

Multi-Level Governance of Public-Private Partnerships: An Analysis of the Irish Case

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ABSTRACT

This article examines public-private partnerships (PPPs) from a multi-level-governance perspective with a focus on the Irish PPP case. The article extends previous research on the regulation and governance of PPPs, which has mainly focused on decision-making in the horizontal (public-private) dimension of PPP. The research displays a highly complex interplay between decision-making at several levels of government in the shaping of key decisions about policy, regulation and application of PPPs in Ireland. The achievement 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 in vertically interconnected decision arenas. While many governments in Europe and beyond keep endorsing PPPs, and major financial commitments are made under PPP schemes throughout, the results presented in this article illustrate that a clearer and more coordinated regulation and governance framework is needed to guide and steer the formation of PPPs across multiple levels of government in Europe.

Keywords: Public-private partnerships; multi-level governance; regulation; Ireland; school sector

1. Introduction

Public-private partnerships (PPPs) have recently gained widespread attention among governments and scholars across public administration and management (Osborne 2000; Teisman and Klijn 2002; Ghobadian et al. 2004; Koppenjan 2005; Vrangbæk 2008; Greve and 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 and Angerer 2005; Christensen and Lægreid 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 and Klijn 2002; Treib, Bähr and Falkner 2005; Edelenbos and Klijn 2007). Also, 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; Tenbensen 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 and Klijn 2002; Koppenjan 2005; Greve and 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 and 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 the participation of various public and private actors (Lowndes and Skelcher 1998; Klijn and 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 and Teisman 2003; Edelenbos and Klijn 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 strategic and institutional complexity (Klijn and Teisman 2003).

This article 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 and Reeves 2004; Reeves and Ryan 2007). The study addresses a gap in previous literature regarding the 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 2010). 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 and Marks 2003). The notion of multi-level governance is thus seen in line with the more general trend in public administration from government to governance (Rhodes 1996), whereby the central government’s monopoly on policy-making and regulation is gradually being dispersed to actors below and above it (Stoker 1998; Hooghe and Marks 2003; Bache and Flinders 2005). From a theoretical viewpoint, therefore, 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 and Koppenjan 2002; Teisman and Klijn 2002; Koppenjan 2005; Edelenbos and Klijn 2007; Johnston and 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.

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). At the time, 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 (Kay and 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 a much greater extent than previously, the PPP initiative has, however, subsequently been heavily criticised for its lack of legitimacy and accountability to the wider public (Kay and Reeves 2004; Irish Congress of Trade Unions 2005; Reeves 2008).

The Irish PPP case is particularly informative 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. The specific research questions addressed in this article are: *How can the development of PPPs in Ireland be accounted for through the concept of multi-level governance, and how did the EU level and the national level interact to support or hinder the formation of Irish PPP projects?* Based on the interrogation of the Irish PPP case, the article identifies a tension in the EU’s meta-governance 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. This result has significant implications because it suggests a fundamental conflict of interest between the budgetary concerns at the EU level and the strategies of national and sub-national policy players engaged with the formation of concrete PPP schemes. Utilising the lens of multi-level governance thus brings to the fore a number of policy lessons concerning the complex interplay between various national, sub-national and supra-national actors in the shaping of key decisions about policy, regulation and application of PPPs.

The article commences with a brief overview of PPPs and the drivers behind their recent emergence (Section 2). This is followed by a discussion on how decisions about PPPs can be theoretically seen as a series of games in multi-level policy

networks with participation of various strategic actors drawn both from below and above central government (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 examining the development of Irish national PPP policy and regulation and, finally, outlining two detailed case studies of PPP projects from the Irish third-level-school sector (Section 4). In the penultimate section, the broader lessons we can learn from this study are discussed (Section 5), and, lastly, a conclusion to the article is provided (Section 6).

2. 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 and 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 and 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 and Lewis 2004), whereas the European Commission focuses 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 and Greve 2005, ch. 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 and 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, ch. 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 article.

It has been argued that PPPs are established with the ultimate aim of achieving

some sort of collaborative advantage (Huxham and 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 oft-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 so far, few if any academic studies have 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 and Lewis 2002; Reeves 2003; Johnston and 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, 288). Hence, 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 and Reeves 2004; Petersen 2010). A main argument for utilising private finance in PPPs has thus been 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 to pay for the asset in the long term (Spackman 2002; Hodge and Greve 2005; Mörtz 2007)¹. As noted 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.” Other critical debates concerning PPPs have focused on the performance of PPPs, with mixed performance evidence brought to the fore (Hodge and Greve 2007, 2009;

¹ 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 and Greve 2007, 549).

Pollock, Price and Player 2007), and the handling of public accountability and legitimacy issues under long-term contracting through the PPP route, which the scholarly research has so far only started to address (see Mörtz 2007).

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 and Angerer 2005), others see them as a new public governance scheme suitable for the modern network society (Van Ham and Koppelman 2002; Klijn and Teisman 2005; Edelenbos and Klijn 2007). In this article, 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 concerning the governance of PPPs be analysed? In the following pages, I discuss, from a theoretical perspective, how we can begin to address this question, and second, I present the empirical findings from the Irish PPP case, from which this analysis can emerge.

3. Strategic Decision-Making and Multi-Level Governance

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

3.1 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 (ACI) as the theoretical point of departure (Scharpf 1994, 1997; Mayntz and Scharpf 1995). The ACI framework represents an attempt to combine rational-choice institutionalism with a more realistic bounded rationality model of the actor, which means that the actor model within this framework includes both motives based on self-interest and more subjective norms and value-systems (Scharpf 1997, 62-66). This theoretical approach, or at least the game-theoretic version of it, which Scharpf represents, 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 and Teisman 2003; Edelenbos and 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).

The ACI framework has been applied within PPP literature in particular by Dutch public-administration scholars, who see policy-making for PPPs as the outcome of a series of negotiations in embedded policy networks with the participation of various public- and private-sector partners (Teisman and Klijn 2002; Van Ham and Koppenjan 2002; Koppenjan 2005). Klijn and Teisman define 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). In these policy networks, actors engage strategically but are also dependent on the resources and expertise of other organisations. 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). 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 and Koppenjan 1997; Teisman 2000). Policy-making, though, does 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 the policy-players pursue their strategic interests. The structuring role of the institutional decision environment means that particular courses of action are influenced by the structural position and distribution of access to different decision arenas of each policy player (Scharpf 1997). The ACI framework sees the relationship between actors and institutions as fundamentally two-way in the sense that in addition to the “rules of the game”, which entrust the policy players with different action capabilities and access to decision arenas, ongoing “games about the rules” are taking place as well (Stoker 1998, 22). The institutional settings thus constitute the decision environment in which games are being played, but the same policy games can also lead to changing patterns of institutional structures (Scharpf 1997). Outcomes of negotiated policy-games are thus determined by a combination of actor strategies, the policy players’ possession of different capitals and the distribution of access to relevant decision arenas. This means that the institutional setup is constantly subject to renegotiation among the policy players; thus the institutional capacity of policy coordination can be changed according to the interests and preferences of successful policy entrepreneurs (Roberts and King 1991).

3.2 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 and Blank 1996). According to the multi-level-governance (Hooghe

and Marks 2003), multi-level-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 the central government (Bache and Flinders 2005). The multi-level governance approach does not deny the importance of decision-making at the national arena, 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 the 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 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 makes it difficult to connect the various interactions (see also Klijn and 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 Actor-Centered Institutionalism combined with the multi-level governance approach, this article examines the functioning of multi-level governance in the development of Irish PPPs. The article 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 school-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 and Koppenjan 2002; Teisman and Klijn 2002; Koppenjan 2005; Ysa 2007). First, however, a brief presentation of the methods and empirical sources used in this article follows.

4. Method and Empirical Sources

The empirical data for this article was collected from a variety of sources. 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 school sector. The school sector was chosen as a 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 involves 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 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 school 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 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 of 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.

5. Empirical Findings

This article 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 article 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.

5.1 Regulation at 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 today, this policy area is still to a large extent dominated by national and local players. For the EU, the 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 and 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 2010). 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 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 be procured openly on an EU-wide basis, thus allowing bids from all businesses after the 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 combatted, 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, art. 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 assets 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 (Eurostat 2004). The issue is closely related to the Stability and Growth Pact criteria, which requires that governments keep annual deficits within 3 per cent of Gross Domestic Product (GDP), and total government debt within 60 per cent 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 and 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 the Statistical Office

of the European Communities (Eurostat), was that national governments could thereby make budgets look better, despite the fact that the public authority was legally committed through the PPP contract to pay the private partner over the course of 25-35 years. To address this problem, in 2004, 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 and will therefore not appear on the current government account deficits and general government debt rates. And vice-versa, if none or only one of the conditions is met; the asset will be regarded as a public asset and therefore be registered on the public partner's balance sheet (see also Petersen 2010).

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 the development of the Irish government's PPP programme.

5.2 Developments at 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 and 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 and 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 and 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 the 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)². 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

² <http://www.ppp.gov.ie/about-the-central-unit>, retrieved 6 February 2010.

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 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 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 road 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 school sector evolve? How were they influenced by policy and regulation at the national and EU levels, 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.

5.3 Case studies: PPP experience in the Irish school sector

The two case studies that follow both concern third-level (further education) school projects of similar size and scope: The 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.³

5.3.1 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 the national and EU levels.

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 School of Music proposal was linked into the PPP policy agenda at the 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.

³ And, indeed, Ireland's second PPP project in the school sector as a whole. The first was a bundle of five primary schools procured together.

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 the 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 the 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 glance 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 levels. At the EU level, regulations on general government spending are issued under the Stability and Growth Pact criteria, which, as we have seen, set limitations to government-budget deficits and general government debt. At the time, the EU Commission and Eurostat were 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 bubble" had made the Irish government increasingly concerned with asset-based government spending, as such investments would contribute negatively to the calculation of General Government Deficit (Kay and 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 the 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 to count it against the government's capital spending. The interviews conducted for the purpose of this article 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 financing 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 down-scaling 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.



<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

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

5.3.2 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 school sector (Reeves 2003). 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 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 had consulted for EU-funded loans in October 2001 (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.



<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

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

6. Discussions: Strategic Actors and Vertically Interconnected Decision-Arenas

The empirical presentation of the Irish PPP case leads to a number of discussion points which could extend our knowledge about the complexities in the vertical dimension of PPP regulation and governance. 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 and 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 clearly a tension here 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 and Greve 2005, ch. 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 action 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 article 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 the 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 EU regulation only applies 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 the 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 railway and road 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 school 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, which 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 the national, EU and project levels, 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 article thus illustrate a very dynamic picture of institutional change processes in relation to PPP policy-making and regulation across multiple levels of government.

7. Conclusions

The transition from government to governance is commonly associated with the dispersal of decision-making to below and above central government 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 and Teisman 2003; Jessop 2005). Moreover, previous public administration literature and EU policy studies have often argued that the new public governance era will gradually lead to a diffusion of decision-making authority both horizontally and vertically (Scharpf 2001; Hooghe and Marks 2003; Bache and Flinders 2005). The issue of multi-level governance of PPPs, on the contrary, has so far not been given much attention in academic PPP research, which has mainly focused on the complexity caused by horizontal (public-private) governance issues. Accordingly, in order to start addressing the issues of multi-level governance in decisions about PPPs, this article 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 article 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 to 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 article adds a number of further dimensions relating to the complex interplay between the EU-level and 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; on the other hand, 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 makes PPPs challenging governance schemes for all players participating in the game. These two cases illustrate that the implementation of PPP projects does 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 across multiple levels of government drive the process of policy-making and regulation of PPPs. But rather than assuming a move from hierarchical government to horizontal governance, which is often the assumption in public administration research, the Irish PPP case displayed a situation in which the Irish central government attempted to guide and steer the governance of PPPs by launching new legislation and through a step-wise centralisation of policy and procurement functions. 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 illustrated 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, would seem to require a much more coordinated meta-governance (governance of governance) 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 and warranted that public administration research increasingly starts scrutinising multi-level governance aspects of contemporary PPPs as well.

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