

Adapting Accountability and Emerging Challenges:
Contracting-Out in the Transport Sector in Switzerland,
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Abstract

Government reforms such as contracting-out continue to influence public service provision within infrastructure sectors. Contracting-out involves a detachment of the operators from political decision-making and the creation of intermediary procurement agencies. These reforms therefore tend to require an adaptation of how accountability is implemented. Previously, elected officials delegated their democratic authority (vested in them through public votes) to the public administration and thus more or less controlled service delivery. We address how accountability has been adapted in the context of contracting-out and the challenges that have emerged. We are primarily interested in assessing the ability of the political body to maintain control and the relationship between private service providers, citizens and customers. Using a multiple case study design, we select cases from the public transport sectors at the regional level in Sweden, Norway and Switzerland that represent different contracting-out models. We find that with increasing degrees of autonomy from the state (the two Nordic cases) there are both more adaptations to accountability and also more challenges emerge than the model with direct political control (the Swiss case). The central challenges arise between political-administrative and agency accountability with the involvement of a procurement agency. This has led to reforms to re-integrate the intermediary procurement agencies back into the country administration.

Introduction

Local and regional governments have undergone widespread reforms in relation to the degree of hands-on control politicians have over public service provision. Government contracting involves a “shift in the locus of control”

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(Romzek and Johnston 2005, p. 437): a detachment of the operators from political bodies and the creation of intermediary agencies. Government reforms involving contracting-out thus tend to require an adaptation of how accountability is implemented (Romzek 2014). Previously, elected officials controlled service delivery by delegating their democratic authority to the public administration (Pierre 2009). Devolution and contracting-out open up possibilities for alternative modes or amendments of accountability (Lodge and Stirton 2010). In the context of reforms, scholars have documented the changes in accountability relationships since the end of the last century (see Hodge and Coghill 2007 for a review).

“Accountability [continues to be] spread between multiple actors and institutions” in the context of government reforms (Hodge and Coghill 2007, p. 678). A central question is thus, how accountability becomes adapted in different contracting models. While Hodge and Coghill (2007) provide a review of accountability in the privatised state, our focus is on accountability adaptations in the space between the public and the private state. We assess different governance involving contracting-out with resultant competition. We are primarily interested in assessing the ability of the political body to be in control and the relationship between the operators, citizens and customers. We consequently do not focus on privatisation of infrastructures, but rather on different forms of autonomy that the operators have from the political system, while remaining predominantly in the control of the state. This might lead to tensions or challenges in relation to accountability as differing modes of accountability might conflict or compete with each other and certain modes might become weakened (Benz and Papadopoulos 2006, Hodge and Coghill 2007, Schillemans 2016). We thus address the questions of how accountability has been adapted in the context of contracting-out and what challenges emerge in relation to accountability.

To this end, we study cases of contracting-out with ensuing competition from the public transport sector. The public transport sector is a “mature” sector when it comes to devolution and government reform, as various forms of contracting-out and competition have been in place since the early 1970s (Alexandersson 2010, Lieberherr and Leiren 2017, Van de Velde 2005). The public transport sector has been largely under-theorized in policy studies (Saetren 2005). Studies on the interaction between multiple actors, for example between public servants and elected politicians in contracting processes, are generally difficult to find (see also the discussion in Murray 2008, Hansson and Holmgren 2011). Studies do exist of single actor groups, where the principal group studied is public officials working in the procurement entity (see for example Brown and Potoski 2003, Hansson 2011). While some studies do consider local politicians, they mainly examine the attitudes of local politicians towards competitive tendering (see for example Leiren 2015a, Murray 1999, Sørensen and Bay 2002, Hansson and Holmgren 2011). We argue that public transport in Norway, Sweden and Switzerland demonstrate important structural similarities in that they are local and regional network industries and they have high political relevance. These countries relate to the Neo-Weberian state model introduced by Pollitt and Bouckaert in 2004, which means that they have features of a strong state, with a regulating role and possibilities of steering society. The idea of political power is central; there is thus still a central role for representative politics in addressing the need for change (Pollit 2008). Another central aspect is modernization, in the sense that the state is seeking improved

efficiency with business-like methods, but the state remains a “distinctive actor with its own rules, methods, and culture” (Pollitt and Bouckaert 2011, p. 22) Modernization also includes the state becoming more professional and responsive to citizens (Pollitt 2008, Pollitt and Bouckaert 2011).

We contend that exploring these countries’ transport industries comparatively will produce new insights on the relationship between delegating responsibility, on the one hand, and accountability, on the other hand. Of course, there are intervening variables, such as EU (non-) membership, which vary across the cases. In our analysis, we find that this primarily plays a role with regard to the EU’s Public Service Obligation (PSO) for Public Passenger Transport Regulation (EC 1370/2007), which is currently not applicable in Switzerland (non-Member of the EU), but is in Norway (a Member of the European Economic Area) and Sweden (EU Member State). This PSO influences the accountability constellation in terms of procuring via negotiations. It limits the alternative ways of organizing public transport, making competition the key rule for local public transport provision, with exceptions from the competition rule for «in-house» provision and specific circumstances (for example if the operator is a small company).

This paper proceeds in six parts. In the next section, we outline different contracting-out models as well as multiple dimensions of accountability. Following the methods section, where we delineate our case selection, we present three cases of public transport sector arrangements with varying degrees of contracting-out. We then analyse how accountability has been adapted and what challenges might emerge across the cases.

Contracting-out and accountability

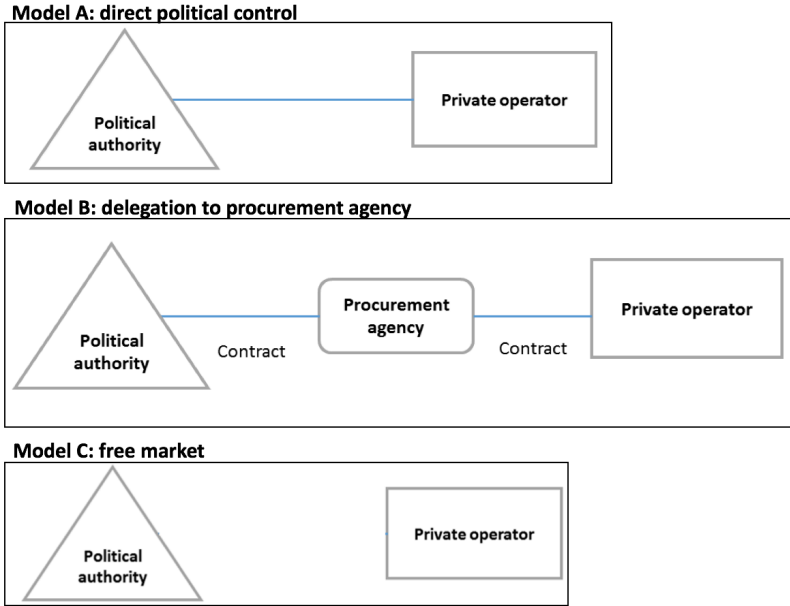
Government reforms and devolution in industrialized countries have led to a wide range of organizational arrangements for providing public services (Romzek 2014). Governments have particularly increased the range of services they deliver through contracts (Romzek and Johnston 2005). In this context, public service provision arrangements can range from in-house to ‘full’ competition in the market with various forms of contracting-out.

A traditional in-house arrangement involves only governmental actors (Bovaird 2006). The public sector has the responsibility for regulating, financing as well as providing the service (Lundqvist 1998). .. Contracting-out has become a common alternative to in-house service provision (Romzek 2014). Using the definition of Bhatti Olsen and Pedersen (2009), contracting-out is the transfer of production responsibility for a publicly financed service to a private sector organization via procurement procedures, whereby the public sector keeps the overall responsibility for financing and supervising the operations. When shifting to a contracting regime, the roles and responsibilities between existing actors are often re-defined and new actor relations emerge (Romzek and Johnston 2005).

Depending on the delegation structure and as shown in Figure 1, a political body may have direct control over the procuring procedures (model A), while in other cases a procurement body (model B) or the operators (model C) hold a larger role (Hansson 2011). Even when politicians retain dominant control, they make a horizontal contract with the private operator although there is no procurement agency (model A). A direct line from politicians to public servants

is in place. In cases where an external procurement agency is in charge of the procedures, this direct hierarchical line of control is severed (model B). However, the politicians may make decisions about service levels. Finally, in model C, there is no (in)direct tie in the case of a free market.

Figure 1: Three models of contracting-out



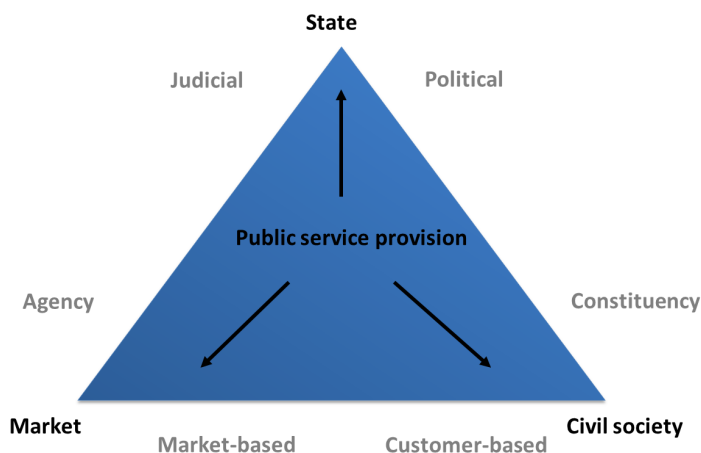
(own representation based on text above)

Such differing models of contracting-out have implications for the roles and responsibilities between parties and the role of the state. Within this theme lies the question of accountability. In contracting studies, a specific focus has been on procedures and mechanisms of accountability when implementing political goals (see for example Moe 1984, Sappington 1991, Dicke and Ott 1999, Hansson 2011, Girth 2014). Kelleher and Yackee (2008) have demonstrated that contracting-out may provide new opportunities for special interests to influence policymaking. As a response, governance studies scholars have argued that accountability is both horizontally and vertically directed and becomes more complex, in terms of clarifying roles and responsibilities (O'Donnell 1998, Greve 2008, Considine 2002 Schillemans 2008, 2016, Romzek and Johnston 2005, Romzek LeRoux. and Blackma .. 2012, Hansson and Longva 2014).

We address different modes of accountability that emerge in the context of contracting-out and focus on the interaction between multiple actors. We understand accountability as a mechanism whereby actors are held to account to a forum, rather than as a virtue or normative good sought by actors (Bovens 2010). As such, accountability involves mechanisms that make actors answer for their actions or report their performance to a given authority (Hodge and Coghill 2007). The focus is thus on formal structures rather than informal interpersonal dynamics (Romzek 2014). Contracting-out has altered modes of accountability, spreading control mechanisms between multiple actors and institutions (Hodge and Coghill 2007).

A range of accountability models has been proposed, which sheds light onto the complexity of alternative modes of accountability (Hodge and Coghill 2007, Scott 2000, Stone 1995, Schillemans 2016). Building on an accountability typology developed by Hodge and Coghill (2007) we employ modes of accountability that differ in terms of state, market and civil society relationships, which are key dimensions relevant for public sector reforms (see Figure 2). Depending on the type of reform, in relation to the state, market or society, differing implications for accountability exist (see Figure 2).

Figure 2: Different accountability modes (grey)



(own representation based on Klenk and Lieberherr 2014).

Building on Figure 2, Table 1 summarizes differing modes of accountability, which are explained below (the following is based on Klenk and Lieberherr (2014), Hodge and Coghill (2007) and Stone (1995)). Closely linked to the state dimension is *political-administrative accountability*. This has its roots in democratic structures and refers to intervention by politicians, ministers or public servants on public services via decision-making processes, hierarchical control or board participation (Considine 2002). Ministers are accountable for public actors' and citizens' activities within their jurisdiction (see Hodge and Coghill 2007). *Judicial accountability* addresses the development and application of formal rules, review of contracts and lawsuits. *Market-based accountability* refers to competition among service providers. Also under the market dimension, *agency accountability* refers to an external agency that has competences to monitor operators. In relation to the civil society dimension, *constituency accountability* relates to incorporating the interests of citizens for example via voting, representation, initiatives, referenda. Finally, *customer accountability* refers to the control that the users have on service provision through for example customer choice, public hearings, advisory meetings consumer councils.

Table 1: Different modes of accountability

| Mode | To whom? | For what? | Via what mechanisms? | Dimension |
|--------------------------|--|--|--|---------------|
| Political-administrative | Politicians /Parliament and ministers Public servants/public administration including for example Competition Authority | Financial decisions such as investment as well as operations Compliance with administrative procedures and ultimately the law | Board participation, Direct, informal intervention on everyday management Answering to parliamentary questions Input control (budget, number of staff), administrative mandates, sanctions | State |
| Judicial | Courts Legislators | Pacta sunt servanda | Review of privatisation contracts Lawsuits | |
| Market based | Shareholders/investors Consumers | Return of investment Price Quality and quantity of service | Competition | |
| Agency | Agencies, audit institutions; arm's length regulators | Third-party accreditation of internal audit safety standards | Prescribed self-evaluation specified performance measures/performance contracts, audits, benchmarking/comparative competition based on rate of return, price capping | Market |
| Constituency | Electorate | Electing decision-makers (or voting them out of office) Proposing alternative measures/actions | Public voting, representation Popular initiatives, referenda | Civil society |
| Customer | Consumer associations/councils, Ombudsmen | Individual satisfaction/ Grievance | Consumer choice Public reporting, public hearings and meetings Price surveillance | |

Source: own representation based on Klenk and Lieberherr, 2014.

There is a complex interplay between the different modes of accountability. They may exist in parallel, overlap, be synergistic or might lead to trade-offs. Studies show that in the context of contracting-out, challenges in relation to accountability emerge particularly in terms of political-administrative accountability (see Hodge and Coghill 2007, Schillemans 2016). Increased distance between political representatives and service providers as well as the shift in responsibility from public to private actors and additional contractual relations may disrupt this line of accountability. Hence, scholars argue that in the context of government reforms political-administrative accountability chain can become weakened (Benz and Papadopoulos 2006). This may be problematic, as the politicians remain, at the end of the day, accountable for public service provision in the context of contracting-out.

Other modes of accountability, such as agency or market-based accountability, may occur side-by-side with political-administrative

accountability, as agencies and semi-independent regulators may be in place to drive comparative competition and ensure compliance with performance contracts. This can lead to synergies, but also trade-offs. For instance, we might find conflicts between the different modes of accountability if the politicians want to retain oversight, but no longer have formal competences due to agency or market-based accountability or the roles between the politicians, the procurement agency or the regulators are unclear. Such a mixture of modes of accountability can undermine the effectiveness of accountability, as for instance, the account-holding forums become blurred and they may lack power or information (Johnston and Romzek 1999).

Methods

We select the public transport sector and specifically buses for our analysis, because the public transport sector has extensive experience with contracting-out (van de Velde 2005, van de Velde and Wallis 2013). Gwilliam (2008, section 9) provides a good overview of the historical development of contracting-out from an international perspective. Countries introduced competition for and in the market rather early in the public transport sector, compared with many other policy sectors. The UK was a first mover, introducing this in 1984-85. Several other European countries followed the UK, but with a slower reform pace or in sequences. The first proposal of a joint EU legislation in the form of a regulation of the organization of public passenger transport came in 2000, but was not approved until 2007 (Leiren 2015b). Hence, for a long time, no coherent EU regulation existed and different European countries have introduced diverse forms of competitive tendering in their national systems (Gwilliam 2008, van de Velde 2005). We have chosen cases from different countries to shed light onto varying contracting-out arrangements: Switzerland that is rather conservative in this regard and Norway and Sweden that have undergone more far-reaching reforms. More specifically, we choose to explore three cases in the public transport sector that are representative of the three contracting-out models presented in section 2 (see Figure 1). As such, the cases represent different developments of contracting-out, involving varying degrees of control by the state:

- Case 1 is representative of model A: contracting-out through hierarchical procedures in the regional bus sector in the region of Berne, Switzerland. Competitive tendering administered by the public department of transport, not an external procurement agency; we find a direct line between the politicians and the public servants. Operators are mostly under private law (for example in the form of joint-stock corporations) and most are under majority public ownership.
- Case 2 is representative of model B: contracting-out through delegation to an external public agency in the bus sector in the County of Telemark, Norway; the hierarchical line between the politicians and the public servants is severed, as the county government delegated competitive tendering competences to an external public procurement agency. The operators are private.
- Case 3 is representative of model C: contracting-out and market driven competition (free market) of the regional public transport in the County of Kalmar, Sweden; but it also contains element of model A, with de-

agencification (return of a public agency back to the public department and a direct line between the politicians and the public servants). The operators are mainly private.

In all three cases, the main responsibility of the service production is at the regional level: in Switzerland at the regional (constituent-state or cantonal) level and in Norway and Sweden at the county level. Hence, despite the fact that Switzerland is a federal state and Norway and Sweden unitary states, we are able to analyse the institutional strategies and accountability structures at the same level. In all three cases, we find the national government to have regulatory oversight while public transport service procurement and provision lies at the regional level.

The transport sector is in flux in the countries studied. The three cases above are snapshots in time. The Berne case is a snapshot of how it was in 2016, the Norwegian case of 2012 and the Swedish case of 2013. Especially in the case of Telemark, Norway, it must be noted that the agency has been re-integrated into the county administration since 2012 (see Krogstad and Leiren 2016). However, the model described in this case is still a common model in Norway. What is not so common is to use the combination of a net contract and agency, which was the case in Telemark. Usually the authorities combine agency with gross contracts.

Our data are primarily qualitative, including secondary research reports and interviews. For the Swiss case, data were collected in the autumn of 2016 and includes anecdotal evidence through work at the Swiss Federal Railways, as well as an analysis of reports and legal documents. For the Norwegian case the data collection is carried out related to different projects at the Institute of Transport Economics between 2008 and 2012. See Osland, Longva and Leiren (2008) and Olsen, Krogstad and Aarhaug (2012) for a detailed description of the method collection. The Swedish data collection was carried out between 2007-2013 and is related to two research projects financed by Sweden's Innovation agency. See Hansson (2011) and Hansson and Longva (2014) for a detailed description of the method collection

Adaptions of and challenges for accountability in the transport sector

This section assesses the three cases in terms of the different modes of accountability introduced in Table 1 and emerging challenges.

Berne, Switzerland: public transport department with low-level competition

Public transportation in Switzerland is under a multi-level governmental structure. The national financial reform of 2008 defines public transport as a shared competence between the Confederacy and the regional governments (EFD 2007). The Swiss national government has the overarching control function, while the responsibility of public transport service procurement and provision lies at the regional level. The public transport sector has traditionally been financed by a complex system of public funds (Walter Simmen and Scheidegger 2005). In 1995, a reform aimed to equalize the situation for the operators, by adapting the availability of financial flows (Walter et al. 2005).

Judicial accountability: Since this public transport reform, federal ordinances enable competitive tendering in the regional transport sectors (Walter

et al. 2005; Tanner 2012). The EU's Public Service Obligations (PSOs) are currently not eligible in Switzerland. The transport PSOs are governed by EC 1008/2008, which is not enforced in Switzerland, but according to interview data the Swiss actors "feel the pressure" from these EU regulations.

Market-based accountability: In the bus sector competitive concessions (called net contracts where the companies have a large economic risk, not the public authorities) have become widespread. In the railway sector, the Confederacy and the regional governments still hand out concessions to the operators without competition (BAV 2012). In a more recent reform (enforced 2012), the obligations for competitive tendering have become legally defined for the bus sector, but not on the railway side (Tanner 2012). The regional government of Berne is a pioneer in tendering for bus services. Berne has partnered half of all competitive tenders in Switzerland (AöV 2011). It has been engaging in competitive tendering in the regional bus sector since 1996 with the aim to improve cost-effectiveness (Walter et al. 2005, AöV 2011). However, the total number of competitive tendering remains rather small and incremental, as the sector is subject to path dependence and existing contracts (not competitively tendered) typically last ten years. Hence, we find limited market-based accountability. As of 2011 only one-third of the bus lines in Berne have been competitively tendered and these primarily in small bus-lines; hence the competitively tendered portion of public busses is ca. 15% (AöV 2011). Moreover, the competitive tenders involve relatively small financial amounts: an annual turnover of less than three million Swiss francs (AöV 2011). In addition, there is usually just one operator on one line and there is a pricing system for transport companies, defining prices in small-scale geographical zones (AöV 2011, 2014).

The procedure for competitive tendering occurs accordingly: the Bernese Parliament allocates a fixed sum for a certain level of service over a certain period for regional transport services. Money from the municipalities and the Confederation through various funds complements this sum (see AöV 2014). The department for public transport then opens the tendering process. It thus assesses the bids in relation to the fixed payment allotted for the specified service. The public payments cover the costs that the company does not offset with its proper earnings. Crucially, this public payment is fixed, so it does not increase when the company has fewer earnings than planned; if the company does not perform as projected in the bid, then the company bears the financial risk. Conversely, this also gives the company an incentive to reduce costs, so they can make a profit.

Agency accountability: The case of Berne shows the introduction of a limited degree of competitive tendering without major administrative reforms, as no external procurement agency has been put into place for the procuring process. Hence, agency accountability is not applicable.

Political-administrative accountability: According to the above tendering procedure, both the parliament and the executive have control over the contracting-out situation. Investment planning and the mid-term service-level planning is controlled by the parliament and the service level planning, tendering process, control and justification of costs, development of infrastructures, making of the contracts with the operators, operational planning, service level agreement etc. are done by the public department (federal office for transport), under the oversight of the political executive.

Constituency accountability: The citizens in Berne have the potential to use direct democratic tools such as referenda or initiatives, if they are unsatisfied with service provision, but only for aspects specified in the law. The public has no control over the specificities of the tendering contracts.

Customer accountability: The customers cannot typically choose their service provider. However, there is a federal bureau on price surveillance, which can act in favour of the consumer if abusive prices have been determined in public transit. General consumer associations rarely deal with public transit pricing because of highly regulated pricing system and its complexity.

In sum, there has been little adaptation in terms of political-administrative and judicial accountability in the Berne case, as these modes remain primarily unchanged. The case shows how national legislation enabling competitive tendering has not become widespread at the subnational level: the Swiss consider Berne a pioneer, but market-based accountability has only emerged to a limited degree. Also, in terms of constituency and customer-based accountability, we could not identify any notable adaptations in the context of competitive tendering, as the mechanisms in place have existed prior to this reform.

Telemark, Norway: external procurement agency and competition

Local public transport is a regional responsibility in Norway. The 19 counties (from 2020: 11 counties) are responsible for such services. Traditionally the counties have bought public transport services from private or public companies, negotiating costs and service levels.

Judicial accountability: In 1994, the national government introduced a voluntary provision in the Vocational Transport Act, allowing the counties to make use of competitive tendering. Since the transposition of the PSO regulation into Norwegian law in 2010, procurements via negotiations are restricted. Today local public transport authorities have to choose between producing services “in house” or make use of competition.

Market-based accountability: The above regulations have opened up for an increase in competitive tendering procedures and competition. In cases of competition, a gross contract is common. This implies that the public authorities or the agency is in charge of route planning and ticketing and receives the income from travel tickets. The economic risk for the operator is therefore smaller than in cases of other types of contracts such as net contracts, where the operators have such competence.

Agency accountability: Simultaneous with competitive tendering, professional procurement agencies have increased in number since the mid-1990s (Leiren 2015a). This parallel development of establishing agencies is partly a response to the need of public transport authorities to increase their competence when engaging in competitive tendering procedures (Osland et al. 2008).

A result of such organizational changes is a double “chain” of contracts (Longva and Osland 2010): There is a framework agreement and a delivery agreement between the political body (such as the county with its politicians and internal administration) and the professional procurement agency; and there is a gross or net contract between the agency and the (private) operator. In the case of Telemark, the procurement agency is responsible for tactical decisions and possesses deeper public transport insights than the county administration. However, representatives of the agency experience that the county administration gives them (too) many tasks. Given the limited amount of

resources in terms of personnel, the agency experiences that it is unable to respond to all issues – nor is it the responsibility of the agency to respond to all of them. The private bus operators in Telemark are partly responsible for the planning of routes. However, they are interested in increased independence from the agency in developing the services. They therefore lobby politicians in order to gain more responsibilities and may address issues with the political body rather than the agency, which is their principal in terms of contracts. The bus operators therefore contribute to stirring up the debate about re-organization.

Political-administrative accountability: In the Telemark case there has been a division of roles, which has led to indirect decision-making rights on the part of the political-administrative actors, as some county politicians are represented on the agency's board. The county administration makes strategic decisions and coordinates public transport with other policy areas. However, when developing strategies and plans the county administration experiences that they lack the necessary transport knowledge, as they have delegated this to the agency. While strengthening the internal public transport expertise is a possibility, this is not optimal, given that it would easily create a “double” administration. The county administration therefore requests information from the agency. The 2011 elections exacerbated this situation, which led to a shift in political representatives who were unfamiliar with the organizational arrangement and did not know how to manage the situation (Krogstad and Leiren 2016). They have expressed that they want to be involved in tactical public transport decisions to a larger extent than the organizational arrangement of delegation allows for.

Constituency accountability: Direct democratic means do not play a critical role at the local level, but local elections (obviously) have an influence. The elections from 2011, for instance, shifted the political majority in the County Council from a right-wing to a left-wing coalition (Krogstad and Leiren 2016). This led to new politicians responsible for public transport who wanted to be more involved in tactical decisions, as discussed above.

Customer accountability: the customers cannot choose their provider. A national regulatory agency, a Competition Authority, exists to ensure fair and transparent competition procedures.

This example of Telemark highlights challenges in relation to accountability in a context of contracting-out using a professional procurement agency. The politicians want to be able to govern public transport in its details, but the organizational model does not allow for such steering, as they have delegated responsibilities to both a professional procurement agency and private operators. It shows the difficulty of being a politician, delegating responsibilities to other entities, while still being accountable. At the same time, the procurement agency experiences difficulties, working at the interface between the operators and the politicians. The main modes of accountability that have been adapted in the Telemark case are political-administrative and agency accountability. While the former has decreased, as the agency rather than the politicians are the principal, the latter has increased. Judicial accountability appears unchanged, while market-based accountability has increased with competitive tendering. Constituency and customer accountability have not changed.

Kalmar, Sweden towards de-agencification with parallel market systems

In Sweden, the central government has a regulatory role in the public transport sector, while the overall responsibility of public transport services have been

shared between the regional and local government level. A regional transport authority, organized as an agency was responsible for planning regional traffic and the municipalities (local level) was responsible for the local traffic.

Judicial accountability: Due to challenges with political-administrative and agency accountability in the context of an external procurement agency (the transport authority), national legislation aimed toward de-agencification at the subnational government level with the new Swedish law on public transport passed in 2010. The legislators designed the law to meet two main requirements: increased steering from the political level (increased political-administrative accountability) and increased involvement from the private sector, mainly bus operators. The background of the de-agencification was the large critique political actors and other organizations had raised against the transport authorities in terms of lack of transparency and possibility to influence decisions. By re-organizing the transport authority into a department at the county council, it was assumed that this would increase the possibility of political steering (SOU 2009). The new legislation opened up for a parallel system of providing services: a) The county can procure public transport through competitive tendering (contracting-out) and b) operators can work based on free market principles. This is also in line with the EU Public Service Obligations for Public Passenger Transport Regulation. The background to this parallel system is to encourage free competition, as well as uphold public transport service on lines that are not market attractive (through contracting-out). The new Swedish law took effect in 2012.

Market-based accountability: Formally, the new law resulted in an opening for competition in the market. This means that an operator is free to establish new bus-lines on the existing public transport net.

Agency accountability: The reform aimed at de-agencification. A central change was hence to diminish the co-owned agencies and instead integrate them in the county council organization (regional level). Using Kalmar as an example, the former agency is now a department within the county council (described below).

Political-administrative accountability: The legislation also formally led to an institutional shift in the responsibility of public transport at the local government level. The county councils were required to set up a transport plan, which included clear operative goals. The statistical responsibility of reporting transport data to the national level was extended and included in the county council's responsibility (Trafikanalys 2014). However, the new organizational form has not given the political-administrative actors more say, as was the intention, but rather less. The "new" department in Kalmar holds the same name and employees as when it was an agency. They work in the same office as before, separated from the county council offices, located in another city. The transport plan is written by the transport planners and then communicated to a transport group; consisting of six political members from the county council and six municipal representatives. Then the county council board approves the plan. Within these institutional changes, the municipalities in the county have lost the formal decision making rights over strategic decisions that they had when they owned the joint agency. Since the county consists of 12 municipalities, some municipalities also lack representation in the transport group. Operators that establish new lines based on free market principles are required to report to the county council 21 days prior to opening a service (Trafikanalys 2014). This

means that the county council gets information from the operators, however, the county council has no formal control or possibility to impose incentives or sanctions.

Constituency accountability: Direct democratic means, such as referenda and initiatives do not play a critical role at the local level. Local elections can of course have an influence, but none of importance took place during the timeframe analysed.

Customer accountability: In the context of opening up the market, customers should be able to influence the system by active choices (SOU 2009, p. 21). Formally, the customers can choose between different operators, and travel with the operator that provides best service (based on the principle of free market). However, in practice there are few examples of competition in the market at the county level. In Kalmar County, contracting agreements provide the transport services and no bus-line has opened in the market. The only example found is one bicycle ferry-line that was running during the summer period of 2014. At the national level a regulatory agency, a Competition Authority, exists to ensure fair and transparent competition procedures. Despite the new Swedish legislation passed in 2010 that aimed at de-agencification, the analysis indicates that not much has changed, besides the formal re-organization.

In sum, political-administrative and agency accountability remain a challenge in the Swedish case, as the changes appear to be a “paper product” and implementing actors have administered the new legislation to fit the existing governance structures. While overall in Sweden the open market drives some bus lines to airports, in general public transport is still based on competitive tendering procedures (Trafikanalys 2014). Hence, the reform has not greatly affected market accountability and customer accountability has not emerged, as at the county level no real change toward competition in the market has taken hold. However, like in Norway, the Competition Authority is in place to safeguard fair prices. Also like in Norway, constituency accountability has not changed and referenda etc. do not play a critical role in this regard. However, free market-mechanisms would hinder citizens from shaping the bus-line system.

Comparative Discussion

The cases show varying adaptations regarding the mode of accountability with differing contracting-out arrangements. In Berne, Switzerland, we have accountability through the public transport department under direct control by politicians and low-level competition for the market. In Telemark, Norway, we find accountability with an external public procurement agency and contracting through competitive tendering; the politicians have delegated a degree of control to an external agency. Finally, in Kalmar, Sweden, de-agencification and parallel market systems are emerging to a limited degree, as competitive tendering remains predominant. While in the Swiss case, procurement can occur via negotiations, the EU regulation (PSO) restricts the ways of how to organize public transport in Sweden and Norway. Only under certain circumstances (for example when the operator has the economic risk), are negotiations in compliance with EU law that has been transposed into Norwegian and Swedish law. Hence, we find that the intervening factor of EU non-membership influences the accountability constellation.

In the Swiss case, there is no external public procurement agency. In the Norwegian case, in contrast, there was a debate (at the time of study in 2012) about whether to re-integrate the agency back into the public transport department with direct control by the politicians (now it has been re-integrated). Finally, such re-integration has already occurred via national law in the Swedish public transport case at the time of study (2013). However, as the Swedish case highlights, such re-integration is not always wanted and might end up being primarily a re-integration on paper rather than in reality: The public servants that used to work in the agency and are now in the public department, but remain separate from the “rest” of the administration. Another interesting dynamic in the Swedish case is the layering of free competition in the market alongside the existing competitive tendering regime, the same competitive tendering regime common in Norway. Yet, as the Swedish case highlights, the effects of this reform are only minor – competitive tendering remains the common procedure for public transport service provision.

As shown in Table 2, the three cases have many similarities and some differences with regard to their modes of accountability. Overall, accountability has been the least adapted in the Swiss case and the most in the Swedish case, at least on paper.

Traditional *political-administrative accountability* exists in all three cases albeit to varying degrees. In the Swiss case, this has been adapted the least and the link to the politicians is the most direct, both in terms of the legislative and executive branch: the legislative branch makes the financial decisions and the executive branch has control via the responsible public transport department over the planning and operational tasks. All the competences remain within the public transport department, under direct oversight by politicians and the citizens have access to initiatives and referenda. In the Norwegian case, there has been an adaptation where the politicians have an indirect link via political representation in the board of the agency. In the Swedish case, the responsibility of public transport has been re-situated into one political organization (the county council) and not delegated to an agency. In this sense, the Swedish case has similarities with the Swiss case. The political control in the Swedish case has been re-adapted (a return to how it once was) in terms of bringing the transport planning and the procurement into one body. However, the political control has also weakened in terms of controlling the establishment of market-based public transport lines.

In terms of control through the national government level, the Swiss case is subject to control by the Federal Office for Transport as well as an independent federal authority responsible to ensure protection (federal bureau on price surveillance). The Norwegian and Swedish cases both have a Competition Authority, which ensures fair and transparent competition procedures.

Judicial accountability has been adapted in all cases (at least on paper), as we see new legislation altering the relationship between operators, agencies and political-administrative departments. The distinction of roles in the Norwegian case are clearer on paper than in real life. This is partly a consequence of politicians wanting more “hands on” control than the organizational arrangement allows for and partly lack of familiarity with the organizational arrangement among the politicians. In the Swedish case, attempts have been made to strengthen judicial accountability with the new legislation, but no real change could be identified.

The Swiss case lacks *agency accountability*, as there is no external agency; the department responsible for procurement is subject to political-administrative accountability. Both Nordic cases have agency accountability, with a professional procurement agency. In the Norwegian case, agency accountability has been adapted and the political body has initiated several consultants to evaluate and assess the governance arrangement. In the Swedish case, agency accountability was initially adapted with the development of external procurement agencies. Since then, legislators have tried to reduce agency accountability problems through de-agencification and increase political-administrative accountability. This shift can also be interpreted as a stronger move towards a Neo-Weberian state model (compared to the new-public management model) in terms of trying to increase to role of political power. However, in practice, the former structures of delegation to agencies still exist. For example, the transport planners employed at the agencies still have the public transport expertise and thus have an informational advantage in comparison to the politicians.

Market-based accountability has been adapted in all cases. In the Swiss case the public transport authority and in Norwegian case the public transport agency administer competitive tendering. If the quality is bad, the service provider might lose access to the market in the next competition, after the contract has ended (no new public transport contract awarded). Comparatively, market-based accountability has been adapted to a greater degree in the Norwegian case (Aarhaug Fearnley, Gregersen, and Norseng 2018) than the Swiss case, as in the latter only one-third of the bus lines have undergone competitive tendering. In the Swedish case, we find the strongest market-based adaptations due to a market opening alongside competitive tendering, at least on paper: formally, operators can compete freely in the market of public transport. Today, two parallel systems of providing public transport services exist in the Swedish case: competitive tendering and open market access, while the former remains dominant and the latter sparse.

We find little adaptation of *constituency and customer-based accountability* in all cases. Constituency accountability is arguably the most predominant in the Swiss case, as the citizens have access to initiatives and referenda regarding issues specified in the law. In the context of contracting-out with additional contracts specifying performance standards constituency accountability is lower than if provision were in-house and only subject to public laws. Customers cannot choose the provider, but the federal bureau ensures fair procedures. In the Norwegian case, direct democratic tools are not in place, simply common representative democracy that aims at increasing this element of accountability (we find the elections to have an effect). Customer accountability is limited: customers cannot choose between companies, as only one company operates certain routes, which the company has won in competitive rounds. Hence, indirectly the Competition Authority can foster customer accountability. In the Swedish case, the reform has weakened constituency accountability, as operators could compete freely in the open market, reducing the citizens' possibility to influence the structure of the bus-line system. Conversely, this has led to a strengthening of customer accountability through consumer-choice between competitors (at least on paper). A central argument favouring an opening up of the market was the consumer perspective: they should have more options of service providers. Similar to Norway the Competition Authority in Sweden can

also safeguard customer accountability. A strengthening of customer accountability has also occurred, as there are now more possibilities of transparency in the decision-making, since it is concentrated to the county council and citizen only need to address this political body. The information is also more accessible due to the statistical requirement the county council now has toward the national government level.

Table 2 summarizes the results in a comparative manner. We find a layering of accountability with almost all modes existing in all cases: only the Swiss case lacks agency accountability.

Table 2: Comparative summary of accountability modes across cases

| Mode | Berne Switzerland | Telemark Norway | Kalmar Sweden | Challenge | Sector |
|--------------------------|--|--|---|--|---------------|
| Political-administrative | Direct link to legislative and executive branch: financial decisions and oversight Federal office for transport has control | Indirect link via political representation in the board of the agency Competition Authority | Direct through county council, no longer delegated to agency Competition Authority | Conflict between agency and political accountability in Norwegian of roles between county administration and agency in Norway | |
| Judicial | National laws and contracts regulate the relationship between the involved actors | | | In Norway politicians wanting more “hands on” control; Swedish case new reform that attempts to clarify roles | State |
| Agency | None identified | Professional procurement agency | Professional procurement agency de-agencification | Conflict between agency and political-administrative accountability in Swedish case: challenges due to information deficits between the agency and the public servants | Market |
| Market based | Limited competitive tendering | Competitive tendering | Competitive tendering Market competition (on paper) | None identified | |
| Constituency | Indirect and Direct: Initiatives and referenda | Indirect | | None identified | Civil society |
| Customer | Federal bureau on price surveillance | Competition Authority | Consumer choice Competition Authority | | |

Source: own representation.

As shown in Table 2, we find challenges in relation to accountability emerging in the context of contracting-out and particularly in the Norwegian and Swedish cases. We mainly find challenges due to conflicts between political-administrative and agency accountability: In the Norwegian case we find that political-administrative accountability led to a challenge in the situation with a procurement agency, as there was a confusion of roles, challenges with information and steering. The agency lacked the capacity to respond to all the political requests and at the same time, the agency did not formally have the competence to respond to all such requests, as this is the role of the county administration. However, this administration experienced that it was no longer competent enough to respond to all the details that the politicians were requesting. Moreover, the administration has less access to information than previously: with the procurement agency in place, it faced informational deficits between agency and politicians. A similar challenge existed previously in the Swedish case, before it changed to maintain the control within the county council: the political body was criticized for not having the power or competence to put pressure on the agencies. Hence, the new legislation aimed to strengthen political-administrative accountability. Also in the Swedish case, the development of external procurement agencies led to challenges due to information deficits between the agency and the political-administrative actors. Thus, legislators attempted to reduce agency accountability problems through de-agencification and increase political-administrative accountability.

Conclusion

The aim of this paper was to study adaptations of and challenges for accountability in different contracting-out arrangements in the public transport sector. To this end, we employed multiple modes of accountability: Political-administrative, agency, judicial, market accountability, constituency and consumer-based (see Hodge and Coghill 2007, Stone 1995) and assessed these in three cases: Berne, Switzerland; Telemark, Norway; and Kalmar, Sweden, which each represent a different model of contracting-out. We found that with increasing detachment of the operators from political decision-making (the two Nordic cases) more adaptations of accountability occurred and more challenges for accountability emerged than the model with direct political control (the Swiss case).

In the Norwegian and Swedish cases, which both have external procurement agencies, we find key reasons for the emergent challenges to be a conflict between political-administrative and agency accountability where the politicians 1) lacked information, 2) became dependent on the agency, and 3) wanted increased control. This then led to confusion and difficulties to maintain clear accountability chains. Put differently, in both the Norwegian and the Swedish cases, we see several challenges in relation to accountability in terms of political authorities' inability to impose power over the procurement agencies. The Swiss case seems to be able to avoid this, as no separate agency exists. In response to these challenges for accountability, both the Nordic cases undertook further reform toward de-agencification (re-integrated into the county administration to look more like the Swiss case). At the time of analysis the Norwegian process had only started.

Interestingly, we find convergence on the modes of accountability across the three cases assessed in this paper. The only major divergence across the cases is in terms of political-administrative and agency accountability. Both political-administrative and agency accountability remain the least adapted in this Swiss case: political-administrative remains predominant and agency accountability absent. Conversely, the Nordic cases have undergone adaptations in terms of agency accountability. Yet interestingly this shift toward agency accountability in the Swedish case has led to a simultaneous shift back toward increased political-administrative accountability, as the external procurement agency has been re-integrated into the public administration, again, at least on paper in the Swedish case (and later also in the Norwegian case, although this was not part of our analysis). Hence and in contrast to the previous arguments (Benz and Papadopoulos 2006), we find that, contracting-out and competition do not necessarily decrease the political-administrative accountability chain, at least on paper. However, what we do see in the two cases with procurement agencies is a struggle for the politicians to maintain sufficient oversight and information.

In sum, this analysis across countries brings interesting insights about the relationship between delegating responsibility and adapting accountability, where we find increased delegation to involve a complex juggling act among different modes of accountability, where the traditional strong role of political-administrative accountability does not necessarily wane but may also wax.

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