst & Young	1	Belfast, Northern Ireland	November 6. 2008
Irish Ministry of Education and Science	2	Tullamore, Republic of Ireland	November 7. 2008
Local Municipality of Herning	1	Herning, Denmark	November 10. 2008
MT Højgaard	1	Århus, Denmark	November 11. 2008
DanEjendomme A/S	1	Århus, Denmark	November 12. 2008
Local Municipality of Kalundborg	1	Kalundborg, Denmark	November 13. 2008
PricewaterhouseCoopers	1	Copenhagen, Denmark	November 17. 2008
Irish National Development Finance Agency	1	Dublin, Republic of Ireland	December 15. 2008
Irish Congress of Trade Unions	1	Dublin, Republic of Ireland	December 16. 2008
Irish Business Confederation	1	Dublin, Republic of Ireland	December 16. 2008
Cork Institute of Technology	1	Cork, Republic of Ireland	December 18. 2008

The interviews were conducted according to a semi-structured interview guide (Kvale, 1997), which gave them a similar overall format and structure to provide a common knowledge basis for conducting comparative analysis (Peters, 1998). Moreover, the semi-structured interview method also allowed the respondents to bring up topics and points that I initially did not ask them about, and they could thus supplement with new knowledge and different interpretations of the various decisions and events, which I could later utilise for the intra-event and cross-event analysis (see below). Prior to the interview, each interviewee was contacted with a letter including a short introduction to the PhD project, the overall aim of the research, and the purpose of the interview (see Appendix 1). This facilitated a pre-interview dialogue process (over the telephone or email), in which the questions were further qualified and refined to fit the specific organisational context of the interview. The final interview protocol was sent to the respondent(s) two or three days in advance of the session, which allowed the respondent to prepare, for example by checking background information or bringing relevant material to the interview, which I could later utilise in the analysis (see Appendix 2 for an example of the interview guide).

The choice of respondents for the interviews was based on two criteria: (i) public and private organisations which had previously published documents or reports on PPPs or been involved in the four PPP school projects were contacted; (ii) organizations pointed out through introductory telephone interviews with representatives of a number of ministeries and organisations (some of which turned out not to be involved in regulation of PPPs; for example the Danish Competition and Consumer Authority). Furthermore, to validate the list of respondents, at the end of each interview, I asked the interviewee about other relevant actors and organisations in the field. Through this process, a list of key respondents was constructed with representatives of public and private organisations in both Ireland and Denmark and at various levels of government (EU, national level, sub-national level) in accordance with the comparative and multi-level design of the study. Interviewees in public organisations generally held the title of head of unit, head of department, or similar, whereas representatives of private business were typically senior managers or similar.

The duration of the interviews was between 50 to 100 minutes, with most lasting between 60 and 75 minutes. The respondents in public and private organisations were generally willing to participate in interview sessions, although many requested a partial anonymity as a condition for participating. I decided to promise the partial anonymity to the respondents after a number of informal negotiations over telephone or mail, which took place before the first round of interviewing, because it turned

out that my access to respondents would otherwise be limited. The partial anonymity meant that I could not make direct quotes of passages from the interviews, but instead of using direct quotes, I informed the respondents that I would use all statements, information and opinions gained during the interviews. These conditions were eventually accepted by all the respondents, although one interviewee in Ireland suggested that he would be able to 'say more' under full anonymity. I handled that by first conducting the semi-structured interview and thereafter having a more informal talk (which turned out to bring little if any additional information which had not already been brought up in the interview). It is thus my impression that the interviewees were generally 'willing to talk', also about more controversial issues such as differing interests and strategies among ministries, although especially the civil servants in the ministries strongly preferred that I use my own words to interpret and present what they had said during the interview, rather than quote them directly.

As seen in Table 7, most organizations were represented by one interviewee while a few organizations were represented by two or three. The varying numbers of interviewees reflects the internal division of work and dispersal of knowledge in each organization, and was thus not a choice that I made. For example, in the Danish Ministry of Finance, two employees were sharing the responsibility for the work with PPPs, and when I contacted the ministry both wished to participate in the interview session. Likewise, in the Irish PPP Policy Unit under the Ministry of Finance, three people worked with the area at the time of my interview there, and all three participated in the interview. Another example is the Danish Tax Authority, where tax treatment of PPPs is seen as a technical issue with specialised knowledge dispersed among different persons, or in the Irish Ministry of Education and Science, where two civil servants worked with PPPs and both participated in the interview session.

The use of a single (or a few) individuals as 'spokespersons' of the whole organisation raises some methodological issues, which relates to the question about methodological individualism when engaging interviewees representing organisations or groups of individuals (Rutherford, 1994; Scharpf, 1997). By assuming that only individuals are perceived as being capable of performing action, the dissertation belongs to the methodologically individualistic research paradigm (Rutherford 1994: Ch. 3). However, at the same time, I have an explicit focus on examining and explaining the policy decisions of composite actors such as 'the Finance Ministry', 'the Tax Authority', 'DG Internal Market and Services', 'local municipality', etc. This data collection issue

is basically what Scharpf (1997) refers to as the composite actor question: “In other words, the use of actor-theoretic concepts above the individual level presupposes that the individuals involved intend to create a joint product or achieve a common purpose” (ibid.: 54).

This generalization, as a leap from the interviewee(s) to the composite actor level basically is, is based on the assumption that there is consistency between the expressions of individual and the organization which they represent (Scharpf, 1997). It will in practice always be an approximation to reality to interview one or two representatives of a given organization and subsequently use those statements to make interpretations on the overall organization. The official appointment of the respondents as representatives of their respective organisations would make it more plausible to interpret knowledge accumulated at the personal level as representing collective perceptions compared, for example, to a more loosely organised network of actors. But I cannot exclude the possibility that due to informational and cognitive limitations (and perhaps also personal interests), my respondents will speak from the place and the level in the organisation, where he or she is located (see also Kvale, 1997).

Another delimitation regarding the use of interviews in the dissertation relates to the presence – or rather, lack – of the political level in the interviews. As previously noted, interviews with public sector officials (at local, national and supra-national levels) were carried out at the administrative level (central government departments, regulatory agencies, local municipalities, General Directorates, etc.), rather than at the political level (ministers, local mayors, EU commissioners, etc.). I realised early on in this project that it would not be possible to get interview appointments with currently sitting political leaders and ministers in Denmark and Ireland and Commissioners in the EU, at least not for a PhD dissertation project.²² I did not interpret this as a lack of willingness or openness, but rather as a reflection of the priority of scarce time and also as a reflection of the actual division of labour between the political and administrative level: whereas ministers and other high-level politicians set out the general policy directions, in reality, the daily business of regulating PPPs is a technical issue which is basically carried out at the administrative level without much political interference (see also Paper 2). Moreover, while in speeches, policy papers etc., government ministers commonly express rather enthusiastic views about the use of PPPs, but at a pretty general level, it became clear that the administrative level was the primary holder of

²² Thus, when I contacted the Danish PPP Competence Unit, where I had my best contacts, it was strongly indicated that an interview appointment with the responsible minister – the Minister for Economic and Business Affairs – was very unlikely. Therefore, I chose to carry out the interviews at the administrative levels instead.

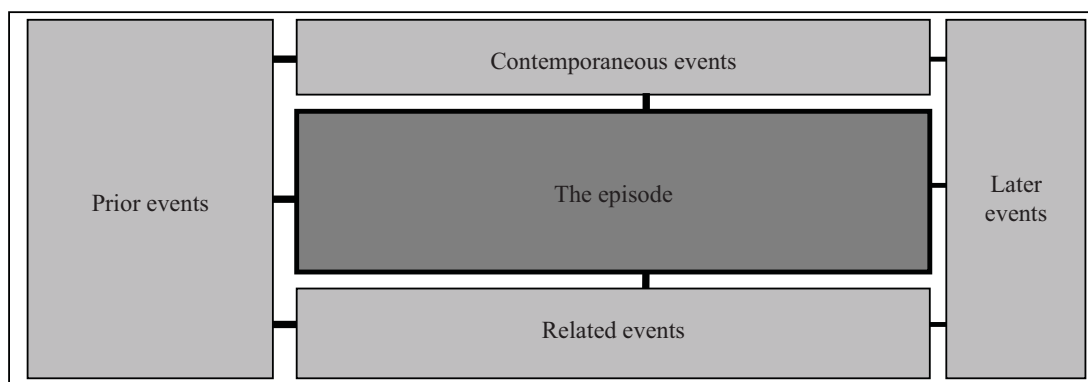
knowledge about how and why specific events occurred and decisions about policy and regulation for PPPs were taken, as well as how concrete PPP projects were formed (or not). Access to respondents at the political level thus turned out to be less important than first anticipated, and this information was instead sourced from the large number of policy documents, archive data of parliamentary discussions, press releases, etc., and thereafter triangulated with the more detailed information collected through the interviews at the administrative level (Barzelay et al., 2003).

1.5.3 Data analysis and displays

I have worked with the empirical data using various techniques of data analysis and displays, which I discuss in this section (Miles & Huberman, 1994; Dahler-Larsen, 2002). A first, and rather rudimentary, analysis was conducted utilising the database of written sources, which I read through one by one while taking notes about content and key events. By utilising visual methods for data analysis including time-lines and time-ordered matrix (Eisenhardt, 1989), I produced a chronological overview of the flow of events in each of the cases (see for example Paper 4). The preliminary analysis was then followed up by interpretation of the semi-structured expert interviews. After returning from each round of interviewing, I listened through the interviews (one or several times) and prepared summaries while I still had the interview fresh in mind, as recommended by Miles and Huberman (1994:76). Thus using the method of data triangulation (Peters, 1998), I compared the interview notes with findings from previous interviews and the content from the database.

Further, to provide a basis for systematic assessment and comparison of the cases, the heuristic displayed in Figure 6 was adopted to establish relations between various events in the data set (Barzelay et al., 2003: 36).

Figure 6. Heuristic for ordering case evidence with the event-centred approach (Barzelay et al., 2003)



The primary object of analysis is denominated as *the episode*. Each case is constructed as an episode, which is the development of policy and regulation in Denmark and Ireland between 1999 and 2009. Each episode is constituted by a number of *events*, that is, specific decisions about policy and regulation for PPPs. Furthermore, to contextualise the episode, the concepts of *prior events* and *contemporaneous events* are introduced. Prior events occur before the primary object of study, the episode, and provide the background settings for studying the episode. Politico-economic background settings are, for example, prior events that condition the episode. Contemporaneous events occur in the same time setting as the episode, and are events that are not part of the episode but influence the events constituting the episode. Change in the political elite is an example of a contemporaneous event. Together, prior and contemporaneous events are sources of explanans of the episode (the explanandum), and are used to provide theory-based explanations of Denmark and Ireland's development of PPP policy and regulation.²³ Further, *related events* occur in the same time frame as the episode, but are more affected by the episode than vice-versa. The concrete PPP projects in the schools sector (and other sectors) are examples of such related events. Finally, *later events* designate events that happen after the episode, which means that including the later events is merely relevant in the study of historic episodes, as noted by Barzelay et al.: "*Later events* are sometimes included in the study frame for purposes of exploring the contemporary relevance of historical episodes" (2003: 24 [italic in original]). Hence, in this study, where I examine PPP policy and regulation in a contemporary context, the consequence is that I pay less attention to the later events in Barzelay's model (see also examples in Paper 5 and Appendix 3 of this synopsis).

In the final process of data analysis, two techniques were in particular utilised, as recommended by Barzelay et. al. (2003:36): (i) a method of *intra-event analysis* was used to track and analyse the development of single events, such as the launch of a new regulation or policy initiatives; (ii) furthermore, *cross-event analysis* was used to track interrelations between events in the data set, and to provide comparative and theory-based explanations of case outcomes. Reflecting the comparative and multi-level aim of this dissertation, this process of cross-event examination included comparisons at the central government level in Denmark and Ireland, and multi-level analysis at the

²³ It should be noted that this dissertation actually has more than one explanandum. The developments over time of national PPP policy and regulation in Denmark and Ireland, as previously mentioned, constitute the dissertation's main explanandum. However, in the parts of the dissertation which deal with how the policy and regulation framework facilitates or hinders the formation of concrete PPP projects, policy and regulation becomes the explanans, while the formation or not of a concrete PPP projects becomes the explanandum. Finally, Paper 1 has a third explanandum, which is the EU's policy and regulation initiatives for PPPs (this paper is mainly descriptive).

project level, the national level and the EU-level. To support the methods of intra-event analysis and cross-analysis, a scheme was constructed for each of the cases with information sourced from the interviews. Thus, by using a cross-referring technique inspired by a relatively simple versions of policy network analysis (Kickert, Klijn & Koppenjan, 1997), each interviewee was interviewed both about the organisation which he or she represented, but also about the action orientations and action resources of other relevant actors in the decision-arena. Table 8 presents a generic version of this scheme (this method is in particular applied in Paper 2).

Table 8. Generic display of the cross-referring method.

Respondents	Respondents' statements about the other actors within the decision-arena					
	Actor 1	Actor 2	Actor 3	Actor N
Actor 1						
Actor 2						
....						
....						
....						
Actor N						

Source: Own compilation.

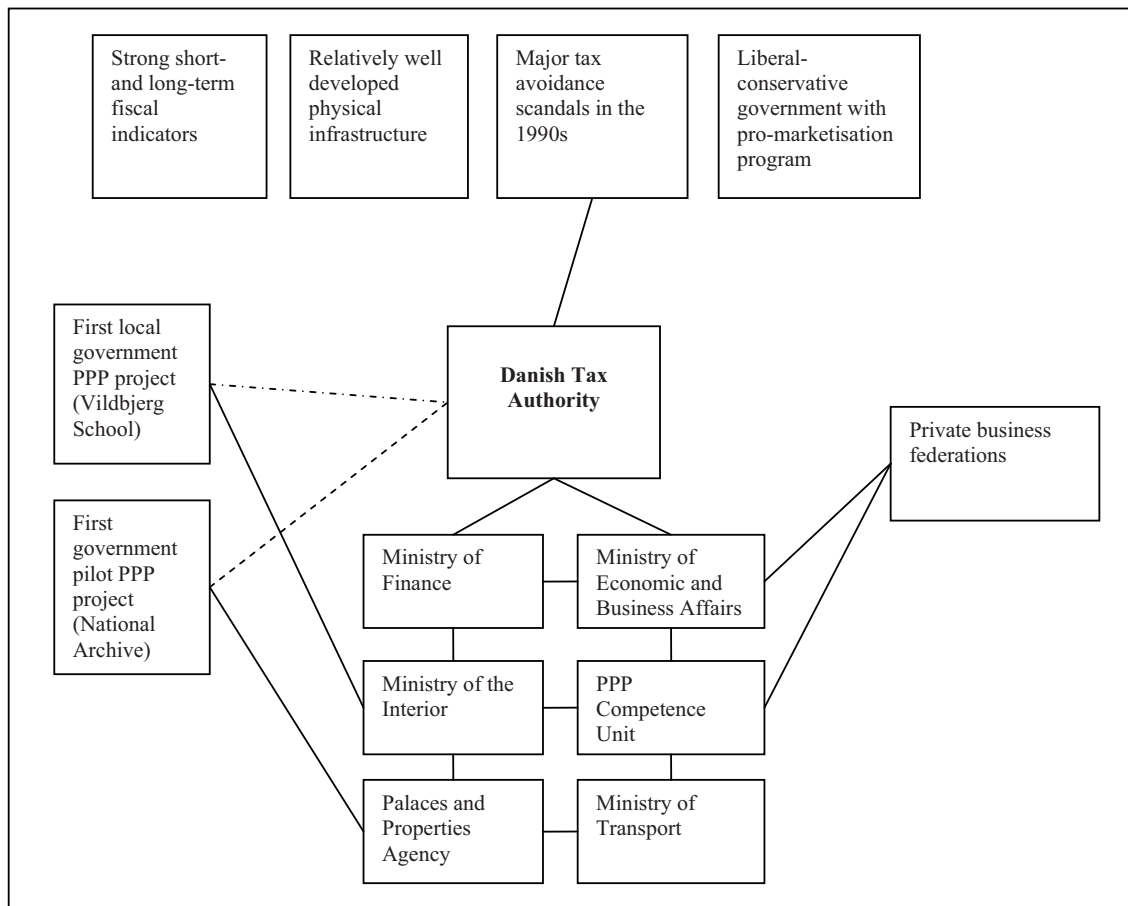
In the vast majority of instances, the respondents pointed towards the same interpretation of a given event, even when the specific event was considered controversial by some of the respondents. For example, all respondents in the Danish ministries pointed out a conflicting approach taken by the Ministry of Finance and the Ministry of Economic and Business Affairs as a major reason for Denmark's reluctant adoption of the PPP model (see Paper 2 and 3). However, in a few instances, the analysis displayed a direct mismatch between various sources. These occurrences in most instances related to simple errors in sequences of events, facts concerning certain decisions, etc. This was, for example, the case in relation to the case study of the National Maritime College of Ireland, where various sources indicated different years for the final decision to erect the project under the PPP model (see Paper 4). Another example was the Cork School of Music case study, where different figures about the total project value were indicated. In these and other instances, the

triangulation method insured that additional sources were consulted, and thereby, the information could be verified (Peters, 1998; Yin, 2003).

Yet another, and essentially more intriguing, issue arose when the collected data contained directly opposite interpretations of the same phenomena. This was for example the case in some of the interviews with senior civil servants in the Irish Government, where the representatives of the Ministry of Finance clearly stated that the primary objective of forming PPPs in Ireland was to achieve value for money, whereas representatives from other ministries and agencies clearly expressed that a major reason for introducing PPPs was to make government budgets look better in the annual government spending reports to the EU Commission (see also Paper 1 and 4). A similar observation was made regarding the Danish national regulation, where senior officers from the Tax Authority considered Danish tax regulation of PPPs rather uncontroversial, whereas most other respondents pointed to the tax and value-added tax issue as a major impediment to formation of PPPs in Denmark. Such instances of conflicting statements in the data material contained vital information about the various interpretations, interests, and potential conflicts among key actors, which required careful triangulation and interpretation.

In these situations, I went back to my empirical sources and went through all interviews and primary documents which contained information regarding the specific issue. In the instance of the Danish Tax Authority, I went through my interview notes and re-listened pieces of the interview recordings again. I also went through my written sources, where two documents that announced the tax status of the two first Danish PPP projects turned out to be the central sources. Subsequently, I plotted all these information into a Context Chart, which is a flexible form of visual network display that maps various actors/organisations within their social environment (Miles & Huberman, 1994: 103). The key principle in the context chart is that a specific event must always be interpreted within its context (ibid.: 102). In the example of the tax authorities, which is illustrated in Figure 7, it now became visible that the Tax Authorities are located in a central position within the policy-network because both general policy-formulation (link to Ministry of Finance and the Ministry of Economic and Business Affairs) and Denmark's first two PPP projects (link to Vildbjerg School and the National Archive) were in fact dependent upon the tax authorities for finding a solution to the tax and value-added tax issue. This explains why the tax authorities are assessed by the other respondents to be in a rather conflictual position, and this became the interpretation of the specific event which I subsequently was using in the analyses (see Paper 2 and 3).

Figure 7. Example of a Context Chart.



1.6 Summary of the five papers

The dissertation contains five papers each with its own empirical and analytical focus within the overall context of the dissertation's four research questions. *Paper 1* covers the EU's role in regulating PPPs, and serves as a background analysis to the remaining four papers. *Paper 2* provides an analysis of the Danish government's development of PPP policy and regulation. *Paper 3* also focuses on Denmark, but extends the findings with the local government level and two case studies from the schools sector in addition to discussions about the EU's role in regulating PPPs in the country. *Paper 4* covers the Irish case, with a multi-level focus on the interplay between the EU level, policy and regulation at the national level, and the formation of two schools sector PPP projects. *Paper 5*, finally, provides synchronic and diachronic analysis of Denmark and Ireland's development of PPP policy and regulation at the national level.

Each of the papers has been written and targeted for peer-reviewed journals in the field, and are currently in various phases of review and publication (see Table 9). In the following, I provide an extended abstract of each of the five papers.

Table 9. Summary of the five papers

	Article 1	Article 2	Article 3	Article 4	Article 5
Title	Emerging meta-governance as a regulation framework for public-private partnerships: an examination of the European Union's approach	Why are there so few Public-Private Partnerships (PPPs) in Denmark? – A departmental game for power, interests and positions ²⁴	Regulation of Public-Private Partnerships: the Danish Case	Multi-level governance of public-private partnerships: an analysis of the Irish case	Public-private partnerships as converging or diverging trends in public management? A comparative analysis of PPP policy and regulation in Denmark and Ireland
Summary	The paper examines the EU's role in regulation of PPPs, based on a notion of the EU as a meta-governance framework for PPP activity in the member states	The paper analyses the policy games and institutional settings in which Denmark's PPP policy and regulation have been formed	The paper examines the Danish Government's partly failed attempt to set out PPP regulations, supplemented by two case studies from the schools sector	The paper studies how Ireland's PPP programme has developed with a focus on the interplay between the national level, the EU level, and two projects from the schools sector	The paper comparatively examines how and why PPP policy and regulation came to develop so differently over time in Denmark and Ireland
Publication status	Published in November 2010	Published in April 2009	Published in May 2010	Submitted in March 2011	Accepted for presentation at the 15 th IRSPM conference, Dublin, April 2011
Journal	<i>International Public Management Review</i>	<i>Økonomi og Politik [Economy and Politics]</i>	<i>Public Money and Management</i>	<i>International Public Management Journal</i>	<i>Public Management Review (Planned submission)</i>

Paper I

“Emerging meta-governance as a regulation framework for public-private partnerships: an examination of the European Union's approach” examines the EU's role in regulating the formation of construction/infrastructure PPPs in the 27 member states. Based on a notion of the EU as a meta-

²⁴ Title as published in Danish: ”Hvorfor så få offentlig-private partnerskaber (OPP) i Danmark? - Et ministerielt spil om indflydelse, interesser og positioner”.

governance framework that guides, steers, and controls PPP activity at national, sector and project level, the paper draws a number of lessons on the EU's role in regulating the formation phase of PPP (Jessop, 2005; Koch & Buser, 2006). The analysis demonstrates that this meta-governance framework provides the EU with no direct regulations for the use of the PPP model in the 27 member states, but two sets of regulations which apply in case a public authority (national, regional or local) decides to sign a PPP deal.

The first regulation is the EU's Procurement Directive, which requires that all PPP projects above the threshold limit of approximately €5.15 million are procured within a common EU procurement market for PPP projects. By the regulatory design and enforcement of a common PPP market across the EU area, this signifies the idea that public regulatory bodies can promote competition by imposing various market-enhancing measures. The second regulation comprises the accounting and on/off balance sheet principles that follow from the Excessive Deficit Criteria, which were imposed to hinder the PPP model being chosen by member states as a means of disguising public deficits by placing major capital investments on the private partner's balance sheet. In 2004 the Commission and Eurostat decided that assets included under a PPP agreement may be registered off government balance sheets only if two conditions of risk sharing are met: (i) the private partner bears the construction risk, and (ii) the private partner bears at least one of either availability or demand risk (Eurostat, 2004). Furthermore, the EU has launched a number of initiatives of the soft governance type to support the formation of PPPs in the member states. Important among these initiatives is the launch of a European Partnership Excellence Centre (EPEC). With the launch of EPEC, the Commission and the EIB have created an institutional platform for practice exchange, formulating codes of conduct and building expert communities, thereby promoting more evidence-based learning among the member states. In line with previous research on EU governance, the findings suggest that, faced with limitations to the classic (hard law) Community Method, the central regulatory actors gradually turn to soft governance mechanisms, such as advice services, competence building, and learning among the EU member states (Bórras & Jacobsson, 2004).

Despite the pro-PPP rhetoric, which the Commission embraces in several policy documents and green and white papers, the empirical analysis reveals that the EU institutions have been struggling with two concerns which were not always compatible: to promote an EU-wide procurement market for PPP projects (a regulation-*for*-market logic) and to make sure that governments do not resort to the PPP model as a means of bypassing the Stability and Growth Pact criteria for responsible fiscal

policies (a regulation-*of*-markets logic). The latter has been a sober concern, especially seen against the recent economic crisis, which could potentially make it more tempting for national governments to make use of PPPs as a way of overcoming short-term budget restraints. As the EU hitherto has engaged in regulation of PPP at a somewhat abstract and conceptual level, the paper concludes that this meta-governance framework leaves considerable room for manoeuvre for national governments to craft policy and regulation frameworks that are more or less supportive towards the formation of PPPs.

Paper II

“Why so few Public-Private Partnerships in Denmark? – A Departmental Game for Power, Interests and Positions”²⁵ proceeds from the observation that, whereas PPPs are being used by many governments in Europe and beyond, Denmark has been a PPP sceptic. The paper addresses why this has been the case, with a focus on the development of PPP policy and regulation at the Danish central government level. Decisions about PPPs are seen as a series of ‘games’ in which actors engage strategically to maximise their preferred policy solutions within a broader institutional environment, defined as the “rules of the game” (Scharpf, 1997; Stoker, 1998). The decision arenas in which PPP policy and regulation are developed are thus seen as “activated game fields” (Klijn & Teisman, 2003: 138), characterised by a high level of strategic and institutional complexity and limited substitutability of the actors.

The paper demonstrates that games about PPPs in Denmark are played in two separate – yet closely related - decision arenas. The first is a *regulatory policy arena*, in which policies and regulations are formed through negotiations and political bargains, primarily between central government departments and agencies. This policy network is dominated by two strong policy-players, the Ministry of Finance and the Ministry of Economic and Business Affairs, with fundamentally differing actor positions in terms of supporting or hindering uptake of PPPs in Denmark. Whereas the Ministry of Economic and Business Affairs conceives PPPs as a mechanism with which to establish new business opportunities while improving public services – basically a plus-sum game - the Ministry of Finance has argued that the lending of private money is more expensive than the use of public money, and it has also expressed concern about the long-term fiscal consequences of these PPP contracts. The analysis shows that hitherto the Ministry of Finance has been the stronger of the

²⁵ Title as published in Danish: ”Hvorfor så få offentlig-private partnerskaber (OPP) i Danmark? - Et ministerielt spil om indflydelse, interesser og positioner”.

two, and it has effectively served as veto-player in a number of key decisions concerning Danish PPP policy and regulation.

The second game field is an *administrative decision-arena*, where guideline material, legal framework contracts and pools of money are administered, and pilot PPP projects are developed. The paper shows that this decision arena has been characterised by a highly controversial tax and value-added tax issue, which relates to the question as to who the real owner of a PPP asset is when the private partner finances and operates it, while it is the public partner which formulated the output specification in the first place and which subsequently uses the asset. Despite fierce criticism from Danish business and industry organisations, the Danish tax authorities insist that the legal ownership of the asset can only be decided on after careful review of the transfer of risks under a concrete PPP scheme, which in practice means that a project must proceed all through the planning and procurement phases before tax and VAT registration can be issued to the private partner. The analysis of the institutional settings around these two decision-arenas reveals that the institutional framework around Danish PPP is loosely organised. The institutional framework merely supports uncoordinated games, such as unilateral action and negotiated agreements, whereas more compulsory agreements are not supported due to the weak institutional organisation of the regulation framework (Scharpf, 1994, 1997).

The main finding of the paper is that the interest conflicts among the key policy players override the institutional capacity of problem-solving in the system. An explanation as to why the Danish government has not resolved these issues and set out a stronger policy and regulation framework is that Denmark's strong public finances (until recently) made the financial aspect of PPPs largely redundant. Also, a major local government scandal in the late 1990s concerning sale and lease-back arrangements seems to have planted a fundamental concern with long-term private finance arrangements, which suggests a path dependency (Pierson, 2004). Finally, although international organisations such as the EU, OECD and IMF have recently endorsed PPPs, in reality, they have had little actual influence on national PPP policy and regulation decisions, which are still dominated by domestic policy entrepreneurs and policy veto-players.

Paper III

“Regulation of Public-Private Partnerships: the Danish Case“ extends the findings of Paper 2 by linking developments at the national policy and regulation level with concrete decisions about the

formation of PPPs at the project level, exemplified by two case studies of primary schools PPP projects in the Danish local government sector. The paper starts out by reviewing the background settings for introducing PPPs in Denmark: a combination of strong public finances, a long tradition of public service delivery, reluctant adoption of broader privatisation and marketisation measures, and a relatively successful state-owned model utilised for the two Belt Bridges and the Copenhagen Metro made the case for introducing PPP in Denmark less favourable to a large-scale adoption of PPPs than elsewhere.

The PPP concept was first introduced in Denmark in 1999 by the Ministry of Finance, but the introduction went largely unnoticed by the public. In the subsequent years, a number of official government reports and documents mentioned PPPs as a means of investing in large-scale physical infrastructure, but no concrete initiatives were launched and no money was earmarked for projects. When the Danish government launched its “Action Plan for Public-Private Partnerships” with ten initiatives to support the uptake of PPPs, it was seen as a serious indication of the government’s commitment to the PPP model. In the aftermath, however, Danish PPPs were not realised at the expected speed: this was largely due to unresolved regulations at the national government level. The analysis reveals that Danish regulatory authorities have moved slowly and demonstrated little determination in resolving fundamental regulatory issues, such as local government reservation and the tax and value-added tax treatment of Danish PPPs.

The two case studies from the schools sector are the first internationally published analysis of Danish PPP projects. The analysis reveals that, whereas the first project proceeded relatively quickly to become Denmark’s earliest PPP project, the second one never made it to the procurement phase. The empirical data collected on the case studies reveals that, in both cases, the primary reason for choosing the PPP model instead of a traditional procurement of the project, was that the local municipalities expected to receive relief from the Danish central government’s regulations on local government asset-based investments. However, whereas the first project was finally saved by the Minister of the Interior and Social Affairs, who issued a one-time exemption from the restriction on local government PPPs, the second PPP school project fell through because the minister was not this time willing to issue an exemption from these regulations. In both cases, the lack of a clear and well-tested model for tax and VAT treatment of PPP projects marked the PPP solution with uncertainty for both public and private partners.

A main finding from the two case studies is that Danish PPP projects in the schools sector have largely been driven by local governments' expectations on receiving relief from the general limits on asset-based spending, which is subject to detailed regulation by the Danish government in order to avoid over-investments in the local government sector. A second result is that the unresolved regulatory issues and the interest conflicts among the key policy-players at the national level, in particular the Ministry of Finance and the Ministry of Economic and Business Affairs, lead to uncertainty for public and private partners considering engaging in PPP activity in Denmark. The regulatory authorities should get the regulations straight if they want to support the formation of Danish PPPs. However, as rather mixed evidence about the value for money of PPPs is increasingly reported in the academic literature (Pollock, Price & Players, 2007; Hodge & Greve, 2009), the paper argues that a reluctant approach to PPPs might after all prove to be a rational strategy.

Paper IV

"Multi-level governance of public-private partnerships: an analysis of the Irish case" adopts a multi-level governance perspective (Scharpf, 2001; Hooghe & Marks, 2003; Bache & Flinders, 2005) to analyse the interplay between the national policy-level, the EU-level, and the formation of concrete PPPs, illustrated by two case studies of third level (further education) PPP projects. Compared to many other countries Ireland was slow to adopt measures of marketisation and privatisation, and as a result of this, only a handful of public enterprises had been made subject to privatisation considerations before 1999. However, by the late 1990s Ireland was facing a major infrastructure deficit as a consequence of years of underinvestment in the physical infrastructure combined with the serious strains on public capital budgets following on from the EU's Growth and Stability Pact. As a result of these combined events, the Irish government was in search of alternative ways of remedying Ireland's infrastructure gap while attempting to steer clear of excessive deficits on government capital budgets.

PPPs were officially introduced in Ireland in 1999, when the Irish government launched an ambitious PPP programme: a comprehensive policy and regulation framework was launched, a Central PPP Policy Unit was established under the Ministry of Finance, eight major pilot PPP projects were announced, and a pool of money was earmarked for PPPs. In the aftermath, however, when projects were not realised at the expected speed and the European Commission launched a new decision about risk-sharing and on/off-balance sheet treatment of PPP projects, the Irish government launched a number of amendments which largely centralised PPP policy and regulation

within the Ministry of Finance. Also, procurement functions and financial expertise were centralised in the National Finance Development Agency (NDFA), a new procurement unit established via specific legislation in 2002 and 2007. The paper examines a number of policy players that are involved in PPP policy and regulation and/or specific decisions about particular PPP projects.

The constellation of actors and their strategies is complex in the Irish case, because actors are drawn from above and below central government, and moreover, from the Irish business sector and the labour unions (although the latter have been less active). The paper identifies a tension in the EU between on the one hand supporting the procurement of PPPs, and on the other ensuring that PPPs are not merely used as a financial tool with which to circumvent appropriate budget procedures in the member states. The course of action taken by the Irish government, and especially the Ministry of Finance, on the other hand turns out largely to be motivated by the prospects of removing major capital investments from government balance sheets. The analysis thus reveals a direct conflict of interest here across multiple levels of government. At the project level, the two case studies from the schools sector reveal that the EU level and the national level have in fact only partly played together to support the formation of PPPs in Ireland. The on/off balance sheet issue turns out to be of central importance to the Cork School of Music project, because the Irish government suddenly realised that the project would have to be counted against general government debt at the same time as Ireland was going through a mini recession which was putting a strain on public budgets. Obviously, the policy and regulation framework here was a hindrance to PPP, mainly because the on/off balance sheet regulations were not coordinated between the EU Commission and Eurostat on the one hand, and national governments (in Ireland and elsewhere) on the other. Accordingly, because of this lack of coordination across the EU level, the national level and the project level, the music school project that was otherwise at an advanced stage was seriously delayed and subsequently downscaled after intense negotiations between the Ministry of Science and Education and the Ministry of Finance. The second PPP project, the National Maritime College of Ireland, was financed through issuance of a loan application to the European Investment Bank, and proceeded much easier through the planning and procurement phases.

Paper V

“Public-private partnerships as converging or diverging trends in public management? A comparative analysis of PPP policy and regulation in Denmark and Ireland” comparatively

examines the development of PPP policy and regulation in Denmark and Ireland over time. The paper draws on Kingdon's multiple streams framework, with a focus on the problem streams, the policy stream and the politics stream, and their temporal coupling incertain points in time (Kingdon, 1995). Kingdon's framework is supplemented by Michael Barzelay's event-centred approach to public management policy-making (Barzelay et al., 2003; Barzelay & Gallego, 2006). The analysis shows that the launch of PPPs in Denmark took place against a combination of strong fiscal indicators, a relatively built-up infrastructure, the existence of a well-tested and successful public building-model, and a local government scandal relating to the sale and lease-back model, which generated a general unease with private finance arrangements within the Danish government. In Ireland, the fiscal indicators were also relatively strong, but Ireland moreover faced a major infrastructure gap due to years of underinvestment in the country's physical infrastructure. Furthermore, EU funds were declining due to the forthcoming enlargement, and public demands for an upgrade of Ireland's physical infrastructure were rapidly increasing. Thus, despite their relative similar points of departure in terms of fiscal indicators and being late adopters of PPPs, the systematic breakdown of the context events illustrates a number of differences in the background settings against which PPP policy and regulation developed over time in Denmark and Ireland.

Drawing on Kingdon's (1995) framework, the paper then moves on to analyse the streams and the role of policy entrepreneurs and policy veto-players in the development of Ireland and Denmark's PPP policy and regulation. In Denmark, as a result of the context within which PPPs were introduced, no clear problem was identified in the problem stream, which PPP as a solution in the policy stream could potentially be linked to. Moreover, in Denmark the political attention to PPPs was generally low, and although the incoming liberal-conservative government announced a focus on marketisation and private sector involvement, the focus was more on free choice (in the delivery of welfare) and traditional contracting out. Accordingly, the streams were not coupled in any sufficient way to open a policy window, which resulted in a merely symbolic launch of PPPs in Denmark. The launch of PPP in Denmark was in itself somewhat paradoxical, because a problem was not identified in the problem stream. Subsequently, the Ministry of Economic and Business Affairs and the PPP Competence Unit, which in the meantime took over the Ministry of Finance's role as policy entrepreneurs, attempted to redefine the problem as a matter of improving value-for-money and innovation in major public construction and infrastructure projects. Not least because of a rising attention to PPPs in the political stream, the policy entrepreneurs this time partly succeeded with coupling the streams and opening up a policy window in which the PPP Action Plan was

launched. In reality, the Danish government took no concrete PPP initiatives before 2004, with the launch of the PPP Action Plan.

This was very different from the Irish case, where a clearly identified problem – to remedy Ireland’s major infrastructure deficit – became a major issue in the problem stream as Ireland saw its share of EU funds dropping. In the meantime, the political stream was highly influenced by the popular dissatisfaction with the state of the infrastructure and strong lobbying from the Irish business federations. Accordingly, under the influence of strong policy entrepreneurs from within government and the private sector, the three streams were successfully coupled to open a policy window which stayed open for a long time, during which several decisions were taken to launch comprehensive PPP policy and regulation and money was earmarked for PPP projects. A successful coupling of the three streams thus produced a number of decisions which step-by-step embedded Ireland’s PPP programme within the Ministry of Finance and the Treasury, in contrast to the Danish case, where policy and regulation competencies were split between the Ministry of Economic and Business Affairs and the PPP Competence Unit serving as policy entrepreneurs, and the Ministry of Finance as a strong policy veto-player. A main finding of the paper is that the primary rationale for forming (or not forming) PPPs was a macro-economic one in Ireland, with a focus on placing major infrastructure investments off government balance sheets, whereas Denmark’s strong public finances and well-built infrastructure made such a manoeuvre largely redundant.

1.7 Conclusions, discussions and contributions

The starting point for this PhD dissertation was the observation that, whereas PPPs are often depicted in the academic literature and in policy practice as a globally disseminated governance scheme, in reality, a closer examination of the PPP reform landscape reveals significant differences in national governments’ PPP policy and regulation and in the amount of actually implemented PPP projects. This led to the formulation of four research questions for the dissertation:

1. What are the key actor-constellations, policy-games and institutional conditions that created decisions about policies and regulations for PPPs in Denmark and Ireland?
2. How did PPP policies and regulations in Denmark and Ireland develop in the period from 1999-2009, and how can the national similarities and differences be explained?
3. How do multiple levels of government interact to facilitate or hinder the formation of concrete PPP projects, exemplified by four case studies from the schools sector?

4. What framework conditions does the EU set for PPP activity at national and sub-national levels of government, and why has this common regulatory framework not lead to more convergence among the two countries?

These questions are addressed in Section 1.7.1, followed by a discussion of the empirical findings and future PPP research in Section 1.7.2. Next, a discussion of the theoretical implications of the study follows in Section 1.7.3. The majority of the empirical data for this dissertation was collected either before or in the early phase of the financial crisis, when the consequences for PPPs were not yet very visible.²⁶ To address this issue, Section 1.7.4 provides an epilogue which discusses the findings of the dissertation in relation to the financial crisis.

1.7.1 Addressing the research questions

In line with previous research within the governance PPP perspective (Van Ham & Koppenjan, 2002; Klijn & Teisman, 2003; Koch & Buser, 2006; Greve & Hodge, 2010), this dissertation has investigated how and why, within a broader institutional framework, various actors and policy entrepreneurs have engaged strategically in policy-making that created differing national PPP policy and regulation frameworks in the period from 1999-2009 (research questions 1 and 2). The focus on Denmark and Ireland provided two highly contrasting cases in this respect. The analysis of the Danish case reveals that decision games about policy and regulation of PPPs have been characterised by major conflicts of interest among key policy players, with the Ministry of Finance and the Ministry of Economic and Business Affairs taking fundamentally different actor positions in terms of supporting or hindering the uptake of PPPs in Denmark: whereas the Ministry of Economic and Business Affairs conceives of PPPs as a mechanism to establish new business opportunities and improve public services at the same time, the Ministry of Finance has been much more sceptical towards the concept. The finance ministry's argument has been that the lending of private money is more expensive than using public money for the same projects, and it has also expressed concern over the possibilities that sector departments and local governments would attempt to use PPPs primarily as a financial instrument to initiate projects that they would otherwise not be able to fund, rather than for achieving value-for-money and innovation in major construction and infrastructure projects.

²⁶ Indeed, during the interviews with key actors, such as officials in the finance ministries in both countries, the respondents did not once mention the financial crisis. The interviews were conducted in autumn 2008. I subsequently, in February and March 2010, carried out follow-up phone calls and email correspondence with some of the respondents to cover this issue.

Further, the study reveals that PPPs in Denmark have been subject to a number of unresolved regulatory issues regarding tax and value-added tax, which is handled by the Tax Agency, and also concerns over the use of PPPs in the Danish local government sector. While the Ministry of Economic and Business Affairs and the Danish PPP Competence Unit have sought to promote the uptake of PPPs in Denmark, the Ministry of Finance and the Tax Agency have on the other hand shown a considerable reluctance towards setting out policy and regulation supporting a more extensive use of PPPs in Denmark. The analysis of the institutional settings reveals that the institutional framework around Danish PPP is loosely organised. The institutional framework merely supports uncoordinated games, such as unilateral action and negotiated agreements, whereas compulsory agreements are not supported due to the weak institutional organisation of the regulatory framework (Scharpf, 1997). Hence, the conflicts of interest among the key policy players in the setting of Danish PPP policy and regulation overmatches the institutional capacity of problem-solving in the framework, which results in a loosely organised and partly incoherent policy and regulation framework for the formation of PPPs. While the Danish government could change the institutional settings and thus support PPPs further through a more coordinated policy and regulation framework, the analysis points out that Denmark's strong public finances and built-up infrastructure seem to have made the private finance element in PPPs largely redundant.

In Ireland, PPPs were launched against a major infrastructure gap combined with serious strains on public budgets due to falling shares of EU funds, which hitherto had been a major source of finance for investments in Ireland's physical infrastructure. Accordingly, the course of action taken by the Irish government, and especially the Ministry of Finance, thus turned out largely to be motivated by the prospects of removing major capital investments from government balance sheets. The Irish government's PPP strategy encompassed a broad span: a Central PPP Policy Unit was established within the Ministry of Finance, an interdepartmental group on PPPs was launched, eight pilot PPP projects were commissioned, and further €2.35 billion investments in PPP projects were reserved in the National Development Plan 2000-2006. Moreover, in contrast to the Danish case, Irish business were indeed very active in terms of placing PPPs on the policy agenda through several submissions to the Irish government from the Irish Business and Employers Confederation and the Construction Industry Federation, and the voices were heard with the establishment of an 'Informal advisory group on PPPs' with the participation of Irish business and labour unions (although the latter were less active within this policy-area).

In the subsequent years, the Irish PPP policy and regulation framework gradually developed towards a more centralised institutional set-up, with policy and regulation functions located under the Central PPP Policy Unit and tasks related to the planning, procurement and financing of PPP projects assembled under a new unit, the National Development Finance Agency, which was launched through specific legislation in 2002 and 2007 to procure Irish PPPs government-wide (except for the roads and railways sectors). The NDFA subsequently hands over the projects to the relevant authority after the PPP contract has been procured and signed and the project has become operational. This institutional organisation is indeed very different from the Danish, where PPPs are procured individually by local governments (which there are 98 of), by the five regions, and so far also by three different central government agencies. While the strategy in the Irish case has clearly been to gather competencies, partly to secure oversight over the specific implementation of projects and partly to reduce the transaction costs, in the Danish case the development of PPP policy and regulation has been more pragmatic with ongoing adjustments to the long-standing tradition of decentralised local governments.

In both cases, this study identified the macro-economic objective relating to the on/off balance sheet discussion as instrumental to the development of PPP policy and regulation with the finance ministries in the two countries as key actors, yet in quite contrasting ways. Based on the comparative analysis, the dissertation reveals that the primary rationale for embracing PPPs was a macro-economic one in Ireland, with a focus on placing major infrastructure investments off government balance sheets, whereas Denmark's strong public finances and comprehensive and well-functioning infrastructure did not create an immediate need to use PPPs. Furthermore, the Ministry of Finance was concerned that PPPs from a macro-economic perspective would reduce the scope for steering public finances due to the long term commitment of typically 25-35 years. Hence, in line with research on the UK and Dutch PPP cases (Spackman, 2002; Klijn & Teisman, 2003; Klijn, Edelenbos & Hughes, 2007), the comparative analysis reveals that the finance ministries were indeed determining in setting PPP policy and regulation, although in inverse ways in Denmark and Ireland. In Ireland, the Ministry of Finance clearly resembled Kingdon's concept of a policy entrepreneur, and worked actively to couple the problem, policy and political streams to open a policy window within which further PPP initiatives were launched (Kingdon, 1995). In contrast, the Danish Ministry of Finance served actively as a policy veto-player by disassembling the three streams and thus only partly opening a policy window. Another major difference between the two cases was

that PPPs were linked to a clear problem in Ireland (remedying the infrastructure gap without imposing further strains on public finances), whereas a clear problem was never identified in the Danish case. Thus, the introduction of PPPs in Denmark came to resemble symbol-politics, with few concrete policy and regulation initiatives to support the uptake of PPPs. PPP became a solution promoted in rhetoric, but where the central actors were reluctant to allow the decentralized actors to link this solution to specific local problems, except for a few demonstration projects.

Turning then to the multi-level analyses of how the differing national policy and regulation frameworks serve to support or hinder the formation of PPP projects (research question 3), the four case studies from the schools sector illustrated that the framework conditions for PPPs work very differently in practice in Denmark and Ireland. In Denmark, as a result of the partly uncoordinated and unresolved regulation framework at the national level, engaging in PPP activity has been a troublesome and risky venue for public authorities and private partners alike. Both the studied PPP schools cases in Denmark ran into serious problems due to unresolved regulation issues at the national level: whereas the first PPP school was finally saved by the Danish Minister of the Interior, who issued a one-time exemption from the restrictions on local government PPPs, the other project failed because fundamental regulatory issues had not yet been resolved, and the minister was unwilling to issue an exemption again. Moreover, the two case studies illustrate that the tax and value-added tax treatment of PPPs in Danish legislation has comprised a major challenge for the players in the Danish PPP market, and imposed additional costs and delays on Danish PPPs, which is illustrated by the fact that so far only four projects have become operational.

In Ireland, the framework conditions for forming PPPs turns out to have been very different, both because from the outset the Irish government established a comprehensive policy and regulation framework and because of the centralised character of the Irish state. The two PPP schools cases in Ireland were not carried out by local governments, as was the case in Denmark, but by the Irish Ministry of Education and Science with advice from the National Development Finance Agency. These two cases illustrate that the implementation of the first PPP projects do in fact require the resolution of a number of regulatory aspects, such as tax, legal issues, financial aspects, procurement, etc., but in the face of serious strains on public budgets and a major infrastructure gap, the Irish government solved these issues along the way. Indeed, when the first PPP ran into problems and was seriously delayed, the research illustrates that this was mainly due to changed EU regulations concerning the on/off balance sheet issue, which meant that the Irish government would

have to count this project against the General Government Deficit. While this issue was avoided for the second project, because the Irish government petitioned the European Investment Bank for loans for the construction of this scheme, the findings from the two school projects illustrate that policies and regulatory framework conditions have largely served the purpose of supporting PPP projects procured off balance sheet.

Turning finally to the question about the EU's role in regulating PPPs in the member states (research question 4), the dissertation has shown that the EU has as yet mostly engaged in regulation of PPPs at a rather abstract and conceptual level, thereby giving national and sub-national administrations considerable room for manoeuvre in drafting policy and regulations to facilitate or hinder the formation of PPP projects. Further, the analysis displayed an inherent dilemma in the EU's institutions between two conflicting concerns: on the one hand the establishment of an EU-wide PPP procurement market to attract private capital investments and thus develop the physical infrastructure in the member states, which is seen as fundamental to the effective functioning of the Single Market; and on the other, the Commission and Eurostat has been concerned that some member states would utilise the PPP model to sidestep the EU's budget procedures for responsible fiscal policies by removing major infrastructure investments from the public sector's balance sheets. The latter seems to be a sober concern, as the analysis revealed that removing major infrastructure investments from the public sector's balance sheet has indeed been a primary rationale for embarking on large-scale PPPs in Ireland but also in the UK and elsewhere (Spackman, 2002; Flinders, 2005). Recently, the European Commission has launched a number of 'soft governance' initiatives, including the European Partnership Excellence Centre (EPEC), to support policy learning and the spread of best practice among the member states. The findings within this policy area are thus in line with the broader trend towards soft modes of governance in the EU, although it still remains to be seen whether EPEC and other soft governance initiatives will in fact lead to a greater degree of policy coordination across local, national and EU levels in the regulation of PPPs.

1.7.2 Empirical implications and further PPP research

The findings of this dissertation have a number of implications. In this section I try to condense the overall empirical contributions of the study, which span across the papers and serve as a starting point for considering how further research may make use of the findings. Subsequently, in Section 1.7.3, I turn to a discussion of the study's theoretical implications.

It is common in scholarly literature which discusses the rationales of governments for resorting to PPPs to assume that governments pursue innovation, collaborative advantage, mutual added value, etc. Further, it is often assumed within the governance branch of the PPP literature that PPPs comprise a new governance scheme, which is based on trust, collaboration and joint decision-making as opposed to 'classic' contracting out and privatisation, which was endemic in the NPM epoch (cf. Linder, 1999; Hammerschmid & Angerer, 2005; Osborne, 2010). Thus, in academic literature and indeed also in the large practice oriented literature on the subject, the reasons for governments to form PPPs are often connected with a number of positively charged objectives and a new way of thinking about governance in the public-private interface. However, the findings brought to the fore in this dissertation suggest that in reality the introduction of PPP is to a large extent determined by the state of public finances. PPPs are more likely to be favoured in situations of constrained public finances, where it can be used as a way to remove major public infrastructure investments from governments' balance sheets, and thereby reduce the pressure on public capital budgets and provide more infrastructure than would otherwise be possible. This is illustrated by the Irish case, while in Denmark the public finances prior to the financial crisis were fairly strong. The Ministry of Finance was therefore less concerned about a short term need to finance projects, and more concerned about the long term implications and potential lack of control over municipal infrastructure investments.

These findings have significant implications because they suggest a gap between the assumptions commonly made in political debate and in the scholarly literature about governments' objectives with PPPs, and the actual findings from case studies of concrete decisions about PPPs. While keeping in mind that the two country cases and four case studies from the schools sector obviously have limitations in terms of generalisability to other countries and PPP sectors (Yin, 2003: 10), they are also interesting from a more general PPP perspective because they illustrate that there is an inherent trade-off between short- and long-term interests and strategies in the PPP model. In the short term, if projects are indeed registered off balance sheet, it is correct that PPP can reduce public budget pressures and provide more infrastructure than would otherwise be achievable. From a rational actor perspective, this would make the PPP model very attractive for policy-makers and administrators (Niskanen, 1975). In the long-term, however, PPPs can be seen as challenging governance schemes because there is always a bill for governments - and thus indirectly taxpayers - to pay ten, twenty or even thirty years into the future. The findings of this dissertation thus suggest

that national PPP developments are likely to be determined by the state of public finances, and whether leading government actors take a long or short term perspective.

These findings are important because the argument that placing investments off balance sheet can reduce the pressure on public budgets thus can be said to be right in the short term, but indeed false in the long term: what has in reality been provided is the substitution of expenses here and now with a long-term loan with duration of 25-35 years. The dissertation thus contributes with robust empirical results across two country cases and multiple levels of analysis that support the observation made by Hodge and Greve (2007: 549), “We are certainly now drowning in promises by governments around the world that PPPs will provide public sector services more cheaply and quickly, with reduced pressure on government budgets. (...) A mechanism through which governments may turn a large, once-off capital expenditure into a series of smaller, annualized expenditures has simply been provided.” From the perspective of future generations of voters and tax payers, this raises fundamental accountability and legitimacy issues, which the scholarly research on PPPs has so far only started to address (see Mörrth, 2007). Clearly, more research which focuses both on the short- and long-term interests, strategies and consequences of PPPs is warranted to uncover these broader legitimacy and accountability issues further.

The dissertation also makes a contribution to the field of PPP governance research, which has hitherto been characterised by case studies or single country studies, whereas comparative approaches are seldom taken (although see Greve & Hodge, 2007; Klijn, Edelenbos & Hughes, 2007; Ysa, 2007). As a result of this, very little is known about how, why and to what consequences national governments have adopted differing policy and regulation frameworks. Although studying two country cases obviously cannot provide the basis for generalisation of the statistical kind (Yin, 2003: 10), this study offers empirically rich descriptions of two PPP cases which can be utilised for the development of preliminary analytical categories of national PPP governance approaches, which can be tested and developed in further research. Thus, based on the findings, I will suggest the following taxonomy (see Table 10).

Table 10. Preliminary taxonomy of national PPP approaches

	Anglo-Saxon PPP approach	Continental European PPP approach	Scandinavian PPP approach
<i>Country examples</i>	UK, Australia, Canada, Ireland	Netherlands, Germany, France	Denmark, Norway, Sweden, Finland
<i>PPP objectives of governments</i>	Remedy budget constraints, some degree of marketisation ideology and NPM- reforms (for example emphasis on value-for-money)	Remedy budget constraints and launch of new public governance based on horizontal cooperation	Unclear objectives, a mix of NPM principles (value-for-money) and new public governance elements (innovation, mutual added value)
<i>Governance approach</i>	Widespread policy and regulation measures	Intermediate to high policy and regulation measures but fewer money earmarked for projects	Limited or unsupportive policy and regulation measures
<i>Projects and sectors</i>	Large deal flow, high diversity in PPP sectors	Medium deal flow, primarily 'hard' infrastructure (roads, railways, etc.)	Low deal flow, few sectors covered

Although preliminary, this categorisation contains three national PPP governance approaches: (i) an Anglo-Saxon PPP approach, which is characterised by a comprehensive policy and regulation framework and an extensive deal flow across many procurement sectors. The UK is the predominant example, but countries such as Australia, Canada and, more recently, Ireland would belong to this group; (ii) a continental European PPP approach, which is characterised by intermediate to high policy and regulation measures but with considerably less money earmarked for PPP projects and consequently a medium deal flow, with a focus on 'hard' infrastructure (Grimsey & Lewis, 2004). Examples are the Netherlands, Germany, and France; (iii) a Scandinavian PPP approach, which is characterised by unclear objectives, limited and/or unsupportive policy and regulation measures, and a low flow of PPP deals in the market. Indeed, this is a rather rudimentary categorisation, which nonetheless makes a first important step towards developing a taxonomy of national PPP governance approaches, which further PPP research could build on and develop through additional comparative case studies.

1.7.3 Theoretical discussions and implications

The study also raises a number of discussion points related to the application of the theoretical frameworks in the five papers and how the empirical findings relate back to the theories that I have used. These discussions are also found in each of the papers, and I will here focus on three cross-cutting themes corresponding to the three theory-frameworks, which I have used in the dissertation: the Actor-Centered Institutionalism (ACI); the Multiple Streams Model; and multi-level governance theory.

First, in terms of my use of the ACI framework, from which I have drawn a number of the central theoretical concepts and assumptions in Paper 2-4, the empirical analyses have highlighted both some strengths and weaknesses in the application of this framework. Starting out with the strengths, Scharpf's assumption about constellations of strategic actors that engage in decision-making games is supported by the analysis of the policy-making processes in both Denmark and Ireland. The assumption about interdependence between the policy-players is evident at the national level and also illustrated in the interplay between the national level and the local level, where the partly failed attempts to form concrete PPP projects of local governments and private business turns out to be largely due to unresolved regulations at the national level (see also Paper 3). The assertion about the varying coordination potential of the institutional settings also exercise explanatory power, as the empirical analysis illustrates that the interest conflicts among the key policy-players overmatches the institutional capacity of conflict solving, with the result that the development of Danish PPP policies and regulations have been largely uncoordinated (see also Paper 2). Furthermore, in the analysis of Ireland, where I combine the ACI framework with the multi-level governance perspective, this leads to an assumption about interdependencies both in the horizontal (public-private) and in the vertical (multi-level) dimension of decision-making for PPPs. The empirical analysis illustrates a close interdependency between decisions at the EU-level, the national level and the project level in Ireland, which supports this theoretical assumption (see also Paper 4). The use of Scharpf's ACI framework combined with the multi-level governance perspective has thus turned out to provide a suitable theoretical framework for producing strategic and institutional explanations for the different development of policy, regulation and application of PPPs in Denmark and Ireland.

However, the empirical analysis has also revealed at least two limitations regarding my use of the ACI framework in the papers. The first relates to the agenda setting and the question about why the PPP idea arose on the political agendas at the particular point in time in the two countries. The limitation to Scharpf in this respect is that he assumes that actors have certain preferences and strategies, whereas the theory framework is more silent when it comes to providing a theoretically based account of how specific interests and strategies are formed in the first place (I would argue that this is a general weakness of rational choice institutionalism). The consequence of this first limitation is that the papers where I use the ACI framework (Paper 2-4) provide little information about why PPPs arose to the policy-agendas in the two countries at the particular point in time. I have tried to accommodate this limitation by using Kingdon in Paper 5, which provides a more explicit focus on agenda-setting than Scharpf (see below).

Other theoretical approaches could also have provided supplementing insights concerning agenda-setting and mechanisms of institutional change. Sociological institutionalism would have provided a focus on institutional isomorphism (Powell & DiMaggio, 1991), which could have been used to further investigate the inspiration from PPP/PFI in the UK, which the Danish Ministry of Finance briefly mentioned in 1999, and which Kay and Reeves (2004) mentions as a source of inspiration for the Irish government (although they do not explore this issue further). Moreover, historical institutionalism, with a focus on path dependencies and critical junctures (Pierson, 2004), could have shed more light on the link between contemporary and historic developments of institutions related to public and private provision of services and infrastructure (see also Greve & Hodge, 2007). The reluctant Danish PPP approach would then be explained as a result of path-dependencies and historic traditions for public provision of welfare services and infrastructure, whereas the introduction of Irish PPP approach would be seen as a critical juncture produced by a combination of external factors (falling shares of EU funds) and internal events (major infrastructure gap), which created an institutional change.

The other limitation in relation to my use of ACI concerns the relationship between agency and structure (institutions) in the framework. Scharpf defines institutions as the ‘rules of the game’, but sees the process dynamics between actors and institutions as a two-way relationship in the sense that ‘games about the rules’ are continuously being played as well (see also Stoker, 1998). In the empirical examples provided by Scharpf, though, it seems that institutions are seen as relatively stable, structuring devices for policy-games, rather than the other way around (see in particular the examples provided in Scharpf, 1997). In my empirical case studies, where the policy-making and regulation for PPPs are ‘regimes in the making’, the explanatory logic in the ACI framework tends to get somewhat blurry at the edges. The analyses of the Danish case illustrated that the PPP-sceptic Ministry of Finance used the unevenly distributed access to decisive decision-arenas within the Danish government to form an institutional structure for PPPs with a relatively weak PPP Competence Unit, while it placed itself as the head of the table in the inter-departmental group on PPPs. By this token, the ministry could effectively veto most PPP initiatives taken by other policy-players in the arena. The empirical lessons illustrate that it is not always clear when the institutional settings sets the rules of the game, or when it is in fact the dominant policy players which develop the institutional playing-rules in accordance with their own preferences, so that they are sure to win the games. This might suggest that the relationship between agency and structure is more dynamic

(and more ambiguous) within ‘regimes in the making’ than in policy games characterised by more stable and well-defined institutional structures. This potential nuance within Scharpf’s framework should be further explored in additional empirical research to test the robustness of these findings.

Second, in regard to the use of Kingdon’s multiple streams model in the dissertation, which I have used to extend the insights gained by use of the ACI framework, this theoretical model, with its emphasis on three distinct process streams, provided supplementary explanatory power especially in terms of explaining how and why policy-entrepreneurs in Ireland were successful in coupling the streams to open a policy-window in which a number of decisions to support PPPs were taken. Kingdon was also helpful in terms of explaining why the policy-window stayed closed in Denmark, even though PPPs were officially promoted, and also why the policy-window only became partly open in 2004 despite the lofty PPP rhetoric exercised by some policy-entrepreneurs. In comparison with the ACI framework, I found the most added explanatory muscle in the model’s politics stream, which provided a more explicit focus on broader politico-economic context variables than the ACI framework, and to some extent also in the problem stream, where the combination of Ireland’s huge infrastructure deficit and declining EU funds was broadly identified as a problem, which was not the case in Denmark where the infrastructure was relatively well-developed and strong public finances made private finance largely redundant (see also Paper 5). The empirical analyses thus illustrated that Kingdon’s model, which was originally developed for the USA, is suitable for analysis of the process of policy-making in a European context as well (for a similar argument see also Zahariades, 2003; Bundgaard & Vrangbæk, 2007).

The focus on three separate process streams and the temporality paints a less rational and more ambiguous picture of policy-making and regulation of PPPs than previous research, which has mainly focused on strategic decision-making (cf. Teisman & Klijn, 2002; Klijn & Teisman, 2003; Koppenjan, 2005) or broader trends within the (mainly UK) politics of PPPs (Spackman, 2002; Flinders, 2005). However, in terms of uncovering the specific motives and strategies of the policy-entrepreneurs, Kingdon’s model wielded considerably less explanatory power than the ACI framework (for a similar criticism, see also Sabatier, 1999; Bundgaard & Vrangbæk, 2007). Although the multiple streams approach clearly sees policy-entrepreneurs as bounded rational actors, it remains somewhat unclear how Kingdon more concretely envisages the interactions and constellations between the various policy-entrepreneurs and policy veto-players. Hence, whereas Kingdon’s model seems fit as a macro-level approach to explaining the temporal emergence and

development of PPPs on the political agendas in Denmark and Ireland, meso-level theoretical frameworks such as Scharpf (1994, 1997), or Ostrom (1999), would seem more suitable for examining the specific strategies and interactions among the policy-entrepreneurs and policy veto-players. A way of addressing this challenge in future PPP research, which has also been my approach in this study, would be to follow the strategy of ‘filling out’, whereby different theoretical frameworks are used as supplementing analytical strategies (Allison, 1971; Antonsen, Greve & Jørgensen, 2000).

Third, in relation to my use of the multi-level governance approach in the study, this is largely a novelty in PPP research, as previous governance PPP studies have *either* focused at the project level, the national level, and to a minor extent the EU-level. The multi-level governance perspective has revealed important aspects and relationships between vertical levels of decision-making for PPPs, which supplement the findings from the comparative analyses. In the analysis of the Irish case, where I applied the most explicit multi-level governance perspective, decision-arenas turned out to be closely interconnected across the different vertical levels. The multi-level governance approach here provided insights that could not have been achieved using mainstream governance PPP approaches, which have mainly focused on interdependencies in the horizontal (public-private) dimension. The broader lessons from the multi-level analyses are thus that in order to fully grasp the causes and consequences of public administration reforms in different national institutional contexts, we need to supplement the comparative analytical perspective with a multi-level analysis as well. EU policy studies have developed and applied the multi-level governance perspective for quite some time now (cf. Marks, Hooghe & Blank, 1996; Hooghe & Marks, 2003; Jessop, 2005), but this approach is still rare within comparative public administration and management studies. This point of criticism is to some extent accommodated in Osborne’s (2010) edited volume ‘The New Public Governance’, where some of the chapters make more explicit use of the multi-level governance approach than what has been seen in previous studies concerning comparative public management reform. The findings from this dissertation suggest that we should continue this development and increasingly start talk and write about public sector reforms using the comparative and multi-level analytical approaches in conjunction.

1.7.4 Epilogue: PPPs and the financial crisis

To conclude the synopsis and before I move on to present the five papers, I will consider PPPs in the light of the recent financial crisis. The crisis is interesting from a PPP perspective for several

reasons. First, the large budget deficits which many countries are now experiencing will make it even more tempting for policy-makers at all levels of government to utilise the PPP model as a means of undertaking investments in physical infrastructure and services which would otherwise not be achievable because of the crisis. Second, reports are now pointing to drastically reduced liquidity in the financial markets, which is increasing the cost of private money and thus making schemes signed during the crisis more expensive than previous generations of PPPs. This means that the basis for assessment of pros and cons of PPPs has changed. Third, the financial crisis has exposed governments to further and unforeseen risks such as when private PPP operators experience financial trouble, as illustrated by some of the first reports of government bail-outs of PPP companies in the UK and elsewhere (European Partnership Excellence Center, 2009). This affects the basis for risk assessments of PPPs, and more broadly the viability of using this instrument. Clearly, the financial crisis has had very different consequences for Denmark and Ireland, both as a result of the major differences in the government deficits which the two countries are currently experiencing, and because of the difference in the number of actually implemented projects. Whereas in Ireland the government has launched a number of initiatives to facilitate further private investments in PPPs, the Danish government has taken no such direct measures. Nonetheless, PPPs are still being used in both countries, and in 2010 the Danish PPP market witnessed the signing of the largest PPP deal (a motorway project) to date, with a capital value of app. € 200 million signed.

As the financial crisis will sooner or later disappear into the horizon, two scenarios for PPPs seem likely. The first option is that the crisis will lead to a healthy rethinking of the current PPP deals and spark more critical reflection when new schemes are being planned. This would perhaps make it likely that fewer projects would be carried out, but that they would be the right ones, where the primary rationale was not to postpone the spending burden to future generations of tax-payers but to provide a value-for-money project with appropriate sharing of risks and innovation potential. If this scenario is realised, the financial crisis would indeed have created a healthy shock for the PPP market. The second option, which seems to be the scenario in the Danish case, is that financial markets are improving while the strains on public budgets are gradually increasing both because of the crisis and because of demographic development, which poses a major challenge to the economy because there will be an ageing population and fewer people to pay the taxes with which to finance the large welfare state. Local municipalities in Denmark have recently voiced the concern that they will not be able to finance public services in the future, and in a recent political agreement with the

local municipalities, the Danish government stated the intention that various forms of public-private interaction should be further used in the local municipalities (Danish Government and Local Government Denmark, 2010). So, despite the original reluctance towards the PPP model, in the context of the serious strains on public budgets, the preference for PPPs and other forms of public-private collaboration seems to be increasing in Denmark as well.

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Appendix 1: Example of pre-interview letter

Research project: Public-private partnerships (PPPs) in a comparative perspective

Request for a research interview

Dear Stephanie O'Donnell,

I am currently carrying out a research project comparing public-private partnerships (PPPs) in Ireland and Denmark. Whereas Ireland has build up a rather extensive PPP program, Denmark has been much more reluctant. The project examines why this is the case.

The project combines a focus on national regulation and policies with in-depth case studies of concrete PPP projects in Ireland and Denmark. At national level I am planning a round of interviews with all central departments that are involved in the formulation of PPP policies and/or regulation. Topics for a research interview with the Central PPP Unit could include:

- How is the Central PPP Unit working to facilitate the Irish PPP programme?
- How are policy initiatives and regulation for PPPs coordinated between departments across government?
- Have there been any regulatory obstacles to PPPs that the unit had to resolve?
- What are considered pros and cons of PPPs from a Ministry of Finance perspective?
- What is the rationale behind the establishment of the Interdepartmental Group and the Informal Advisory Group – to what means shall these two groups contribute?

The broader aim of the project is to facilitate policy learning and exchange of best practice, and it is my hope that the project and the results will be of interest to you and your organisation.

Practical arrangements

The research interview will carried out face-to-face, and can be conducted at a time and place at your convenience. The planned length of the interview is app. 60 minutes. To benefit fully from the interview I would like to record it on an electronic sound recorder. This is standard research procedure. The recorded interview will not be shared with any third part, and I will nowhere make use of direct citations from the recording. I can send the interview guide a couple of days in advance of the interview.



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13. October, 2008

Project: 'Partnering – regulation and policymaking'

The ph.d-thesis is carried out as part of a larger research project 'Partnering – regulation and policymaking' that is financed by the Danish Social Science Research Council. Professor Carsten Greve, Copenhagen Business School, is the project manager and also supervisor of the ph.d.-thesis. Other related researchers are associate professor Niels Ejersbo, University of Southern Denmark, and associate professor Karsten Vrangbæk, University of Copenhagen.

Suggestions for an interview meeting

I hope that you will find the project of interest. In that case I suggest an appointment in the first week of November (3-7 November). If you will be so kind and contact me at a time of your convenience, we can make the further arrangements. Please find my contact details below.

Best regards,

Ole Helby Petersen
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Appendix 2: Example of interview guide

Research Project: Public-Private Partnerships in a Comparative Perspective

Interview guide: The Central PPP Policy Unit

Dublin, November 2008

Before-interview briefing:

Thanks for your interest in this research project. Before outlining the interview questions, a short briefing: The project draws on two primary sources: primary documents such as guidelines, legislation, reports, notes etc.; and face-to-face expert interviews. I have by now trawled through the large number of documents. Many interesting questions have arisen during this reading, and the intention with this interview is to address questions that relate to your department's activities in relation to regulating PPPs. By other words, I come well prepared but is on the other hand not (yet) an expert on the Irish PPP programme. Once again thanks for your interest in this project.

The first few questions serve as an introduction to the Central PPP Unit's work:

- How is the Central PPP Unit working to facilitate the Irish PPP programme?
- What are the main areas of work that the Unit undertakes?
- What resources in terms of staff etc. does the Unit uphold?
- Why is the Unit placed under the Department of Finance, and does the Unit refer to the department and the Minister for Finance?
- What are considered pros and cons of PPPs from a Ministry of Finance perspective?

The second set of questions relate to the development of Ireland's PPP programme:

- What would you consider to be the main reasons for the introduction of PPPs in Ireland in the late 1990s?
- What role did a) the EU's Structural and Cohesion Funds play for Irish PPPs, and b) the Stability and Growth Pact's financial criteria play for the introduction of PPPs?
- It seems that the PPP programme was given relatively much attention in the late 1990s and was institutionalised rather quickly, but that implementation of the announced pilot projects took some time. Is that right and if so, why has this been the case?
- A related question that has puzzled me: The 2001 report by PwC for the Ministry of Finance lists 134 PPP projects – but the Unit's PPP project tracker from June 2008 only lists 73 PPP projects running and/or planned? (has the method been changed, have projects been cancelled, or something else?).

- What is the Unit's relative salience to PPPs relative to other public-private arrangements? (contracting out, privatisation etc.)
- This relates to the definitional issue and the range of models included in Ireland's PPP programme?

The third set of questions relate to the organization of the PPP program:

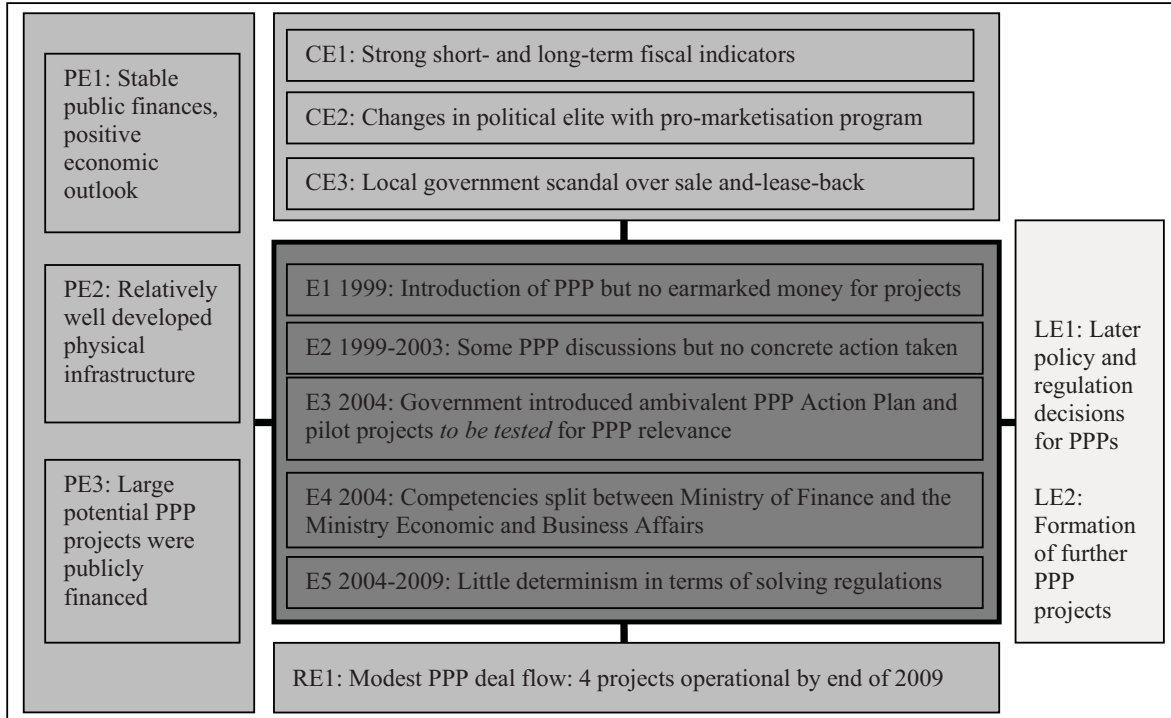
- How are policy initiatives and regulation for PPPs coordinated across departments and agencies and what is the Central PPP Unit's role in terms of coordination?
- What is the rationale behind the establishment of the Inter-departmental Group and the Informal Advisory Group?
- Is the Cabinet Group on PPPs still in existence, and which issues does the Central PPP Unit refer to this Group?
- Which organisations, both public and private, would you say to be the main proponents of Ireland's PPP programme PPPs?
- Have any departments, agencies etc. been sceptic regarding Ireland's use of PPPs? (In Denmark, the Ministry of Finance has for example had concerns over the financial effects of local governments entering long-term contracts)

The final set of questions relate to regulation of PPPs:

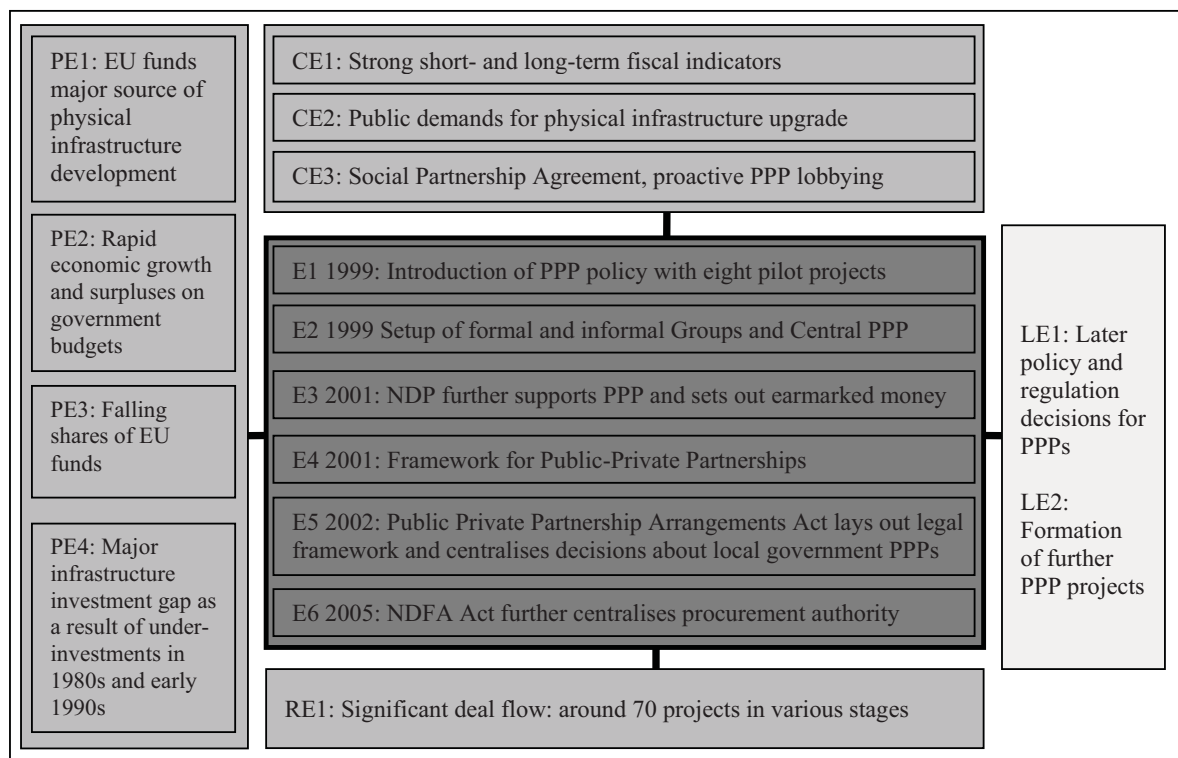
- Have there been any general regulatory obstacles to PPPs in Ireland that the Central PPP Unit has had to resolve?
- When and how did they arise, and how were they solved?
- The on/off balance sheet issue is a debated topic, what is the Unit's approach to this issue?
- Tax and value-added tax issues have been a major concern and hindrance for PPPs in Denmark. How has these issues been treated in Ireland?
- The EU directive in public procurement in 2004 was added the competitive dialogue tender procedure. Is the competitive dialogue used for procurement of PPPs in Ireland, and did it have any effect that this new tender procedure was added?
- Are there any other relevant EU regulation or policies for PPPs?

Appendix 3: Methodological heuristic for case analysis

Overview of prior events, contemporaneous events, events of the episode and related events in the Danish case.



Overview of prior events, contemporaneous events, events of the episode and related events in the Irish case.



Appendix 4: Overview of empirical sources collected for the Danish case

Expert interviews <ul style="list-style-type: none"> • Danish PPP Competence Unit, 6 October 2008, Copenhagen, Denmark. • Danish Tax Authority, 6 October 2008, Copenhagen, Denmark. • Danish Construction Association, 6 October 2008, Copenhagen, Denmark. • Danish Ministry of Finance, 8 October 2008, Copenhagen, Denmark. • Danish Chamber of Commerce, 8 October 2008, Copenhagen, Denmark. • Local Government Denmark, 10 October 2008, Copenhagen, Denmark. • Danish Ministry of Transport, 15 October 2008, Copenhagen, Denmark. • Danish Ministry of the Interior, 21 October 2008, Copenhagen, Denmark. • Danish Transport and Logistics Association, 22 October 2008, Copenhagen, Denmark. • Confederation of Danish Industry, 28 October 2008, Copenhagen, Denmark. • Local Municipality of Herning, 10 November 2008, Herning, Denmark. • MT Højgaard, 11 November 2008, Århus, Denmark. • DanEjendomme A/S, 12 November 2008, Århus, Denmark. • Local Municipality of Kalundborg, 13 November 2008, Kalundborg, Denmark. • PricewaterhouseCoopers, 17 November 2008, Kalundborg, Denmark.
Policy papers <ul style="list-style-type: none"> • Danish Government (2001). Vækst, velfærd – fornyelse [Growth, welfare - innovation]. • Danish Ministry of Economic and Business Affairs (2002). Vækst med vilje [Dedication to growth]. • Danish Government, Danish People's Party, Danish Social-Liberal Party and Christian People's Party (2003). Trafikaftalen af 5. november 2003 [Traffic Agreement of November 5th 2003] • Danish Government (2003). Vækst, velfærd – fornyelse II: Supplerende regeringsgrundlag [Growth, welfare – innovation II: Supplementary government platform]. • Danish Government (2003) Investeringsplanen [Investment Plan] • Danish Ministry of Economic and Business Affairs (2003). Staten som bygherre [The government as building manager]. • Danish Ministry of Economic and Business Affairs (2003). Handlingsplan for en mere virksomhedsnær offentlig sektor [Action Plan for a business responsive public sector] • Danish Government (2004). Handlingsplan for Offentlig-Private Partnerskaber (OPP) [Action Plan for Public-Private Partnerships (PPPs)]. • Danish Government (2005). Nye mål – regeringsgrundlag VK-regeringen II [New Goals – Government Platform II] • Danish Ministry of Economic and Business Affairs (2007). Bedre og billigere byggeri [Better and Cheaper Building Activity].
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Guidance notes <ul style="list-style-type: none"> • Danish Enterprise and Construction Authority (2003). Bistand til offentlig-privat-partnerskab på drift og vedligehold af bygninger og velfærdsservice [Assistance for public-private-partnership for operation and maintenance of buildings and welfare services]. • Danish Enterprise and Construction Authority (2004). Partnerskaber om kommunale driftsopgaver [Partnerships for local government operational tasks]. • Danish Enterprise and Construction Authority (2004). Vejledning om OPP til bekendtgørelse om OPP, partnering og nøgletal [Guidance note about PPP for in relation to government order about PPP, partnering and key indicators] • Danish Ministry of Finance (2006). Budgetvejledning 2006 [Budget Instruction 2006]. • Danish Enterprise and Construction Authority (2007). Vejledning til ansøgning om medfinansiering til offentlig-private samarbejdsprojekter 2007 [Guidance note on co-financing of public-private collaborative projects] • Danish Enterprise and Construction Authority (2007). Fem modeller for offentlig-privat samspil. En guide til kommunerne [Five models of public-private collaboration: A guide to the local municipalities] • Ministry of the Interior and Social Affairs (2009). Vejledning om kommunal og regional udbudsstrategi og opfølgingsredegørelse [Guidance note on the local and regional government procurement strategy and follow-up review].
Reports and major analysis <ul style="list-style-type: none"> • Danish Ministry of Finance (1999). Budgetredegørelse 1999 [Budget Report 1999]. • Danish Enterprise and Construction Authority (2003). Offentligt-privat samspil om skolebygninger [Public-private collaboration for school buildings]. • KPMG for the Danish Enterprise and Construction Authority (2005). OPP-Markedet i Danmark 2005-2010 [The Danish PPP Market 2005-2010]. • Birch&Kroghboe, Grant Thornton and Karin Skousbøll (2005). Indsamling og analyse af udenlandske erfaringer med OPP i byomdannelse. Rapport udarbejdet for Socialministeriet og Erhvervs- og Byggestyrelsen maj 2005 [Overview and analysis of international experiences with PPP within urban redevelopment]. • Danish Ministry of the Interior and Social Affairs (2008). Rapport om Offentlige-Private-Partnerskaber (OPP) og de kommunale låneregler samt visse øvrige spørgsmål i relation til lånebekendtgørelsen [Report on Public-Private Partnerships and local government lending regulations and related issues]. • Local Government Denmark (2008). Kortlægning af udfordringer vedrørende offentlig-privat partnerskab (OPP) [A mapping of challenges in relation to public-private partnership (PPP)]. • Danish Enterprise and Construction Authority (2009). Selvom der er forskel... kan du lære noget af udenlandske OPS-projekter [Despite the differences... something can be learned from international PPP-projects]. • Danish Enterprise and Construction Authority (2009). Plan + Projekt: Offentlig-private samarbejde og planlægning [Plan + Project: Public-private collaboration and planning].
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Appendix 5: Overview of empirical sources collected for the Irish case

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<p>Policy documents and government reports</p> <ul style="list-style-type: none"> • Farrell Grant Sparks and Goodbody Economic Consultants in association with Chesterton Consulting (1998). A Report submitted to the Inter-Departmental Group in relation to Public Private Partnerships. July 1998 • Interdepartmental Group on Public Private Partnerships (PPPs) (2000). Framework for PPP Awareness and Training: Background and Explanatory Note • Central PPP Policy Unit (2001). Framework for Public Private Partnerships. • Central PPP Policy Unit (2002). Public Private Partnership National Communications Strategy, 2002 • Central PPP Policy Unit (2003) Policy Framework for Public Private Partnerships (PPP) in Ireland. Evolution of PPP Policy in Ireland. • Central PPP Policy Unit (2006). Public Private Partnership. Guidelines for the Provision of Infrastructure and Capital Investments through Public Private Partnerships: Procedures for the Assessment, Approval, Audit and Procurement of Projects • Central PPP Policy Unit (2007). Guidelines to State authorities regarding the National Development Finance Agency • PPP Policy Unit (2008). PPP Projects Update • Central PPP Policy Unit (2008). Briefing Note Number 1. What is a Public Private Partnership? • Central PPP Policy Unit (2008). Briefing Note Number 2. What are the potential benefits of Public Private Partnerships? • Central PPP Policy Unit (2008). Briefing Note Number 3. The Development of Public Private Partnership in Ireland • Central PPP Policy Unit (2008). Briefing Note Number 4. The Framework for Public Private Partnership in Ireland • Central PPP Policy Unit (2008) Briefing Note Number 5. The Current Status of the PPP Programme in Ireland (Updated July 2008) • Central PPP Policy Unit (2008) Briefing Note Number 7. PPP and the National Development Plan 2002-2006 • Central PPP Policy Unit (2008). Briefing Note Number 8. The National Development Finance Agency • Cross-Departmental Team on Infrastructure and PPPs (2002) Fourth Progress Report • Department of Education (2005). Section 15 - Guide to the Department's functions. • Department of Finance and Price Waterhouse Coopers (2001) Review of PPP structures. • Irish Central PPP Unit (2006), Assessment of Projects for Procurement as Public Private Partnership. • Irish Government (2001). The Transport (Railway Infrastructure) Act 2001 • Irish Government (2003). Sustaining Progress. Social Partnership Agreement 2003-2005. • Irish Government (2000). National Development Plan 2000-2006. • Irish Government (2007). National Development Plan 2007-2013. • Irish Government (2007) National Development Finance Agency. Annual Report 2007 • Irish Ministry of Finance (2009). PPP Project Tracker. • National Development Plan (NDP) (2009). How much money has Ireland received from the Structural Funds since joining the E.U.?
<p>Business and labor union reports and documents</p> <ul style="list-style-type: none"> • Central Irish Business and Employers Confederation (IBEC), and the Construction Industry Federation (CIF) (1998), Submission to the Irish Government about Public-Private Partnerships (PPPs). • IBEC (1998). First Report on Public Private Partnerships. 01/01 1998 • IBEC (1999). Second Report on Public Private Partnerships. 01/04 1999 • IBEC (1999). Public Private Partnerships (PPPs) A Further Submission by IBEC and CIF to Government. April 1999. • Submission to the Cabinet Committee on Infrastructure/PPPs on the Guidance Notes (2000). "A Policy Framework for Public Private Partnerships" and other Issues. • IBEC Press Centre (2003). Survey finds progress on PPP programme poor. 02/10 2003 • Irish Congress of Trade Unions (2005). Guidelines for Unions on consultations with State Agencies and Public Authorities in the Republic of Ireland concerning Public Private Partnerships • IBEC (2006). Promoting private sector involvement. In: PFI/PPP • Irish Congress of Trade Unions (2006). Investing for All. Submission on the National Development Plan 2007-2013 • IBEC Transport (2008): Now is the time for Public-Private Partnerships. In: Public Affairs Ireland. October 2008 • Irish Congress of Trade Unions (2006). Investing for All. Submission on the National Development Plan 2007-2013. 03/14 2006 • Irish Business News (1999). Immediate action is crucial to improve infrastructure. 04/28 1999

<ul style="list-style-type: none"> Irish Business News (1999). McCreevy urged to target private sector for infrastructural funding. 04/28 1999 Hochtief (2008). Public Private Partnership. Concessions business at Hochtief. Position paper
Legislation <ul style="list-style-type: none"> Ministry of Finance (1998). Award of Public Service Contracts. S.I. n. 378 of 1998 Ministry of Finance (1998). Award of Public Supply Contracts (Amendments). S.I. n. 379 of 1998 Ministry of Finance (1998). Award of Public Works Contracts (Amendments). S.I. n. 380 of 1998 Ministry of Finance (2002). Public Contract Notices (Standard Forms). S.I. n. 343 of 2002 Irish Government (2002). State Authorities (Public Private Partnership Arrangements) Act 2002 Irish Government (2002). National Development Finance Agency Act 2002 Irish Government (2007b). National Development Finance Agency Act 2007
Press releases, transcripts of speeches and other material <ul style="list-style-type: none"> Central PPP Policy Unit (2001) Speech by Mr. Charlie MacCrevey, T.D., Minister for Finance, Government Press Centre at the launch of the Framework for Public Private Partnerships. 11/01 2001 Address by Mr. Martin Cullen, T.D., Minister of State at the Department of Finance at the Information Seminars on the Framework for Public Private Partnerships. 02/15 2002 Address by Mr. Tom Parlon T.D., Minister of State at the Department of Finance. Information Seminars on the Framework for Public Private Partnerships. 06/03 2003 Speech by Mr. Charlie McCreevy, T.D., Minister for Finance at the launch of the Public Private Partnership National Communications Strategy. 04/14 2003 Presentation by the Central PPP Unit, Ministry of Finance to the Joint Oireachtas Committee on Transport. Assessment, Approval, Public Center Benchmark and Procurement of PPPs. 09/23 2003 The Examiner (2004). "Funding from the private partners" Statement to the Seanad by Tom Parlon, T.D., Minister of State at the Department of Finance. 11/17 2004 The Examiner (2005). "PPPs may resolve infrastructural crux" Address by Mr. Brian Cowen, T.D., Minister for Finance. Second Irish Public Private Partnerships Policy Forum, 04/05 2006 Department of Education (2005). Schools in Midlands will be the first built in new PPP programme 11/22 2005. Department of Education (2005). Projects under Public Private Partnerships, 09/29 2005 Department of Education (2008). Large-Scale Building projects programme, 02/01 2008
Sources in relation to the schools sector cases <ul style="list-style-type: none"> Buck, B. (2007). An Irish Town Planner's Blog: 60 Euro music school hits right note. 07/18 2007. Retrieved February 15, 2010, from http://buckplanning.blogspot.com/2007/07/60m-music-school-hits-right-note.html BDP. National Maritime College, Cork . Retrieved November 9, 2009, from www.bdp.com/Projects/By-name/M-O/National-Maritime-College-Cork/. Bovis (2002). Preferred Bidder Selected for Ireland's New National Maritime College. 04/24 2002. Retrieved November 9, 2009, from www.bovis.com/llweb/bll/main.nsf/toprint/news_20020424. City Cork School of Music. Project Description. Retrieved September 8, 2009, from www.murrayolaoire.com/education/projects/csm/text.html. Dáil Éireann – Volume 655 – 21 May 2008. Written Answers – Public Private Partnerships. Retrieved September 8, 2009, from historical-debates.oireachtas.ie/D/0655/D.0655.200805210035.html. Department of Education and Science (1999). Martin Announces Development of the Cork School of Music under the Government's Public Private Partnership Initiative. Union Quay, Cork. 10/18 1999. Retrieved November 19, 2009, from www.education.ie/home/. Department of Education and Science (2005). 4 schools in Midlands will be first schools built in new PPP programme. 11/22 2005. Press release retrieved September 30, 2009, from www.education.ie/servlet/blobservlet/pbu_announced_ppp_22_nov_2005.htm. Department of Education and Science (2005). Education projects under Public Private Partnership – EUR 300 million for 23 New Post Primary Schools and 4 New Primary Schools, EUR 255m for Third Level Projects. 09/29 2005. Retrieved September 30, 2009, from www.education.ie/servlet/blobservlet/pbu_announced_ppp_29_sept_05.htm. Department of Education and Science (2008). Large-Scale Building Programme. Press release retrieved September 30, 2009, from www.education.ie/servlet/blobservlet/pbu_announced_large_scale_building_programme.htm. Department of Enterprise, Trade and Employment (2005). Formal Signing of Contract for the Cork School of Music PPP Project. Address by Mr. Micheál Martin, T.D. 09/12 2005. Retrieved November 9, 2009, from www.entemp.ie/press/2005/20050912.htm. Department of Finance (2008). Project Update – June 2008. Doyle, E. (missing date of publication). The Public Private Partnership model on which the National Maritime College of Ireland was conceived and delivered. EIB Press Release (2003.) Ireland: new National Maritime College and schools get EIB support. 02/13 2003. Retrieved October 20, 2009, from www.eib.org/projects/press/2003/. EIB. Irish Schools (PPP Project). Retrieved November 8, 2009, from www.eib.org/projects/pipeline/2001/20010133.htm EIB. National Maritime College Project. Retrieved November 9, 2009, from www.eib.org/projects/pipeline/2001/20010362.htm. Greville, E. (2005). The National Maritime College of Ireland. PEB Exchange, Programme on Educational Building,

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Appendix 6: Overview of empirical sources collected for the EU

<p>Expert interviews</p> <ul style="list-style-type: none"> • Internal Market and Services (DG Markt), 2 July 2008, Brussels, Belgium. • DG Energy and Transport (DG Tren), 1 July 2008, Brussels, Belgium. • Joint Assistance to Support Projects in European Regions (Jaspers), 3 July 2008, Brussels, Belgium. • DG Research, 3 July 2008, Brussels, Belgium. • European Investment Bank (EIB), 4 July 2008, Luxembourg. • Statistical Office of the European Communities (Eurostat), 4 July 2008, Luxembourg.
<p>Policy documents</p> <ul style="list-style-type: none"> • European Council (2000). Presidency Conclusions. Lisbon European Council, 23 and 24 March 2000. • European Commission (2001). White Paper. European transport policy for 2010: time to decide. European Commission, Brussels. • European Commission (2003) A European Initiative for Growth. European Commission, Brussels. • European Commission (2004). Green Paper on Public-Private Partnerships and Community Law on Public Contracts and Concessions. European Commission, Brussels. • European Investment Bank (2004). The EIB's role in Public-Private Partnerships (PPPs). EIB, Luxembourg. • European Parliament (2006). European Parliament resolution on public-private partnerships and Community law on public procurement and concessions. European Parliament, Brussels.
<p>Legislation and directives</p> <ul style="list-style-type: none"> • European Council (1986). The Single European Act. Official Journal of the European Communities, L169. • European Parliament and Council (2004). Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts. European Union: Brussels. • European Commission (2007). Corresponding values of the thresholds of Directives 2004/17/EC and 2004/18/EC of the European Parliament and of the Council. 2007/C 301/01. Official Journal of the European Communities, C 301/1.
<p>Rulings by the European Court of Justice</p> <ul style="list-style-type: none"> • European Court of Justice (2001). Judgment of the Court of Justice in Joined Cases C-285/99 and C-286/99, Impresa Lombardini. Ruling of the Court, no. 60/2001.
<p>Decisions by Eurostat</p> <ul style="list-style-type: none"> • Eurostat (2004). New decision of Eurostat on deficit and debt: Treatment of public-private partnerships. Press release STAT/04/1818/2004. • Eurostat (2004). Long term contracts between government units and non-government partners (Public-private-partnerships). Luxembourg: Office for Official Publications of the European Communities. • Eurostat (2009). New developments in Public-Private Partnerships. Public Finance Unit (C3), Luxembourg.
<p>Reports and guidance material</p> <ul style="list-style-type: none"> • DG Regio (2003). Guidelines for successful public-private partnerships. DG Regio, Brussels. • DG Regio (2004). Resource book on PPP case studies. DG Regio, Brussels. • European Investment Bank (2005). Evaluation of PPP projects financed by the EIB. EIB, Luxembourg. • European Commission (2005). Report on the public consultation on the green paper on public-private partnerships and community law on public contracts and concessions. European Commission, Brussels.

PART 2: THE FIVE PAPERS

PAPER I: Emerging meta-governance as a regulation framework for public-private partnerships: an examination of the European Union's approach

EMERGING META-GOVERNANCE AS A REGULATION FRAMEWORK FOR PUBLIC-PRIVATE PARTNERSHIPS: AN EXAMINATION OF THE EUROPEAN UNION'S APPROACH

Ole Helby Petersen

ABSTRACT

This article extends previous research on public-private partnerships (PPPs), which has primarily been case study or national context oriented, by examining how these PPPs are regulated in the framework of the European Union (EU). While a number of partnership models have been identified in the academic literature, this study focuses on three significant types of PPP: the contract-PPP, the concession-PPP, and the institutional-PPP. Based on a notion of the EU as a meta-governance framework that guides, steers, and controls PPP activity at national, sector, and project level, the article draws a number of lessons on the EU's role in regulating the formation phase of PPP. The research demonstrates that this meta-governance framework provides the EU with no direct regulations for the use of the PPP model in the 27 member states, but two sets of regulations which apply if a public authority decides to sign a PPP deal. As the EU hitherto has engaged in regulation of PPP at a somewhat abstract and conceptual level, national and local public administrations are given considerable room for manoeuvre to craft regulations and policies to support or hinder uptake of PPPs. More recently, however, the Commission has raised its stakes by launching a European Partnership Excellence Centre to support policy learning, the spread of best practice, and PPP expert networks.

INTRODUCTION

Over the past fifteen years, governments in Europe and beyond have increasingly embraced the public-private partnership (PPP) model as a means of organising government and business relationships (cf. Osborne, 2000; Klijn & Teisman, 2003; Flinders, 2005; Hammerschmid & Angerer, 2005; Koppenjan, 2005; Ysa, 2007; Hodge & Greve, 2009; Jooste & Scott, forthcoming). The mounting interest in the new modes of governance, and PPPs in particular, has been seen as a result of the increased resource interdependency and the gradual erosion of boundaries between market and hierarchy (Kickert, Klijn & Koppenjan, 1997; Teisman & Klijn, 2002; Tenbenschel, 2005; Treib, Bähr & Falkner, 2005). As noted by Teisman and Klijn, "Partnerships are seen as the best way, in the end, to govern the complex relations and interactions in a modern network society" (2002: 198). But previous research also illustrates that partnerships are hard to achieve, and that a suitable regulation framework is a fundamental requisite for the successful formation of PPPs (cf. Van Ham & Koppenjan, 2002; Teisman & Klijn, 2002; Hodge, 2004; Johnston & Gudergan, 2007; Petersen, 2010).

The focus of this article is on the regulation of PPP as it has been instituted in the framework of the European Union (EU) for one significant type of PPP: the long-term infrastructure partnership between government and business partners (Hodge & Greve, 2005). The study thereby extends previous literature regarding regulation and governance of infrastructure PPPs, which have generally operated with national or case study research designs (though see Teisman & Klijn, 2000; Tvarnø, 2006; Mörth,

2007). Governance is understood “as broadly coordination, steering and control mechanisms encompassing both structural and procedural elements” (Koch & Buser, 2006: 551). This includes formal elements based on sanctions (hard law) as well as regulatory instruments of the soft law type (Borrás & Jacobsson, 2004). While we should not expect governance of partnerships to involve ‘less government’ (Jamali, 2004), but rather a network-based and multi-level mode of governing (Scharpf, 2001), careful examination of the EU’s regulation of PPP is timely and warranted to fully understand how PPPs are governed at local, national, and above-state level.

The purpose of the article is threefold: (i) to examine what the EU’s main initiatives have been within key PPP areas such as risk sharing, legal ownership and public procurement; (ii) to take stock of recent developments and tendencies in the EU’s regulation of these long-term infrastructure PPPs; (iii) to assess the implications of this meta-governance framework for the formation of PPP of national and sub-national administrations. While the EU-level constitutes the specific empirical setting of research, the overall aim is to contribute, both analytically and empirically, to systematic accumulation of knowledge about key PPP regulation issues such as risk sharing, competition for providers, legal ownership, and fiscal consequences of long-term contracting for public services and infrastructure.

As a theoretical framework for the analysis, the article builds on a notion of the EU as a meta-governance structure providing a general set of regulations and guidelines for employment of the PPP model in the 27 member states (on the concept of meta-governance see Jessop, 2005). Although the EU has occasionally been actively involved in large-scale PPP, such as with the Galileo satellite navigation system (Mörth, 2007), it is mainly as a regulator and facilitator that the EU’s role in PPP has been seen (European Commission, 2004). Meta-governance is broadly defined as “a regulatory framework and environment, and umbrella, for PPP networks” (Koch & Buser 2006: 548). In line with previous research (e.g. Koch & Buser, 2006; Johnston & Gudergan, 2007), governance and meta-governance are seen as constitutive elements for the realization of PPPs. The notion of meta-governance thus signifies the idea of a framework of conditions, structures, rules and guidelines - an overarching regime - which taps into and sets the general policy and regulation conditions for concrete PPP activity in all the EU’s member states.

The article details how the long-term infrastructure PPP type has recently been the focus of much attention in the EU, but also of some controversy, especially relating to questions about risk sharing, public procurement procedures, and legal ownership of the asset under a PPP scheme (Eurostat, 2004). Despite continuous appraisals in green and white papers, the Commission’s efforts to promote uptake of PPPs have largely been stalled. The analysis reveals two partly incommensurable aims within this meta-governance framework: (i) to improve efficiency and value for money (VFM) of major capital investments in roads, railways, schools, hospitals etc. by establishing a single European PPP procurement market; (ii) to safeguard the long-term fiscal stability of the Euro area when governments sign long-term contracts with a significant private borrowing element. As the Commission has so far mostly engaged in the regulation of PPP at a rather abstract and conceptual level, this gives public administrations (national, regional and local) considerable leeway to craft regulation and governance frameworks to support or hinder formation of PPPs.

The remainder of the article proceeds as follows. In *section 2*, governance and meta-governance as a framework for PPP are discussed. Subsequently, in *section 3*, a presentation of the research method and the collected data follows. *Section 4* then provides an examination of the empirical findings. In *section 5*, the lessons learnt are discussed and finally, in *section 6*, a conclusion is provided.

GOVERNANCE AND META-GOVERNANCE AS A FRAMEWORK FOR PUBLIC-PRIVATE PARTNERSHIPS

The declining capacity of central government as the authoritative source of allocating and distributing resources of value to a society has been widely noted in recent literature on regulation and governance (cf. Peters & Pierre, 1998; Kooiman, 2003; Jordana & Levi-Faur, 2004). Within this literature three broad governance mechanisms have been identified (Williamson, 1996; Kooiman, 2003; Tenbelsel, 2005): first, governance can take the form of hierarchy, which builds on command-and-control regulation and delivery of public services through classic bureaucratic organisation; second, governance can take the form of market-forces and resource allocation through demand and supply relations; third, a mounting strand of literature has been concerned with governance through networks with participation of various public and private stakeholders (Kickert, Klijn & Koppenjan, 1997; Kooiman, 2003).

While the distinct characteristics of the hierarchy and market were famously outlined in Ronald Coase's 'The Nature of the Firm' (1937) and further developed by the transaction costs approach in economics (Williamson, 1996), the network governance literature largely developed as a critique of the hierarchy-market dichotomy (Bell & Park, 2006). As is well-known, the network perspective asserts that the boundaries between the public and private sectors are eroded vertically as well as horizontally, and this has resulted in a poly-centric and multi-level governing system (Stoker, 1998; Scharpf, 2001). As this makes governments and the private sector increasingly interdependent, it has resulted in a search for cooperation, joint decision making and, more recently, public-private partnership (Klijn & Teisman, 2003).

The meanings of the partnership notion, however, remain controversial and diffuse, and scholars seem to disagree even about the fundamental characteristics of what a PPP is (Weihe, 2005). Hodge and Greve (2009) speak about five different 'PPP families', whereas Weihe (2005) notes the existence of various 'PPP approaches'. Another distinction has been made between PPPs that involve 'symmetrical' or 'asymmetrical' relationships (Friend, 2006). Perhaps the biggest difference in the literature can be found between scholars who view PPPs as a 'language game' aimed at giving well-known models of privatization and contracting out a new and more fashionable wrapping (cf. Linder, 1999; Hodge & Greve, 2005), and those who think of PPP as institutional arrangements between two or more autonomous partners in which various responsibilities, risks and benefits are shared (Van Ham & Koppenjan, 2002; Klijn & Teisman, 2003; Koppenjan, 2005).

Within the institutional approach, PPPs can be divided yet again into 'social type partnerships', as found in various issue networks and policy communities, and 'economic type partnerships' characterised by long-term commercial contracts between government and business for various combinations of planning, procurement,

construction, finance and operation of a construction or infrastructure facility (Hodge & Greve, 2005; Bloomfield, 2006). These commercial construction/infrastructure PPPs which have been particularly significant in the EU's transport and infrastructure policies are the exclusive focus of this article, which means that other types of partnerships are not treated here.

The notion of PPP meta-governance, as briefly discussed in the opening section, signifies the idea of the EU as an overarching regulation framework for partnership activity in the 27 member states. Meta-governance, as noted by Peters (2010: 37), is thus the analysis of "governance of governance". This theoretical approach builds on the idea of PPP as a multi-level activity involving local, national as well as international players in complex networks of interrelated decision arenas (Scharpf, 1997; Klijn & Teisman, 2003). 'Games' about PPP can thus be played in several arenas relating to various aspects of PPP including: concrete PPP projects, national policy and regulation, and meta-governance at the EU-level (the latter being the focus here). How, then, can we proceed to analyse the EU's meta-governance of PPP?

Along with many of its member states, the EU has been subject to a process of regulatory reform and re-regulation (Jordana & Levi-Faur, 2004). However, Bell and Park (2006) note that meta-governance is a relatively new concept in the governance literature and, as a consequence, "We know little about the dynamics of meta-governance, or about the relationship between governance and meta-governance." (ibid.: 64). This means that there is no prior theory or framework for the analysis of PPP meta-governance. Accordingly, with the purpose of developing a conceptual toolbox for the analysis of the EU's governance and meta-governance of PPPs, I briefly review the modes of EU governance, as discussed in the EU policy literature (cf. Scott & Trubek, 2002; Borrás & Jacobsson, 2004; Mörtz, 2004; Pochet, 2005; Kerber and Eckhardt, 2007).

First, there is the hard law tradition (the classic Community Method) based upon juridical binding measures of command-and-control which member states must adopt (Scott & Trubek, 2002; Pochet, 2005). Second, the soft law¹ tradition marks a different and arguably broader approach to regulation by focusing on collective recommendations, review, monitoring, and benchmarking, all of which are basically of a non-legal nature (Mörtz, 2004). A central discussion in the soft law debate has concerned how to interpret soft law relative to hard law. The Court has interpreted soft law as an integral part of the *acquis communautaire*, the overarching legal framework of rules, standards and policies governing the EU that all member states must adopt. Even if at the outset of a non-legal nature, the soft law tradition thus seems to have turned semi-juridical.

Table 1. Three modes of EU governance

	Hard law 'The classic Community Method'	Soft law	The OMC
Regulation via	Legally binding measures	Semi-legal logic (acquis communautaire)	Open procedures of coordination
Central regulatory actors	Commission European Court of Justice Council Parliament	Commission European Court of Justice Council Parliament	Commission Council National ministries Local and regional actors Private actors
Process	Legal logic	Semi-legal logic	Political logic
Mechanisms of sanctions and control	Formal procedures of oversight and control, European Court of Justice	Administrative review, monitoring and benchmarking at an ad-hoc basis	Political review, peer-pressure, naming and shaming and benchmarking with cyclical intervals

Third, we have the Open Method of Coordination (OMC), which was formally introduced in the conclusions to the Lisbon Summit in 2000 (European Council, 2000). The OMC has recently received a great deal of attention in the EU policy literature, and is a governance instrument based upon voluntariness, peer pressure, cyclical benchmarks, multilevel participation, and a political instead of legal logic (Borrás & Jacobsson, 2004; Pochet, 2005; Kerber and Eckhardt, 2007). Table 1 summarizes the three modes of governance in the EU.

METHODS AND SOURCES OF DATA

The empirical work for this article followed a methodology of data triangulation (Peters, 1998). In-depth expert interviews were conducted face-to-face in Brussels and Luxembourg with key officers in the EU, including the Directorate General (DG) for Internal Market and Services, the DG for Transport and Energy, the DG for Research², the European Investment Bank (EIB), the Statistical Office of the European Societies (Eurostat), and the Joint Assistance to Support Projects in European Regions (Jaspers). The interviews were conducted according to a semi-structured interview guide (Kvale, 1997), and were taped to facilitate further analysis and data coding. The choice of respondents was based on two criteria: 1) Commission authorities which had previously published documents or reports on PPPs were contacted; 2) identification of key respondents through introductory telephone interviews with civil servants in the Commission and in the European Parliament. Through this process, key respondents were identified. Prior to the interviews, central topics were discussed with the interviewees, and interview schemes were subsequently sent out before the interviews, as recommended by Barzelay et al. (2003).

To supplement the knowledge sourced from the expert interviews, a process of desk research resulted in the construction of a database of primary documents which were stored according to date, type of document and responsible authority. This facilitated a systematic treatment of the collected material. The empirical data collected through this process of desk research, which took place before as well as subsequent to the visits in Brussels and Luxembourg, included the following sources:

- Policy documents such as green papers, white papers, and announcements by the Commission, Parliament and the European Council
- Legislation and directives of relevance for PPP
- Rulings by the European Court of Justice (ECJ)
- Eurostat decisions about risk transfer and ownership in PPPs
- Evaluation reports and other types of PPP guidance documents produced by the Commission and the European Investment Bank (see appendix 1 for more details about the sources)

The primary documents and the interviews displayed a certain division of labour. A Commission green paper or directive provides detailed information about the EU's formal regulation and major policy initiatives for PPPs, but little about the policy processes, negotiations and informal procedures which are an essential part of regulation and policy making. The in-depth interviews facilitated an examination of the intermediate outcomes of processes and of the differences and conflicts of views among various key actors and institutions, which often do not display in the final policy documents. Both expert interviews and documents were analysed utilising the method of identifying critical events in the data set (Ragin, 1987; Barzelay et al., 2003). This resulted in the identification of three overall categories of PPP meta-governance as well as a number of sub-themes within each of these categories, as presented in the next section.

THE EU'S META-GOVERNANCE OF PUBLIC-PRIVATE PARTNERSHIPS

This article is the first internationally published study to detail the common framework of EU hard and soft law under which any national, regional, and local administration can contract with a private partner for a PPP project. There are three main findings (see Table 2).

The first is the absence of any form of direct Community regulation concerning formation of PPP in the member states. Hence, as the decision to adopt the PPP model for a given project is taken exclusively by national, regional or local administrations, the EU's role in steering and guiding PPP activity is severely restricted. However, the second finding is that PPPs are indirectly regulated in the EU framework in two ways: a) through the EU Procurement Directives, which detail how national administrations must procure major public construction and works contracts by means of an EU-wide call for tenders; b) under the Stability and Growth Pact, the Commission and Eurostat have set out a fundamental set of guidelines detailing how the legal ownership to an asset under a PPP scheme is determined by the distribution of risks among the public and private partners (the so-called on/off balance sheet issue).

Third, a number of soft governance initiatives can be identified in the EU's framework for PPPs. These include the economic support of Trans-European Transport Networks (TEN-Ts), financial and legal advice to PPP projects, and the recent launch of the European Partnership Excellence Centre (EPEC).

Table 2. EU's emerging meta-governance of PPPs

	Direct Community regulation on PPPs	Community regulation applying to PPPs subject to the decisions of national public authorities to award a public service or works contract to a third party			Soft governance initiatives to promote formation of PPPs in the member states		
Legal source	-	The Treaties	Secondary legislation	The Treaty (Maastricht)	Indirectly	Indirectly	Indirectly
Regulation	-	The Treaty's Single Market provisions Article 43 and 49	Public procurement directives 2004/EC/18 2004/EC/17	Stability and Growth Pact Excessive Deficit criteria	White Paper on transport policies (cross-border priority transport projects)	Loans and expertise in project assessment	European Centre for Partnerships (EPEC) (launched in Autumn 2008)
Policy goal	-	Equal treatment of private business	Equal treatment of private business involved in public tenders	Coordination of fiscal policies and avoidance of excessive government deficits	Development of cross-border infrastructure to support the running of the Single Market	Promotion of high priority projects and expert assessment and guidance is provided	EU resource unit for PPPs. Competence building and practice exchange
Responsible unit(s)	-	DG MARKT	DG MARKT	Eurostat DG ECFIN	DG TREN	EIB Jaspers	EIB/DG TREN

PPPs in the EU's public procurement directive

Probably the most spectacular EU meta-governance of PPP is the creation of a single European procurement market for public works and services contracts. The Single European Market embraces PPP activity in the member states through the specific provisions of the Procurement Directive (European Parliament and Council, 2004). The underlying principle is that economic considerations instead of national interests should guide the decision to award public contracts to a private consortium. Compliance is subject to rulings by the European Court of Justice, which, in two cases brought before it, stated that the Procurement Directive is:

...essentially aimed at protecting the interests of traders established in a Member State who wish to offer goods or services to contracting authorities established in another Member State and, to that end, to avoid both the risk of preference being given to national tenders or applicants whenever a contract is awarded by the contracting authorities and the possibility that a body governed by public law may choose to be guided by considerations other than economic ones (European Court of Justice, case law, C-285/99 and C-286/99).

Therefore, when a national, regional or local public administration in a member state decides to commence a PPP project³, the project must be made subject to tenders from business in all member states, and be noted in the Official Journal of the European Community (OJEC). However, a threshold limit of approximately €5.15 million applies, which means that only projects with a total contract value above this are subject to these provisions (European Commission, 2007). Considering the size of 'standard' PPP

projects, most of these are well above the threshold limit. In the UK, for example, the HM Treasury operates with a minimum limit of £20 million for PPP relevant projects (HM Treasury, 2003: 43), and the Irish and Danish governments have set out minimum guidance limits of €20 million and €13.3 million, respectively. The rationale behind setting up these national minimum guidance limits is the argument that PPP projects, because of the complexity of the contract and the procurement process, involve high transaction costs (Williamson, 1996). Most national PPP projects would therefore in reality exceed the threshold limits and thus be procured on an EU-wide basis.

In 2004 the European Parliament and the European Council took an important decision to amend the existing procurement directives. The interviews held with Commission officials demonstrate that the rationale for initialising this process was to simplify and update the legal framework for tenders in the EU. The interviews demonstrate that the lack of a fit tender procedure for PPPs was considered an important barrier at the time (Interview DG Markt 2 July 2008). Important for PPPs, the amended Procurement Directive supplemented the three existing procurement procedures with a fourth procurement form, the so-called ‘competitive dialogue’ procedure (European Parliament and Council, 2004).

This allows the holding of discussions between public authorities and private partners over the specifications of a contract, while at the same time securing private partners open and equal access to bids for public works and services contracts. The new procedure was launched to support the procurement of so-called “particularly complex contracts” (European Parliament and Council 2004, article 29), and where the contracting authorities:

- are not objectively able to define the technical means (...), and/or
- are not objectively able to specify the legal and/or financial make-up of a project (European Parliament and Council, 2004: 18 [my emphasis]).

The competitive dialogue procedure was thus meant to facilitate procurement of PPP and other long-term and complex contracts, where procurement is based on open output specifications in order to leave room for private innovation in the process (Tvarnø, 2006). Thus, instead of choosing a preferred bidder early in the process, the competitive dialogue procedure prescribes that the public authority pre-qualifies a list of consortia that proceed into the dialogue stage. Experience with the new procurement procedure is still building up in the member states, and final conclusions should therefore be made with caution, but the early evaluations of this initiative seem to be mixed. While it is generally considered to provide a fair and equal treatment of bidders, case studies have revealed that the competitive dialogue procedure is at the same time considered to be complex and expensive for public and private partners alike (Petersen, 2010).

A further observation relating to the procurement directive is the different legal priority given to various types of PPP models in the EU’s meta-governance framework. The EU’s regulatory framework displays three different types of regulated PPP, to which different legal requirements apply: (i) *contract PPPs* (CT-PPPs); (ii) *concession PPPs* (CC-PPPs); and (iii) *institutional PPPs* (IPPPs) (European Commission, 2004). While the scholarly literature documents a high variety of different PPP models (see Weihe, 2005), what is noticeable is the different legal priority given to the CT-PPP model compared to the CT-PPP and IPPP models⁴ in the EU framework:

- Contract-PPPs (CT-PPPs), which are defined as having priority in the legal framework, are subject to detailed Community regulation as formulated in the procurement directive (European Parliament and Council 2004). CT-PPPs are based upon a classical principal-agent relationship written into a contract. The public part pays the private part a monthly, quarterly, or annual unitary payment for the service, building or infrastructure over the long-term contract period. This model corresponds to the various PFI type PPP deals such as DBFOM, DBFO, DBF, etc.
- Concession-PPPs (CC-PPPs) are on the contrary defined as non-priority public works or public services contracts, and are only sparsely regulated in secondary legislation. CC-PPPs are also based upon a contractual relationship, but here the asset is fully transferred to a private concessioner that either collects direct charges from the users of the asset or collects unitary payments from the public partner (so-called shadow tolls). CC-PPPs are, however, subject to the general principles of the Single Market as found in the Treaty's Article 43 and 49.
- Institutional PPPs (IPPPs), which involve the shared public-private ownership of an asset or organisation, with public and private partners each holding shares. In Denmark, for example, this type of PPP has been supported by the government in a new regulation on joint public-private owned companies. Regulation of the IPPP model is considered to be a national issue, and IPPPs are therefore not covered by the EU's public procurement directives, which means that a public tender is not required whenever an IPPP is signed (see Table 3)

Table 3. Three types of regulated PPP in the EU

	Contract PPP (CT-PPP)	Concession PPP (CC-PPP)	Institutional PPP (IPPP)
Economic ownership during contract period	Mainly private (dependent on the distribution of risks)	Private	Split public-private ownership
Allocation of finance	Mainly private	Private	Split between public and private according to shares
Flow of payments	Regular public payments to private operator	Private partner collects direct user charges/unitary payments/shadow tolls	Split between public and private according to shares
Ownership when contract expires	Primary public	Primary public	Does not expire
Regulation	Priority Subject to the public procurement directive	Non-priority Subject to article 43 and 49 of the Treaties	Not regulated Article 43 and 49 apply if contracts are awarded
Accounting	On/off public balance sheet according to distribution of risks	Off public balance sheet	Ownership split between public and private partners according to shares

The on/off balance sheet issue: risk transfer and legal ownership of PPP projects

While the EU has established a single European procurement market for PPP projects thus supporting economic competition for deals, the Commission's approach to another key issue has been more cautious. The private finance element which is central to various PPP/PFI schemes such as DBFOM and DBF models (see Savas, 2000) has raised a fundamental question about legal ownership of the asset and sharing of risks under PPP deals. This is what Eurostat officially refers to as the on/off balance sheet issue (Eurostat, 2004).

To see the importance of the on/off balance sheet issue in an EU perspective, we need to look to the European Monetary Union and the continuing efforts to stabilise national fiscal policies. The Excessive Deficit Criteria require that national governments keep annual current account deficits within 3 percent of gross domestic product (GDP), and gross public debt ratio at a maximum of 60 percent of GDP (Hix, 2005:315). Compliance with the fiscal balance criteria is monitored by the Commission and Eurostat, the latter in close contact with the statistical offices of each national government (Interview Eurostat 4 July 2008).

PPP activity was documented in all but a few member states when, in late 2003, the Commission became seriously concerned about the treatment of PPP projects in national budgets. The interviews conducted for the purpose of this article demonstrate that this concern was based on the observation that some member states, having difficulties meeting the Excessive Deficit Criteria, might systematically use the PPP model to place public projects on the private partners' balance sheets, whereby large-scale public investments would therefore not be included in official government accounts despite the major financial commitments being made under such schemes (Interview Eurostat 4 July 2008). The Excessive Deficit Criteria, being essentially aimed at stabilising fiscal policies in the Euro area, would thus potentially be bypassed.

Soon after, in February 2004, Eurostat launched a decision on the treatment of PPPs in national accounts (Eurostat, 2004). The Commission, wishing on the one hand to promote PPP projects, and on the other to secure compliance with the fiscal stability targets, decided that assets included under a PPP agreement may be registered off government balance sheet only if two conditions are met:

- a) The private partner bears the construction risk, and
- b) The private partner bears at least one of either availability or demand risk (Eurostat, 2004).

If both these conditions are met, the asset of a PPP is placed off the public balance sheet, and will therefore neither affect current account deficits nor general debt rates of governments. On the contrary, if none or only one of the conditions is met, the asset shall be regarded as public, and be registered on the public balance sheet.

The issue is basically about risk and who bears the actual risks involved in a concrete PPP-project from the construction phase and throughout the contract period. With the Eurostat decision, assets under a PPP scheme in any of the 27 member states will have to be allocated to the partner that bears the actual risks involved in the deal. Obviously, the recent fiscal crises of many European governments may have raised the short-term

incentives for placing asset-based investments off government balance sheets, thus further accentuating the debate about appropriate risk transfer/sharing under PPP deals (for a discussion of risks in PPPs see Bing et al., 2005).

Recent developments: the launch of a European Partnership Excellence Centre (EPEC)

Supplementing the regulations found in the Procurement Directive, the Treaty and the Eurostat accounting principles, the EU has more recently launched a number of soft governance initiatives. New measures are gradually being launched whereby the regime is made subject to renegotiations and ongoing adjustments, which indicate that the regime is still in the making. Recent initiatives include various policy initiatives, economic support to PPP projects via the European Investment Bank (EIB), and perhaps most spectacular, the recent establishment of the European Partnership Excellence Centre (EPEC). The Commission has, under the auspices of DG TREN in the period 2007-2013, a budget of €8 billion to support the Transport Network initiatives (TEN-T) and other projects⁵. The EIB, another important actor for PPP, has supported a number of these TEN-Ts with loans and guarantees along with project assessment expertise (EIB, 2004, 2005).

The EIB and DG TREN are clearly the two most proactive actors promoting PPPs in the EU, and both have been central in the recent set-up of the EPEC, which was officially launched in September 2008. The formation of national PPP units (typically under the Ministry of Finance) has been a fundamental element of the institutional support for PPPs at the national level (see Spackman, 2002). In a similar fashion, the idea behind the EPEC is the creation of an EU PPP resource unit that can facilitate competence building and exchange of best practice among the member states. Staff are not recruited according to normal application procedures, but are open to postings by national, regional, and local administrations. The EPEC replaces a previously very informal PPP expert network centered in DG TREN that on a non-regular basis but approximately twice a year invited national experts, private business, and other relevant actors to meetings about PPP issues. The long-term impact of the EPEC is yet to be seen, but its establishment can be interpreted as an attempt to institutionalize the previously more ad hoc based and informal PPP networks at EU level.

Another central policy initiative is the establishment of the Joint Assistance to Support Projects in European Regions (Jaspers). Jaspers is an initiative by the EIB in co-operation with DG REGIO and the European Bank for Reconstruction and Development, which was launched to provide support to administrations in the EU's new member states in the preparation of construction/infrastructure projects for funding from the Structural and Cohesion Funds (Interview Jaspers 3 July 2008). These major projects can take many forms, of which PPP is only one. Jaspers was thus not formed to support PPP per se, but to support the preparation of large infrastructure projects in the new member states, and some of these projects are procured through the PPP route. In concert with the launch of the EPEC, this initiative might be seen as an indication that the EU is now gradually directing resources from the hard law sphere towards soft governance instruments such as advice services, competence building, expert networks, and policy learning (Bórras & Jacobsson, 2004).

DISCUSSION: EMERGING META-GOVERNANCE AS A REGULATION FRAMEWORK FOR PPPS?

Much has been learned about the EU's meta-governance of PPPs. In this section, reflecting the broader aim of the article, I will make four observations connecting the empirical findings to a more general discussion of regulatory reform for PPP and the new modes of governance in the EU. First, the EU's Procurement Directive requires that all PPP projects above the threshold limit of approximately €5.15 million be procured within a common EU procurement market for PPP projects. By the regulatory design and enforcement of a common PPP market across the EU area, this element of the meta-governance framework embodies a regulation-for-markets logic, which signifies the idea that public regulatory bodies can promote competition by imposing market-enhancing measures (Jordana & Levi-Faur, 2004).

However, whereas privatization and traditional contracting out were intrinsically linked to what Teisman & Klijn (2000) have called a process of 'untwining' (separation of policy and production), the dynamics of policy-making for PPP appear to be somewhat different. The basic notion of partnership builds on collaborating partners that share responsibilities, risks etc. over a long time period, and the formation of PPP therefore involves a process of 'entwining' the public procurement authority and the private bidders (Teisman & Klijn, 2000). As the EU has been heavily criticized for its lack of fit procurement procedures for such PPP schemes, the competitive dialogue procedure may be seen as the solution which requires a transparent and fair competition for PPP deals, while at the same time allowing that public and private partners to some extent become entwined in the bidding process.

Second, the accounting and on/off balance sheet principles that follow from the Excessive Deficit Criteria were imposed to hinder the PPP model being chosen by member states as a means of disguising public deficits by placing major capital investments on the private partner's balance sheet. By setting up accounting principles for the conduct of PPP business throughout the EU area, this is clearly an attempt to control the long-term public financial consequences of such PPP contracts with a massive private finance element. Logically, the accounting issue is especially pertinent for governments with large public spending deficits, although the recent crisis has obviously exacerbated government deficits in most European countries. While this may render PPP schemes more attractive for governments, the shortage of risk-willing private capital may on the other hand reduce the ability of private partners to engage in large-scale PPP activity. Whatever the effect of the current crises, the meta-governance framework now entrusts the Commission and Eurostat with competencies to scrutinise the risk transfer and legal ownership of signed PPP deals in the member states.

Third, within the procurement framework, three models of regulated PPPs – CT-PPPs, CC-PPPs, and IPPPs – are present. Whereas CT-PPPs are subject to the full provisions of the Procurement Directive, which means that this form of PPP must be procured on the common EU-wide PPP procurement market, CC-PPPs are regarded as being of less priority and are merely subject to the general principles of the Single Market as found in the Treaty's Article 43 and 49. Finally, IPPPs are not subject to EU regulation. Various models of PPPs are thus regulated differently in this meta-governance framework, and efforts at integrating PPP markets have clearly been most pronounced for PPPs such as DBFOM, DBO, BOT, and BOOT models awarded as classic contracts with direct,

unitary payments to the private partner. The data collected for the purposes of this article do not give any clear explanation as to why different regulatory priorities are applied to various PPP models, and future scholarly work is warranted in order to further explore this feature of the EU's regulation of PPPs.

Finally, a number of initiatives to support disclosure of information, competence building, and sharing of best practice constitute an increasingly important feature of this meta-governance framework. Initiatives have been taken to facilitate competence building at multiple levels of governance, and have recently been institutionalized with the launch of the EPEC. These recent initiatives resemble some of the characteristics of the Open Method of Coordination (OMC), a recent and now quite pronounced mode of EU soft governance based on network governance, multiple layers of participation, and the spread of best practice (Borrás & Jacobsson, 2004; Pochet, 2005). The findings thus support the broader tendency of EU regulatory reform moving in the direction of soft governance. In this sense, it can be argued that we do see a slowly emerging meta-governance structure that sets a framework of general principles and guidelines for PPP activity at national, regional and local administrative levels.

Table 4. The EU's meta-governance of PPPs

	<i>Logic of regulation</i>	<i>Regulatory authority</i>	<i>EU mode of governance</i>
EU's Procurement Directive	Regulation- <i>for</i> -PPP markets	EU (> €5.15 threshold)	Community Method (command-and-control)
Accounting and on/off balance sheet	Regulation- <i>of</i> -PPP markets	EU and the member states	Soft governance (naming-and-shaming)
Three models of regulated PPP	Conceptual meta-governance	EU: CT-PPPs Member states: CC-PPPs and IPPPs	Community Method applies to various degrees according to priority of each PPP model
European Partnership Excellence Centre	Disclosure of information, competence building, and spread of best practice	EU and multiple levels of national, regional, and local actors	Open Method of Coordination (best practice, learning, expert communities)

But the analysis also revealed that establishing a common EU meta-governance framework for PPP in the EU is a long and winding road, which may in fact never be realised because of significant national diversities in the preference for welfare state provision (Pochet, 2005). Rather than expressing a single mode of regulatory governance for PPPs, the EU's meta-governance is a compound regime encompassing various regulatory logics and different modes of governance (see Table 4). *Regulation-for-markets* and *regulation-of-markets* are the two dominant logics of regulation, and parallel efforts to facilitate a common European PPP market and control the fiscal effects of PPP activities at national and local levels characterise this meta-governance framework.

CONCLUDING REMARKS

While the creation of a European Single Market has been a major driver of economic integration in the EU area, it has been recognised that such integration of markets requires an effective infrastructure throughout. In 1996 it was estimated that €600 billion would be needed in 2010 to establish the Trans-European Transport Network (TEN-T) including 75.200 km of roads, 78.000 km railways, 480 ports, 330 airports, as well as traffic management systems, user information systems, etc. (PricewaterhouseCoopers, 2005: 7). The need for investment in assets and infrastructure must furthermore be seen against the background of EU enlargement, which has been estimated to require an additional €80-90 billion of investment in physical infrastructure in order to bring the new member states up to the current EU average (Brenck et al., 2005). Despite this widely recognised challenge, the EU's initiatives to promote formation of PPP projects have largely been stalled. The article has detailed that the EU's meta-governance framework provides the Commission with no direct regulations with which to support or constrain uptake of PPPs in the member states. This leaves considerable room for manoeuvre for national governments to craft national policies and regulations that are more or less supportive towards PPPs.

But the analysis also demonstrated two sets of EU regulations that apply if a public authority in a member state decides to sign a PPP deal: the public procurement directive and the on/off balance sheet criteria. With the competitive dialogue procedure, introduced in 2004, the Commission has launched a procurement method to support the development of free and open PPP markets. The accounting regulations, better known as the on/off balance sheet issue, require that assets under a PPP scheme in any of the 27 member states are allocated to the partner that bears the actual risks involved in the deal. Whereas the Commission has so far abstained from formulating an authoritative definition of PPPs, the procurement directive and the treaties set out three models of regulated PPPs - CT-PPPs, CC-PPPs, and IPPPs - to which various priorities and regulations apply (European Commission, 2004).

The EU in general, and the Commission in particular, has been struggling with two concerns which were not always compatible: to promote an EU-wide procurement market for PPP projects (a regulation-*for*-market logic) and to make sure that governments do not resort to the PPP model as a means of bypassing the Stability and Growth Pact criteria for responsible fiscal policies (a regulation-*of*-markets logic). The latter has been a sober concern, especially viewed against the recent economic crises that could potentially make it more tempting to make use of PPPs as a way of overcoming short-term budget restraints.

For those believing (or hoping) that the EU's meta-governance of PPP will lead to further investments in physical infrastructure development, this article brings mixed news. The analysis shows that, despite the Commission's enthusiastic appraisals of public-private partnerships, the EU has as yet mostly engaged in regulation of PPP at a rather abstract and conceptual level, thus reserving most real regulation competencies to national and local administrations. The Commission and the European Investment Bank's direct influence on the formation of PPP is found at a project basis, and only for those projects that DG TREN supports financially or the EIB supports via loans or guarantees. With the launch of the European Partnership Expertise Centre (EPEC), the Commission and the EIB have created an institutional platform for practice exchange,

formulating codes of conduct and building expert communities, thereby promoting more evidence based learning in the future. Faced with limitations to the classic Community Method of hard law regulation, the central regulatory actors seem gradually to increase the preference for soft governance mechanisms, such as advice services, competence building, and policy learning.

If PPPs are here to stay, and much suggests that they are, more needs to be learned about the EU's role in regulating them. One promising venue of research would be to comparatively study the different practices of implementing EU PPP policy and regulation in national public administrations. Thereby, knowledge on various national practices could be accumulated and compared. Another strategy would be to adopt a full International Relations approach, and compare the EU's framework for PPPs with initiatives of other international organisations such as the OECD and the IMF. Both have recently published reports and articles sympathetic towards PPPs (see for example Corbacho, Funke & Schwartz, 2008; OECD, 2008). Irrespective of specific choice of research design, there is clearly a need to further scrutinise above-state and multi-level governance aspects of the regulation of PPPs as a supplement to the single country and case study approaches, which have hitherto prevailed in the academic PPP literature.

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NOTES

¹ Some scholars, especially scholars of law, prefer to use the term 'soft governance' instead of soft law to distinguish formal law from other measures of a non-binding nature. Here, in accordance with most EU policy research, I use the two terms interchangeably.

² It turned out that in DG research the PPP concept meant something rather different than that defined here, as it was more about private involvement in research projects and research strategies. That interview is therefore not directly referred to in this article, but served as general background information.

³ Or any other public project that involves a private partner in the delivery of a public works contract.

⁴ The CT-PPP (contract-PPP) and CC-PPP (concession-PPP) are my abbreviations, whereas the IPPP (institutional PPP) is the Commission's official abbreviation for PPPs with a common ownership.

⁵ DG TREN could initially support cross-border high priority projects with up to 10 percent of costs, but this has recently been raised to a maximum of 20 percent of total project costs.

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APPENDIX 1: EMPIRICAL SOURCES

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**PAPER II: Hvorfor så få offentlig-private partnerskaber (OPP) i Danmark?
Et ministerielt spil om indflydelse, interesser og positioner²⁷**

²⁷ Title in English: Why are there so few public-private partnerships (PPPs) in Denmark? A departmental game about influence, interests and positions.

Hvorfor så få offentlig-private partnerskaber i Danmark?

– Et ministerielt spil om indflydelse, interesser og positioner¹

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Mens offentlig-private partnerskaber (OPP) udbredes verden over har Danmark reageret med afventen og tøven i forhold til at anvende OPP. Artiklen tager den danske reguleringsramme for OPP under behandling og belyser, hvorfor der ikke er sket mere på OPP-området i Danmark. Med udgangspunkt i en spilteoretisk inspireret analyseramme vises det, at de centrale ministerier med Finansministeriet og Økonomi- og Erhvervsministeriet som toneangivende spillere indtager modstridende positioner. Det gælder både politikudvikling og administrativ regeludvikling. Spillene omkring reguleringsrammen er interessemæssigt konfliktfyldte, og de institutionelle rammer er ikke gearet til at løse disse fundamentale interessekonflikter. Konsekvensen er en delvist ukoordineret statslig politik for OPP. Artiklen belyser Finansministeriets centrale rolle i de ministerielle koordineringsprocesser og giver et sjældent indblik i regeringens interne politisk-økonomiske politikformulering.

Offentlig-private partnerskaber på dagsordenen

Offentlig-private partnerskaber – forkortet OPP – er en af tidens store forvaltnings-trends. Med rødder i det britiske Private Finance Initiative (PFI) har partnerskaber mellem offentlige og private aktører fra de tidlige 1990'ere og fremefter ført privat kapital til en række store, offentlige anlægs- og infrastrukturprojekter i Storbritannien. Som eksempler kan nævnes sygehuse, skoler, fæng-

sler og forsvarsområdet. Mange landes regeringer – inklusive den danske – har op gennem 1990'erne og specielt efter årtusindeskiftet kigget til og forsøgt at efterligne de britiske erfaringer med OPP i et sådant omfang, at der kan drages paralleller til sen-firsernes og halvfemsernes New Public Management (NPM) bølge (Kettl, 2000).

Tanken om at forene offentlige og private aktører i forskellige partnerskabslignende konstruktioner er ikke i sig selv ny (Wettenhall, 2005), men OPP i sin nuværende form er af nyere dato. Der findes inden for partnerskabslitteraturen mange forskellige forståelser af, hvad et partnerskab indebærer (Weihe, 2005, opstiller fem forskellige forståelser). Enkelte hævder imidlertid, at partnerskaber hovedsageligt er et spil om ord og mening (Greve og Hodge, 2005: Kap.1). Jeg vil i denne artikel operere med en definition af OPP som en samlet aftale mellem en offentlig og privat part om planlægning, opførelse, drift og vedligeholdelse af et anlægsaktiv over typisk 25-35 år med systematisk deling af risici mellem parterne og med investering af privat kapital i projektet. Denne forståelse af OPP som et bygge- eller anlægspartnerskab med efterfølgende drift og vedligehold er identisk med den forståelse, som VK-rege-

ringen opererer med i sin Handlingsplan for offentlig-private partnerskaber fra 2004 (Regeringen, 2004: 12-14; se også Erhvervs- og Byggestyrelsen, 2004: 3). Andre anvendelser af partnerskabsbegrebet behandles derimod ikke i denne artikel.

I Danmark, som denne artikel omhandler, har reaktionen på OPP-bølgen været lige dele nysgerrighed og afventen. Finansministeriet introducerede i 1999 OPP-konceptet i en dansk kontekst (Finansministeriet, 1999: kap. 6). Herefter blev offentlig-privat samspil kort nævnt i en lille håndfuld af regeringens publikationer i 2002 og 2003 (Økonomi- og Erhvervsministeriet, 2002, 2003), men det er ingen overdrivelse at sige, at der skete meget lidt med OPP i disse år. I januar 2004 udsendte VK-regeringen *Handlingsplan for Offentlig-Private Partnerskaber (OPP)* (Regeringen, 2004), som var det første og til dato eneste egentlige policypapir på området. Handlingsplanen havde som eksplicit formål at sætte dagsordenen for OPP i Danmark samt at udpege konkrete pilotprojekter, hvor OPP-formen skulle prøves af. Ved udgangen af 2008, godt ni år efter introduktionen af OPP i en dansk kontekst og små fem år efter handlingsplanen, kan der kun tælles tre igangsatte danske OPP-projekter: En skole i Herning Kommune, en ny tinglysningsret i Hobro og opførelse af nye magasiner til Det Danske Rigsarkiv.² I 2008 er der indgået aftale om opførelse af en skole på Langeland, og et motorvejsprojekt i Sønderjylland samt et par domstolsbygninger er under planlægning. Det er dog ingen overdrivelse at tale om et dansk efterslæb i forhold til mange af de lande, vi normalt sammenligner os med (Greve og Hodge, 2007).

Denne artikel tager den danske reguleringsramme omkring OPP under behandling i et forsøg på at undersøge, hvorfor der ikke er sket mere på OPP-området i Danmark. Udgangspunktet er nylige resultater, som viser, at den danske reguleringsramme udgør en

delvis hindring for igangsættelsen af OPP projekter i Danmark, fordi centrale regelsæt er delvist modstridende, og reguleringsindsatsen er ukoordineret (Petersen, 2007b). *Spørgsmålet, som denne artikel skal besvare, er, hvorfor reguleringsrammen for OPP mangler denne styring og koordinering?* Den teoretiske ramme låner fra den tyske spilteoretiker Fritz Scharpfs aktør-centrerede institutionalisme (Scharpf, 1997), som består af tre centrale begreber; a) *intentionelt rationelle aktører*, b) *aktørkonstellationer* og c) *institutionelt understøttet beslutningskoordinering*. Der anlægges et *regulation inside government* perspektiv (Hood m.fl., 1999), hvilket betyder, at analysen fokuserer på processer internt i staten. Det giver mulighed for at zoome ind på de processer, forhandlinger og beslutninger, som udspiller sig mellem de centrale, statslige reguleringsaktører, hvor reguleringsstudier traditionelt har fokuseret mere på stat-marked relationen. Artiklen giver et sjældent indblik i de regeringsinterne koordinationsmekanismer og bekræfter Finansministeriets centrale rolle i de administrative koordinations-spil mellem ministerierne (se Jensen, 2003).

Artiklen er opbygget på følgende vis; I afsnit 2 opstilles den aktør-centrerede institutionelle analyseramme med spilteoretiske elementer. Herefter kortlægges i afsnit 3 de centrale reguleringsaktører og disses ageren. I afsnit 4 og 5 analyserer jeg to centrale spil omkring reguleringsrammen – henholdsvis omkring policy-udvikling og administrativ regulering. Afsnit 6 viser de institutionelle rammers manglende evne til at overkomme interessekonflikter i de to spil omkring OPP, hvilket leder til en forståelse af reguleringsrammens lave koordineringsgrad. Sluttelig giver jeg i afsnit 7 en perspektivering på artiklens resultater og konkluder i afsnit 8.

Aktør-centreret institutionalisme

To begreber er centrale i den aktør-centrerede institutionelle analyseramme: Intentionelt

rationelle aktører og institutioner. Aktører antages at være *intentionelt rationelle*, hvilket betyder, at de forfølger egennytte-hensyn³ men gør dette underlagt visse kognitive begrænsninger i form af begrænset adgang til information og begrænset evne til at analysere alle løsningsudfald (Horn, 1995: 7). Der er med andre ord tale om en begrænset rationel men formålspræget handlingslogik. Normer kan spille en rolle, men aktørernes dominerende præferencer antages at være egennytte-hensyn. Et helt centralt begreb i teorien er begrebet *den sammensatte aktør* (Scharpf, 1997: kap. 3). Ministerier, styrelser og andre organisationer består alle sammen af en lang række individer, som via deres formelle ansættelse og mere uformelle socialisering udgør en sammensat aktør. Denne teoretiske manøvre foretages, fordi de fænomener, samfundsvidenskaben ønsker at undersøge, ofte er organisationer af individer og disses handlinger, hvorfor der metodisk er behov for at bevæge analysen fra individuelt til organisatorisk niveau (Rutherford, 1994: 36-37). De ministerier og styrelser, som skal behandles i denne artikel, er alle sammensatte aktører, og egennytte-hensyn skal derfor betragtes fra organisationernes perspektiv.

Nu er karakteristika ved aktørerne hver for sig ikke tilstrækkeligt til at analysere spil omkring reguleringsrammen. Fritz Scharpf opererer med begrebet aktør-konstellationer som udtryk for de relationer og spil, som aktørerne omkring reguleringsrammen spiller med i (Scharpf, 1997: kap. 4). Aktør-konstellationerne kan afdækkes ved at stille to centrale spørgsmål: *For det første*, hvilke interesser og strategier forfølger aktørerne i deres intentionelt rationelle ageren? Dette er aktørernes handlingsorienteringer. *For det andet*, hvilken mængde tid, indflydelse mv. aktiverer og investerer aktørerne i spillet? Dette er de investerede handlingsressourcer i spillene. Handlingsorienteringer og handlingsressourcer kan siges at udtrykke henholdsvis den retning og den kraft, som hver enkelt aktør indgår i spillene med.

Det centrale i institutionel teori består i kravet om altid at se aktørers ageren i en institutionel kontekst. Aktører handler med andre ord ikke i et vakuum, men altid inden for et sæt af institutionelle spilleregler. De institutionelle spilleregler kan både bestå af formelle regler og mere uformelle sociale normer, hvor teorien lægger vægt på de formelle in-

Tabel 1. Spilformer og institutionel organisering omkring reguleringsrammen

Spilformer omkring reguleringsrammen	Institutionel ramme (organisationsformer)			
	Ingen organisering	Netværksbaseret organisering	Forpligtende sammenslutning	En egentlig OPP-organisation
Ukoordinerede spil	X	X	X	X
Frivilligt forhandlede spil	–	X	X	X
Flertalsafgørelse i spillene	–	–	X	X
Hierarkisk styring af spillene	–	–	–	X

Kilde: Tilpasset fra Scharpf (1997: 47).

stitutioner men anerkender eksistensen af en bredere forståelse (Scharpf, 1997: 38). Den aktør-centrerede institutionelle analysemodel opstår i koblingen mellem de to begreber aktør-konstellationer og institutioner, jævnfør tabel 1. Vertikalt er opstillet fire spilformer, som aktørkonstellationerne udspilles inden for, og horisontalt er opstillet fire grader af institutionel organisering omkring reguleringsrammen.⁴

En bevægelse fra top mod bund i figuren indebærer en bevægelse fra ukoordinerede spil over frivilligt forhandlede spil til mere forpligtende spilformer med flertalsafgjorte og hierarkisk styrede spil. For den institutionelle ramme betyder en bevægelse fra venstre mod højre et skift fra ingen styring og organisering i de institutionelle rammer over en netværksbaseret organisering til en forpligtende sammenslutning og længst til højre en egentlig organisation. Som det er illustreret med et x i tabel 1 understøtter organisationsformerne i den institutionelle ramme hver især en række spilformer, men gør det langt fra i samme grad. Er der ingen institutionel organisering, kan hovedsageligt ukoordineret handling udspille sig omkring reguleringsrammen. Mere forpligtende spiltyper understøttes derimod ikke, og aktørerne vil ikke kunne bindes til koordineret handlen i tilfælde af interessekonflikter. Tilsvarende understøtter den netværksbaserede organisationsform både ukoordinerede spil og frivilligt forhandlede spil, men ikke flertalsafgørelser og hierarkisk styring af spillene. I tilfælde af mindre grader af interessekonflikt kan den netværksbaserede organisation understøtte aftaler mellem aktørerne, men stærke interessekonflikter vil ikke kunne løses, da organiseringen bygger på frivillighed. Den forpligtende sammenslutning og en egentlig OPP-organisation adskiller sig fra de to ovennævnte organisationsformer ved, at aktørernes egeninteresser kan overkommes via forpligtende beslutningsformer med sanktionsmuligheder. I den forpligtende sammenslut-

ning overkommes egeninteresser ved flertalsafgørelser af bindende karakter, men problemløsningskapaciteten er begrænset af, at flertal skal etableres og ikke mindst af, om disse flertal er stabile. Løsning på spil med omfattende interessekonflikter mellem de regulerende aktører, og hvor stabile flertal ikke kan etableres, kan på den vis kun koordineres i en decideret OPP-organisation med hierarkisk styring af spillene. Set fra et statsligt perspektiv er en stærk institutionelle ramme på den vis af afgørende betydning for, om ministerier og styrelser med forskelligt syn på reguleringen af OPP kan koordinere en fælles reguleringsrammen. Er den institutionelle beslutningsramme derimod svagere end interessekonflikterne, vil reguleringsrammen fremstå ukoordineret og præget af de enkelte aktørers initiativer.

Otte centrale reguleringsaktører

Analysen bygger på syv interview i staten som primær kilde og en systematisk indsamling af statslige dokumenter, lovgivning, vejledninger mv. om OPP som sekundær kilde.⁵ Interviewene er gennemført efter en krydsrefererende metodik, hvor de interviewede blev bedt om at forholde sig både til egen handlingsorientering og investering af handlingsressourcer samt til de øvrige regulerende aktører ditto. Otte aktører blev nævnt i alle interviews og må betegnes som de centrale reguleringsaktører, jævnfør tabel 3. Den krydsrefererende metodik giver et billede af reguleringsrammens centrale aktører gennem 56 individuelle målepunkter (7 interviews gange 8 aktører). En fordobling af antallet af målepunkter fremkom ved at tage højde for, at der blandt de interviewede indgår både departementer og styrelser, hvor departementerne på forhånd måtte forventes at være mest involveret i overordnet policy-udvikling omkring reguleringsrammen og styrelserne mere i administration, regeludvikling, tilsyn mv. Hver enkelt aktørs orienteringer blev derfor opdelt i henholdsvis policy-udvikling og administration, og denne analytiske opdeling,

som viste sig at genfindes i materialet, fordoblede antallet af målepunkter til 112. Resultaterne er samlet i tabel 2 nedenfor, hvor målingerne for hver enkelt aktør for overskuelighedens skyld er aggregeret. Pladsen tillader ikke en fyldestgørende gennemgang af hver enkelt aktør, men kodningen af interviewene viste to centrale variable, hvor de otte aktører placerer sig forskelligt: *Variabel 1*; funktion i forhold til regulering af OPP, og *variabel 2*; standpunkt i forhold til udbredelse af OPP i Danmark.

På den første variabel, funktion i forhold til regulering af OPP, inddeler aktørerne sig i tre grupper alt efter hvilken måde, de er involveret i regulering af OPP. Økonomi- og Erhvervsministeriets departement, Erhvervs- og Byggestyrelsen og Finansministeriets departement har alle arbejdet med regulering af OPP på et tværministerielt niveau. Denne gruppe kan betegnes *OPP-aktører*, som ind-

går i tværministeriel regulering. Velfærdsministeriet, Skatteministeriet og Slots- og Ejendomsstyrelsen er mere indirekte blevet involveret i regulering af OPP ved, at OPP-regulering formuleret i den bredt regulerende og dagsordensættende gruppe har berørt vitale områder af hvert af de tre aktørers myndighedsområder, som henholdsvis er kommuneøkonomien, skattelovgivningen og administration af statens bygninger og ejendomme. Jeg kalder denne anden gruppe for *regelforvaltende OPP-aktører*. Endeligt er Transportministeriet og Kulturministeriet hovedsageligt involveret i OPP-regulering ved, at OPP-dagsordenen formuleret i gruppe ét har påvirket henholdsvis trafikområdet og kulturområdet i form af OPP-pilotprojekter udpeget i regeringens Handlingsplan for OPP (Regeringen, 2004: 18-30). Denne tredje gruppe betegnes *aktører involveret i OPP gennem pilotprojekter*.

Tabel 2. Kortlægning af otte centrale statslige OPP-reguleringsaktører

Otte centrale statslige reguleringsaktører ⁶	Policy-udvikling	Administration, regeludvikling, tilsyn mv.	Variabel 1: Funktion ift. regulering af OPP	Variabel 2: Standpunkt ift. udbredelse af OPP i Danmark
Økonomi- og Erhvervsministeriets departement	Høj	Lav	Indgår i tværministeriel regulering	Positiv og bidrager til udbredelse
Erhvervs- og Byggestyrelsen	Høj	Høj	Indgår i tværministeriel regulering	Positiv og bidrager til udbredelse
Finansministeriets departement	Høj	Lav	Indgår i tværministeriel regulering	Tilbageholdende
Slots- og Ejendomsstyrelsen	Lav	Høj	Regel-administration	Positiv og bidrager til udbredelse
Velfærdsministeriet	Lav	Lav	Regel-administration	Neutral
Skatteministeriet	Middel	Middel	Regel-administration	Tilbageholdende
Transportministeriet	Middel	Middel	Pilot-projekter	Positiv og bidrager til udbredelse
Kulturministeriet	Lav	Middel	Pilot-projekter	Tilbageholdende

På den anden variabel, aktørernes standpunkt i forhold til udbredelse af OPP i Danmark, bliver disse første grupperinger delt yderligere op. Blandt de centralt regulerende OPP-aktører er Finansministeriet overvejende skeptisk og tilbageholdende over for brug af OPP i Danmark, mens Økonomi- og Erhvervsministeriet og Erhvervs- og Byggestyrelsen har forsøgt at fremme OPP gennem udvikling af reguleringsrammen. Inden for gruppen af regelforvaltere er Velfærdsministeriet neutralt, mens Skatteministeriet gennem arbejdet med skatte- og momsreguleringen har optrådt tilbageholdende og sinket udbredelsen af OPP – i hvert fald på det administrative niveau, hvor ministeriet er mest aktiv. Slots- og Ejendomsstyrelsen har skiftet orientering fra at være tilbageholdende til i dag meget aktivt at udvikle statens første OPP-projekt, Rigsarkivet, og må samlet set betegnes som positiv. Den positivt udbredende tilgang, som umiddelbart kan forekomme overraskende i forhold til det tilbageholdende standpunkt i departementet (Finansministeriet), støttes imidlertid af Finansministeriet, der selv har udpeget styrelsen som projektansvarlig på Rigsarkivet. Endeligt observeres der mellem Kulturministeriet og Transport-

ministeriet en betydelig forskel i tilgangen til OPP, hvor førstnævnte har været skeptisk omkring fordelene ved at bruge ministeriets største byggeprojekt i mange år som pilotprojekt for OPP, mens Transportministeriet ser OPP i forlængelse af velkendte projekter, som bruges ved større infrastrukturprojekter. Kobles de to variable sammen fås et to-dimensionalt billede af aktørpositionerne omkring reguleringsrammen:

Aktør-konstellationerne viser sig at være komplekse ved, at kun departement og styrelse i Økonomi- og Erhvervsministeriet (hvilket ikke er så overraskende) har samme kombination af handlingsorienteringer på de to variable. De øvrige aktører har således højest interesser til fælles på den ene af de to variable, og der er ingen umiddelbare konstellationer på tværs af ministerområder. Det første billede af reguleringsrammen indikerer på den vis en relativt kompleks konfiguration af interesser og positioner. Billedet er imidlertid endnu kun halvt, da tabel 3 udtrykker aktørernes handlingsorienteringer på to variable men ikke aktørernes investering af handlingsressourcer. Divergerende interesser kan være mere eller mindre konfliktfyldte afhæn-

Tabel 3. Reguleringsrammens centrale aktører i to dimensioner

		Variabel 2: Standpunkt ift. udbredelse af OPP i Danmark		
		Positiv og bidrager til udbredelse	Neutral	Tilbageholdende
Variabel 1: Funktion ift. regulering af OPP	Pilot-projekter	Transportministeriet		Kulturministeriet
	Regel-administration	Slots- og Ejendomsstyrelsen	Velfærdsministeriet	Skatteministeriet
	Indgår i tværministeriel regulering	Økonomi- og Erhvervsministeriet Erhvervs- og Byggestyrelsen		Finansministeriet

gig af, hvor stærkt aktørerne forfølger deres individuelle interesser. Det fulde billede af spillene omkring reguleringsrammen fås ved at koble det andet karakteristika ved aktørerne, investering af handlingsressourcer, på modellen. Opdelingen mellem policy-udvikling og administrativ regulering, jævnfør tabel 3 ovenfor, danner to centrale spil: Første spil står om policy-udvikling og andet spil om administrativ regulering af OPP.

Spil 1:

Policy-udvikling af reguleringsrammen

Omkring policy-udvikling findes den centrale konstellation i relationen mellem Økonomi- og Erhvervsministeriet/Erhvervs- og Byggestyrelsen (forkortet henholdsvis OEM og EBST) på den ene side og Finansministeriet (FM) på den anden, jævnfør figur 1. Dette er markeret med fed pil. Begge parter har en bred tværministeriel tilgang og interesse i regulering af OPP og investerer begge relativt store handlingsressourcer i at forfølge deres standpunkt. Økonomi- og Erhvervsministeri-

et ser på sin side OPP i en bred optik af erhvervsudvikling og inddragelse af private aktører i den offentlige opgaveløsning. Mens det lige efter årtusindeskiftet i høj grad var departementet, som var involveret i policy-udvikling, er meget af dette arbejde siden hen lagt over i Erhvervs- og Byggestyrelsen, der som den eneste danske aktør har oprettet en decideret enhed for offentlig-privat samarbejde. Finansministeriet, som traditionelt er bannerrfører på moderniseringspolitikken, har i forhold til OPP hovedsageligt budgetvokterkasketten på. Ministeriet ser en række udgiftsstyringsmæssige problemer ved OPP-formen, og finanserne viser, modsat situationen i England i begyndelsen af 1990'erne, store overskud. Det offentlige kan derfor selv finansiere de fleste investeringer, er argumentet, hvorfor dyr privat lånekapital skal opvejes af endnu større effektiviseringsgevinster, hvis OPP skal være samfundsøkonomisk fordelagtigt (Finansministeriet, 2006: 41).

Figur 1. Policy-udvikling af reguleringsrammen for OPP

		Variabel 2: Standpunkt ift. udbredelse af OPP i Danmark		
		Positiv og bidrager til udbredelse	Neutral	Tilbageholdende
Variabel 1: Funktion ift. regulering af OPP	Pilot-projekter	TRM		
	Regel-administration			SKM
	Indgår i tværministeriel regulering	ØEM EBST		FM

□ Ressourcer investeret i policy-udvikling.

Relationen mellem Økonomi- og Erhvervsministeriet og Finansministeriet er den primære policy-akse, hvor de to 'tunge' ministerier er uenige om, hvordan og i hvilken grad OPP skal udbredes i Danmark. Relationen må betegnes som intersemæssigt relativt konfliktfyldt, da de to ministerier forsøger at sætte henholdsvis en udbredende og en tilbageholdende tværstatslig dagsorden. Denne primære policy-akse suppleres af to sekundære akser i forhold til henholdsvis Skatteministeriet (SKM) (fed stiple pil i figur 1) og Transportministeriet (TRM) (tynd stiple pil). Kigges først på Skatteministeriet viser det sig, at ministeriet først i foråret 2005 blev involveret i OPP, da en problematik omkring OPP-projekters skatte- og momsmæssige status begyndte at optage skattemyndighederne. Aksen er derfor nyere end den primære akse, og kan også forventes at træde i baggrunden igen, når eller såfremt, skatte- og momsproblematikken løses. Der er hidtil ikke fundet en løsning trods vedholdende opmærksomhed i en særligt nedsat tværministeriel arbejdsgruppe. Udviklingen af OPP i Danmark afventer på den vis en løsning, hvor tolkningen fra de øvrige aktører er, at de danske skattemyndigheder tolker reglerne strikt og udgør en alvorlig hindring af yderligere udbredelse af OPP. Skatteministeriet må derfor siges at indgå i en meget konfliktfyldt aktørkonstellation med de øvrige OPP-aktører inklusive Finansministeriet, der trods en generelt tilbageholdende tilgang til OPP ikke vil lade skattesagen spænde ben for afprøvning af OPP-handlingsplanens pilotprojekter, herunder Slots- og Ejendomsstyrelsens projekt Rigsarkiv.

Transportministeriet har været med til at udvikle trafikdelen af den danske OPP-dagsorden og indtager på den vis en policy-udviklende rolle. Når ministeriet ikke placeres mere centralt i de policy-mæssige aktørkonstellationer, skyldes det, at de øvrige aktører peger på, at ministeriets tilgang mere har været knyttet op om fremme af konkrete pilot-tra-

fikprojekter end udviklingen af en bredere reguleringsramme. Der udtrykkes dog en tendens til, at ministeriet langsomt bevæger sig ind i en mere central rolle med udvikling af en egen OPP-model for trafikområdet. Relationen mellem Transportministeriet og Økonomi- og Erhvervsministeriet har et minimalt orienteringsmæssigt konfliktindhold, da begge aktører forsøger at fremme brugen af OPP, dog med vidt forskellige tilgange. Relationen til Finansministeriet er orienteringsmæssigt mere konfliktfyldt, jævnfør at Finansministeriet forsøger at modgå afledte udgiftsmæssige effekter ved OPP, mens Transportministeriet hovedsageligt investerer handlingsressourcer i at fremme store og udgiftstunge trafikprojekter på den statslige prioriteringsmæssige dagsorden.⁷ Det helt centrale policy-spil står dog mellem Finansministeriet og Økonomi- og Erhvervsministeriet med Skatteministeriet i en konfliktfyldt birolle.

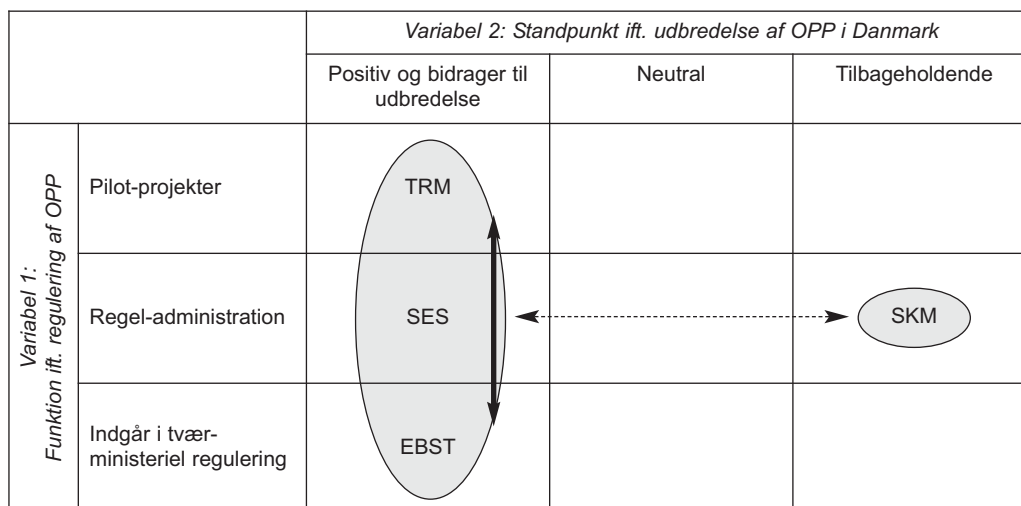
Spil 2:

Den administrative regulering af OPP

Omkring den administrative OPP-regulering er Erhvervs- og Byggestyrelsen den helt centrale aktør, men også Slots- og Ejendomsstyrelsen, Transportministeriet og Skatteministeriet indgår aktivt. Kulturministeriet er hovedsageligt aktiv i forhold til arkivfaglige funktioner relateret til projekt Rigsarkiv men præger ikke det samlede reguleringsbillede meget. Den primære administrative reguleringsakse, markeret med den fede pil i figur 2, består af Erhvervs- og Byggestyrelsen (EBST), Slots- og Ejendomsstyrelsen (SES) og Transportministeriet (TRM). En supplerende og ikke uvæsentlig akse findes mellem disse tre aktører på den ene side og Skatteministeriet (SKM) på den anden side (markeret med stiple pil).

Erhvervs- og Byggestyrelsen har de største ressourcer investeret i den brede reguleringsdagsorden, og styrelsen agerer som dansk OPP-kompetenceenhed. Slots- og Ejendomsstyrelsen har tillige store ressourcer investe-

Figur 2. Administrativ regulering af OPP i Danmark



■ Ressourcer investeret i administrativ OPP-regulering.

ret i at udvikle og udbyde Rigsarkivet som OPP-projekt, men ressourcerne er i høj grad bundet op på dette ene projekt. Transportministeriet har en særlig rolle ved, at OPP-projekter på trafikområdet ikke er helt ens med OPP-projekter på det øvrige bygeområde. Ministeriet og dets styrelser har derfor en central rolle i OPP-vurdering af de store trafikprojekter i Handlingsplan for OPP samt udvikling af en særskilt vejledning hertil.

Hovedkonstellation Erhvervs- og Byggestyrelsen, Slots- og Ejendomsstyrelsen og Transportministeriet viser, at den administrative OPP-regulering er kendetegnet ved tre spor: 1) et centralt og tværministerielt spor, 2) et konkret afprøvende byggespor samt 3) et pilotprojektspor på trafikområdet. Specielt omkring Rigsarkivet som OPP-projekt går der erfaringsopsamling på tværs af sporene, idet Slots- og Ejendomsstyrelsen bruger Erhvervs- og Byggestyrelsen som sparringspartner, men samtidig også sender systematisk erfaringsopsamling fra det konkrete pro-

jekt den modsatte vej. Der er blandt de tre centrale aktører forskel i hvilke funktioner, man varetager i forhold til OPP (variabel 1), men den centrale administrative akse er ikke som policy-aksen præget af modstridende interesser i udbredelsen af OPP i Danmark (variabel 2). Om end med forskellige funktioner og foci arbejder de tre aktører alle på at udvikle regelingsrammen for OPP, og den administrative hovedakse må betegnes som konsensuspræget.

Som tilfældet er det for policy-udvikling, så er der i de administrative konstellationer en supplerende og konfliktfyldt akse i forhold til Skatteministeriet. Udover at sætte store dele af den statslige OPP-politik på usikker grund har skatte- og momsproblemet helt konkret betydning for både projekt Rigsarkiv og for Transportministeriets planlægning af OPP-projekter på trafikområdet. Eksempelvis er udbuddet af et motorvejsprojekt ved E45 i Sønderjylland udskudt som følge af skattesagen. I forhold til Erhvervs- og Byggestyrel-

sen er styrelsens OPP-basiskontrakt samt de øvrige OPP-vejledninger blevet udfordret i og med skatteproblematikken ikke har været medtænkt. Konstellationen mellem Skatteministeriet og de tre centrale administrative aktører må på den vis betegnes som orientingsmæssigt konfliktfyldt ved at udfordre grundlæggende dele af reguleringsrammen, som disse aktører har investeret væsentlige ressourcer i at opbygge.

Ved at kigge på henholdsvis policy-udvikling og administrative funktioner omkring reguleringsrammen er to centrale spil opstillet. Policy-spillet er væsentligt mere konfliktfyldt end det administrative spil, men skatte- og momsproblematikken spiller væsentligt ind begge steder. I det følgende skifter analysen fokus fra aktørniveauet til en analyse og diskussion af de institutionelle rammer. Jeg undersøger hvilken grad af konfliktløsningskapacitet, der understøttes i de statslige, institutionelle rammer omkring beslutninger om brugen af OPP i Danmark.

De institutionelle rammers (manglende) koordineringskapacitet

Beslutninger om reguleringen af OPP tages i to centrale fora: 1) på embedsmandsniveau

findes en tværministeriel OPP-styregruppe samt en nedsat arbejdsgruppe til løsning af den tidligere omtalte skatte- og momsproblematik, og 2) på regeringsniveau er regeringens Økonomiudvalg og Koordinationsudvalg stederne, hvor der træffes beslutninger om regeringens økonomiske politik. Disse to beslutningsfora kan betegnes som henholdsvis et tvunget formaliseret netværk og en forpligtende sammenslutning med hierarkiske elementer (uddybes nedenfor), og af tabel 4 fremgår det hvilke typer af spil, de to fora hver især understøtter.

Beslutningsfora på embedsmandsniveau

Den tværministerielle OPP-styregruppe blev nedsat i 2003 og består i dag af fem aktører: Økonomi- og Erhvervsministeriet, Finansministeriet, Transportministeriet, Velfærdsministeriet og Skatteministeriet. Styregruppen mødes jævnligt, har en fast medlemskreds og er nedsat med det specifikke formål at drøfte OPP-spørgsmål og tage beslutninger i sådanne sager. OPP-styregruppen kan af tre grunde kaldes et *tvunget formaliseret netværk*:

1. For det første er deltagelse delvist tvungen ved, at aktørerne i praksis ikke kan undslå sig deltagelse. Alle aktørerne ser

Tabel 4. Spilformer og institutionel koordineringskapacitet

Spilformer omkring reguleringsrammen	Institutionel koordineringskapacitet	
	Tvunget formaliseret netværk	Forpligtende sammenslutning med hierarkiske elementer
Ukoordinerede spil	OPP-styregruppe Arbejdsgruppe omkring skattesagen	Ø-udvalg og K-udvalg
Frivilligt forhandlede spil	OPP-styregruppe Arbejdsgruppe omkring skattesagen	Ø-udvalg og K-udvalg
Flertalsafgørelse i spillene	–	Ø-udvalg og K-udvalg
Hierarkisk styring af spillene	–	(Ø-udvalg og K-udvalg)

ud til at dele en opfattelse og accept af, at den tværministerielle koordinering omkring OPP-politikken sker i OPP-styregruppen. Der er altså i vid udstrækning tale om, at aktørerne gensidigt anerkender et behov for koordinering af den statslige OPP-politik. Alternativet, at der slet ingen koordinering sker på tværs af ministerierne, ser ikke ud til at være en reel mulighed.

2. For det andet er netværkets formaliseringsgrad relativt høj med en fast formand (Finansministeriet), løbende møder og en fast defineret medlemskreds, hvor aktørerne hver især repræsenterer relativt veldefinerede ministerielle interesser.
3. For det tredje kan OPP-styregruppen ikke træffe egentlige flertalsbeslutninger, der kan overtrumfe enkeltaktørers handlingsorienteringer. Der er derfor, uanset de formaliserede og tvungne elementer, tale om en netværksform, som understøtter frivillige aftaler, men ikke mere forpligtende spilformer.

Som en afart af netværksformen kan OPP-styregruppen, jævnfør tabel 4, understøtte to typer af spil; *ukoordinerede spil* og *frivilligt koordinerede spil*. OPP-styregruppen understøtter derimod ikke flertalsafgørelser og hierarkisk styring af spillene. Spørgsmålet er, hvad dette betyder for løsning af interessekonflikter omkring udformningen af reguleringsrammen. Policy-udviklingens dominerende uenighed står mellem Finansministeriet og Økonomi- og Erhvervsministeriet, mens Skatteministeriet både i forhold til policy-udvikling og den administrative del danner en sekundær og relativt problemfyldt relation. I begge tilfælde kan beslutningskoordinering omkring reguleringsrammen ikke forventes at blive understøttet af frivillige aftaler i OPP-styregruppen. Hertil er orienteringerne grundlæggende for konfliktfyldte, og koordinerede beslutninger kræver derfor elementer af tvang enten ved flertalsafgørelser eller hierarkisk styring. OPP-styregrup-

pen understøtter på den vis hverken koordineret handling på policy-delen, hvor Finansministeriet og Økonomi- og Erhvervsministeriet hovedsageligt agerer, eller omkring skatte- og momsproblemstillingen, som både spiller ind på policy-udviklingen og det administrative niveau. Resultatet er, at Økonomi- og Erhvervsministeriet på sin side positivt har søgt OPP udbredt via statsbyggelovgivningen, mens Finansministeriet på bevillingsområdet modsat behandler OPP efter en skærpet reguleringsprocedure, som tilmed giver usikkerhed i forhold udbudsprocesserne for OPP-projekter (Petersen, 2007b: 43). Reguleringsrammens delvist modstridende regelsæt kan på den vis forklares ved, at stærke orienteringsmæssige konflikter blandt de centrale policy-formulerende aktører klart overmatcher OPP-styregruppens koordineringskapacitet.

Omkring skatte- og momsproblematikken ses det, at Skatteministeriet sammenlignet med eksempelvis situationen i Storbritannien anlægger en relativt snæver tolkning af reglerne, hvilket har sat store dele af den statslige OPP-dagorden i venteposition både policy-mæssigt og administrativt. OPP-styregruppen og den særligt nedsatte arbejdsgruppe til løsning af skatteproblematikken har ikke kunnet nå frem til en løsning. Det faktum, at OPP placerer sig midt i et regelsæt opbygget mod selskabssvindler, må betegnes som en noget speciel veto-faktor, som gør aktørernes positionering yderst kompleks, da ingen er interesseret i at trumfe OPP afgørende igennem uden sikkerhed i lovgivningen og dermed åbne det skattemæssige hul igen. En manglende løsning af skatte- og momsproblematikken kan derfor ikke på samme måde som den lave grad af policy-koordinering ses som udtryk for lav koordinationskapacitet i OPP-styregruppen. Derimod må det forhold, at problematikken blev opdaget meget langt henne i arbejdet med OPP tolkes som et tegn på manglende styring og overblik omkring udformningen af regule-

ringsrammen. Det er derfor ikke i så høj grad skatte- og momsagen i sig selv, men derimod måden, hvorpå sagen er opstået og håndteret, som peger på OPP-styregruppens manglende kapacitet til at understøtte en løsning. Samlet peger det i retning af, at den ukoordinerede og delvist modstridende reguleringsramme omkring OPP må forstås som et produkt af, at OPP-styregruppen kun understøtter mere uforpligtende spilformer. I en situation med væsentlige orienteringsmæssige konflikter mellem flere af reguleringsrammens centrale aktører ville en mere koordineret reguleringsramme kræve enten flertalsafgørelse eller ligefrem hierarkisk styring af spillene omkring både policy-udformning og skatte- og momsproblematikken. Kort sagt overmatcher uenighederne i de centrale spil omkring reguleringsrammen de institutionelle beslutningssystemers koordinationskapacitet.

Det i denne artikel sidste, men afgørende spørgsmål, er, hvorfor der i denne situation ikke sker en større grad af politiks styring af reguleringsrammen, hvilket regeringens Økonomiudvalg og Koordinationsudvalg potentielt kunne katalysere.

Regeringens Økonomiudvalg og Koordinationsudvalg

Økonomiudvalget har til formål at koordinere regeringens økonomiske politik. Faste medlemmer er Finansministeren (formand), Økonomi- og Erhvervsministeren, Kulturministeren og Skatteministeren samt Statsministeriets departementschef, som repræsenterer Statsministeren i udvalget. Sammensætningen af udvalget kan ændres løbende og afspejler en intern balance mellem regeringspartierne (se Jensen, 2003, for en analyse af Økonomiudvalgets udvikling op gennem 1990'erne)⁸. Øvrige ministre kan deltage, hvis deres ministerium har sager på dagsordenen. Der afholdes ugentlige møder, som forudgående forberedes og koordineres i Styregruppen – et embedsmandsudvalg bestående

de af departementscheferne for ministrene i Økonomiudvalget samt en departementsråd fra Statsministeriet.⁹ Lotte Jensen har i sin bog om Finansministeriet vist, hvordan denne akse Styregruppe-Økonomiudvalg udgør regeringens centrale politisk-økonomiske koordinationsakse (Jensen, 2003).

Sager af mere principiel karakter kan imidlertid både blive behandlet i Økonomiudvalget og på højere niveau i regeringens Koordinationsudvalg, hvor Statsministeren sidder for bordenden.¹⁰ Organiseringen omkring Økonomiudvalget er derfor tæt sammenkædet med Koordinationsudvalget og sager kan tilmed »vandre« fra udvalg til udvalg og forsøges strategisk placeret i det ene udvalg frem for det andet (Jensen, 2003: 208-209). Disse regeringsinterne koordinationsprocedurer bygget op om Ø- og K-udvalg kan af tre grunde betegnes som en *forpligtende sammenslutning med hierarkiske elementer*:

1. For det første kan der træffes beslutninger selv i lyset af uenighed mellem ministre, hvilket netop skete i forbindelse med beslutningen om at udbyde Rigsarkivet som OPP-projekt. Enkeltaktører kan på den vis overtrumfes af gruppen og forpligtes til at følge regeringens økonomisk-politiske linie.
2. For det andet er statsministeren via sin ret til at udpege og afsætte de øvrige ministre formelt såvel som uformelt placeret i toppen af koordinationshierarkiet. Under statsministeren vil de øvrige ministre i mere uformel forstand placere sig forskelligt i hierarkiet med vice-statsministeren og finansministeren på nogle af de efterfølgende pladser afhængig af sagens karakter og indhold.
3. For det tredje er der ikke tegn på, at nogen enkeltaktør hierarkisk kan styre koordinationsprocesserne. Selv statsministeren er – for at blive siddende – afhængig af opbakning fra resten af gruppen og fra baglandet, og på trods af hierarkiske elemen-

ter er der derfor grundlæggende tale om en afart af den forpligtende sammenslutning og ikke om en egentlig hierarkisk indrettet organisation.

Som en forpligtende sammenslutning kan Økonomiudvalget og Koordinationsudvalget understøtte flertalsbeslutninger, jævnfør tabel 4 ovenfor. Aktørerne vil kunne indgå koalitioner, som specielt vil stå stærkt i tilfælde, hvor flere højt placerede ministre står sammen, men den grundlæggende beslutningsform er forpligtende flertalsbeslutninger.

Spørgsmålet melder sig nu, hvorfor OPP-politikken ikke koordineres i disse regeringsinterne fora, når disse netop understøtter forpligtende beslutninger, hvilket OPP-styregruppen viste sig ikke at gøre. Datamaterialet anvendt i denne artikel er, som tidligere beskrevet, baseret på interviews på embedsmandsniveau. En forklaring på, hvorfor OPP i Danmark på politisk niveau hidtil har mødt beskeden opmærksomhed, kan derfor kun blive et første bud, som jeg giver i nedenstående perspektivering af artiklen. Den voksende mængde af forskning på området må efterprøve disse ansatser til forklaringer, og her vil både inddragelse af det politiske niveau i dataindsamlingen samt brug af internationale sammenligninger være oplagte metoder at gå videre med.

Hvorfor så beskeden politisk opmærksomhed omkring OPP?

En første forklaring på den hidtil beskeden politiske opmærksomhed omkring udbredelsen af offentlig-private partnerskaber i Danmark kan være reguleringens relativt tekniske og komplicerede karakter, hvor den egentlige reguleringsmæssige ekspertviden besiddes af embedsværket. Det er med denne logik ikke bare en fordel men tilmed en nødvendighed, at selve regeludviklingen sker i fora som OPP-styregruppen og den skatte- og momsmæssige arbejdsgruppe. Nært beslægtet med denne tanke er det forhold, at der

meget hurtigt ville ske et overload i de centrale koordinationsystemer, hvis den mere tekniske politikudvikling skulle ske der. Kun principielle sager som Rigsarkivet eller OPP-handlingsplanen hæves fra inter-ministerielt til regeringskoordinerende niveau. På trods af høj understøttelse af konfliktløsningskapacitet i de regeringsmæssige koordinationsprocesser viser der sig altså at være en række grunde til, at disse koordinationsmekanismer kun sjældent tages i brug af systemet. Hertil kan indvendes, at der fra politisk side kunne stilles krav om, at OPP-styregruppen og arbejdsgruppen omkring skatte- og momssagen uden involvering af de politiske systemer fik koordineret reguleringsrammen og løst uenighederne. En sådan argumentation støttes af begrebet »the shadow of hierarchy« (Scharpf, 1997), som udtrykker, at hierarkiet potentielt kan gøre sin indflydelse gældende, hvis sager ikke løses. Hierarkiets skygge kan føre til løsning af sager på lavere niveauer fordi alternativet i form af hierarkisk intervention er kendt og ofte uønsket af de spillende aktører, idet intervention fratager dem beslutningsretten. Hierarkiets skygge i form af regeringens Økonomi- og Koordinationsudvalg ser imidlertid ud til at være svag, og trods det at OPP præsenteres i officielle publikationer og udmøntes i enkelte pilotprojekter, har regeringen sat beskeden kraft bag opbygningen af en koordineret reguleringspolitik for brugen af OPP i Danmark.

Et andet bud på regeringens hidtil tilbageholdende tilgang til OPP er, at selve OPP-modellen på én og samme tid bærer potentielle fordele og ulemper med sig. Økonomi- og Erhvervsministeriets samt Erhvervs- og Byggestyrelsen tilgang kan tolkes som et forsøg på at åbne den offentlige sektor for yderligere privat inddragelse i forlængelse af velkendte begreber som udlicitering og selskabsdannelser. Finansministeriets tilgang kan derimod tolkes som udtryk for en bekymring over, hvordan offentlige opgaver på private hænder underkastes klassiske hensyn såsom

kontrol, ansvar og økonomistyring. Der ser altså ud til at være en vis usikkerhed om både fordele og ulemper ved brug af OPP, hvilket ikke mindst den 25 til 35-årige aftalehorisont bidrager til.¹¹

En tredje forklaring på den afventende tilgang kan være den meget omtalte Farum-sag, hvor en del af sagen omhandlede kommunens frigørelse af store mængder frie midler ved at bortsælge bygninger til private parter for derefter at leje dem tilbage (den såkaldte sale and lease-back model, Petersen 2007a: 14). En forklaring, som også kommer til udtryk enkelte steder i de gennemførte interviews, er, at hele Farum-sagen har spillet negativt ind på offentlige aktørers lyst til at eksperimentere med OPP. Savas (2000) refererer ligefrem til sale and lease-back som en afart af OPP-modellen, men som jeg har argumenteret andetsteds (Petersen, 2007a: 14), er der også væsentlige forskelle, som Savas overser. Vigtigst af disse er det, at den private part ved sale and lease-back slet ikke er involveret i projekterings- og opførelsesfasen, hvor blandt andre Bent Flyvbjerg har vist, at store risici er placeret omkring forsinkelser og budgetoverskridelser (Flyvbjerg, 2005). Farum-sagen kan dog ikke afvises som delårsag til en tøvende tilgang specielt i lyset af hele kommunalreformprojektet, som har trukket store ressourcer i mange kommuner landet over, hvilket må forventes at have nedsat lysten og overskuddet til at forsøge sig med OPP. Igen må yderligere undersøgelser af området til, førend den egentlige effekt af disse faktorer kan måles.

Et fjerde bud på en forklaring går ud over Danmarks grænser, hvor organisationer som EU og OECD ser ud til at have været relativt tavse. Sammenhængen mellem regulering af OPP på nationalt og europæisk niveau er et hidtil uopdyrket område, men noget tyder på, at OPP har været genstand for en grad af policy- og reguleringsmæssigt vakuum såvel nationalt som internationalt. Som peget på

ovenfor må yderligere undersøgelser af området til, og den voksende litteratur om offentlig-private partnerskaber er i den forstand både lovende og velkommen.

Interessekonflikterne overmatcher den institutionelle kapacitet for beslutningskoordinering

I denne artikel har jeg anvendt en spilteoretisk inspireret analyseramme til at analysere reguleringen af OPP i Danmark med fokus på aktører og institutioner. Analysen har vist, at den danske reguleringsramme for OPP udformes i to spil: Et spil omkring policy-udvikling og dagsordensættelse af OPP og et andet spil, hvor regler og vejledninger udvikles og administreres. Mens det administrative spil er forholdsvist problemfrit, er policy-spillet mere konfliktfyldt med Finansministeriet og Økonomi- og Erhvervsministeriet i divergerende positioner. Uenigheden mellem disse to centrale policy-formulerende ministerier er baseret på uenighed om og hvor hurtigt OPP skal udbredes i Danmark. Økonomi- og Erhvervsministeriet ser OPP i en bred optik af erhvervsudvikling og arbejder sammen med Erhvervs- og Byggestyrelsen aktivt på at udbrede OPP, mens Finansministeriet er mere skeptisk over for fordelene ved at bruge OPP. Den finansministerielle argumentation er, at den private parts låneomkostninger ved OPP er højere, end hvis den offentlige part selv finansierede projektet, og derfor beror fordelagtigheden ved OPP på, at der kan opnås effektiviseringsgevinster, som er større end de forhøjede låneudgifter. Uenighederne mellem de to »tunge« ministerier må betegnes som substantielle. En skatte- og momssag giver problemer for både policy-udvikling og det administrative arbejde med reguleringsrammen.

De institutionelle systemer omkring reguleringsrammen er potentielt stedet, hvor reguleringspolitikken kan koordineres og udformes. Analysen viser imidlertid, at beslutningssystemerne kun understøtter ukoordine-

rede spil og frivilligt indgåede aftaler. Den institutionelle koordineringskapacitet er lav, og aktørerne er ude af stand til at løse de identificerede interessekonflikter. Kort sagt overmatcher konfliktpotentialer i aktørkonstellationerne den institutionelle kapacitet for beslutningskoordinering. Resultatet er, at reguleringsrammen for OPP fremstår ukoordineret. Regeringens politisk-økonomiske koordinationsmekanismer, som potentielt kunne generere en styring af reguleringsrammen, er hidtil kun lejlighedsvist blevet taget i brug.

Denne artikel har fokuseret på den danske reguleringsramme, men forståelsen kunne have været udvidet yderligere ved at inddrage internationale og komparative aspekter. OPP er, som det blev præsenteret i artiklens indledning, langt fra et enestående dansk fænomen. Spørgsmålet er, hvordan regulering og policy omkring OPP udspiller sig i andre lande, og ikke mindst, hvordan nationale forskelle på et ellers verdensomspændende fænomen forklares. Jeg har i perspektiveringen peget på et behov for videre undersøgelser af feltet.

Noter

1. Tak til den anonyme reviewer for mange brugbare kommentarer og forslag til forbedringer af den første version af manuskriptet.
2. På Erhvervs- og Byggestyrelsens hjemmeside findes en oversigt over en række OPP-vurderede projekter (www.ebst.dk/OPPForundersogelse). Af disse er kun de tre nævnte projekter igangsat.
3. Forfølgelse af egen nytte hensyn kaldes også opportunist, som betyder, at aktørerne agerer strategisk kalkulerende med henblik på så vidt muligt at maksimere egne nyttefunktioner. Horn (1995:7).
4. De fire spilformer og institutionel organisering er idealtypiske eksempler i Weberiansk forstand. Der kan i praksis tænkes findes hybridformer mellem de her nævnte.
5. Der er gennemført interview i Økonomi- og Erhvervsministeriet, Erhvervs- og Byggestyrelsen, Slots- og Ejendomsstyrelsen, Indenrigs- og Sundhedsministeriet, Kulturministeriet, Transportministeriet og Finansministeriet. Skatteministeriet blev

kontaktet flere gange, men ønskede ikke at deltage i et interview, og ministeriets position er derfor belyst via de syv interview i de øvrige departementer og styrelser. Den nærmere årsag til afslaget på forespørgslen om interview er ikke oplyst men kunne være udtryk for den relativt konfliktfyldte rolle, som Skatteministeriet indtager i forbindelse med regulering og policy omkring OPP i Danmark, hvilket bliver uddybet gennem artiklen. Interviewene er udført blandt fuldmægtige, special-, eller chefkonsulenter i de relevante kontorer eller afdelinger i de nævnte departementer og styrelser.

6. Konkurrencestyrelsen og Justitsministeriet er kun i mindre grad involveret i OPP og er derfor ikke inddraget i artiklen. Konkurrencestyrelsen administrerer de danske udbudsregler, som for OPP er omsat fra EU's udbudsdirektiv. Justitsministeriet er involveret via OPP-vurdering af et fængselsbyggeri i Østdanmark, som formentlig ikke gennemføres som OPP. De planlagte domstolsbygninger udbydes af Slots- og Ejendomsstyrelsen, selvom domstolsområdet hører under Justitsministeriet.
7. Der henvises til ATP-sagen, hvor Transport- og Energiministeren positivt advokerede for, at ATP kunne gå ind og overtage drift og vedligehold af det danske skinnenet i en længere årrække. Sammenholdt med det store overskud på de statslige finanser må vedligeholdelsesstandarden på skinnenettet i høj grad betragtes som en politisk beslutning frem for en konsekvens af manglende mulighed for offentlig finansiering. Sagen kan derfor tolkes som et trafikpolitisk forsøg på at fremme et højere udgiftsniveau ved at advokere for partnerskab med en privat leverandør. Det bør i den forbindelse bemærkes, at der ikke er tale om et OPP, men et driftspartnerskab.
8. Sammensætningen af Økonomiudvalget ses på <http://www.stm.dk/Index/mainstart.asp?o=93ogn=1ogh=4ogs=1> søgt d. 25. februar 2008.
9. Statsministeriet har på embedsmandsniveau en anden opbygning end de øvrige ministerier. Under departementschefen sidder tre såkaldte departementsråd, som hver især har ansvaret for en politisk søjle. Det er departementsråd for søjle 2 »Økonomi og indenrigspolitiske forhold«, som repræsenterer Statsministeriet i Styregruppen, mens Statsministeriets departementschef sidder i Økonomiudvalget sammen med ministrene fra de øvrige ministerier, jf. ovenfor.
10. Koordinationsudvalgets sammensætning;

<http://www.stm.dk/Index/mainstart.asp?o=93ogn=1ogh=4ogs=1> søgt d. 25. februar 2008.

11. Selv hvis der kigges til Storbritannien, som jf. indledningen til denne artikel igangsatte OPP-projekter i de tidlige 1990'ere, er projekterne anno 2008 kun cirka halvvejs i aftaleperioden. Erfarings- og evalueringshorisonten for denne type OPP er altså meget lang.

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Interview

Økonomi- og Erhvervsministeriet, Erhvervs- og Byggestyrelsen, Slots- og Ejendomsstyrelsen, Indenrigs- og Sundhedsministeriet, Kulturministeriet, Transportministeriet og Finansministeriet. Genneført i sommeren 2006. Interviewene er anonymiserede.

PAPER III: Regulation of public-private partnerships: the Danish case

Regulation of public–private partnerships: the Danish case

Ole Helby Petersen

The Danish government has considered the public–private partnership (PPP) model for major construction and infrastructure projects. But, whereas other countries have embraced PPPs, Denmark has been a sceptic. This article examines why PPPs have not got off the ground: a mixture of regulatory controversies among central government departments and strong public finances (making private finance largely redundant). Two case studies from the schools sector illustrate the regulatory difficulties that public and private partners face when engaging in PPP activity in Denmark. The author concludes that clear regulations are needed to support PPPs.

Denmark: a PPP sceptic

Public–private partnerships (PPPs) are being used by governments around the world. But whereas more experienced PPP countries—such as the UK, Australia, Portugal, Spain, and more recently also Ireland and the Netherlands—have witnessed a steady growth in the number of signed projects, the Scandinavian countries and some central and eastern European countries have shown more reluctance towards the PPP concept. In times of globalization when public management concepts are flowing across national borders, these national differences in the adoption of the PPP model are puzzling.

Whereas the PPP programmes and activities of the more experienced PPP countries are well documented (see Klijn and Teisman, 2003; Reeves, 2003; Pollock *et al.*, 2007; Weihe, 2008), much less has been produced on those countries that have reacted with more scepticism towards PPPs. This article extends the current stock of PPP studies by presenting the Danish case. Denmark first considered adoption of the PPP model in 1999, but the programme has moved slowly. Today only three PPP projects are operational and a few others are under construction. Examining Denmark's PPP policies and regulations, supplemented by two case studies from the schools sector, this article details the hesitant development of construction/infrastructure PPPs in Denmark.

The origins and development of Denmark's PPP programme

Denmark has a long tradition of public delivery of welfare services, and has traditionally been hesitant about imposing user charges on

services and infrastructure. In fact, the two major infrastructure projects in the 1990s—the Great Belt Bridge and the Oresund Bridge—were constructed as state-owned companies. Even though user tolls are collected on these bridges, they are not generally considered to be PPPs because of the public finance element. Further, the Copenhagen Metro which became operational in 2002 was also financed by public loans and land sales. Unlike the serious constraints on public spending and borrowing that the UK economy was facing when the PFI programme was launched in the early 1990s, the Danish economy was booming and government surpluses meant that major projects could be financed out of the public purse. In the period from 1997 to 2008, Denmark's government sector produced an average annual surplus of 2.2% measured against GDP, compared to a Euro area average of -1.9% (Eurostat, 2009). So the politico-economic case for introducing PPPs in Denmark was from the outset not as favourable to a large-scale adoption of the PPP model as elsewhere.

The PPP concept was introduced in Denmark by the Danish Ministry of Finance in 1999 (Ministry of Finance, 1999). However, as it was published in the ministry's annual budget report (not a public bestseller), the introduction went almost unnoticed. In late 2001 the incoming prime minister, Anders Fogh Rasmussen, announced a more widespread involvement of private partners in public service delivery. In the subsequent years, a handful of government reports mentioned PPP as a means of optimizing large-scale construction and infrastructure projects (Ministry of Economic and Business Affairs,

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2002, 2003), but no concrete government action was taken, nor was any money earmarked for projects.

In January 2004, the Danish government launched a PPP action plan with 10 initiatives to support a more widespread use of PPP in Denmark (Danish Government, 2004). Important among these initiatives were seven pilot PPP projects, the establishment of a Danish PPP Competence Unit, and a universal PPP testing requirement. The action plan also set up pools of money to support local and regional authorities in the testing of projects for PPP relevance (see table 1).

However, many initiatives have either been seriously delayed and/or had little practical effect. Unlike many other countries, where PPP competence units have been established under the ministry of finance, the Danish PPP Competence Unit was placed in an agency under the Ministry of Economic and Business Affairs, which has traditionally been the Ministry of Finance's little brother. The Danish PPP unit is responsible only for facilitating construction-type PPP projects (schools, office buildings, sports arenas etc.). Infrastructure PPPs have been given no dedicated institutional support in Denmark, even though five of the seven pilot PPP projects in the government's action plan were road projects.

So, although launched as an ambitious initiative, the evidence clearly indicates that

the Danish government's PPP action plan has in fact produced little real action. This lack of action owes much to the Danish government's serious problems in setting out a regulatory framework supporting PPPs, which has made the planning and procurement process costly and risky for public and private partners.

Denmark's regulatory difficulties with PPP

While some of the Danish PPP regulations are parallel to those of the UK, Ireland, and elsewhere, others are not. Even where the European Union (EU) is the source, for example with public procurement regulations, the Danish regulatory authorities seem to have adopted a less favourable interpretation for PPP than elsewhere.

This article is based on face-to-face interviews with officials in all government departments and agencies regulating PPPs in Denmark. Interviewees included officials in the Ministry of Finance, the PPP Competence Unit, the Tax Agency, the Ministry of the Interior, and the Ministry of Transport. To balance these public sector accounts, interviews were also conducted with private sector interviewees in the Confederation of Danish Industry, the Chamber of Commerce, the Construction Association and the Transport and Logistics Association. Information was also sourced from official documents, legislation and other published government materials.

Table 1. Ten initiatives in the Danish government's 2004 action plan for PPPs.

<i>Initiative</i>	<i>Action</i>	<i>Status 2010</i>
1	Seven national pilot PPP projects Two projects planned as PPPs	One project operational (the Danish National Archive) Two projects to proceed as traditional procurement contracts One project cancelled One project has been analysed but the report has not been released
2	Universal testing requirement: all national construction projects to be tested for PPP relevance	Implemented in Danish national building legislation in 2009
3	Approximately £3.0 million to support PPP testing of infrastructure projects by local and regional authorities	Few projects have been tested for PPP relevance
4	Approximately £0.8 million to support PPP testing of construction projects by local and regional authorities	Analyses of PPP relevance for 17 projects have been partly financed from this pool of money
5	Clear regulations on local municipalities' budgeting and finance of PPP projects	Regulations unchanged until a special government commission resolved the issue in May 2008
6	Framework contract with three preferred PPP advisors	The framework contract was delayed significantly but eventually signed in 2006
7	General PPP guidance documents and legal guidance material	Material provided by the Danish PPP unit (see initiative 10)
8	Web-based portal hosting all official Danish PPP documents	Implemented. Danish PPP guidance material can be found at www.udbudsportalen.dk and www.ebst.dk
9	Analyses of Denmark's potential use and scope of the PPP model	Two reports produced. One showed a Danish PPP potential of c. £3 billion in the period 2005–2010
10	Launch of a Danish PPP Competence Unit with responsibilities for construction PPPs	Established. The PPP Competence Unit offers guidance to local municipalities. Exclusive focus on construction sector PPP projects, no expertise in infrastructure PPPs

Universal PPP testing requirement

Unlike Ireland and the UK, the Danish government has chosen to adopt a universal PPP testing of public sector projects (the UK had a testing requirement, but chose to abolish it after only a few years). Testing only applies to national government projects, not local or regional projects and it is only mandatory for construction projects—infrastructure projects that are handled by the Ministry of Transport are excluded. In addition, no procedures have been established to monitor whether departments and agencies actually carry out the PPP testing.

Two government projects have been signed subject to the testing requirements: the building of new archives for the Danish National Archive, and a National Registration Court. Both projects became operational in 2009. The universal PPP testing requirement has thus led to the testing and procurement of a few Danish PPP projects, but many sectors have been exempted, and there is no significant deal-flow.

PPP procurement: the competitive dialogue procedure

PPP projects in Denmark and all other EU member states are subject to a common set of procurement regulations. The so-called 'competitive dialogue procedure' was launched in 2004 as a new procurement principle that should facilitate the procurement of contracts that are 'particularly complex', and where the contracting authorities: 'are not objectively able to define the *technical* means...and/or are not objectively able to specify the *legal* and/or *financial* make-up of a project' (European Parliament and Council, 2004, p. 18 [my emphases]).

The competitive dialogue procedure was meant to facilitate procurement based upon open output specifications—one of the basic principles of PPP. Instead of choosing a preferred bidder early in the process, the competitive dialogue procedure prescribes that the public authority pre-qualifies a list of consortia that proceed into the dialogue stage. The procurement authority in this stage holds a number of bi-lateral meetings with each of the pre-qualified bidders. The output specification is then gradually specified throughout this process. The process terminates with detailed bids from all remaining bidders, after which the public procurement authority awards the proposal it considers to be the most attractive.

The public procurer must proceed with

parallel meetings throughout the whole tender, and the private consortia on their side spend considerable time and money developing separate project proposals, while only one will eventually be awarded the contract. These regulations apply on an EU-wide basis, but whereas countries such as the UK, Ireland and the Netherlands launched their pilot PPP programmes long before the competitive dialogue procedure was added to the EU's procurement directive in 2004, Denmark's pilot PPP projects coincided with the amended procurement procedures. Experiences with the competitive dialogue procedure are still building up in Denmark and elsewhere, but the interpretation from the field is that this procedure, despite its advantages in terms of transparency and fairness, is both demanding and expensive for public and private partners alike.

Restrictions on local government PPPs

Regulation of PPPs in the Danish local government sector must be viewed in the context of a strong tradition of decentralized local government. The Danish welfare system is one of the most comprehensive and costly in the world. Local government collects income taxes, and delivers such services as primary education, childcare, environmental planning and local roads. Approximately 12% of local government services are contracted out to private companies, and since the liberal-conservative administration came into office in 2001, the government has strongly encouraged that this number be increased, but with moderate success so far.

Local government use of PPPs in Denmark is subject to a comprehensive set of regulations that restrict their access to private lending and leasing. These regulations were recently amended after a massive scandal in the local municipality of Farum—a suburb of Copenhagen. Farum had entered into sale-and-leaseback contracts by selling off public water treatment plants and other facilities to private businesses and then renting them back. This meant that Farum had substantial amounts of capital to spend on new projects and services, but it left the local municipality in deep debt (see also Greve, 2003). Local municipality access to these leasing arrangements was soon after amended, and regulations now require that municipalities entering into PPP or sale-and-leaseback arrangements reserve an amount equal to the value of the contract in a closed account. This is to make sure that the PPP model is used to increase the value for money

of major construction projects, and not as an alternative way of financing projects that a local municipality would otherwise not be able to finance. Accordingly, the reserved amount can only gradually be released over the course of the contract period (Ministry of the Interior, 2008).

What the central regulators did not realize at this stage was that these regulations would in fact render PPPs less feasible for local governments than traditional procurement projects. Regulations required the full project value to be reserved upfront when commencing a PPP project, whereas the payments on a traditional project would follow the building process that typically covers two or three budget years. Furthermore, local governments' reserves would have to include value added tax (VAT), which is 25% in Denmark. Local government spending is generally exempted from VAT, so the money would be released later, but the upfront capital needs when commencing a PPP project became very high. The regulations that were initially established to promote value-for-money considerations and as a safeguard against risky over-investment in the local government sector resulted in PPPs becoming an impossibility for most local municipalities. Government regulators became aware of this regulatory side-effect in 2005, but it took three years before an inter-departmental group in 2008 published a report resolving the issue by giving PPP and traditional procurement projects equal regulatory treatment in local government budgets (Ministry of the Interior, 2008). By then, the unresolved regulations had led to delays and cancellations of projects.

Tax and VAT for PPP

The tax and VAT regulation for PPP projects has been a highly complex issue in Denmark and elsewhere, but whereas countries such as the UK and Ireland developed a way of handling these issues relatively early, the evidence collected for this article demonstrates that the issue is still highly problematic for Danish PPP projects. Danish tax legislation allows companies to depreciate their assets, and this depreciation can be deducted before a company pays corporation tax. Also, VAT can be deducted from the company's expenses related to operating and maintaining an asset for commercial purposes, for example a building or infrastructure facility operated under a PPP scheme. However, a PPP company can only depreciate the building or infrastructure and deduct VAT from its expenses if it is considered to be the legal owner

of the asset. In 2004, the Statistical Office of the European Communities (Eurostat, 2004) decided that a private partner's legal ownership of a PPP asset should be subject to two conditions:

- The private partner bears the construction risk.
- The private partner bears at least one of either availability or demand risk.

The Eurostat decision applies to PPP projects on an EU-wide basis, and has been central to on/off balance sheet discussions for European PPPs. Eurostat launched this decision based on concerns that some countries would place projects off balance sheet in order to meet the excessive deficit criteria established by the European Monetary Union (Petersen, 2008, p. 14). However, the on/off balance sheet discussion has never been an issue in Denmark, presumably because the country meets these criteria by a large margin. So the EU regulation on the legal ownership of PPP projects has not been as important in Denmark as it has elsewhere, but Danish tax legislation nonetheless resulted in a heated debate over risk distribution, the legal ownership and the tax and VAT treatment of PPP contracts.

To understand the issue fully, the Danish tax scandals of the 1990s must be considered. A number of big cases went to the courts after some businesses used a loophole in Danish tax legislation for large-scale tax avoidance. The cases were not PPPs, but the resulting regulatory amendments made it very difficult for private consortia to be registered as the legal owner of the asset in PPP deals. The interviews demonstrate that various government departments were in open combat over the issue, with the Ministry of Economic and Business Affairs and the PPP Competence Unit pushing for a solution, and the Ministry of Taxation and the Tax Agency being in principle neutral towards PPPs, but at the same time overtly concerned that the PPP model might unintentionally reopen the loophole in Danish tax law.

The tax and VAT issues are extremely important for Danish PPP projects. Case-by-case solutions were found for some of the first PPP projects, but there has been no generic solution, and the tax authorities insist that decisions cannot be made prior to the existence of a concrete contract. The implication is that projects must proceed all through the planning and competitive dialogue procedure before a decision can be made regarding the legal

ownership of the asset. The interviews demonstrate that substantial public and private resources have been dedicated to this issue, which still constitutes a major source of concern in the Danish PPP market.

Denmark's regulatory difficulties in action: two case studies

The two case studies that follow both concern primary school projects of similar size and scope. The schools sector was chosen for these case studies because Denmark has the most extensive PPP experiences within this sector. Whereas the first primary school project proceeded relatively quickly through the planning and procurement process to become the country's first operational PPP project, the other one never made it to the procurement phase.

The two case studies are the first internationally published analyses of Danish PPP projects, and thus also the first to illustrate in practice the kind of regulatory difficulties that public and private partners face when engaging in PPPs in Denmark. The cases are examined with reference to key PPP regulation issues: procurement, transfer of risk, legal ownership and tax and VAT.

Vildbjerg primary school: a struggle for PPP

Denmark's first PPP project was a primary school in the small town of Vildbjerg in the western part of the country. The project was a design, build, finance, operate, and maintain (DBFOM) contract for a school of 700 pupils, including administration buildings and an indoor sports facility. The local government became interested in the PPP model in 2004 and contracted two consultancy firms, KPMG and Ramboll, to analyse the PPP potential of the project. In October 2004, the consultants submitted their report estimating a cost saving of roughly 10% for PPP compared to a traditional procurement model (KPMG, 2004, p. 6). The school was not listed as one of the Danish government's pilot PPP projects because the primary school sector is administered by the local municipalities, but the PPP Competence Unit supported the local government with money and expertise in the planning process.

The local municipality used the competitive dialogue procedure to procure the school project, which was noted in the *Official Journal of the European Community (OJEC)*. Twelve consortia gave their expressions of interest and five were pre-qualified to proceed to the dialogue phase. Three of the five bidders

proceeded through the dialogue procedure and submitted a final bid, whereas two consortia were eliminated in the final phase. The competitive dialogue procedure finished in August 2005, and the winning bidder was a Danish/German PPP consortium called Vildbjerg Skole A/S, consisting of the construction company MT Hoejgaard, the facility manager Dan-Ejendomme, and the German bank DNB Nord. However, it took another four months before the contract was finally signed, because the project ran into serious problems with national regulations. According to the evidence gathered for this case study, at the time of contract closure the Danish government still did not have regulations in place to handle PPP projects, despite the fact that initiative five in the government's PPP action plan should lay out clear regulations for the use of PPP in the local government sector (see table 1).

Two regulatory problems threatened the use of the PPP model for this project: the first related to the treatment of PPPs in the local government's budget. With the primary school being a DBFOM, the Ministry of the Interior, which also has the responsibility for the local government sector, suddenly realized that local government regulations made it mandatory for the local municipality to reserve an amount similar to the construction sum in a closed account. The regulatory difficulties now became very relevant. If commencing the project as a PPP, the local municipality was required to deposit the full construction sum upfront, and add an additional 25% VAT to this amount. This was not possible within the existing budgets, and the project became seriously endangered. In an attempt to reach a deal with government regulators, local government senior officials and senior representatives from the private consortium travelled to Copenhagen to hold several meetings with officials in the Ministry of the Interior. Both the local government and the winning private consortium accrued substantial expenses, and the project became so endangered that a 'plan B'—a traditional procurement solution—was agreed between the local government of Herning and the winning consortium in case the reservation issue could not be resolved. The PPP solution was not settled until the minister of the interior announced that the government would give Vildbjerg school an exemption from the regulations on deposits, but it was at the same time strongly indicated that this was a one-off decision. Nonetheless, the contract that had been ready for closure for

months was finally signed, and construction was started immediately afterwards. The project became operational in December 2006.

The second regulatory challenge to this project was the Danish tax and VAT regulations. As the Vildbjerg school project was Denmark's first PPP, the Tax Agency had no prior experience of PPPs. The Tax Agency had not been involved in the Danish government's PPP programme, and staff were astonished when contacted by the local government and its advisers. Furthermore, neither the PPP Competence Unit nor the Ministry of the Interior, both of which had been in close contact with the local government during the process of planning this project, had been aware of this issue until the local government and the private PPP consortium issued a request for a private ownership registration.

However, when contacted by the local municipality, the responsible government departments and agencies did not find a solution to the issue, but rather started an internal fight among themselves over the principal aspects of tax and VAT treatment of PPP. The Tax Agency in particular was very nervous that PPPs would potentially pose a challenge to existing tax regulations, whereas the Ministry of Economic and Business Affairs and the PPP Competence Unit pushed for a quick solution that was supportive to PPPs.

A compromise was finally agreed that resulted in a private consortium, Vildbjerg Skole A/S, becoming the legal owner of the school during the contract period. The Tax Agency required that the asset could only be transferred back to the public partner subject to payment of a market price for the asset when the contract ended, which should increase the risks transferred to the private partner. Furthermore, the agency made it clear that future PPP projects would be treated on a case-by-case basis, and that a final contract would have to be submitted before it could evaluate whether risks were sufficiently transferred to make the private consortium the legal owner of the asset. So whereas Vildbjerg primary school is often presented by Danish policy-makers and regulators as a project which illustrates the commencement of a successful Danish PPP programme, the evidence gathered on this case demonstrates how the project ran into serious difficulties caused by an unresolved set of regulations at the national level which delayed and challenged the PPP solution to the project and imposed extra costs on the public and private partners.

Kalundborg primary school: PPP rejected

The local municipality of Kalundborg, located approximately 100 km west of Copenhagen, decided in 2007 to build a new primary school because one of its 10 existing schools was in poor condition and pupil numbers were increasing. Here the local government also hired a consultancy firm to carry out an *ex ante* value-for-money analysis of project costs for the PPP model compared to a traditional procurement. The consultants from PricewaterhouseCoopers, analysing three alternative locations for the new school, submitted a report in April 2008 which concluded that a PPP would cost approximately the same as the traditional solution, but that the transfer of risks was likely to make a PPP a better deal for the local municipality (PwC, 2008).

The interviews conducted on this case demonstrate that the city council was in favour of commencing the project as a PPP, but that the unresolved regulations regarding local government PPPs soon became a deadly hurdle for this scheme. After the Vildbjerg school project had in 2005 been given an exemption from the PPP reservation regulations, national regulators began considering an amendment that would treat PPPs and traditional procurement projects equally in local government budgets. These regulatory discussions were initiated in 2005, but three years later when the Kalundborg primary school project was being planned, regulations had still not been amended. Once again, local senior officials and the private advisers travelled to Copenhagen to hold meetings with the Tax Agency and the Ministry of the Interior, but this time the message was different: the ministry was not willing to issue the city council with the same exception as the Vildbjerg project had been given. The Ministry of the Interior, which was at the time chairing an interdepartmental group working on an amendment to the regulations to resolve the issue, informed the city council that this work was going on. But the ministry could not issue any guarantees for the primary school project before the interdepartmental group had given its recommendations.

Being briefed on the situation, the city council of Kalundborg at a meeting in late April 2008 decided to vote down what would otherwise have become Denmark's second primary school PPP project. Uncertainty over the current regulatory framework for PPP was prevailing, and the city council was frustrated that these issues had still not been resolved four

years after the launch of the government's PPP action plan, and three years after Denmark's first PPP project had been given an exception from the same regulations. The local municipality accrued additional expenses and received extensive criticism in the local media in this process. Furthermore, the subsequent tax and VAT treatment of the project was an additional hurdle that would have to be resolved in the final process of signing the project as a PPP.

Though initially favouring the PPP solution, the city council decided to reject the PPP model and proceeded with a traditional procurement project. Only a month later, in May 2008, the interdepartmental group published a report recommending an amendment to the reservation regulation that would give equal budget treatment to PPPs and traditional projects in the local government sector (Ministry of the Interior, 2008). By then, the city council had already gone further with the planning of the traditional procurement project, and decided not to reverse their decision.

Concluding remarks

Along with many other governments, the Danish government has considered the PPP model as a means of improving the value for money of major construction and infrastructure projects. The Danish government launched a PPP action plan in 2004, but the effects in terms of real action have been much less pronounced in Denmark than in many other countries.

The evidence collected for this article demonstrates that Denmark's regulation for PPP has been partly incoherent and that regulatory authorities have moved slowly and demonstrated little determination towards resolving central regulatory issues. The universal PPP testing requirement and the competitive dialogue procedure have had a very limited effect on PPP activity in Denmark. Further, whereas EU regulation concerning the on/off balance sheet issue has been significant in many other countries, in Denmark this has not been important—presumably because of the strong public finance situation.

Restrictions on local government spending and the tax and VAT treatment of PPP projects have posed serious impediments to a greater uptake of PPPs. The reservation issue was finally resolved in May 2008 after years of negotiations between government departments. However, tax and VAT regulation still constitutes a serious source of concern for public and private partners engaging in PPPs. The tax authorities insist that the legal

ownership of the asset can only be decided on after careful review of the transfer of risks under a concrete PPP scheme, which in practice means that a project must proceed all through the planning and procurement phases before a tax and VAT registration can be issued to the private partner. No generic solution has been found, and tax and VAT is still handled on a project-by-project basis.

The two case studies from the schools sector have illustrated in detail the challenges which public and private partners face when engaging in PPP activity in Denmark. Whereas the first PPP project, the Vildbjerg primary school, was saved by the minister of the interior, who issued a one-time exemption from the restrictions on local government PPPs, the second PPP school project fell because the minister this time would not issue an exemption from the local government reservation requirements. In both cases, the lack of a clear and well-tested model for tax and VAT treatment of PPP projects made the PPP solution uncertain for both public and private partners. Rather than resolving these fundamental regulatory issues, central government departments and agencies fought over the principal aspects of policy and regulation, and displayed little determinism towards tackling central regulatory concerns displayed in the PPP market. The Ministry of Finance and the Tax Agency in particular have shown a reluctance towards setting regulation supporting a more extensive use of the PPP model in Denmark, whereas the Ministry of Economic and Business Affairs and the PPP Competence Unit have strongly promoted PPP but have had limited resources and no direct competencies to enact new regulations that could further promote uptake of PPPs.

Finally, when judged against the Danish government's proclaimed mission to increase the value for money of major construction and infrastructure projects, these regulatory challenges and the persistently low number of signed deals can be interpreted in at least two ways:

- First, as a lack of political determination in setting out policies and regulations supporting the adoption of PPP. The fact that the Danish government launched a seemingly ambitious PPP action plan, but subsequently did little to resolve the regulatory challenges for PPP projects, can be interpreted as a consequence of the fundamental disagreements between central regulatory departments and agencies.

- Second, a more optimistic interpretation of the Danish government's approach would emphasise the uncertainty about the extent to which PPP can really deliver value for money. The emphasis on *ex ante* testing of projects underpins this commitment to PPP as a value-for-money tool, and not as an alternative way of financing projects that would otherwise not be feasible. Analyses published in *Public Money & Management* and elsewhere have recently raised serious doubts and concerns about the HM Treasury and the National Audit Office's value-for-money evaluations of PPP projects (see, for example, Hodge and Greve, 2007; Pollock *et al.*, 2007; Pollock and Price, 2008).

If these critical voices hold true, being PPP sceptic might, after all, prove to be a rational strategy. But even if the jury is still voting on the long-term pros and cons of PPPs, Danish regulatory authorities need to get the regulations straight. Economic theory informs us that risks are priced in a market, and that these risks will eventually influence product prices. The PPP market should be no exception. Denmark's regulatory uncertainties and slow problem-solving thus increase transaction costs in the market and make it less likely that PPP projects will turn out to deliver value for money in the long run, which was the government's primary reason for introducing PPPs in the first place. Getting clear regulations in place is therefore not only fundamental to a greater uptake of PPPs in Denmark, but also to the value-for-money prospects of such projects. ■

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PAPER IV: Multi-level governance of public-private partnerships: an analysis of the Irish case

INTRODUCTION

Public-private partnerships (PPPs) have recently gained widespread attention among governments and scholars across public administration and management (Osborne, 2000; Teisman & Klijn, 2002; Ghobadian et al., 2004; Koppenjan, 2005; Vrangbæk, 2008; Greve & Hodge, 2010). Promoted as a more collaborative approach than earlier waves of privatisation and contracting out, the PPP approach has been touted as a means of overcoming the principal-agent relationships characteristic of the first epoch of New Public Management (NPM) reforms (Linder, 1999; Hammerschmid & Angerer, 2005; Christensen & Lægheid, 2007). Many commentators see the partnership idea as a suitable – some would even argue necessary – governance scheme with which to organise activities in the mixed sphere between public and private (Teisman & Klijn, 2002; Treib, Bähr & Falkner, 2005; Edelenbos & Klijn, 2007). Moreover, in a broader public administration context, the global resurgence of the PPP notion has been interpreted as part of a more general trend from government to governance in which decision making authority is gradually being dispersed both horizontally and vertically (Rhodes, 1996; Tenbenschel, 2005; Ysa, 2007).

Advances in developing an understanding of complex decision-making in PPPs have been achieved by analysing partnerships as institutionalised governance schemes characterised by shared responsibilities, costs, risks and benefits over a long time period (Teisman & Klijn, 2002; Koppenjan, 2005; Greve & Hodge, 2010). This theoretical perspective sees partnership not just as a contractual relationship or a financial tool, but as a governance scheme suitable for the modern network society (Van Ham & Koppenjan, 2002; Kooiman, 2003; Ysa, 2007). Significant insights have also been gained by analysing decisions relating to PPPs as a series of games in complex policy networks with participation of various public and private actors (Lowndes & Skelcher, 1998; Klijn & Teisman, 2003; Petersen, 2009). Inter-organisational decision, according to this perspective, is not just an option, but a necessity for achieving coordinated policy outcomes in complex networks involving the participation of various strategic actors (Scharpf, 1994; Klijn & Teisman, 2003; Klijn & Edelenbos, 2007). But previous research also demonstrates that coordinated decision-making is difficult to achieve, because each actor chooses their own strategies, which make policy outcomes for PPPs subject to a strategic and institutional complexity (Klijn & Teisman, 2003).

This paper analyses PPPs as a form of multi-level governance in the area of asset-based public services and infrastructure, with a focus on the Irish PPP case (Reeves, 2003; Hurst & Reeves, 2004). The study addresses a gap in previous literature regarding regulation and governance of infrastructure PPPs, which has mainly focused on the complexities in the horizontal (public-private) dimension of PPPs, whereas studies focusing on the interplay between various territorial levels in the regulation and application of PPPs have hitherto been largely absent (see also Petersen, 2010a). I suggest that the Irish PPP case is interesting from a multi-level governance perspective because of the involvement of actors and organisations at several levels of government, including various central government actors, local actors, sector departments and agencies, and organisations at the EU level (such as the European Commission and the European Investment Bank), in important decisions about policy and regulation of PPP and in concrete decisions about the formation of PPP projects (see below).

At the time it was launched in 1999, the Irish government's PPP programme was officially designed to 'allow for dynamic interaction and cooperation between the public and private sectors, highlighting the complementarity of the public service ethos with innovation in the provision of public capital infrastructure and services' (Irish Government, 2001:2). Ireland was at the time facing a major infrastructure deficit as a consequence of years of underinvestment in the physical infrastructure combined with the serious strains on public capital budgets following on from the EU's Growth and Stability Pact (Kay & Reeves, 2004). As a result of this, the Irish government was in search of alternative ways of remedying Ireland's infrastructure gap while attempting to steer clear of excessive deficits on government capital budgets (Farrell and Goodbody Consultants, 1998; Reeves, 2003).

Faced with these challenges, the Irish government launched an ambitious PPP programme to attract private investment in public services and infrastructure: a comprehensive policy and regulation framework was launched, a Central PPP Policy Unit was established under the Ministry of Finance, eight major pilot PPP projects were announced, and a pool of money was earmarked for PPPs. In the aftermath, however, when projects were not realised at the expected speed and the European Commission launched a new decision about risk-sharing and on/off-balance sheet treatment of PPP projects, the Irish government launched a number of amendments which largely centralised PPP policy and regulation within the Ministry of Finance. Also, procurement functions and financial expertise were centralised in the National Finance Development Agency (NDFA), a new

procurement unit established via specific legislation in 2002 and 2007. While this manoeuvre enabled Irish policymakers to guide and steer PPP activity to an extent much greater than previously, the PPP initiative has, however, subsequently been heavily criticised for its lack of legitimacy and accountability to the wider public (Kay & Reeves, 2004; Irish Congress of Trade Unions, 2005).

The specific research questions addressed in this paper are: *Who are the key actors and what are the strategic games that create policies and regulations for PPPs in the Irish case? How can the development of Ireland's PPP programme be accounted for through the concept of multi-level governance? How did the EU level and the national level interact to support or hinder the formation of concrete PPP projects?* Multi-level governance can be characterised as a “system of continuous negotiations among nested governments at several territorial tiers – supranational, national, regional and local” (Marks, 1993: 392; see also Hooghe & Marks, 2003). Multi-level governance is thus seen in line with the more general trend in public administration from government to governance (Rhodes, 1996), whereby central government's monopoly on policy-making and regulation is gradually being dispersed to actors below and above it (Stoker, 1998; Hooghe & Marks, 2003; Bache & Flinders, 2005). From a theoretical viewpoint, therefore, I suggest that we should expect that the complexity of decision-making in PPPs occurs not only in the horizontal dimension, as illustrated by previous research (e.g. Van Ham & Koppenjan, 2002; Teisman & Klijn, 2002; Koppenjan, 2005; Edelenbos & Klijn, 2007; Johnston & Gudergan, 2007), but also in the vertical dimension, where strategic actors at several levels of government engage in complex decision-making games about important policy outcomes for PPPs.

The paper commences with a brief overview of PPPs and the drivers behind their recent emergence (Section 2), followed by a discussion on how decisions about PPPs can be analysed as a series of games in multi-level policy networks (Section 3). Then, the empirical case of Irish PPPs is examined, starting with an overview of recent developments in PPP policy and regulation at the EU level, then moving on to examine the development of Irish national PPP policy and regulation, and finally, two case studies of PPP projects from the Irish third level schools sector (Section 4). Subsequently, the broader lessons we can learn from this case study are discussed (Section 5), and a conclusion to the paper is provided (Section 6).

PPPS AND THEIR RESURGENCE IN MODERN PUBLIC ADMINISTRATION

The term ‘partnership’ is a broad notion which covers a number of differing concepts and forms of interaction between public and private (and sometimes civil society) actors for various types of public services and infrastructure provision (McQuaid, 2000; Teisman & Klijn, 2002). A common definition of PPP is that it concerns ‘co-operation of some sort of durability between public and private actors in which they jointly develop products and services and share risks, cost and resources which are connected with these products’ (Van Ham and Koppenjan, 2002: 598; see also Klijn & Teisman, 2005). This definition is, however, rather broad and allows for a variety of different organisational arrangements with an element of risk sharing, collaboration and a common time-horizon. Other scholars have suggested that we might identify at least ten different types of partnerships (Grimsey & Lewis, 2004), whereas the European Commission focus on three primary forms of PPP: contract PPPs, concession PPPs and institutional PPPs (European Commission, 2004). Different definitions and classifications are common within this field of research, and it is also common to see PPP as an umbrella concept for a broad range of cross-sector arrangements (Mörth, 2007).

In order to clarify the various meanings and approaches in the literature, a number of commentators have talked about different “PPP families” or “PPP approaches” (Hodge and Greve 2007; Weihe 2008). Further, a distinction can be made between “economic partnerships” and “social partnerships”, respectively (Hodge & Greve, 2005: Chapter 1). Economic partnerships involve projects in which a private sector entity contracts with the public sector to take on the responsibility to design, finance, build, operate and maintain for instance a road, a hospital or a school over a long-term period (typically 30-35 years). The essence of this form of PPP is the involvement of private finance and the sharing (a PPP) or transfer (a PFI) of risks, in a process in which the private sector is paid to take on the risks related to the various phases of the project (Bing et al, 2005). Furthermore, there are both ‘hard’ and ‘soft’ types of economic PPPs: transport infrastructure has for instance been labelled ‘hard infrastructure PPP’, while hospitals and schools have been designated as ‘soft infrastructure PPP’ (Grimsey & Lewis, 2004). Social partnerships, according to Hodge and Greve, involve softer and somewhat less formalised partnerships, as found in issue networks and policy communities (2005: Chapter 1). In many countries including Ireland, however, the PPP concept is most commonly associated with the economic – and arguably narrower – understanding of the term, which is also the focus of this paper.

It has been argued that PPPs are established with the ultimate aim of achieving some sort of collaborative advantage (Huxham & Vangen 2000). Realisation of collaborative advantage means that something is achieved which could not have been accomplished without collaboration (ibid.). Another argument is that by letting the partners do what they are best at, PPPs can potentially accomplish a product or outcome which could not have been achieved by any of the organisations acting single-handedly (Klijn and Teisman, 2005). Various benefits in PPPs include economic gains (sharing/transfer of risks, new investment capital, value-for-money), resources (information, competencies, expertise), legitimacy and conflict avoidance (McQuaid, 2000; see also Mörtz, 2007). Innovation is also an often mentioned rationale for forming PPPs (Klijn and Teisman 2005). It is argued that when private sector money is being put at risk, private sector organisations are expected to have a greater incentive to adopt new and innovative approaches to designing, building, operating and/or maintaining assets than classic public sector provision (European Commission, 2004; OECD, 2008), although few if any academic studies have so far empirically illustrated that PPPs bring about more innovative solutions than traditionally procured projects.

Yet other scholars have argued that the primary reason for governments embarking on PPP/PFI has been the prospect of boosting government budgets by keeping major capital investments off balance sheets (cf. Glaister, 1999; Grimsey & Lewis, 2002; Reeves, 2003; Johnston & Gudergan, 2007). As noted by Spackman (2002), “In political and popular debate - in the UK as elsewhere - the fact that privately financed capital spending is off-budget is often the main reason advanced for private financing.” (2002: p. 288). Thus, by letting private partners finance and erect a public school, road or hospital, major infrastructure investments can be undertaken without affecting the EU’s General Government Deficit criteria, subject to a sufficient transfer of risks to the private partner (Eurostat, 2004; Kay & Reeves, 2004; Petersen, 2010). Another argument for utilising private finance in PPPs is that it enables governments to shift resources to other policy areas while delivering more investments as a whole: “In addition to maximizing efficiencies and innovations of private enterprise, PPPs can provide much needed capital to finance government programs and projects, thereby freeing public funds for core economic and social programs.” (Canadian Council for Public-Private Partnerships, 2010). However, recent academic literature has been overtly critical towards

this assertion because there is always a bill for the public sector to pay for the asset in the long term (Spackman, 2002; Hodge & Greve, 2005, 2007; Mörrth, 2007)²⁸.

All in all, there are thus a number of differing views and interpretations in the academic literature concerning the meanings and objectives of contemporary PPPs. While some scholars see PPPs in line with earlier waves of NPM and privatisation (Linder, 1999; Hammerschmid & Angerer, 2005), others see them as a new public governance scheme suitable for the modern network society (Van Ham & Koppenjan, 2002; Klijn & Teisman, 2005; Edelenbos & Klijn, 2007). In this paper, the question about objectives and strategies pursued by various actors engaged in PPP policy-making and regulation and in concrete decisions about the formation of PPPs is reserved for empirical analysis. How can the various strategies pursued by actors engaging in decisions about PPPs be analysed? How are decisions for PPPs taken in policy networks at multiple levels of government? In the following pages I discuss, from a theoretical perspective, how these questions can be addressed, and second, I present the empirical findings from the Irish case, from which this analysis can begin.

DECISION-MAKING AND MULTI-LEVEL GOVERNANCE

In order to address the questions formulated in the above, the paper utilises the Actor-Centered Institutionalism to public policy research (Mayntz & Scharpf, 1995; Scharpf, 1997; Klijn & Teisman, 2003), and the multi-level governance approach (Hooghe & Marks, 2003; Bache & Flinders, 2005). In so doing, the paper follows a strategy of ‘filling out’, which means that the two theoretical approaches are used as supplementing perspectives for the analysis of the empirical problem of multi-level decision-making for PPPs (Antonsen, Greve & Jørgensen, 2000; see also Bundgaard & Vrangbæk, 2007).

Actor-Centered Institutionalism and strategic decision-making

Given the participation of various strategic actors in decision-making games concerning PPPs, I take Renate Mayntz and Fritz Scharpf’s Actor-Centered Institutionalism as the theoretical point of

²⁸ Although there is one exception, as noted by Hodge and Greve: “In the case in which a government enters into an infrastructure deal requiring users or citizens to pay directly, such as tolls on a new road, it is clear that there is little impact on public budgets. Such an arrangement does reduce pressure on public sector budgets, but only because government has essentially purchased the infrastructure through the private credit cards of future road users rather than using its own resources.”(Hodge & Greve, 2007: 549)

departure (Scharpf, 1994, 1997; Mayntz & Scharpf, 1995). Actor-Centered Institutionalism represents an attempt to combine rational choice institutionalism with a more realistic bounded rationality model of the actor (Scharpf, 1997). The theory framework, or at least the game-theoretic version of it, views the process of policy-making as a series of games that takes place within one or several relatively well-defined decision-arenas (Scharpf, 1994). Each arena is characterised by limited substitutability, which makes the policy-players interdependent (Klijn & Teisman, 2003; Edelenbos & Klijn, 2007). These games can be cooperative or non-cooperative, the difference being that the former involves binding agreements among the players, whereas the latter does not support such coordinated action outcomes (Scharpf, 1994).

This theory framework has been applied within PPP literature in particular by Dutch public administration scholars, which see policy-making for PPPs as a process of a series of negotiations in embedded policy networks with participation of various public and private sector partners (Teisman & Klijn, 2002; Van Ham & Koppenjan, 2002; Koppenjan, 2005). Klijn and Teisman defines policy networks as “changing patterns of social relationships between interdependent actors which take shape around policy problems and/or clusters of resources and that are formed, maintained and changed by an ecology of games” (2003: 137). The participation of actors from various networks, each with a specific set of preferences and resources, is likely to make the strategic complexity of decision-making high (Kickert, Klijn & Koppenjan, 1997; Teisman, 2000).

In these policy networks, actors engage strategically but are also dependent on the resources and expertise of other organizations. This creates a continuity of interactions between the organisations participating in the network with the consequence that no single actor or organisation can unilaterally decide the decision outcomes (Stoker, 1998: 22). Policy-making, however, do not take place in an institutional ‘vacuum’, as noted by Scharpf:

The approach proceeds from the assumption that social phenomena are to be explained as the outcome of interactions among intentional actors – individual, collective, or corporate actors, that is – but that these interactions are structured, and the outcomes shaped, by the characteristics of the institutional settings within which they occur. (Scharpf, 1997: 17).

Institutions are thus seen as the formal and informal ‘rules of the game’, structuring, shaping and constraining the institutional decision environment in which particular courses of action are chosen

by the policy-players. But the relationship between actors and institutions is fundamentally two-way in the sense that ‘games about the rules’ are continuously being played as well (Stoker, 1998: 22). By changing the institutional settings surrounding the decision games, the institutional capacity of policy-coordination can be changed according to the interests and preferences of dominant actors or policy players (Roberts & King, 1991). The institutional settings thus constitute the decision environment in which games are being played, but these games can also lead to changing patterns of institutional structures (Scharpf, 1997).

Multi-level governance as vertically interconnected decision-arenas

However, complexities in policy-making for PPPs do not stop at the national border, but extend to the EU-level as well as to the sub-national (regional, local) levels (Marks, Hooghe & Blank, 1996). According to the multi-level-governance (Hooghe & Marks, 2003), multilevel governing (Scharpf, 2001), or multi-tiered centric governance (Jessop, 2005) perspectives, recent years have not only witnessed a dispersion of central government authority horizontally to various private and civil-society actors, but also vertically to actors drawn from below and above central government (Bache & Flinders, 2005). The multi-level governance approach does not refuse decision-making at the national arena as important, but it asserts that policy-making is no longer monopolised by central governments (Stoker, 1998).

A PPP, according to this perspective, is created in policy-games with participation of strategic actors at several levels of government. At the same time, these policy games are guided and structured by an institutional framework made up of formal and informal rules at various levels of government. This creates vertical interdependencies between actors and institutional decision structures. The possibility that games can be played in several networks (for example a building sector network and a transport sector network) and at multiple levels of governing makes decision-making for PPPs subject to an institutional and a strategic complexity both in the horizontal dimension and in the vertical dimension. Policy-games thus take place in interconnected arenas with various dominant actors, which expectedly make it difficult to connect the various interactions (see also Klijn & Teisman, 2003). In concrete terms, this means that we need to pay attention both to the actors and the various strategies they pursue, and to the multiple institutional levels in which policy games about PPPs are being played.

Building on the Actor-Centered Institutionalism combined with the multi-level governance approach, this paper examines the functioning of multi-level governance in the development of Irish PPPs. The paper investigates and links strategic actors, decision-arenas and institutional settings at the EU-level, the national level, and the sub-national level, using two high-profile schools sector PPP projects as case studies (see below). By using the multi-level governance perspective on PPPs, I attempt to extend previous governance PPP analysis, which has mainly focused on interdependencies in the public-private dimension (cf. Van Ham & Koppenjan, 2002; Teisman & Klijn, 2002; Koppenjan, 2005; Ysa, 2007). First, however, a brief presentation of the methods and empirical sources used in this paper follows.

METHOD AND EMPIRICAL SOURCES

The empirical data for this paper was collected during a doctoral research project on policy, regulation and multi-level governance of PPPs.²⁹ Reflecting the multi-level governance approach, empirical data was collected at several levels of government: (i) at the EU-level where key PPP issues such as procurement and the on/off balance sheet issue are regulated; (ii) at the national policy level in Ireland where central policy players guide and steer Irish PPP activities; (iii) at the project level utilising two in-depth case studies, the Cork School of Music and the National Maritime College of Ireland (third level schools), which are two of Ireland's high profile PPP projects in the schools sector. The schools sector was chosen as test bed because it constitutes one of the major PPP procurement sectors in Ireland as well as abroad, which could facilitate policy-learning and national comparisons with PPP experience in other countries.

The research was conducted according to the method of data triangulation (Peters, 1998), and was carried out as follows. Empirical material was collected through a combination of in-depth expert interviews and primary documents, such as official government reports, legislation, press releases, guidance material, archive documents and secondary literature. As PPP basically involve both public and private partners, it was considered fundamental to supplement public sector accounts with interpretations sourced through interviews and written sources published by private sector organisations as well. Face-to-face in-depth interviews were conducted at the EU level with

²⁹ The PhD-project focused on the development of policy and regulation for PPPs in a comparative and multi-level governance perspective. The country cases investigated within this PhD-project were Ireland and Denmark. The research in relation to the Danish PPP case and the EU's regulation of PPPs have been reported elsewhere (see Petersen 2010a, 2010b).

representatives of the European Commission in Brussels and with the European Investment Bank and Eurostat in Luxembourg. Moreover, interviews were carried out in Dublin and Tullamore with representatives of Irish government departments and agencies as well as with Irish labour and business confederations, with a senior PPP advisor in Belfast, and in Cork with the public project manager of the two PPP schools cases. The in-depth expert interviews were utilised to get access to process information and knowledge accumulated at the personal level, as recommended by Barzelay et al. (2003). For example: identifying critical events in the data set and establishing relationships between events; sequences of actions, and changes in actor positions; consolidating and cross-checking facts about specific events; and identifying and understanding intermediate outcomes of processes and negotiations which are often not included in the final documents that are officially available. All in all, 17 respondents were interviewed in 14 interview sessions in Ireland and in the EU.

The round of interviewing was supplemented by a course of desk research, where material was collected at both the EU level, the national policy level and in relation to the two case studies. In order to organise the large body of data, a database was formed to register central information including type of source, date of publication, summary of content, etc. Using the method of data triangulation between the interviews, the primary documents and secondary sources (Flick, 1992; Peters, 1998), a number of ‘critical events’ in the data set were identified (Barzelay et al., 2003). These events were characterised by major decisions concerning policy and regulation and/or application or PPPs, and were then analysed using the technique of *intra-event analysis*, which was used to track and analyse the development of single events, and *cross-event analysis* in order to establish connections between events and generate theoretically informed explanations (Barzelay et al., 2003). The results of these two analytical methods were ordered using visual methods for data analysis such as time-ordered matrix and time-lines illustrations (Eisenhardt, 1989), as presented in the next section.

EMPIRICAL FINDINGS

This paper is the first international study with a combined analytical focus on developments in PPPs at the project level, the national level, and the EU level. In this section, I examine the empirical material collected for the purposes of this paper using a multi-level approach: (i) a brief overview of PPP regulation at the EU level, which serves as a background for analysing the Irish PPP case; (ii)

an examination of the origins and development of the Irish government's PPP policies and regulations, and finally; (iii) two case studies of PPP projects from the Irish school sector. I then move on to discuss and interpret the findings using the multi-level governance perspective.

The EU level: PPPs as a double-edged sword

Compared to the initiatives of national governments, the EU was a latecomer to the field of regulating PPPs, and this policy area is today still to a large extent dominated by national and local players. For the EU, regulation of these long-term infrastructure PPPs has been a double-edged sword which has raised some significant dilemmas and trade-offs between key institutions of the European integration project (Teisman & Klijn, 2000; Mörtz, 2007). Hitherto, the EU has abstained from setting binding standards or requirements regarding the use of PPP in the member states (Petersen, 2010a). Accordingly, EU regulation first becomes relevant subsequent to the decision by national or local players to adopt the PPP model for specific projects. There are two primary ways in which EU regulation indirectly steers and controls the formation of PPPs in the member states.

The first relates to the tender of PPP contracts, where the EU Procurement Directive requires that projects with a capital value above a threshold limit of €5.15 million are procured openly on an EU-wide basis, thus allowing bids from all businesses after announcement in the Official Journal of the European Union (OJEC) (European Parliament & Council, 2004). National protectionism for the procurement of major infrastructure projects is thereby combated, but the procedures also impose strict limitations as to the amount of dialogue and exchange of knowledge prior to the signing of a contract (Interview DG Markt, 2008). To remedy this limitation on the existing procurement directive and to permit dialogue and the use of open output specification in the formation phase of PPPs, the Parliament and Council decided in 2004 to launch the Competitive Dialogue Procedure, which is a procurement method for the tender of so-called "particularly complex contracts" (European Parliament and Council, 2004: Article 29). The Competitive Dialogue Procedure was pioneering in the sense that it allows a number of formal rounds of talks to be held between the public authority and the pre-qualified private business before a PPP contract is signed. To some extent, it thus supported the use of open output specifications, a basic principle of PPPs (Zitron, 2006), and provided room for private innovation in the process (Tvarnø, 2006).

The second area of EU regulation of PPPs relates to the distribution of risk and ownership of the asset in PPP deals. In technical terms, this is referred to as the on/off balance sheet issue, and

encompasses the registration of assets under a PPP ‘on’ or ‘off’ the public sector partner’s balance sheet. The issue is closely related to the Stability and Growth Pact criteria, which requires that governments keep annual deficits within 3 percent of Gross Domestic Product (GDP), and total government debt within 60 percent of GDP (Hix, 2005: 315). Because of the size of individual PPP projects and the rapidly growing PPP activity in some member states (such as the UK, Portugal, Spain, Ireland), the Commission has been concerned that governments might resort to PPP merely as a financial tool, whereby major investments could be placed off government balance sheets (Interview Eurostat, 2008). The problem, as seen by the Commission and Eurostat, was that national governments could thereby making budgets look better, despite the fact that the public authority was legally committed though the PPP contract to pay the private partner over the course of 25-35 years. To address this problem, in 2004 the Statistical Office of the European Communities (Eurostat) decided that PPP arrangements can only be placed off government balance sheets subject to an appropriate sharing of risks: (i) the private partners must bear the construction risk in a PPP; (ii) and the private partner must bear at least one of either availability or demand risk (Eurostat, 2004; for a general discussion of risks in PPP see Bing et al., 2005). Only if both conditions are met can the asset under a PPP be placed off government balance sheets.

Thus, in contrast to the first area of regulation, which was intended to support the use of PPPs in the member states, this second area was launched by the Commission and Eurostat to ensure that the PPP route was not utilised merely as a means of circumventing appropriate budget procedures in the planning and carrying out of major public infrastructure investments (Eurostat, 2009). To see if this concern was justified, let us now turn to the origins and development of the Irish government’s PPP programme.

The national level: A stepwise centralisation of policy and procurement functions

Compared to many of its English-speaking counterparts (for example the UK, Australia, New Zealand, USA), which embarked on major privatisation programmes from the late 1970s onwards, Ireland was slow to adopt measures of marketisation and privatisation, and as a result of this, only a handful of public enterprises had been made subject to privatisation considerations before 1999 (Reeves, 2003: 163). However, from the late 1990s onwards Ireland embarked on a larger privatisation and PPP programme, to a large extent as a result of strains on public finances. While the double-digit growth rates had given Ireland one of the most positive economic outlooks among the EU countries (see Battel, 2003), another problem appeared on the horizon by the late 1990s:

years of systematic underinvestment in the country's physical infrastructure had produced a significant infrastructure gap, which now threatened the competitiveness of the small, open economy (Kay & Reeves, 2004). Making things even worse, the approaching eastern enlargement meant that Ireland faced a falling share of funds received from the EU's Structural Funds, which had provided a major source of finance for the country's infrastructure investment in earlier decades (Farrell Grants Sparks and Goodbody Economic Consultants, 1998).

Thus, at the time it was formed in 1997, the new centre-right government composed of Fianna Fáil (catholic conservative party) and the Progressive Democrats (centre-liberal party) took over the responsibility for an economy facing a number of immediate challenges in terms of developing the physical infrastructure while limiting the General Government Debt in accordance with the EU's Stability and Growth Pact criteria. Further leading the way for PPPs in Ireland was the Irish government's receptiveness to the Blair government's third-way programme, which persuaded them that PPP could provide a "quick capital investment at politically affordable prices" (Kay & Reeves, 2004: 71). The Irish government was therefore receptive when, in January 1998, the Irish Business and Employers Confederation (IBEC) and the Construction Industry Federation (CIF) made a joint submission arguing for the large-scale uptake of PPPs in Ireland (IBEC & CIF, 1998). The aim was to persuade the government of the merits of PPPs in terms of addressing the infrastructure gap while utilising private sector expertise (Interview IBEC, 2008). IBEC and CIF's invitation was well-received, and later the same year, the Irish government assigned a detailed study on PPPs.

The submission, commonly known as the 'Farrell Grants Sparks and Goodbody Report', recommended adoption of PPP across a broad range of procurement sectors, including transport infrastructure (roads, railways, car parks) and construction infrastructure (schools, housing, third-level education, sports facilities, etc.) (Farrell Grants Sparks and Goodbody Economic Consultants, 1998). Subsequently, in June 1999, the Minister of Finance, Charlie McGreevy, announced a first wave of pilot PPP projects covering four road sector projects, two education sector projects, a public transportation scheme, and a wastewater treatment plant (Irish Government, 1999). Inspired by international experiences (particularly the UK), a Central PPP Policy Unit was established under the Finance Ministry to "facilitate the PPP process centrally, by developing the general policy framework (including, where necessary, the legal framework) within which PPPs operate and by

providing central guidance to Departments and other State Authorities in that context” (Irish Government, 2010)³⁰. Further initiatives to facilitate PPPs in Ireland included the following:

- The establishment of an Interdepartmental Group (IDG) on PPPs to coordinate initiatives amongst government departments
- The establishment of an Informal Advisory Group (IAG) on PPPs to invoke dialogue with business federations and labour organisations
- The formation of devoted PPP units in ten relevant government departments
- A framework agreement between the Irish government and employers and labour organisations about general PPP policy principles: the so-called ‘Framework for PPP’ (Irish Government, 2001)
- The establishment of a clear legal framework for PPP by the launch of dedicated legislation (Irish Government 2002a, 2002b, 2007)

Despite being a latecomer to the field of PPP, the Irish government has in comparative terms shown a major dedication in terms of setting out the policies, regulations and institutional underpinnings of its partnership programme. Further supporting the uptake of PPPs in Ireland, the National Development Plan (NDP) 2000-2006 earmarked a minimum of €2.35 billion investments in PPP projects for the period (Irish Government, 1999). However, the subsequent years witnessed a development towards a more centralised approach in which the Ministry of Finance and the Treasury gradually took over more competencies from local authorities and other government departments and agencies (Interview Central PPP Unit, 2008; Interview National Development Finance Agency, 2008). Ireland’s first legal act on PPP was launched in 2002 when the government introduced the ‘State Authorities (Public Private Partnership Arrangements) Act 2002’ that laid down a legal framework for state authorities and local authorities entering into PPP deals. In addition to clarifying the legal possibilities for public partners entering into PPPs with private partners, the Act furthermore made the important regulation that local authorities could only enter into PPPs after approval from the Minister for the Environment, Heritage and Local Government (Irish Government 2002a). The leverage of local government PPPs was further diminished later the same year, when the Irish government established the National Development Finance Agency (NDFA) (Irish Government, 2002b). The NDFA, functioning from 1 January 2003, was to advise state authorities on the optimal financing of public investment projects, hereunder PPP projects, in

³⁰ <http://www.ppp.gov.ie/about-the-central-unit>, retrieved 6 February, 2010.

order to achieve value-for-money for the public sector. Other state authorities mentioned in the ‘National Development Finance Agency Act 2002’ were obliged to seek the advice of the NDFA when planning major public investment projects, but it was still voluntary for state authorities as to whether or not to follow the recommendations.

This leverage was subsequently removed when the final measure on the centralisation of PPP procurement functions was taken with the launch of the ‘National Development Finance Agency (Amendment) Act 2007’ (Irish Government, 2007). In 2005 the Government had announced that the functions and scope of the NDFA would be altered, and this change was written down in the 2007 amendment which now made it mandatory for other government departments and agencies to procure PPP schemes through the NDFA. For that purpose the NDFA set up a Centre of Expertise for PPPs which was given the authority of procuring and entering into PPP contracts on behalf of other state authorities. The NDFA therefore hands over the projects to the relevant authority after the PPP contract has been procured and signed and the project has become operational (e.g. construction is finished) (Irish Government 2007). With this act the NDFA thus changed its role from advisor to primary procurer of Irish PPP projects, although roads, railways and local government sector PPPs are still procured by the respective government authority: for the roads sector the National Roads Authority (NRA), for railways the Railway Procurement Agency (RPA), and for local government projects the Department for Environment, Heritage and Local Government. However, compared to many other countries in Europe, Ireland is a largely centralised state, which means that most local projects are in fact procured by the NDFA (for example also schools).

To sum up, what this brief overview of Ireland’s PPP policy and regulation demonstrates is that although Ireland was a latecomer to the field of PPPs, the programme has developed rapidly. Institutional underpinnings were established at an early stage under the auspices of the Ministry of Finance, and later, with the establishment of the NDFA, also under the Treasury. Business federations played an active role in the developments at the national policy level, and the voices were heard with the set-up of the Information Advisory Group and the Framework for PPPs (Irish Government, 2001). Moreover, we have also seen that the development of Ireland’s PPP programme has been a gradual one towards more centralised policy, regulation and procurement functions, with clear limitations to the leverage of other government authorities and local governments entering into PPP deals. How, then, did concrete Irish PPP projects in the schools

sector evolve? How were they influenced by policy and regulation at national and EU level, and to what extent did they ‘feed-back’ into the multi-level governance framework? In order to start addressing these questions, the next section examines the course of two high profile Irish school sector PPP projects.

PPP experience in the Irish schools sector

The two case studies that follow both concern third level (further education) school projects of similar size and scope: Cork School of Music and the National Maritime College of Ireland. Although they were initiated at the same time and both involve a design, build, finance, operate, maintenance (DBFOM) contract, the two projects display markedly different experiences. Whereas the Cork School of Music project was seriously challenged by EU and national regulations, the National Maritime College of Ireland proceeded relatively smoothly through the planning and procurement phases to become Ireland’s first third level PPP school project.³¹

Case 1: Cork School of Music

The first case study covers a 25 year design, build, finance, operate, and maintain (DBFOM) contract for a new music school in Cork. As one of the pilot PPP schemes announced in June 1999, the Cork School of Music was one of the Irish government’s flagship projects, but it was to be another eight years before it was finally inaugurated. The data collected for the purpose of this case study demonstrates that the delay was caused by a combination of several events, some of which were project specific, and some of which related to a combination of factors at national and EU level.

Prior to the erection of the new Cork School of Music, the music schools in Cork had been scattered around seventeen different locations in the city, many of which comprised rented facilities which imposed considerable extra costs and posed a challenge to the effective management of the school (Interview Cork Institute of Technology, 2008). In order to remedy these problems, a working group issued a report on the “Future of the Cork School of Music” which was submitted to the Department of Education and Science (Department of Education and Science, 1999). While the report did not at first discuss PPP as a procurement route, the Irish government was at that particular time investigating schemes which could be suitable as pilot PPP projects. In this process, the Cork

³¹ And, indeed, Ireland’s second PPP project in the schools sector as a whole. The first was a bundle of five primary schools procured together.

School of Music proposal was linked into the PPP policy agenda at national level, and was designated as part of the Irish government's PPP pilot project plan launched by the Irish Finance Minister in June 1999.

During the early stages the project proceeded quickly, and in October 1999 the Irish Department of Education and Science announced its plans for the commencement of Cork School of Music as a PPP (Department of Education and Science, 1999). Subsequently, in June 2000, the Department of Education and Science proceeded with an EU-wide call for tenders for a design, build, finance, operate and maintain (DBFOM) contract. Procurement followed the existing procedures at the time, which meant that the Competitive Dialogue Procedure, which was first announced in 2004, was not used for this project. Three private bidders were short-listed, and while the department's initial intent was to procure a smaller refurbishment/rebuild contract, all three preferred bidders proposed a demolition of the existing buildings and erection of a new music school (Interview Department of Education and Science, 2008).

Following the advice from the consortia, the Department of Education and Science decided to construct a new school at a total value of €60 million, and in April 2001 Jarvis Projects Ltd. was chosen as the preferred bidder based on a combination of quality and price (Department of Enterprise, Trade and Employment, 2005). It was at this stage, however, that the scheme ran into a number of challenges which endangered the project and caused serious delays. The first setback was caused by the fact that the on/off balance sheet issue was not resolved by the Irish government when the project was announced under the pilot PPP programme. While it was clear that the construction sum would be financed by the private consortium under the PPP model, the Irish government, after consultation with the European Commission and Eurostat, realised that the costs would have to be counted against general government spending (Interview Department of Education and Science, 2008; Interview Eurostat, 2008).

To see why this issue, which at first sight would seem rather technical, became a major challenge for the commencement of the Cork School of Music, we have to consult developments both at the national and the EU level. At the EU level, regulations on general government spending are issued under the Stability and Growth Pact criteria, which as we have seen sets limitations to government budget deficits and general government debt. The EU Commission and Eurostat were at the time becoming increasingly aware of the on/off government balance sheet treatment of PPP projects in

the national accounts of member states, because PPPs could potentially provide a means of circumventing traditional budget procedures (Interview Eurostat, 2008). At the same time, at the national level, a mini recession in the Irish economy after the 'dot-com bobble' had made the Irish government increasingly concerned with asset-based government spending as such investments would contribute negatively against the calculation of General Government Deficit (Kay & Reeves, 2004: 75; Interview Cork Institute of Technology, 2008).

Consulted by the Irish government, the Commission advised that it would require a substantial transfer of risk to the private partner if it was to treat the project as off government balance sheet. It thus became clear that the Irish government either had to cancel the scheme, which was one of the eight original flagship projects, or count it against the government's capital spending. The interviews conducted for the purpose of this paper illustrate that the budgetary issue now led to an internal battle within the Irish government between the Department of Education and Science and the Department of Finance. Whereas the Department of Education and Science was lobbying for government finance for the project, the Department of Finance was concerned with the consequences for the General Government Debt (Interview Department of Education and Science, 2008). The Cork School of Music project was now seriously delayed as a consequence of the missing finance for the project. The stalemate led to widespread dissatisfaction, not least among the teachers at the music school, which in October 2003 took a one-day industrial action concerning the funding delays (Buck, 2007). The situation was finally resolved when a compromise involving a downscaling of the project by some €10 million was made between the Department of Education and Science and the Department of Finance, and in March 2004 the Minister for Education and Science announced that construction would commence in the summer of 2004.

However, as soon as the government had resolved the financing issue, the second challenge to the project arose, when in July 2004 Jarvis Projects Ltd., the private operator which had been awarded the contract in April 2001, issued a warning to the stock market stating that it was in serious financial trouble. The PPP contract, which had been ready for closure, was therefore cancelled, and the Irish government now had to seek an alternative private partner (Interview Department of Education and Science, 2008). The problem was resolved when Hochtief PPP Solutions, a major German PPP operator, finally took over the bidding arm of Jarvis, and the question became whether Hochtief could enter directly into the PPP contract which had already been signed with Jarvis. Once again, EU authorities in Brussels were consulted, now regarding the procurement directive, but

there was no precedence on the matter (Interview Cork Institute of Technology, 2008). The Commission, after looking into the case, decided that the takeover could be approved if the specifications of the contract were not changed. In September 2005 the contract was signed with Hochtief, and construction work was embarked on soon after (Department of Enterprise, Trade and Employment, 2005). Construction work took the planned 18 months, and in July 2007, eight years after the announcement under the Irish government's pilot PPP programme, the Cork School of Music was finally inaugurated. Figure 1 provides an overview of the critical events in the development of this PPP project.

Figure 1. The development of the Cork School of Music project

<i>t</i>	1999	1999	2000	2001-2002	2004	2004	2004	2005	2007
Critical events	Working group submits 'Future of Cork School of Music' report	Project adopted into national pilot PPP programme	EU-wide PPP tender announced	Project paused by Irish mini recession combined with EU on/off balance sheet principles	Eurostat launches decision regarding on/off balance sheet treatment of PPPs	Irish government launches decision to go forward with the project	Private operator Jarvis in financial trouble. Hochtief takes over the project	Financial close. Construction work commences	Project becomes operational and the first students are enrolled

Case 2: The National Maritime College of Ireland

Though not initially listed as one of the Irish government's pilot PPP projects, the National Maritime College of Ireland was the second PPP scheme to become operational in the schools sector.³² The project, which involved capital value of €52 million (of which €29 million in construction costs), is a 25 year design, build, finance, operate, and maintain (DBFOM) contract for a school of 750 pupils, including a library, fitness facilities and specialised marine training facilities (Greville, 2005: 1). The data collected in this case study demonstrates that the project moved quickly through the planning phases, and although it was delayed by 10 months while the government awaited approval for loans from the European Investment Bank (EIB), the project became operational in 2004 - three years before the Cork Music School project. Let us see why it developed more smoothly than the first case.

The National Maritime College of Ireland is a naval school and training facility, which jointly serves the non-military training of the Irish Naval Service (INS) and the Nautical Studies Department of the Cork Institute of Technology (CIT). The school had in 1975 become Ireland's

³² The first was a bundle of five PPP primary schools – for a case analysis of these projects see Reeves (2003).

primary training site for seafarers, when the Department of Education and Science had decided to move all maritime training activities to Cork. However, by the late 1990s the available facilities no longer met the standards of modern maritime education (Greville, 2005). Responding to the situation, the Minister for the Marine and Natural Resources set up a ‘Task Force on Seafarer Training and Employment’, which in 1999 reported back in favour of a joint naval and commercial maritime college in Cork (Interview Department of Education and Science, 2008). An Inter-Departmental Expert Working Group (IEWG) was then established to carry out a careful analysis of the costs of adopting the PPP model for this project. The report came out in favour of the PPP model, and in May 2000 the Irish government decided to commence the joint naval and mercantile marine education and training facilities as a PPP scheme located some 20 kilometers outside Cork in southern Ireland.

Subsequently, the Department of Education and Science made an EU-wide call for bids, which in August 2001 resulted in a short-list of three consortia that received the Invitation to Negotiate Document (ITN) (Interview Cork Institute of Technology, 2008). Separate meetings were then held with the three bidders, wherein each of the consortia were allowed to present detailed project outlines, and in April 2002, Focus Education, a consortium consisting of Halifax Bank of Scotland (financier) and Bovis Lend Lease (building operator) was appointed as the preferred bidder (Bovis, 2002). The move towards financial close, however, awaited approval of a loan from the European Investment Bank (EIB), which the Irish government in October 2001 had consulted for EU-funded loans (EIB, 2003). As a consequence, while the project was already planned under the Irish government’s National Development Plan 2000-2006, the project was now delayed by almost a year.

The reason for this delay, according to the data collected on this case, was that the Irish government now chose to await a response from Brussels concerning access to EU-loans, rather than finance the project using state funds, as the latter would count against general government debt, as we also saw in the first case study (Interview Cork Institute of Technology, 2008). Financial closure for this project was finally reached 10 months later, when in February 2003 the EIB announced that it would provide a €29 million loan to cover the construction costs (EIB, 2003). Subsequently, 20 months later, in October 2004, the project became operational within time and budget. Figure 2 provides an overview of this case study.

Figure 2. The development of the National Maritime College of Ireland project

<i>t</i>	1999	1999	2000	2001	2001	2002	2003	2003	2004
Critical events	Task Force on Seafarer Training and Employment in favour of joint project	Inter-Departmental Expert Working Group advises adoption of PPP for the project	Irish government decides to build the NMCI in Cork as a pilot PPP project	EU-wide call for tenders and three bidders short-listed	Request for loan submitted to the European Investment Bank	Focus Education chosen as the preferred bidder	The European Investment Bank approves €29 million loan	Financial close follows immediately after loan approval	The project becomes operational on time and within budget

DISCUSSIONS: STRATEGIC ACTORS AND VERTICALLY INTERCONNECTED DECISION-ARENAS

The empirical presentation of the Irish PPP case leads to a number of discussion points, some of which have been raised in the PPP literature, and some of which extend our knowledge about the complexities in the vertical decision-dimension of PPPs (cf. Klijn & Teisman, 2003; Koppenjan, 2005). At the national policy level, we have seen that the introduction of PPPs in Ireland took place against a situation of a major infrastructure gap combined with falling shares of EU funds for infrastructure investments. The course of action taken by the Irish government, and especially the Ministry of Finance, thus turned out largely to be motivated by the prospects of removing major capital investments from government balance sheets, which is confirmed by other case studies of Irish PPPs (for example Reeves, 2003; Kay & Reeves, 2004). We thus see a direct conflict of interest here across two levels of government: whereas the EU's on/off balance sheet regulations were enacted to prevent governments from signing long-term commercial contracts which are not registered in public budgets, the Irish government's pursuance of PPPs has on the other hand largely been motivated by the possibilities of placing such schemes off balance sheets.

There is here clearly a tension between short- and long-term strategies, as the placement of projects off balance sheet will make it possible to finance more investments here and now, whereas in the long term, there is always a bill to pay for subsequent governments and later generations of tax payers (Hodge & Greve, 2005: Chapter 1). Moreover, as the EU, through Eurostat, does in fact regulate the on/off balance sheet issue closely by monitoring the specific accounting practices for PPP projects of national governments, there is indeed a conflict of interest between actors at the EU level and key policy and regulation players at the Irish national level, such as the Ministry of Finance and the Treasury. The Irish case thus illustrates that decision-making in PPPs is indeed

multi-level and characterised by a complex ecology of games and actions arenas in which policy outcomes for PPPs are negotiated (Scharpf, 1997). For example, the Department of Finance's primary concern seems to be a macro-economic one, with a focus on removing major infrastructure investments from government balance sheets, whereas the Department of Education and Science as a sector department was much more concerned with the construction of the specific school projects (Interview Department of Education and Science, 2008).

However, the realisation of coordinated decision-making for PPPs turns out to be difficult, not least because actors come with various preferences and strategies, but also because policy games are being played simultaneously at multiple levels of government. In concrete terms, this paper has focused on three levels at which decisions about PPPs in Ireland were formed. *First*, the EU level, where public procurement regulation and the on/off balance sheet issue is regulated. Although the EU does not interfere directly with the decisions of governments within this policy area, the on/off balance sheet issue in particular turned out to be of major importance to the developments at national policy level and at the project level. There has indeed been a tension in the EU between on the one hand supporting the procurement of PPPs, and on the other ensuring that PPPs are not merely used as a financial tool with which to circumvent appropriate budget procedures in the member states. As a result of this, the institutions of the EU have so far mostly engaged in the regulation of PPPs at a rather abstract and general level, and merely indirectly subsequent to a decision of a national or local public authority to form a PPP project.

Hooghe and Marks (2003: 239), discussing also the problem of achieving coordinated decision outcomes in multi-level institutional settings, argue that two options are available: first, to limit the *number* of autonomous actors, the actions of which must be coordinated (type I); second, to limit the amount of interorganisational *interaction* by transferring competencies to designated units entrusted with a clear responsibility (type II). The findings from this study seem to suggest that the Irish government has embraced both these coping mechanisms. With the PPP Act in 2002, the competencies of local authorities were effectively transferred to central government level (an example of type I). Further, with the two National Development Finance Agency Acts, respectively in 2002 and 2007, competencies to organise, finance and procure PPP projects were transferred from organisations at the same level (government departments and agencies) to a single agency (an example of type II) (except for the railways and roads sectors). Thus, step by step, the number of autonomous departments and agencies has first been reduced, and second, the amount of interaction

between various actors (with potential conflicts in strategies) has been reduced by gathering policy and regulation competencies within the Central PPP Unit and procurement competencies within the National Development Finance Agency.

At the project level, the two case studies from the schools sector revealed that the EU level and the national level have in fact only partly played together to support the formation of PPPs within this sector. Again, the on/off balance sheet issue turned out to be of central importance to the Cork School of Music project, because the Irish government suddenly realised that the project would have to be counted against general government debt at the same time as Ireland was going through a mini recession which was putting a strain on public budgets. Obviously, the policy and regulation framework here was a hindrance to PPP, mainly because the on/off balance sheet regulations were not coordinated between the EU Commission and Eurostat on the one hand, and national governments (in Ireland and elsewhere) on the other. Accordingly, because of this lack of coordination across the EU level, the national level and the project level, the music school project that was otherwise at an advanced stage was seriously delayed and subsequently downscaled after intense negotiations between the Ministry of Science and Education and the Ministry of Finance. But why did the other PPP school case, the National Maritime College of Ireland, not run into the same problems with unresolved finance and the on/off-balance sheet issue?

To see why this was the case, we need to include another actor at the EU level, namely the European Investment Bank (EIB), which issued a €29 million loan to cover the construction costs (EIB, 2003). As the project was planned after the music school, the Irish government had thus learnt its lesson, and submitted a lending application to the EIB before a contract was signed with a private partner. The Irish government therefore avoided the on/off balance sheet issue for the second project, although it was subsequently delayed for 10 months before a final loan approval was awarded by the EIB. This seems to indicate that multi-level governance of PPPs entails a potential for conflict among the key policy players at national, EU and project level, which the institutional capacity for conflict resolution only partly matches, thus creating some tension and unresolved regulatory issues in the multi-level dimension of PPP policy and regulation. This ongoing institutional reconfiguration is indeed what Stoker (1998) talked about as the 'games about the rules' (as opposed to the institutional 'rules of the game'). The institutional settings, within which decisions about PPPs are taken, thus determine which games are being played and what payoffs the participants in the policy networks can expect from these games, and vice-versa: by

changing the institutional settings, strategic actors can fundamentally change the ‘rules of the game’, whereby new modes of interaction become possible (Scharpf, 1997; Stoker, 1998). The empirical findings brought to the fore in this paper thus illustrate a very dynamic picture of institutional change processes in relation to PPP policy-making and regulation across multiple levels of government.

CONCLUSIONS

The transition from government to governance has resulted in a dispersal of decision-making and a blurring of the boundaries between state and market; thereby creating a poly-centric and multi-level governing system (Stoker, 1998; Scharpf, 2001; Klijn & Teisman, 2003; Jessop, 2005). However, previous PPP governance research has mainly focused on the complexity caused by horizontal (public-private) coordination issues, although broader public administration literature and EU policy studies illustrate that the new public governance is characterised by a diffusion of decision-making authority both horizontally and vertically (Scharpf, 2001; Hooghe & Marks, 2003; Bache & Flinders, 2005). To start to address the issues of multi-level governance in decisions about PPPs, this paper has dealt with the interplay of multiple levels of governing in the development of PPP policy and regulation and in decisions about concrete PPP projects, with a focus on the Irish PPP case.

The paper has illustrated that the launch of PPPs in Ireland took place against a combination of background settings that were favourable to the large-scale use of the PPP model: a major infrastructure gap posed a serious challenge for the government, and the decreasing shares of funds received from the EU imposed further strains on public budgets. The motive of removing major public infrastructure investments from government balance sheets has been noted in previous case studies of PPP in Ireland and abroad (Reeves, 2003; Koppenjan, 2005), but the research presented in this paper adds a number of further dimensions relating to the complex interplay between the EU-level, the national level formation of concrete PPP projects. At the EU-level, the analysis displayed an inherent dilemma in the EU’s institutions between two conflicting concerns: on the one hand the establishment of an EU-wide PPP procurement market to attract private capital investments and thus develop the physical infrastructure in the member states, which is seen as fundamental to the effective functioning of the Single Market; and on the other, the Commission and Eurostat has been concerned that some member states would utilise the PPP model to sidestep

the EU's budget procedures for responsible fiscal policies by removing major infrastructure investments from the public sector's balance sheets. The latter seems to be a sober concern, as the analysis revealed that removing major infrastructure investments from the public sector's balance sheet has indeed been a primary rationale for embarking on large-scale PPPs in Ireland.

The two case studies illustrated that the formation of PPPs is subject both to a strategic and an institutional complexity, which make PPPs challenging governance schemes for all players participating in the game. These two cases illustrate that the implementation of PPP projects do in fact require the resolution of a number of multi-level regulatory aspects, such as tax, legal issues, financial aspects, procurement, etc., but in the face of serious strains on public budgets and a major infrastructure gap, the Irish government solved these issues along the way. Indeed, when the first PPP ran into problems and was seriously delayed, the research illustrates that this was mainly due to changed EU regulations concerning the on/off balance sheet issue, which meant that the Irish government would have to count this project against the General Government Deficit. While this issue was avoided for the second project, because the Irish government petitioned the European Investment Bank for loans for the construction of this scheme, the findings from the two school projects illustrate that policies and regulatory framework conditions have largely served the purpose of supporting PPP projects procured off balance sheet. The lessons from Irish PPPs illustrate that interdependencies drive the process of policy-making and regulation of PPPs. Moreover, we have seen that challenges to PPPs can arise both as a consequence of an insufficiently coordinated multi-level governance structure, and as a result of project specific events, as illustrate in the Cork School of Music case study. The fact that decisions about PPPs are made in interconnected decision-arenas, each with different rules of the game and dominant actors, seem to require a stronger multi-level governance structure across vertically interconnected decision-arenas than availed by the present governance configuration. Furthermore, as significant public and private resources are continuously being redirected to the formation of PPPs worldwide, it seems timely that public administration and management research increasingly starts scrutinizing multi-level governance aspects of contemporary PPPs as well.

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- DG Internal Market and Services (DG Markt), 2 July 2008, Brussels, Belgium.
- DG Research, 3 July 2008, Brussels, Belgium.
- Ernst & Young, 6 November 2008, Belfast, Northern Ireland.
- European Investment Bank (EIB), 4 July 2008, Luxembourg.
- Irish Business Confederation, 16 December 2008, Dublin, Republic of Ireland.
- Irish Congress of Trade Unions, 16 December 2008, Dublin, Republic of Ireland.
- Irish Department of Education and Science, 7 November 2008, Tullamore, Republic of Ireland.
- Irish Department of Finance (Central PPP Policy Unit), 4 November 2008, Dublin, Republic of Ireland.
- Irish National Development Finance Agency, 15 December 2008, Dublin, Republic of Ireland.

Irish National Roads Authority, 4 November 2008, Dublin, Republic of Ireland.

Joint Assistance to Support Projects in European Regions (Jaspers), 3 July 2008, Brussels, Belgium.

Statistical Office of the European Communities (Eurostat), 4 July 2008, Luxembourg.

PAPER V: Public-private partnerships as converging or diverging trends in public management? A comparative analysis of PPP policy and regulation in Denmark and Ireland

The term partnership is now a dominant slogan in the rhetoric of public sector reform, arguably capturing that status from privatization which held similar dominance through the 1980s and 1990s. (Wettenhall, 2003: 77).

Public-private partnerships, especially in the area of infrastructure development, now represent a relatively new but increasingly ubiquitous organizational arrangement with international acceptance. (Johnston & Gudergan, 2007: 570).

Its advocates tout it as the epitome of a new generation of management reforms, especially suited to the contemporary economic and political imperatives for efficiency and quality. (Linder, 1999: 35).

Provision of new investment in infrastructure in Europe is increasingly being carried out under a range of PPP structures based on the principle of private sector risk taking participation in the provision of public infrastructure. (European Investment Bank, 2004: 3).

INTRODUCTION

Every now and then a new and fashionable public management reform concept captures the attention of public administration scholars and policy practitioners alike. When this coincides with a political milieu which is favourable to policy change, it occasionally sets the agenda for widespread public sector reforms (Pollitt & Bouckaert, 2004; Barzelay & Shvets, 2006). While the New Public Management (NPM) was certainly such a concept (Hood, 1991; Lane, 2000), so is arguably also the notion of public-private partnership (PPP), which now enjoys widespread acclaim in modern public administration (Linder, 1999; Klijn & Teisman, 2003; Koppenjan, 2005; Ysa, 2007; Hodge & Greve, 2007). Based on the idea of collaboration and joint decision-making, the partnership idea has been seen as representative of a new generation of new public governance “overcoming the deficits of the earlier waves of privatisation and marketisation” (Hammerschmid & Angerer, 2005; see also Osborne, 2010). Hence, as argued by Teisman and Klijn (2002: 198), “Partnerships are seen as the best way, in the end, to govern the complex relations and interactions in a modern network society”.

The concept of PPP has been defined in numerous ways, from loose (and somewhat vague) conceptualisations including almost any form of public-private interaction to the most narrow definitions of PPPs as contract based relationships specifying in detail the responsibilities and obligations of the respective partners (Linder, 1999; Wettenhall, 2003; Weihe, 2005). Perhaps the biggest difference in the literature is found between scholars who view PPP as a “language game” (Linder, 1999; Hodge & Greve, 2005), and those who think of it as a co-operative institutional arrangement involving shared risks, costs, responsibilities, resources and benefits over a long time period (Van Ham & Koppenjan, 2002; Klijn & Teisman, 2003; Koppenjan, 2005). Within the

institutional perspective on PPP, a further distinction has been drawn between partnerships involving loose organisational relationships, as found in issue networks and policy communities, and PPPs characterised by tight financial and organisational relationships, as represented by various PPP/PFI (Private Finance Initiative) type arrangements (Flinders, 2005; Hodge & Greve, 2005). In the latter meaning, a public authority contracts with a private company – a so-called Special Purpose Vehicle (SPV) – for various combinations of planning, procurement, construction, finance and operation of a major construction or infrastructure facility³³. These long-term commercial PPP contracts for asset-based public services and infrastructure development are the exclusive focus of this paper (Bloomfield, 2006).

The scholarly literature on PPPs has been rapidly developing over the past ten to fifteen years with significant inputs from numerous disciplines, including public administration (Koppenjan, 2005), public management (Ysa, 2007), construction management (Koch & Buser, 2006), legal studies (Tvarnø, 2006) and accounting (Grimsey & Lewis, 2002), just to mention a few. A large practice-oriented literature has also emerged, with significant inputs from private consultancy firms (e.g. Allen Consulting Group, 2007; Babcock & Brown, 2008), national PPP units (Irish Central PPP Unit, 2001; Danish Enterprise and Construction Authority, 2004; HM Treasury, 2006), institutions of the EU (European Commission, 2004; EIB, 2005), and international organisations (World Bank, 2006; IMF, 2006; OECD, 2008). This literature, with a predominance of Anglo-Saxon contributions (Hammerschmidt & Angerer, 2005), has to a large extent rehearsed the idea of PPP as a globally spread reform trend in public administration (e.g. Grimsey & Lewis, 2002; Ghobadian et al., 2004; Kwak, Chih, Ibbs, 2009). Indeed, the opening quotations describing PPPs as “a very-fashionable concept” (Wettenhal, 2003: 77), which “enjoys remarkable acclaim” (Linder, 1999: 35), and “with international acceptance” (Johnston & Gudergan, 2007:570), might perhaps lead us to assume similarity and convergence in PPP initiatives across countries.

More recently, however, scholars writing from a central-European and Scandinavian public administration tradition have increasingly noted that PPP reform initiatives have not been the same everywhere (cf. Greve & Hodge, 2007; Klijn, Edelenbos & Hughes, 2007; Petersen, 2010). In some cases, governments have enacted comprehensive PPP policies and regulations and signed a substantial number of major schemes over the course of the last ten to fifteen years. This group,

³³ This form of PPP embraces the alphabet soup of design-build-finance-operate-maintain (DBFOM), design-build-operate (DBO), build-own-operate-transfer (BOOT) and build-operate-transfer (BOT) models, which illustrate the variety of models that exist under the partnership umbrella.

with an Anglo-Saxon and South-European predominance, includes the UK, Australia, Canada, Portugal, Spain and, more recently, also Ireland (Irish Ministry of Finance, 2009). A second group has also developed relatively comprehensive policy and regulation frameworks to guide and steer PPP activity, but signed a smaller number of actual PPP projects. These countries include France, the Netherlands, Germany, Greece, Hungary, and Poland (Babcock & Brown, 2008). Finally, some countries have reacted to the PPP concept with much scepticism and formed few or no concrete PPP projects. These include Denmark and the rest of Scandinavia, Austria, Belgium, Luxembourg and some of the new European Union (EU) member states. Thus, in reality, if we look beyond the testimonies from a small handful of countries that often display in the literature, we might say that national governments' reform initiatives for PPPs is in fact a highly divergent phenomenon across various national institutional settings.

In this paper, I attempt to make a contribution to the understanding of these vast differences in national modes adopting the PPP reform trend, with a focus Danish and Irish PPP experiences. The paper's *explanandum* is authoritative decisions about policy and regulation for PPP made by government departments and agencies entrusted with the formal authority to formulate and oversee the national regime for PPPs. The focus is on system-wide decisions, i.e. decisions that are relevant for the whole or for most of the regime, as opposed to regulations and processes found within a single department or agency (see also Barzelay & Shvets, 2006). In line with previous research (for example Hodge, 2004; Johnston & Gudergan, 2007), decisions in the policy and regulation framework are seen as constitutive elements that tap into and set the general conditions for the realisation of concrete PPPs. The analysis thus focuses on the national policy level of PPPs, which means that the focus is not on the project level decisions for PPP as such, although the underlying assumption for the paper is that the policy/regulatory context will play a significant role in facilitation or in hindering the actual use of PPPs: the observation that many more PPP projects have been carried out in Ireland than in Denmark supports this assumption (see below).

The importance of studying PPPs in a comparative way arises both from an interest in understanding their similarities and differences and from an interest in the fundamental question as to why governments resort to PPPs in the first place (Hodge & Greve, 2005). Public administration scholarship has recently taken seminal steps towards developing comparative approaches to the study of public policy and public management reform (Barzelay, 2001; Pollitt & Bouckaert, 2004; Christensen & Lægreid, 2007; Pollitt, Thiel and Homburg, 2007). A significant contribution to this

endeavour has been made by Michael Barzelay and associates (e.g. Barzelay 2001; Barzelay et al 2003; Gaetani 2003) under the prescription of ‘Institutional Processualism’, for the research programme’s focus on policy processes and institutions in the study of public policy-making (Barzelay & Gallego 2006). In this paper, I utilise this comparative research combined with Kingdon’s (1995) multiple streams framework to study PPP policy and regulation in a comparative way.³⁴ The paper addresses the following research questions: *How did PPP policies and regulations develop, and how did they come to differ so significantly across countries which are similar in a number of other dimensions?* These questions are examined in a comparative case study of the development of PPP policy and regulation in Denmark and Ireland over a ten year period from 1999 to 2009. The empirical material utilised in the paper has been drawn from a number of sources, including in-depth expert interviews with key organisational representatives (both public and private), a large amount of written material stored in a database, and Eurostat archive data containing key economic figures for the two countries (see Appendixes 1-3).

The comparative interest in Denmark and Ireland is sparked by their display of similarity on a number of dimensions, while the two cases differ on the outcome variable of PPP policies and regulations. Both countries are small open economies with a population of respectively 5.5 and 4.3 million inhabitants, and both are members of the EU, which makes them subject to a common set of regulations in relation to public procurement and on/off-balance sheet accounting and risk principles of risk sharing in PPPs (Eurostat, 2004; see also Petersen, 2010). Moreover, both countries were late adopters of broader privatisation measures, and they both officially launched PPPs in 1999. However, whereas Ireland has embraced PPPs and developed a comprehensive policy and regulation framework to support the implementation of PPP schemes across a broad range of procurement sectors, Denmark has been a sceptic and has only reluctantly developed policy and regulation in this area (Petersen, 2009). As a result of this, Ireland now counts around 70 major PPP schemes in various phases of planning and operation, thereby making the Irish PPP programme one of the most ambitious in the world when taking size into consideration (compare

³⁴ It should be noted that Barzelay’s approach has been presented in several papers and has been developed over time. Thus, in 2003 (Barzelay et al., 2003), it was merely a methodological heuristic for ordering case evidence, whereas in 2006 (Barzelay & Gallego, 2006), it was developed into an integrated analytical approach. In this paper, I primarily utilise Barzelay in the former way - as a methodological heuristic for ordering the case evidence - whereas Kingdon’s framework (1995) provides the theoretical inputs to the analysis. This also means that in this paper I do not make use of Baumgartner & Jones (1993) and Levitt and March (1988), which Barzelay and Gallego (2006) combine with Kingdon (1995). This choice has been made to limit the number of theoretical concepts in the subsequent case analysis, and in line with this I therefore do not claim to apply the full version of ‘Institutional Processualism’ in this paper, but rather an abridged version of this research programme.

with the UK's 59 million inhabitants). In Denmark, on the contrary, PPP policy and regulation has developed slowly and there are just five PPP schemes in the country to show for it and a few are being planned (Petersen & Vrangbæk, 2010). By analysing Danish and Irish PPP cases comparatively, the paper reveals two highly contrasting national accounts of PPP government-wide PPP policies and regulations, which I suggest could form an inspiration point for future, comparative PPP research.

The paper proceeds as follows. *Section 2* outlines the analytical framework, drawing on Kingdon's (1995) multiple streams model to study public policy-making. Method and research design is then presented in *Section 3*. *Sections 4 and 5* present case studies into how PPP policy and regulation in Denmark and Ireland, respectively, developed over the ten year period from 1999-2009. These insights are, in *Section 6*, analysed through the lens of the multiple streams model to explain the differences between Denmark and Ireland's PPP policies and regulation. Finally, in *Section 7*, a conclusion to the paper is provided.

ANALYSING PPP POLICY AND REGULATION: A MULTIPLE STREAMS MODEL OF PUBLIC POLICY-MAKING

The need to look at the policy and regulation aspects of PPPs has been identified by several scholars, such as Klijn and Teisman (2003), Ysa (2007) and Greve and Hodge (2010). However, most studies have hitherto been preoccupied with the performance of PPPs (e.g. Pollitt, 2005; Pollock & Price, 2008), technical/legal aspects (Grimsey & Lewis, 2002; Bing et al., 2005; Tvarnø, 2006), and conceptual/historical discussions (Linder, 1999; Wettenhall, 2003; Weihe, 2005), but have generally been less attentive to broader policy and regulation issues of PPPs (although see Klijn & Teisman, 2003; Flinders, 2005). Furthermore, studies dealing with policy and regulation issues of PPPs have typically operated with single country research designs (cf. Spackman, 2002; Reeves, 2003; Deakin, 2002; Klijn & Teisman, 2003; Flinders, 2005; Koppenjan, 2005; Johnston & Gudergan, 2007), whereas comparative approaches are generally rare in this field of research (although for a few notable exceptions; see Greve & Hodge, 2007; McQuaid & Scherrer, 2010).

We know from the comparative public administration literature on NPM and post-NPM that we should not expect a global convergence on a common and uniform reform idea or concept (cf.

Barzelay, 2001; Pollitt & Bouckaert, 2004; Barzelay & Gallego, 2006; Christensen & Lægreid, 2007). This literature sees public sector reforms as shaped by a complex mix of national policy features, environmental pressures and historical and institutional context (Pollitt, Thiel and Homburg, 2007). Other attempts at analysing and classifying public sector developments at national level include distinct welfare state approaches (Esping-Andersen, 1990) or differing models of capitalism (Hall & Soskice, 2001). In a more practice-oriented way, the OECD's PUMA project and the World Bank's Governance Indicators can also be seen as attempts to categorise and compare public sector developments at the national level. These macro-approaches, however, have been contested for presenting oversimplified and static pictures, while paying too little attention to the actors, interests and policy processes in which specific national trajectories of public policy-making and regulation are formed and implemented (Deakin, 2002).

In order to understand how and why PPP policy and regulation developed – and thus account for their similarities and differences in Denmark and Ireland – I will argue that we need to examine how PPPs were raised on the decision agendas of various policy actors and inspect how concrete decisions about PPP policy and regulation were taken in the two countries. Towards this endeavour, I draw on John Kingdon's multiple streams model (1995), a political science model of public policy making, which is supplemented by Michael Barzelay's event-centred approach to public management policy-change (Barzelay et al., 2003). Kingdon's model was originally developed to understand the process of agenda-setting and seeking alternatives, and a number of scholars have subsequently argued that this model can also be utilised for analysis of the decision-making phase in policy-making (Zahariades, 1999; Barzelay & Gallego, 2006; Bundgaard & Vrangbæk, 2007). The model focuses on how the process is organised, and the implications of this for opening 'policy-windows' at particular points in time. It also focuses on the role of bounded rational policy entrepreneurs, although it has been criticised for not always being clear about their roles within the respective process streams (Sabatier, 1999: 5; Bundgaard & Vrangbæk, 2007).

Kingdon's model, with its focus on the flow and timing of policy decisions, is useful for examining the complexities of public policy-making and regulation. Drawing on the garbage can model of organisational behavior (Cohen, March & Olsen, 1972), it basically conceives policy making as characterised by ambiguity and bounded rationality (Zahariadis, 1999). By this token it offers a model of the policy process that is significantly more complex and less neat than the classic stages model of policy-making (Lasswell, 1956; DeLeon, 1999). The multiple streams model emphasises

the importance of three separate and distinct streams: a problem stream, a policy stream and a politics stream.

The problem stream is where a given situation is identified and formulated as a problem or issue that calls for political attention. A crisis or unforeseen event may arise; indicators might change, thus calling for changes in policies; or feedback from existing programmes may indicate that action is needed (Kingdon, 1995:ch. 5). The perception of a situation as unwanted and within human capacity to control or change it is therefore a prerequisite for it to rise on the agenda. But rather than being a rational process, in which various issues are analysed and listed according to objective criteria, the problem stream is characterised by an ongoing battle between various issues which cause it to capture the attention of people around the policy-making process (Zahariadis, 1999).

The policy stream is where ideas and alternatives float around, waiting to be turned into policy alternatives and proposals. Kingdon also refers to this second stream as the policy primeval soup (1995: 116), referring to the time before life when molecules floated around with an infinite number of possible combinations possible. Ideas are often developed and combined by experts and specialists in policy communities, whereas at other times ideas which are unrelated to these expert communities come to the fore. To be taken as serious alternatives, ideas must be technically feasible, but the logic is not necessarily rational in a narrow instrumental sense. Policy proposals are not necessarily built to resolve predefined problems; rather, the logic is quite the opposite. These proposals float around searching for problems in the problem stream to which they can be tied, and if such a coupling is successful, the chances that this issue will arise in prominence on the decision agenda are enhanced (Bundgaard & Vrangbæk, 2007).

The political stream comes third in the model, and although it operates separately from the other two streams, political events in this stream can reshuffle the environment in which problems and policies battle for attention. Examples of political events are swings of national moods, political turnover of governments or parliaments, and interest group pressure, all of which can cause certain issues and policies to rise or fall on the decision agenda (Kingdon, 1995). Bargaining over alternatives rather than persuasion characterises the political stream, and more attention is directed at obtaining winning coalitions than to assessment of the specific consequences of certain alternatives and policies. Thus, bounded rationality is also a precondition in this stream (Brunner, 2008).

As previously mentioned, the three streams are separate and distinct with their own logics, dynamics and dominant actors. But occasionally, the three streams meet and a problem is linked with a feasible solution that is salient in the political environment (Zahariadis, 2003). When this coupling takes place, it increases the likelihood of an issue rising on the decision agenda and turning into a decision – a policy, that is. For example, supporters of a given PPP policy may use a political context that is prone to market-based solutions in the public sector, while claiming that they present a solution to an existing problem of financing essential infrastructure development. If such a coupling is successful, a policy window opens, which makes a decision feasible (Kingdon, 1995; Travis & Zahariadis, 2002). However, policy-windows can be unforeseeable, and they can close again without any decisions being taken if policy-entrepreneurs are not successful in coupling the problem to a feasible solution that can be supported by the political environment. This makes the policy process inherently ambiguous and dependent upon the temporal coupling of the three process streams (Zahariadis, 1999).

The notion of three separate streams that each work on their own terms provides a useful framework for conducting analysis of the development of PPP policy and regulation, because it stresses that in order to foster policy-change, policy-entrepreneurs must couple a problem with a policy-solution, but also invoke support for the idea within the broader political stream. It should be kept in mind, though, that Kingdon's model was originally developed to explain major policy change within a North-American two-party system with changing majority rule of a single party, whereas policy-making in Denmark and Ireland is characterised by shifting coalition governments, which may render policy-change more incremental here than in the US system. Several scholars have illustrated the usefulness of the multiple streams model for a European context (cf. Zahariadis & Allen, 1995; Zahariades, 2003; Bundgaard & Vrangbæk, 2007; Brunner, 2008), and for the analysis of more incremental policy-change as well (Travis & Zahariades, 2002). The general points about attention as a limited resource and the temporality/timing as key features of policy-change thus seem relevant in a European setting too, although in the present cases I would expect a more incremental policy-change than the "irresistible movement that sweeps over our politics and our society, pushing aside everything that might stand in its path", which was originally envisaged by Kingdon (1995:1). In the below, I discuss how I use Barzelay's event centered approach as a structuring device for keeping track of events and contextual factors that can influence the three process streams (Barzelay et al., 2003).

DESIGN AND METHODOLOGY

Creation of a proper data set on ten years of development of PPP policy and regulation in two countries required triangulation of data from a number of sources (Peters, 1998). First, primary documents were collected for all years in the period from 1999-2009. For the relatively simple two-country comparative setup of this very paper, this exercise involved the collection and reading of around 140 documents including policy statements, guideline material, legislation, government reports, legal framework contracts, etc. (see appendix 2 and 3 for an overview of the sources). In order to organise the material, all documents were stored in a database according to type of document, responsible authority and date of publication. The primary documents were used to establish a detailed picture of the central policy initiatives and regulations enacted for PPPs in Denmark and Ireland, respectively, and furthermore provided for a first, and rather rough, interpretation of the processes whereby PPP policy and regulation developed in the two countries.

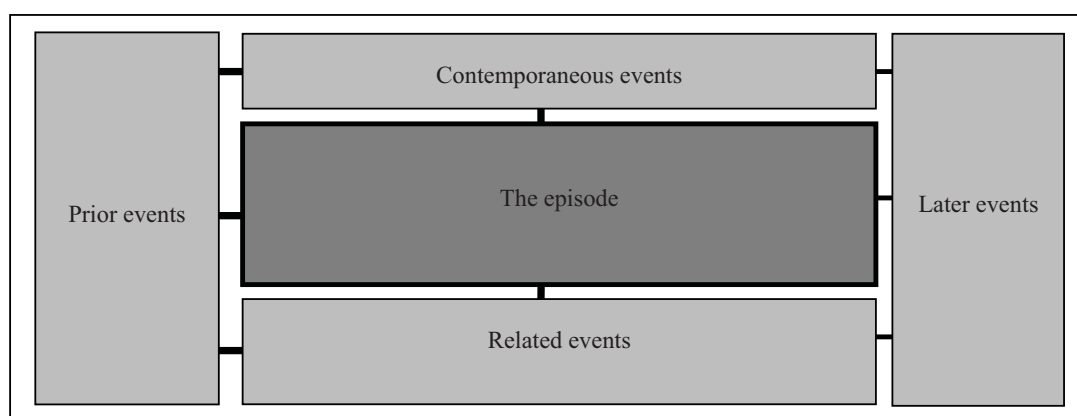
Next, to establish a detailed account of the policy processes, sequences of events, negotiations, and conflicts, several rounds of expert interviews were held³⁵. In Ireland, face-to-face interviews were carried out in Dublin with the Central PPP Unit under the Ministry of Finance, the National Roads Authority, the National Development Finance Agency, and the Department of Education and Science in Tullamore. To supplement these official accounts, further interviews were conducted with the Irish Congress of Trade Unions and the Irish Business Confederation, in Dublin, and with the consultancy firm Ernst & Young, in Belfast. A parallel round of interviews was held in Copenhagen with the Danish government's PPP Competence Unit, the Tax Agency, the Ministry for Transport, and the Ministry of Finance. Here also, supplementary sources were interviewed, including Local Government Denmark, the Confederation of Danish Industry, the Danish Chamber of Commerce, the Danish Construction Association, and the Danish Transport and Logistics Association. All interviews were held face-to-face, and were taped to allow further coding and interpretation. Finally, in addition to primary documents and expert interviews, statistical measures of government fiscal key aggregates were sampled in order to establish an understanding of the economic background settings for introducing PPP policies in the two countries. For this purpose,

³⁵ Interviews varied from approximately 60 minutes to 90 minutes.

the Statistical Office of the European Community (Eurostat) was sourced for comparative statistics on government key fiscal indicators (see appendix 1)³⁶.

In the subsequent process of data analysis, the interviews were used to fine-tune the initial interpretations established from the primary documents. In order to structure the case evidence in a systematic fashion, in this paper I draw on a specific conceptual framework and methodological guide for event-centred case study research developed by Michael Barzelay et al. (2003), which is presented in Figure 1.

Figure 1. Barzelay's heuristic for ordering case material.



Source: Barzelay et al. (2003:25).

The primary object of analysis is denominated as *the episode*. The current paper contains two episodes, which are the development of policy and regulation in Denmark and Ireland, respectively, in the period from 1999-2009. Each episode is constituted by a number of *events*, that is, specific decisions about policy and regulation for PPPs. Furthermore, to contextualize and explain the episode, the concepts of *prior events* and *contemporaneous events* are introduced. Prior events occur before the primary object of study, the episode, and provide the background settings for studying the episode. Politico-economic background settings are for example prior events that condition the episode. Contemporaneous events occur in the same time setting as the episode, and are events that are not part of the episode but influence the events constituting the episode. Change in the political elite is an example of a contemporaneous event. Jointly, prior and contemporaneous events are sources of *explanans* for the episode (Barzelay et al., 2003), and they are used to provide

³⁶http://epp.eurostat.ec.europa.eu/portal/page?_pageid=1090,30070682,1090_33076576&_dad=portal&_schema=PORTAL, searched on 23 March 2009.

theory-based explanations of Denmark and Ireland's developments of PPP policy and regulation. Further, *related events* occur in the same time frame as the episode, but are more affected by the episode than vice-versa. Concrete PPP projects, as signed by various national, regional or local public authorities, are examples of such related events. Finally, *later events* designate events that happen after the episode, which means that including the later events is merely relevant in the study of historic episodes, as noted by Barzelay et al.: "*Later events* are sometimes included in the study frame for purposes of exploring the contemporary relevance of historical episodes" (2003: 24 [italic in original]). Hence, in this paper, where my focus is on explaining differences and similarities in the development of PPP policy and regulation with a focus on the present episode, the consequence is that I pay less attention to the later and related events in Barzelay's model (see also Figure 2 and 3 below).

To sum up, in this paper I utilise Barzelay's heuristic as a structuring device, which is useful for keeping track of contextual factors that can influence the policy development. This is combined with Kingdon's framework for the analysis of agenda-setting, alternative seeking and policy-making. The specific method of the paper is thus to analyse episodes (a series of policy decisions about PPPs within the time frame of the study) as a consequence of the successful temporal coupling by policy-entrepreneurs of the problem, policy and politics streams. In the following, I first outline the two case studies utilising Barzelay's event-centred method. This provides a detailed overview of the episodes, contemporaneous and prior events in the two cases. Next, I apply Kingdon's multiple streams model to examine the coupling of the streams and the role of policy-entrepreneurs in the development of PPP policy and regulation in Denmark and Ireland in the period from 1999-2009.

CASE 1: THE DEVELOPMENT OF DENMARK'S PPP POLICY AND REGULATION

The episode

The concept of PPPs was launched in Denmark in 1999 by the social-democratic government headed by then Prime Minister Poul Nyrup Rasmussen (Danish Ministry of Finance, 1999). In the subsequent five years, from 1999-2004, a few government reports mentioned PPP as a means with which to invest in large-scale physical infrastructure projects (Danish Ministry of Economic and Business Affairs, 2002, 2003), but no concrete policies or regulations were formulated, and no money was earmarked for projects. Then, in January 2004, the Danish government launched its

Action Plan for Public-Private Partnerships listing ten concrete initiatives to support PPPs in Denmark (Danish Government, 2004). Among these initiatives were a universal PPP testing requirement, the establishment of a PPP Competence Unit under the Ministry of Economic and Business Affairs and the launch of seven PPP pilot projects. The PPP Action Plan also included amendments to the state building legislation requiring that all construction projects above a threshold limit of app. €13 million be tested for PPP relevance. Furthermore, the local government sector was given financial support for the testing of PPP projects, and a special pool of money was set up to relieve local municipalities from a complicated set of budget restrictions on construction type projects (Danish Government, 2004).

The government's Action Plan for PPP thus encompassed a broad span and introduced a number of new initiatives, legislation and a dedicated PPP institution. But in reality the government was in fact ambivalent towards PPPs and, in a number of important aspects, overtly sceptical that PPP would in fact deliver value for money. To see how this was the case, we need only to scratch slightly at the surface of the policy rhetoric of the government's PPP Action Plan. The effect of the legislative amendment that introduced a universal testing requirement was in fact very limited because it only applied to construction type projects (buildings), whereas the infrastructure area was exempted (Danish Enterprise and Construction Authority, 2004). Furthermore, the testing requirement only applied to the central government sector, whereas the local municipalities and the regions, which in Denmark have the responsibility for central welfare areas including primary education, childcare, environmental planning and local roads, were exempted from this.

Regulations were thus in reality much vaguer than the pro-PPP policy rhetoric of the Action Plan indicated, and the testing requirement was far from universal. Examining further the role and competencies of the Danish PPP Competence Unit, we see that contrary to countries such as the UK, Ireland, and Netherlands, where PPP units have been set up under the Department of Finance, the Danish equivalent was set up in the Ministry of Economic and Business Affairs. Being traditionally the little brother to the Danish Ministry of Finance in most public sector reform issues, this institutional anchorage meant that the PPP Competence Unit was from the outset limited in its ability to coordinate government initiatives. Somewhat paradoxically, in the inter-departmental group on PPPs, which was created to coordinate policy initiatives across government departments, the Ministry of Finance leads the group. Furthermore, when scrutinising the seven PPP pilot projects, the fact is that only one project has been signed (the Danish National Archive), whereas

four pilot projects have been dismissed and two projects are at various stages of planning, but have not proceeded to the procurement phase. A close reading of the government's Action Plan reveals that the seven pilot projects were only *to be tested* for PPP relevance, and that it was not decided how many – if any – of the projects would in fact be carried out under a PPP scheme (Danish Government, 2004). The success rate for the government's PPP pilot projects has been very low – only one of seven projects has been signed – and with a total number of four projects signed and two under preparation, the total deal-flow must be characterised as very modest.

What this short review of the episode demonstrates is that after the introduction of PPP in a Danish context in 1999, the Danish government did in fact take no concrete policy or regulatory decisions for the next five years. When, in 2004, the PPP Action Plan was introduced, it indicated the Danish government's serious commitment to a pro-PPP policy programme, but scratching at the surface of this policy rhetoric demonstrates that initiatives were in fact less ambitious. Regulatory ambivalence prevailed and competencies were split between the Ministry of Economic and Business Affairs, which has acted as a pro-PPP player, and the Ministry of Finance, which is much more sceptical towards PPP. This split between the two major departments is reflected in the institutional set-up of the Danish regime for PPPs, where the Ministry of Economic and Business Affairs hosts the PPP Competence Unit while the Ministry of Finance presides over the inter-departmental PPP group.

Prior and contemporaneous events

What were the background settings for the introduction of PPP policy and regulation in Denmark? To answer this question, prior and contemporaneous events must be carefully examined (Barzelay et. al., 2003). Recall from the methodological section that prior and contemporaneous events are sources of explanans of the episode. Starting with the contemporaneous events, one of the often presented merits of the PPP model is that private capital investment in PPP relieves government spending burdens³⁷. But logically, this argument would be more valid in contexts where the state of the economy imposes serious limits on government spending, whereas strong public finances and budget surpluses on the other hand would make private investment less of an incentive to governments.

³⁷ When the UK introduced its PFI program in 1992 the explicit purpose was to attract private capital investment.

Total government debt and annual government deficit/surplus provide two commonly used measures of a country's economic condition, and are also two central criteria underlying the Stability and Growth Pact of the European Monetary Union³⁸. These two fiscal indicators respectively provide a measure of long-term and short-term budget performance, and thus a measure of the Danish government's capacity for publicly financing major physical investment projects in the period under examination. Drawing on data from the European Commission's statistical office (Eurostat), it becomes very clear that the Danish government's need to rely on private capital to finance major investments has been negligible. In the period from 1997 to 2009, Denmark's government sector produced an average annual surplus of 1.8 percent measured against GDP, compared to an EU-15 average of -2.2 percent in the same period (Eurostat, 2010). Also, Denmark's general government debt was brought down from 65.2 percent in 1997 to 26.2 percent in 2007 (it thereafter rose to 41.6 percent in 2009 as a result of the global economic crisis, which compares to an EU-15 average of 79.0 percent in 2009 - see appendix 1).

So both short- and long term fiscal indicators suggest that the private finance element of PPP would never have been much of an issue in Denmark, an interpretation that is supported in all interviews conducted for the purposes of this paper. The Danish government in its Action Plan for PPP put it very clearly by stating that *'PPP is not an end in itself (....) PPP shall only be employed to support effective and good projects, not as a means of financial speculation'* (Danish government, 2004:12). Some major infrastructure projects that could potentially have been commenced as PPPs, including the Great Belt Bridge, the Oresund Bridge, and the Copenhagen Metro, were all financed as state-owned companies backed by state guarantees. So a number of the prior and contemporaneous events were not particularly favourable to a large-scale adoption of the PPP model in Denmark.

Another important contemporaneous event that pointed towards more use of PPP in Denmark was the change in the political elite, when the social-democratic government was replaced in December 2001 by a liberal-conservative government led by Prime Minister Anders Fogh Rasmussen. A keystone in this third-way inspired policy programme was reliance on market-based solutions as the means with which to increase the quality and value-for-money of public welfare services (Danish Government, 2001, 2003). This shift in the political elite established a majority in the Danish Parliament officially in favour of contracting out and privatisation, but it was the introduction of so-

³⁸ Though Denmark has so far decided not to join the Euro, it has committed itself to these fiscal stability criteria.

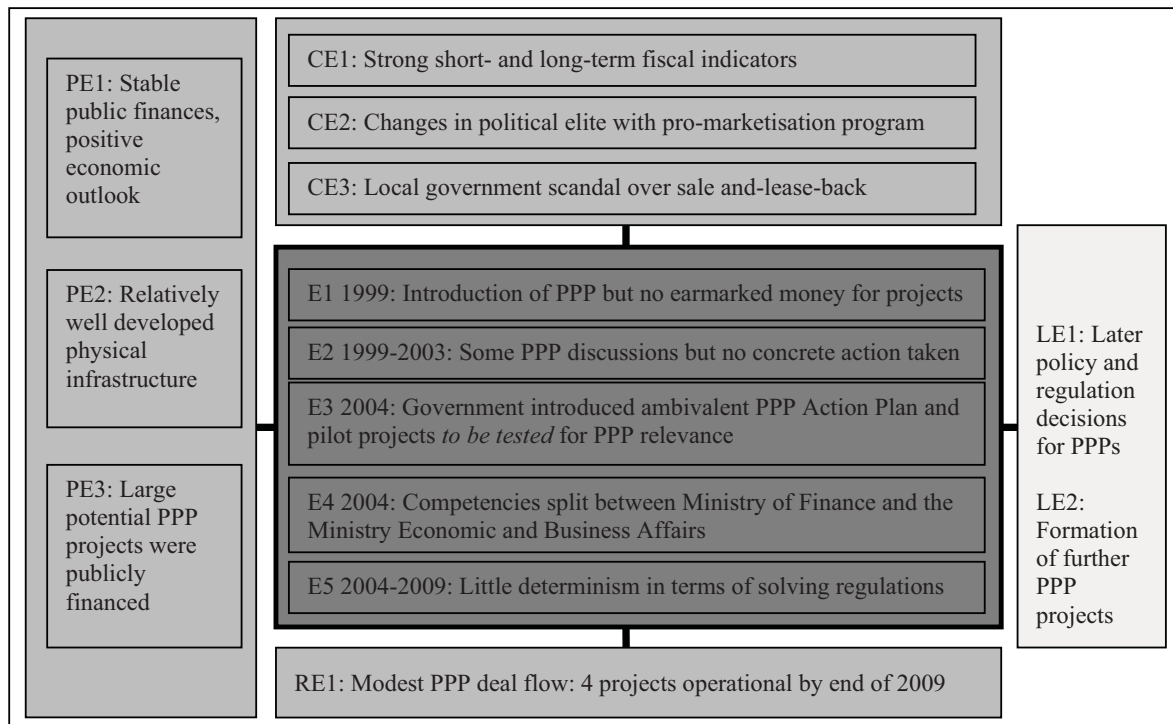
called free choice – a right to choose between public and private delivery of welfare services – that was most dominant in the policy programme (Danish Government, 2001, 2003).

While a change in the political elite brought in a government generally in favour of market-based solutions and private involvement in public sector activities, another high profile contemporaneous event sent shockwaves through the political establishment. In the late 1990s and into the 2000s Denmark witnessed a massive local government scandal in the small municipality of Farum, a suburb of Copenhagen (see also Greve, 2003). The mayor, who had for years been praised as an entrepreneur and visionary in inventing market-based solutions, was brought before a court accused of fraud with public money and was later imprisoned. Farum had sold a number of public assets as so-called sale-and-lease-back arrangements, where private partners buy public assets and deliver the service for 20-30 years subject to an annual payment by the municipality. This practice released substantial amounts of money that the mayor of Farum would invest in new projects such as sports facilities, housing, etc.

However, central government regulations require that money released via leasing arrangements is reserved and can only be released gradually. This is to prevent large fluctuations in total public sector spending from year to year due to such leasing arrangements. Though by no means directly related to PPPs, the gigantic public outcry created by the case led to a more general scepticism towards private finance models among government regulatory authorities. In the aftermath of the scandal, the regulation of local government procurement of PPP projects was amended in a way that made it overtly difficult for local municipalities to enter into PPP deals³⁹. Although Danish business and industry confederations have occasionally voiced criticism of the government's inaction within this policy area, for most of the time these organisations have not been taking a role as policy entrepreneurs in the same active way as has been seen in the Irish case (see below). Figure 2 summarises the central events in the development of Denmark's PPP policy and regulation.

³⁹ For a more lengthy presentation of the details of this case see Petersen (2010a).

Figure 2. The development of Denmark's policy and regulation for PPPs.



Note: Prior Events (PE), Contemporaneous Events (CE), Events constituting the episode (E), Related Events (RE), Later Events (LE).⁴⁰

CASE 2: THE DEVELOPMENT OF IRELAND'S PPP POLICY AND REGULATION

The episode

The official launch of PPPs in Ireland can also be dated back to 1999, when the Irish Minister for Finance, Charlie McGreevy, announced eight pilot projects to be commenced as PPPs (Irish Government, 1999). These initiatives spanned across different sectors, including two school projects, one public transportation scheme, four road projects, and a waste treatment plant (Reeves, 2003). Institutional support for the Irish government's PPP programme was given via the establishment of the Central PPP Unit in the Ministry of Finance, and furthermore, of an Inter-departmental Group on PPPs coordinating policies and regulations amongst government departments and agencies, and an Informal Advisory Group for informal talks with business confederations, trade unions, and non-profit organisations (Irish Government, 2001). The government's institutional underpinning of the PPP programme was strongly centred around the Ministry of Finance's Central PPP Unit which heads both the Inter-departmental Group and the

⁴⁰ As previously mentioned, I focus in this paper on the development of PPP policy and regulation from 1999-2009, which means that later events are not my focus.

Informal Advisory Group on PPPs. Already in 1998, Irish industry was actively pushing for a national PPP strategy, and in January 1998 the Irish Business and Employers Confederation (IBEC) and the Construction Industry Federation (CIF) made a joint submission to the Irish Government proposing the use of PPPs in the country (IBEC & CIF, 1998). The aim of the joint submission from IBEC and CIT was to persuade the Irish Government of the merits of PPPs, and later the same year it was followed up by an additional submission to the government.

The Irish government further endorsed PPPs in the National Development Plan (NDP) 2000-2006 (Irish Government, 1999). The plan launched investments in PPP projects far beyond the level indicated in the initial list of PPP pilot projects. The NDP set a minimum €2.35 billion target for PPP activities under the €22.3 billion total investments plan (Irish Government, 1999). The Irish government's commitment to the PPP model was thus from the outset backed by earmarked money for projects, and in 2001 the Irish Ministry of Finance could report that 134 PPP projects were at various stages of planning. This number was subsequently lowered when the Central PPP Unit decided only to include projects with an estimated capital value of more than €20 million in the accounting. As of April 2009, a total number of 69 PPP projects are reported to be at various stages of planning and procurement (Irish Ministry of Finance, 2009).

The Irish government's approach to PPPs has to a large extent been a gradual effort to centralise competencies in a few central government departments. In 2002 the Irish government introduced the 'State Authorities (Public Private Partnership Arrangements) Act 2002' that laid down a legal framework for state authorities and local authorities to enter into PPP deals (Irish Government, 2002a). Besides clarifying the legal basis for public partners to enter into PPPs with private partners, the Act removed the ability of local government to act independently when entering into PPP deals (Irish Government, 2002a). A further centralisation of the Irish PPP programme took place with the establishment of the National Development Finance Agency (NDFA) (Irish Government, 2002b). The NDFA, functioning from 1 January 2003, was to advise state authorities on the optimal financing of public investment projects, hereunder PPP projects, in order to achieve value-for-money for the public sector. State authorities mentioned in the 'National Development Finance Agency Act 2002' were hereafter obliged to seek the advice of the NDFA when planning major public investment projects, but it was still voluntary for state authorities to follow the recommendations.

This latitude was removed in 2005 when the NDFA was given the authority to procure and enter into PPP contracts on behalf of other state authorities. The NDFA subsequently hands over the projects to the relevant authority after the PPP contract has been procured and signed and the project has become operational (e.g. construction is finished) (Irish Government, 2007a). The NDFA thus changed its role from advisor to primary procurer of Irish PPP projects. Exempt from this Act are the roads and rail sectors as well as the local government sectors, where procurement is undertaken by the National Roads Authority (NRA), the Railway Procurement Agency (RPA), and the Department for Environment, Heritage and Local Government, respectively.

What this short presentation demonstrates is that the Irish PPP programme has developed quite differently from the Danish case. Eight PPP pilot projects were announced from the outset, and earmarked money was dedicated to PPP in the National Development Plan 2000-2006. Institutional underpinnings of the PPP program were established at an early stage, and centred in the Central PPP Unit under the Ministry of Finance. Business federations and trade unions played an active role, and the voices were heard with the set-up of the Information Advisory Group. We have also seen that the development of Ireland's PPP programme has been marked by a gradual move towards more centralised competencies and procurement functions, and with clear restrictions on the leverage of other authorities to enter into PPP deals.

Prior and contemporaneous events

Starting with the prior events, the introduction of PPP in Ireland took place against a rather complex politico-economic background. '*Once the sick man of Europe*' (Reeves, 2003:163), Ireland entered the 1990s as one of EU's least affluent economies. Though insignificant compared to the total size of national budgets, EU funds provide a significant source of capital investment for specific projects in less affluent regions of the EU. Throughout the 1990s Ireland relied heavily on EU Structural and Cohesion Funds as an additional source of financing the much needed investment in the country's physical infrastructure, which had long suffered from systematic under-investment (Reeves, 2003).

The Irish government estimates to have received a total of €17 billion from EU funds from accession to the EU in 1973 up until 2003 (National Development Plan, 2009), and in the ten years from 1989 to 1999 leading up to the episode, €11 billion was transferred from EU funds, much of which was invested in physical infrastructure. However, a decade of economic fortunes throughout the 1990s, and a general redistribution of EU funds in the late 1990s as the EU faced the eastern

enlargement, significantly reduced Ireland's share of EU funds from 2000 onwards. Accordingly, Ireland's share of EU funds was reduced to approximately €4 billion under the NDP 2000-2006, and further to an estimated total of €3 billion under the current NDP 2007-2013 (Irish Government, 2007b: 16). So by the late 1990s, the Irish government was looking for alternative ways of financing investments in a physical infrastructure that, despite recent investment, was still considered to be underdeveloped.

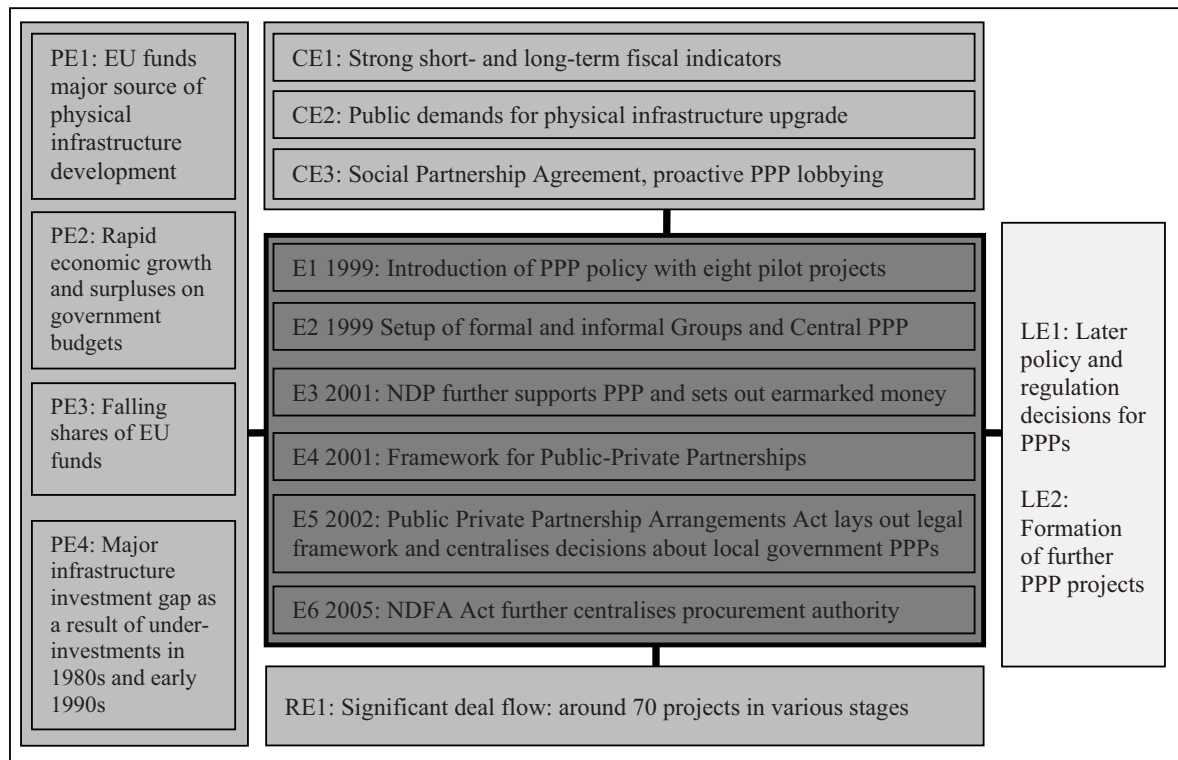
One alternative would be to finance projects via the Irish government's purse – the so-called Exchequer. Assessing the feasibility of this option by using the same short- and long-term fiscal indicators as in the Danish case, we see that the Irish economy also experienced better times than the EU-average during this period (although the economic crisis has changed this: see appendix 1). In the period from 1998 to 2007 (latest data before the crisis), Ireland's state sector produced an average annual surplus of 1.7 percent measured against GDP (compared to an average of -2.2 percent in the Euro area). Moreover, in the same period, Ireland's general government debt was brought down from 64.3 percent in 1997 to 24.9 percent in 2007, and after that it rose to 64.0 percent in 2009 (EU-15 at 79.0 percent in 2009) (Eurostat 2010)⁴¹. So, whereas the falling shares of EU-funds in combination with an urgent need to upgrade the country's physical infrastructure prepared the ground for private finance investments through PPP projects, Ireland's government budgets displayed larger surpluses than most other EU countries (except for the major setbacks during the crisis in 2008 and 2009).

Nonetheless, the need for further investments in physical infrastructure and public buildings was recognised by the Irish government in the National Development Plan 2000-2006 and 2007-2013 (Irish Government, 1999, 2007b). The high political salience towards the issue reflects a more general public dissatisfaction with congestion and the state of the infrastructure. But the introduction and development of Ireland's PPP regime must also be seen against the backdrop of another contemporaneous event, namely the active pro-PPP lobbying from Irish business. To understand the impact of this contemporaneous event fully, we need to assess Ireland's Social Partnership Agreements which date back to 1987 (Irish government, 2003). In these agreements, each in place for three years, the government, employers, trade unions, farming organisations and the non-profit sectors reaches a consensus on major political issues for Ireland such as macro-

⁴¹ The effect of the financial crisis is not yet shown in the available data, but already in 2007 the Irish government headed towards a zero, and the Danish government expects deficits in 2009.

economic policies, wage settlement, public service quality, workplace relations, etc. (Irish Government, 2003). So when in 2001 the Irish government and partners from business and labour agreed on a Framework For Public Private Partnerships (Irish Government, 2001), it reaffirmed the Irish social partnership tradition and laid down some basic principles - rules of the game - guiding the further conduct of PPP policy and regulation in Ireland. Figure 3 summarises the main events in the development of Ireland's PPP policy and regulation framework.

Figure 3. The development of Ireland's policy and regulation for PPPs



Note: Prior Events (PE), Contemporaneous Events (CE), Events constituting the episode (E), Related Events (RE), and Later Events (LE).

COUPLING THE STREAMS: POLICY WINDOWS, POLICY ENTREPRENEURS AND POLICY VETO-PLAYERS

It became evident in the case study section that the episodes evolved quite differently in Denmark and Ireland. Drawing on the multiple streams model, the following pages link the episodes with prior and contemporaneous events to examine how and why Denmark and Ireland developed such different policies and regulations for PPPs. I distinguish in the following between the decisions that

led to the introduction of PPPs in Denmark and Ireland, and the subsequent decisions that led the two countries to further develop their PPP policies and regulation frameworks in different ways.

Denmark 1999-2003: The policy window remains closed

The Danish case displays a *political stream* and a *problem stream* that for a number of reasons were not very favourable to a large scale adoption of PPPs in the late 1990s. Neither prior nor contemporaneous events made the private finance element of PPP a particularly attractive argument due to the fact that the Danish government was able to finance projects out of the public purse – and as a matter of fact did so. Denmark witnessed a continuous and high level of economic growth throughout the period (PE1 and CE1 of figure 2), and in contrast to Ireland, EU funds had never been a substantial source of finance in the development of the country's infrastructure. Furthermore, Denmark's physical infrastructure was relatively developed with more need for minor and medium-scale renovations and maintenance rather than the erection of a great deal of new infrastructure (PE2), and a number of major potential PPP projects in the 1990s and early 2000s, such as the Belt Bridges and the Copenhagen Metro, had in fact been financed by public money (PE3). So the concept of PPP never really arose on the agenda in the problem stream.

The political environment was to some extent reshuffled when the liberal-conservative government assumed office in late 2001 with a pro-marketisation policy programme (CE2). In reality, however, the new government eventually came to focus more on traditional contracting out and free choice than on partnerships. In the *policy stream*, the Ministry of Finance was the single authority considering the potential use of PPPs in Denmark, but the interviews carried out for this research demonstrate that the ministry was indeed quite sceptical towards the PPP model. So there was no policy entrepreneur actively pushing PPP on the decision agenda, and as private investments in physical infrastructure never became a serious issue in the *problem stream*, the three streams were never coupled in a sufficient way to facilitate a substantial decision. The Ministry of Finance, being traditionally a very strong public sector modernisation policy entrepreneur, chose to introduce the PPP model in one of the last chapters of a budget report read by few people outside government. Interestingly, the decision to publish a chapter on PPP came completely out of the policy stream with no link to either the problem or politics streams. The launch of PPP in 1999 in this sense mostly resembled a symbolic decision rather than a substantial one leading to policy and regulation for the use of PPPs in Denmark. As we have seen, no concrete initiatives were taken and no projects launched at this stage (E1), and the policy window remained closed until early 2004.

Denmark 2004-2009: Policy entrepreneurs, veto-players, and a half-open policy window

How, then, can the decisions taken by the Danish government when launching the PPP Action Plan in January 2004, be explained? To understand this, we must examine the fundamental change of roles that took place in the *policy stream* in the years between 1999 and 2004. After 1999, the Ministry of Finance gradually stepped back from the PPP agenda whereas the Ministry of Economic and Business Affairs stepped up to actively endorse PPPs in official documents and publications. By this underlying shift of roles, the Ministry of Finance's scepticism towards the long-term financial effects of PPPs gradually changed its role into an influential veto-player, whereas the Ministry of Economic and Business Affairs turned into an active pro-PPP policy entrepreneur (Kingdon, 1995). The changing role of the Ministry of Finance must be seen against the background of continued strong government budgets (CE2) and the local government scandal over sale and lease-back arrangements, which resulted in amended regulations that considerably narrowed the scope for local governments' PPP projects (CE3).

Meanwhile, in the *political stream*, the pro-marketisation government was still attempting to increase the involvement of private business in the public sector. Thus, when the PPP Action Plan was published in 2004 and seven pilot projects were announced (E3), the political environment was now more favourable to PPPs than it had been in 1999, and an underlying shift in the *policy stream* had taken place, whereby a pro-PPP policy entrepreneur materialised. But continuous growth in the short- and long-term fiscal indicators (CE1) still limited the prospects for private finance of public projects, and the *problem stream* was thus more or less unchanged. The interviews in fact demonstrate that the central ministries in the process leading up to the launch of the PPP Action Plan had serious difficulties in identifying relevant PPP projects. So the policy solution was clearly there and the political stream provided a supportive environment for PPP initiatives, but the problem which the solution could be linked to was still not so obvious.

The result was that the PPP Action Plan was launched with a tentative problem to be solved – to see if PPP would deliver value-for-money and innovation in major construction and infrastructure schemes compared to traditional procurement models (Danish Government, 2004). This was illustrated by the fact that the seven PPP pilot projects were only to be tested for PPP relevance, in contrast to Ireland, where the government's pilot projects were actually to be commenced as PPPs. As an influential supplement to the Ministry of Economic and Business Affairs, which took the role

as policy entrepreneur in this process, the Ministry of Finance actively engaged as a veto-player attempting to limit the scope of the PPP initiatives. This evident conflict between the two dominant actors in the policy stream resulted in the formal oversight of the policy and regulation framework being split between the Ministry of Finance, which came to host the Interdepartmental Group on PPPs, and the Danish PPP Competence Unit being placed under the Ministry Economic and Business Affairs (E4). The Competence Unit was given responsibility for general competence building, guidance material and disclosure of information and guidance of local municipalities engaging with PPPs (E4), but major initiatives would have to be coordinated in the Interdepartmental Group, which was (and still is) hosted by the Ministry of Finance. When serious regulatory difficulties, such as tax and value-added tax for PPP projects emerged, this disagreement among central actors seriously hindered an effective resolution of these issues which were only slowly resolved after long negotiations among the various regulators (E5). Indeed, the tax and value-added tax issue has never been finally resolved as no generic solution has been found, which means that Danish PPP projects still have to be evaluated on a case-by-case basis before a PPP contract is signed (Petersen, 2010a).

The gap between the positive policy rhetoric of the PPP Action Plan and the subsequent reluctance towards solving fundamental regulatory challenges for Danish PPP projects can thus largely be interpreted as a result of disagreement among central actors in the *policy stream*, a *political stream* which favoured market-based solutions but was mostly occupied with other marketisation issues and did not intervene in the specific PPP policies and regulations, and a *problem stream* in which a problem that PPPs could be linked to was never really identified. This resulted in the development of PPP policy and regulation which built on the formulation that PPPs might increase value-for-money and innovation in major construction and infrastructure schemes, but few concrete initiatives to promote the actual implementation of PPPs in Denmark. The related events in Figure 2 clearly mirror this interpretation: the Danish government continues to endorse PPPs in various policy documents and speeches, but meanwhile, more than ten years after the introduction of PPPs and six years after the PPP Action Plan, only four PPP projects have become operational, and a few more have been signed. Let us now turn to the Irish case to conduct the same analysis.

Ireland 1999-2001: Temporal coupling of streams and influential policy entrepreneurs

In Ireland, in the late 1990s, the *political stream* was significantly more favourable towards the introduction of policy and regulation which supported a large scale use of the PPP model. EU funds

had constituted a major source of finance for infrastructure projects (PE1 in figure 3), but a rapid economic development (PE2, CE1) combined with the eastern enlargement of the EU, resulted in Ireland facing significantly falling shares of EU funds by the late 1990s (PE3). Moreover, in contrast to Denmark where PPPs never rose to a high point within the *political stream*, the political environment was fuelled by public dissatisfaction with the major physical infrastructure gap (CE2) which had developed due to significant underinvestment during the economic upturn (PE4). Thus, in the *problem stream*, the relatively poor condition of the Irish physical infrastructure compared to other European countries, which Ireland now matched in terms of prosperity and often surpassed in terms of growth rates, increasingly came to be identified as a major problem for the government (CE2).

Meanwhile, in the *policy stream*, the major business organisations were actively lobbying for a more active role for private business in addressing the infrastructure gap (CE3), and Ireland's tradition of actively including business and labour organisations in major policy programmes gave the private policy entrepreneurs an institutionalised platform for direct access to the Irish government, where PPP could be proposed as the preferred policy solution to Ireland's infrastructure gap. The successful role of the Irish business organisations was manifested when these partners were invited by the Irish Government to join the Informal Advisory Group (E2) that were set up to counsel the Central PPP Unit and the Inter-departmental Group on PPPs. In direct line with the active role of Irish business and the establishment of the Informal Advisory Group, the Framework for PPPs was launched in 2001 (E4), basically stating that all major policies and regulations were to be discussed among the partners in the group. Thereby, the three streams were coupled at this particular point to open a policy window which resulted in the introduction of ambitious PPP policy and regulation to support implementation of PPPs in Ireland, and eight concrete pilot projects through which to test the PPP model (E1). Moreover, in the National Development Plan 2000-2006, a rolling seven year plan for major investments in services and infrastructure, the Irish government earmarked a substantial amount of money for PPP projects (E3).

Ireland 2002-2009: Policy and regulation centralises Ireland's PPP framework

In the further development of Ireland's PPP programme, a number of decisions were taken to gradually centralise procurement competencies in central government, and particularly in the Ministry of Finance and the Ministry of Local Government. After introducing PPP policy and

regulation from 1999-2001, concrete PPP projects were now under the remit of planning. Moreover, with the Public-Private Partnership Arrangements Act (E5), clear legal conditions for public authorities entering into PPP deals were laid out, and local government use of the PPP model was made subject to approval from the Ministry of Local Government. Regulatory competencies were thus from the very early phase centered at the national level, and in 2005 procurement competencies were further centralised with the National Development Finance Agency Act (E6), which gave the agency the competencies to procure projects on behalf of other departments and agencies (except for roads and railways). Why did this centralisation take place?

Part of the explanation can be found in the *political stream*, where the current state of the infrastructure continued to be an issue with high saliency on the political agenda. Furthermore, the business organisations which actively pushed for PPPs before 1999 kept the issue high on the decision agenda by publicly criticising the government for being too passive in the subsequent process. Moreover, as the government initiated the planning and procurement of the first PPP pilot projects, it turned out that it would be more complex to carry out these projects than first anticipated. One thing was that the PPP model was new, which significantly increased the transaction costs and the time involved in planning the projects. Another factor was that some of the first pilot projects ran into difficulties with the EU's accounting regulations for PPP projects, which the Statistical Office of the European Societies (Eurostat) launched in early 2004 (Eurostat, 2004). These EU regulations basically required that PPP projects could only be regarded as private – and thus taken off the government's balance sheet - if the majority of risks were in fact transferred to the private partner. This was an important issue for the Irish government because, as we have seen, PPP was launched in a situation where the government actively tried to replace public investments in physical infrastructure with private investments provided via the PPP model.

Thus, as infrastructure deficit continued to be a major issue in the *problem stream*, the Irish government and the Ministry of Finance now actively engaged to open another policy window to set a solution in place which could further support Irish PPPs by making sure that such projects were removed from government balance sheets. This coupling of the streams to change Ireland's PPP policy and regulation subsequently happened twice. The first time was with the 2002 PPP Act, which removed the leverage of local authorities in terms of planning and signing concrete PPP projects (E5). By this token, the Irish government could control the flow of the deal, ensure that risks were sufficiently transferred to make the projects private, and thus safeguard itself against the

criticism from business federations that it was doing too little to implement PPPs. The second time was in 2005, when a government-wide PPP procurement organisation - the National Development Finance Agency - was established to take over the planning and procurement of most local and central government PPP projects, with a few exceptions within roads and railways (Irish Government, 2007a). We thus see that the three streams were coupled on several occasions, each time to open a policy window in which further PPP initiatives were taken to gradually centralise Ireland's PPP policy and regulation and concrete procurement functions within a few central government departments and agencies.

NATIONAL SIMILARITIES AND DIFFERENCES: THE TWO CASES COMPARED

How, then, do the two cases compare? Denmark and Ireland both officially launched PPPs in 1999 and are both subject to a common set of EU regulations on public procurement, risk transfer and on/off-balance sheet accounting. However, despite these and other similarities, PPP policy and regulation has developed very differently in the period in the two countries. Barzelay's event centered approach was utilised as a methodological heuristic to breakdown the cases in a number of events arising from the empirical analysis of the data collected for the two case studies (Barzelay et al., 2003).

The analysis of the context events (the prior and contemporaneous events) revealed that the launch of PPPs in Denmark took place against a combination of strong fiscal indicators, a relatively built-up infrastructure, the existence of a well-tested and successful public building-model, and a local government scandal relating to the sale and lease-back model, which generated a general unease with private finance arrangements within the Danish government. In Ireland, the fiscal indicators were also relatively strong, but Ireland moreover faced a major infrastructure gap due to years of underinvestment in the country's physical infrastructure. Furthermore, EU funds were declining due to the forthcoming enlargement, and public demands for an upgrade of Ireland's physical infrastructure were rapidly increasing. Thus, despite their relative similar points of departure in terms of fiscal indicators and being late adopters of PPPs, the systematic breakdown of the context events illustrates a number of differences in the background settings against which PPP policy and regulation developed over time in Denmark and Ireland (see Table 1).

Table 1. Overview of context, policy entrepreneurs, and the three streams.

	Denmark	Ireland
Context events (prior and contemporaneous events)	<p>Strong short- and long-term fiscal indicators</p> <p>Public infrastructure relatively well-developed: few relevant projects</p> <p>An existing well-tested public model: two major bridge projects and the Copenhagen Metro financed by public bonds and guarantees</p> <p>A local government scandal over sale and lease-back infuse reluctance among government regulators</p>	<p>Medium-strong short- and long-term fiscal indicators</p> <p>Major infrastructure gap as a result of years of under-investments</p> <p>EU funds a major source of physical infrastructure development</p> <p>Fiscal transfers from the EU in decline because of the EU enlargement</p>
Problem stream	<p>1999-2003: No clear problem identified in terms of financing Denmark's physical infrastructure development; a well-tested model already exists</p> <p>2004-2009: Problem still not identified. Policy entrepreneurs attempt to redefine the problem in terms of improving value-for-money and innovation of major construction and infrastructure projects</p>	<p>1999-2001: The poor condition of Ireland's infrastructure is increasingly seen as a major problem</p> <p>2002-2009: Ireland's infrastructure gap is still defined as a major issue. Several of the first pilot PPP projects run into problems with EU regulations regarding the on/off-balance sheet issue</p>
Policy stream	<p>1999-2003: Inspired by the UK PPP/PFI experiences the Ministry of Finance officially launches PPPs. No coupling with problem or political streams</p> <p>2004-2009: A seemingly ambitious PPP Action Plan launched, but regulations remained unresolved and few projects were implemented</p>	<p>1999-2001: An ambitious PPP programme is launched with 8 pilot projects, institutional underpinnings in the Ministry of Finance, and money earmarked for PPP projects</p> <p>2002-2009: Further PPP policy and regulation launched which centralises policy and procurement functions within the Ministry of Finance and the Treasury</p>
Political stream	<p>1999-2003: Low political attention to PPPs. The incoming liberal-conservative government announces a pro-marketisation agenda but focuses more on free choice and traditional contracting out than on PPPs.</p> <p>2004-2009: Rising political attention to PPPs but still more focus on free choice and traditional contracting out</p>	<p>1999-2001: Combination of context variables make the political environment favourable to private investments in public infrastructure (off-balance sheet)</p> <p>2002-2009: Combination of context variables still make the political environment favourable to PPPs</p>
Policy window	<p>1999-2003: Policy window remains closed. PPPs are only symbolically launched in Denmark</p> <p>2004-2009: Policy window is semi-open, but the three streams are only loosely coupled</p>	<p>1999-2001: Policy window stays open. Several decisions are taken to launch PPP policy and regulation and pilot PPP projects</p> <p>2002-2009: Policy window opens occasionally to launch new policy and regulation which centralises Ireland's PPP programme</p>
Policy entrepreneurs and policy veto-players	<p>1999-2004: The Ministry of Finance officially launches PPP but takes no concrete action</p> <p>2004-2009: The Ministry of Economic and Business Affairs and the PPP Competence Unit takes over the role as policy entrepreneurs.</p> <p>Policy veto-players: The Ministry of Finance</p> <p>Private business organisations: low activity, few initiatives, no formalised institutional platform for dialogue with the government</p>	<p>1999-2001: Ministry of Finance, Central PPP Unit and business federations are important policy entrepreneurs</p> <p>2002-2009: Ministry of Finance, Central PPP Unit, National Development Finance Agency and roads and rail authorities</p> <p>Policy veto-players: No veto-players</p> <p>Private business organisations: high activity, several submissions, a formalised institutional platform for dialogue with the government</p>

Kingdon's (1995) model provides an analytical framework for the analysis of the streams and for examining the role of policy entrepreneurs and policy veto-players (Greve & Hodge, 2007) in the development of Ireland and Denmark's PPP policy and regulation. In Denmark, as a result of the

context within which PPPs were introduced, no clear problem was identified in the problem stream, which PPP as a solution in the policy stream could potentially be linked to. Moreover, in Denmark the political attention to PPPs was generally low, and although the incoming liberal-conservative government announced a focus on marketisation and private sector involvement, the focus was more on free choice (in the delivery of welfare) and traditional contracting out. Accordingly, the streams were not coupled in any sufficient way to open a policy window, which resulted in a merely symbolic launch of PPPs in Denmark, with no policy and regulation initiatives and no concrete projects announced. This was very different from the Irish case, where a clearly identified problem – to remedy Ireland’s major infrastructure deficit – became a major issue in the problem stream as Ireland saw its share of EU funds dropping. In the meantime, the political stream was highly influenced by the popular dissatisfaction with the state of the infrastructure and strong lobbying from the Irish business federations. Accordingly, under the influence of strong policy entrepreneurs from within government and the private sector, the three streams were successfully coupled to open a policy window which stayed open for a long time, during which several decisions were taken to launch comprehensive PPP policy and regulation and money was earmarked for PPP projects.

In reality, the Danish government took no concrete PPP initiatives before 2004, with the launch of the PPP Action Plan. The launch was in itself somewhat paradoxical, because a problem was still not identified in the problem stream. However, the Ministry of Economic and Business Affairs and the PPP Competence Unit, which in the meantime took over the Ministry of Finance’s role as policy entrepreneurs, now attempted to redefine the problem as a matter of improving value-for-money and innovation in major public construction and infrastructure projects. Not least because of a rising attention to PPPs in the political stream, the policy entrepreneurs this time partly succeeded with coupling the streams and opening up a policy window in which the PPP Action Plan was launched. Underlying the launch of the action plan was a rising conflict of interest between the two policy entrepreneurs and the former policy entrepreneur, the Ministry of Finance, which had changed its role from entrepreneur to policy veto-player. Accordingly, in the aftermath, when the Ministry of Economic and Business Affairs and the PPP Competence Unit struggled to open yet another policy window in which further PPP policies could be launched and Denmark’s unclear PPP regulations could be resolved, the Ministry of Finance attempted to dissemble the three streams by arguing that Denmark’s strong finances made private finance through PPPs largely redundant.

This was, indeed, very different from the Irish case, where the problem stream was fuelled both by the infrastructure gap and by the fact that some of the first pilot PPP projects (for example Cork School of Music) ran into serious problems with the EU's regulations of PPPs, most importantly in relation to removing PPPs from government balance-sheets, whereby investments made through the PPP route would not affect General Government Debt (Kay & Reeves, 2004). Accordingly, as the political stream continued to be supportive to a large-scale adoption of PPPs, a number of further decisions were taken in the subsequent period. In 2002 and again in 2005, new legislation was launched, which centralised PPP procurement competencies within the National Development Finance Agency under the auspices of the Treasury. By this token, the central policy entrepreneurs gained control over PPP policy and regulation as well as the concrete procurement and signing of PPP contracts in all sectors except roads and railways, where the EU per definition defines that these concession PPP schemes can be registered off the balance sheet because the private partner bears the majority of risks (Eurostat, 2004; Petersen, 2010b). A successful coupling of the three streams thus produced a number of decisions which step-by-step embedded Ireland's PPP programme within the Ministry of Finance and the Treasury, in contrast to the Danish case, where policy and regulation competencies were split between the Ministry of Economic and Business Affairs and the PPP Competence Unit serving as policy entrepreneurs, and the Ministry of Finance as a strong policy veto-player (Greve & Hodge, 2007).

CONCLUSIONS

Over the past fifteen years, public-private partnerships have become an increasingly popular means of organising major construction and infrastructure projects with reference to various forms of design-build-finance-operate-maintain (DBFOM), design-build-operate-maintain (DBOM) and design-build-operate (DBO) models. As a result of this development, PPPs are now subject to growing attention in academic literature and policy practice alike, and ever more public and private resources are now being directed to the formation of PPPs. However, there seem to be at least two different interpretations of this phenomenon. The first, which is often rehearsed in academic literature as well as in policy practice, is that PPPs is indeed a new form of public governance with international application and acceptance. This claim builds, sometimes implicitly but often explicitly, on the idea of national convergence – some would say policy learning – towards a common and uniform PPP approach, inspired primarily by Anglo-Saxon PPP experiences. The second, which is found less frequently in the literature and even more seldom in official government

documents, is that underneath the reports about PPPs as a phenomenon with universal acceptance, we do in fact see a more heterogeneous and divergent pattern in the actual attempts being made by governments to form PPPs.

However, few academic studies have focused on how and why national similarities and differences have developed over time. This is partly due to the observation made by Greve and Hodge that so far “much of the literature has been preoccupied with the performance of PPPs and the legal aspects of PPPs”, whereas less attention has been centred on the broader policy and regulation aspects of PPPs (Greve & Hodge, 2010: 158). The other reason is that this field of research, although international in its character, has hitherto been dominated by studies operating with single case or single country research designs, with a few notable exceptions (e.g. see Greve & Hodge, 2007; Ysa, 2007). As this research field moves along, there is clearly a need for comparative research designs and more academic reflection about how and why, within a global upsurge of PPP activity, we see these significant and enduring national differences.

A modest contribution towards this endeavour has been attempted in this paper by studying the development of PPP policy and regulation in Denmark and Ireland. Despite their similarities in a number of dimensions, within a time-period of just ten years, PPP policy and regulation developed very differently in these two countries. Whereas PPPs in Denmark are subject to a loosely organised institutional framework with a number of fundamental policy and regulation issues being either unresolved or not very supportive to the uptake of PPPs, Ireland on the other hand now presides over one of the most ambitious PPP programmes in the world, with major policy, regulation and procurement functions centralised within the Ministry of Finance and the Treasury. The use of Barzelay’s event-centred method and Kingdon’s framework for policy analyses allowed me to analyse how and why these differences developed over time. A major reason, it turned out, was the politico-economic background settings against which PPPs were introduced in the two countries. Denmark’s strong public finances and well-built physical infrastructure made private finance through the PPP model largely redundant, whereas Ireland by the end of the 1990s faced a major infrastructure gap and declining shares of EU funds. Accordingly, whereas the three streams were only loosely coupled in Denmark to generate a semi-open policy window, the streams in Ireland were coupled on several occasions to create a policy window through which a number of PPP policies and regulations were launched.

While I would not claim generalisability in the findings derived from two case studies (Yin, 2003), the research findings have a number of important implications, which should be further scrutinised in future research. The first relates to the objectives pursued by governments engaging in PPP activity. This is important because PPPs are often seen as a tool for the accomplishment of innovation, value-for-money, mutual added value and collaborative advantage (Huxham & Vangen, 2004; Klijn & Teisman, 2005). Based on the comparative analysis, it seems that the primary rationale for forming (or not forming) PPPs was a macro-economic one in Ireland, with a focus on placing major infrastructure investments off government balance sheets, whereas Denmark's strong public finances and well-built infrastructure made such a manoeuvre largely redundant. This clearly raises a number of crucial questions relating to why governments in reality form PPPs, which should be further investigated in academic literature. A second implication from the comparative analysis is the importance of policy entrepreneurs as well as policy veto-players in decisions about PPPs. Whereas the findings in relation to the Irish case are in line with the common interpretation of the role envisaged by the policy entrepreneur in coupling the problem, policy and political streams, a main finding from the Danish case was that PPP policies and regulations were largely impeded by the predominance of a strong policy veto-player. As research on PPPs moves on, with an increased focus also on broader policy and regulation aspects, there is a need to further scrutinise the role of policy veto-players, especially in countries which have adopted more reluctant PPP approaches. Ideally, such research would contribute to a further understanding of why some countries have embraced PPPs, but equally importantly, also why other countries have been much more sceptical.

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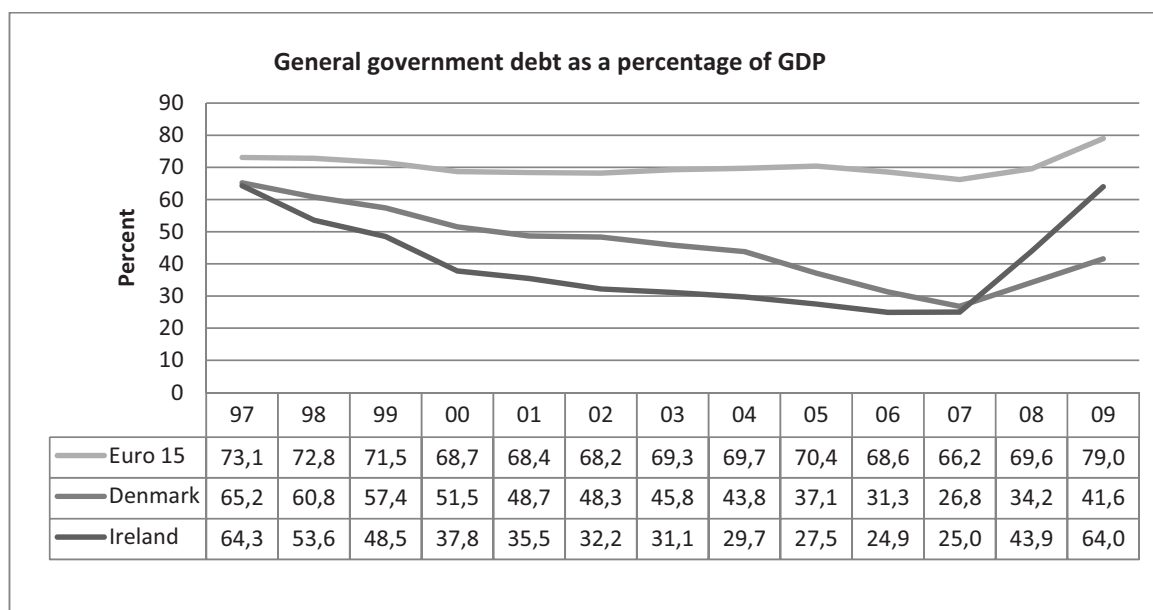
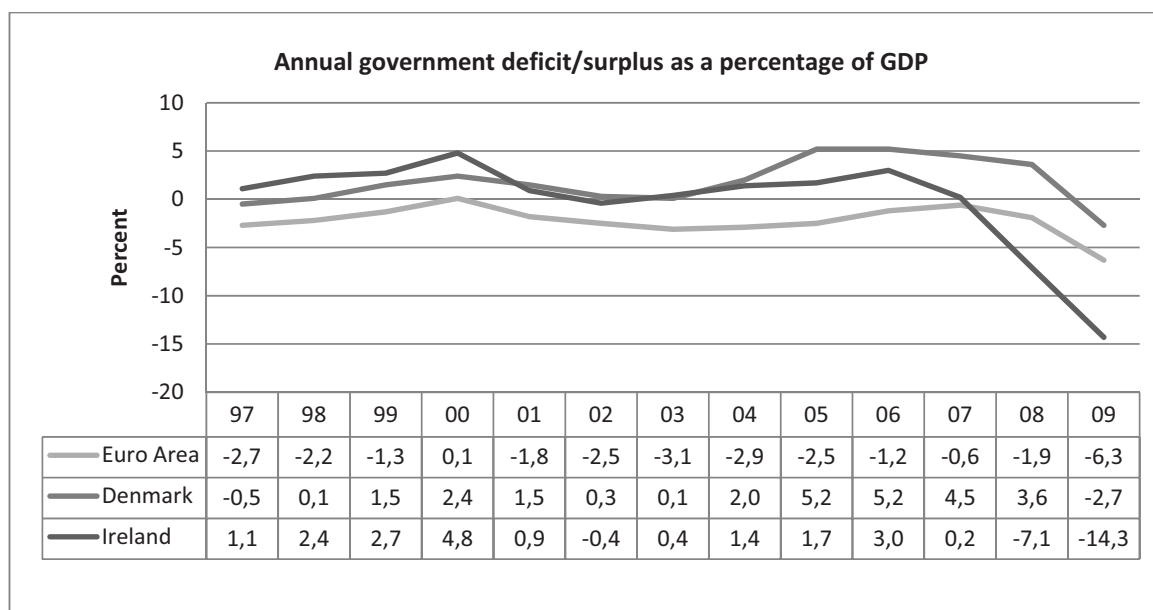
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APPENDIX 1: EUROSTAT GOVERNMENT STATISTICS



Source: Eurostat 'Government statistics' data (searched 18/06/2010): Available from
http://epp.eurostat.ec.europa.eu/portal/page/portal/government_finance_statistics/data/main_tables

APPENDIX 2: SUMMARY OF EMPIRICAL SOURCES (THE DANISH CASE)

<p>Expert interviews</p> <ul style="list-style-type: none"> • Danish PPP Competence Unit, 6 October 2008, Copenhagen, Denmark. • Danish Tax Authority, 6 October 2008, Copenhagen, Denmark. • Danish Construction Association, 6 October 2008, Copenhagen, Denmark. • Danish Ministry of Finance, 8 October 2008, Copenhagen, Denmark. • Danish Chamber of Commerce, 8 October 2008, Copenhagen, Denmark. • Local Government Denmark, 10 October 2008, Copenhagen, Denmark. • Danish Ministry of Transport, 15 October 2008, Copenhagen, Denmark. • Danish Ministry of the Interior, 21 October 2008, Copenhagen, Denmark. • Danish Transport and Logistics Association, 22 October 2008, Copenhagen, Denmark. • Confederation of Danish Industry, 28 October 2008, Copenhagen, Denmark.
<p>Policy papers</p> <ul style="list-style-type: none"> • Danish Government (2001). Vækst, velfærd – fornyelse [Growth, welfare - innovation]. • Danish Ministry of Economic and Business Affairs (2002). Vækst med vilje [Dedication to growth]. • Danish Government, Danish People's Party, Danish Social-Liberal Party and Christian People's Party (2003). Trafikaftalen af 5. november 2003 [Traffic Agreement of November 5th 2003] • Danish Government (2003). Vækst, velfærd – fornyelse II: Supplerende regeringsgrundlag [Growth, welfare – innovation II: Supplementary government platform]. • Danish Government (2003) Investeringsplanen [Investment Plan] • Danish Ministry of Economic and Business Affairs (2003). Staten som bygherre [The government as building manager]. • Danish Ministry of Economic and Business Affairs (2003). Handlingsplan for en mere virksomhedsnær offentlig sektor [Action Plan for a business responsive public sector] • Danish Government (2004). Handlingsplan for Offentlig-Private Partnerskaber (OPP) [Action Plan for Public-Private Partnerships (PPPs)]. • Danish Government (2005). Nye mål – regeringsgrundlag VK-regeringen II [New Goals – Government Platform II] • Danish Ministry of Economic and Business Affairs (2007). Bedre og billigere byggeri [Better and Cheaper Building Activity].
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APPENDIX 3: SUMMARY OF EMPIRICAL SOURCES (THE IRISH CASE)

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DANISH SUMMARY

Denne ph.d.-afhandling undersøger nationale ligheder og forskelle i politik og regulering af offentlig-private partnerskaber (OPP), med et empirisk fokus på Danmark og Irland. Udgangspunktet og motivationen for undersøgelsen er den observation, at mens OPP'er ofte er afbildet i den akademiske litteratur og i politisk praksis som et globalt udbredt fænomen, så viser en nærmere gennemgang store forskelle i de nationale regerings OPP politik og regulering og i antallet af faktisk gennemførte OPP-projekter. Ved at sammenligne Irland, som har en ambitiøs politik og reguleringsramme og mange gennemførte projekter, og Danmark som har været en OPP skeptiker, stiller denne afhandling de grundlæggende spørgsmål hvordan, hvorfor og med hvilke konsekvenserne nogle regeringer har udviklet omfattende politik og regulering til at støtte gennemførelsen af OPP'er, mens andre regeringer har været langt mere tilbageholdende. Afhandlingen behandler fire forskningsspørgsmål: (i) hvilke centrale aktører, strategier og institutioner er involveret i dannelsen af politik og regulering for OPP?; (ii) hvordan udvikledes OPP politik og regulering over tid, og hvordan kan national ligheder og forskelle forklares?; (iii) i hvilket omfang understøtter eller hindrer disse politik og reguleringsrammer gennemførelsen af OPP-projekter, eksemplificeret ved fire case studier fra skolesektoren?; (iv) hvilke rammebetingelser og regulering har EU sat for OPP initiativer på nationalt og lokalt niveau?

Hovedformålet med afhandlingen er at undersøge hvordan og hvorfor nationale regerings OPP-politik og regulering blev udviklet over tid. På nationalt niveau indeholder afhandlingen derfor både diakron og synkron analyse. I tillæg til det nationale fokus ser afhandlingen i overensstemmelse med tidligere forskning også politik og regulering som konstituerende elementer, der sætter generelle rammebetingelser og institutionelle 'spilleregler' for gennemførelsen af konkrete OPP-projekter. Den sammenlignende interesse på nationalt niveau suppleres således af en analyse (a) af samspillet mellem beslutninger om politik og regulering på nationalt plan og udformningen af konkrete OPP-projekter, og (b) af EU's rolle i reguleringen af OPP'er på nationalt plan og i relation til gennemførelsen af konkrete OPP-projekter. En hovedkonklusion på undersøgelsen er, at mens akademisk OPP litteratur ofte skildrer regeringers rationaler for at anvende OPP i form af at opnå innovation, gensidige samarbejdsfordele, 'value for money', nye markedsandele for de private virksomheder, bedre risikodeling, mv., så viser resultaterne i denne afhandling, at en primær målsætning med at anvende OPP er at fjerne store bygge- og infrastrukturinvesteringer fra de offentlige budgetter og regnskaber og dermed mindske presset på de offentlige budgetter og levere

mere infrastruktur, end det ellers ville være muligt. Men nylig forskning har vist, at dette rationale langt hen af vejen er misforstået, fordi der altid er en regning at betale for de offentlige myndigheder og skatteborgerne på langt sigt. Anvendelsen af OPP med det formål at muliggøre investeringer, som ellers ikke ville være mulige, accentuerer derfor en række bredere legitimitets og ansvarlighedsspørgsmål når offentlige myndigheder indgår langvarige OPP-aftaler med privat finansiering.

ENGLISH SUMMARY

This PhD dissertation studies national similarities and differences in policy and regulation of public-private partnerships (PPPs), with an empirical focus on Denmark and Ireland. The starting point and motivation for the study is the observation that whereas PPPs are often depicted in the academic literature and in policy practice as a globally disseminated governance scheme, in reality, a closer examination of the PPP reform landscape reveals significant differences in national governments' PPP policy and regulation and in the amount of actually implemented PPP projects. By comparing the initiatives taken by the Irish government, which has embraced PPPs, with those of the Danish government, which has been a PPP sceptic, this study inquires into the fundamental questions as to how, why and to what consequences some governments have developed widespread policy and regulation frameworks to support the implementation of PPPs, whereas others have been much more reluctant. The dissertation addressed four research questions: (i) what are the key actors, strategies and institutions that create policies and regulations for the formation of PPPs?; (ii) how did governments' PPP policies and regulations develop over time, and how can their similarities and differences be explained?; (iii) how do differing national policy and regulation frameworks serve to facilitate or hinder the formation of PPPs, exemplified by four case studies from the schools sector?; (iv) what framework conditions does the EU set for PPP initiatives at national and sub-national levels?

The main aim of the dissertation is to study how and why national PPP policy and regulation frameworks developed over time. At the national government level, the study thus contains both diachronic and synchronic analysis. Furthermore, in line with previous research within what has been called the governance approach within PPP studies, policy and regulation are also seen as constitutive elements that tap into and set the general framework conditions and institutional 'rules of the game' for the realisation of concrete PPP projects. The comparative interest at the central government level is thus supplemented by an analysis (a) of the interplay between decisions about policy and regulation at the national level and the formation of concrete PPP projects, and (b) of the EU's role in regulating decisions about PPPs at national level and in relation to the formation of concrete PPP schemes. A main finding is that whereas academic PPP literature often portrays governments' rationales for resorting to PPPs in terms of achieving innovation, collaborative advantage, value-for-money, new market possibilities, improved risk sharing etc., the findings brought to the fore in this dissertation suggest that a primary objective indeed was to remove major

public infrastructure investments from governments' balance sheets, and thereby reduce the pressure on public capital budgets and provide more infrastructure than would otherwise be possible. However, as the off balance sheet rationale has been shown to be largely false, because there is always a bill to pay in the long term, this raise a number of broader legitimacy and accountability issues, which the present PPP policy and regulation frameworks of governments do not seem to adequately address.

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