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Accountability and multi-level governance: An analytical framework

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PLEASE NOTE:

This paper is a slightly modified version of a book chapter, generalizing its core argument. When quoting, please check and refer to the original: Chapter 3 in Brandsma, Gijs Jan (2013), *Controlling comitology: accountability in a multi-level system*, Houndmills: Palgrave MacMillan.

Introduction

Multi-level governance structures are mushrooming in the European Union to the extent that some nowadays speak of a European administrative 'space' (Hofmann, 2008; Egeberg and Trondal, 2009). These include, for instance, national agencies and regulators allying together in networks that bypass national governments, sometimes under the auspices of the Commission; national experts, civil servants and more stakeholders who provide input to the Commission through its expert groups or open coordination systems; member state civil servants preparing Council negotiations in its many working parties; and comitology which exists out of national civil servants who control the Commission when adopting delegated legislation or implementing acts.

It is often argued that multi-level governance settings like these lack accountability, but to date it has proven remarkably hard to observe empirically whether this really is the case. Much of the literature on accountability is of a conceptual nature, and focuses on the meaning of the term itself or on the most appropriate typologies. The more analytical part of the literature speaks of worrisome gaps or deficits in systems of accountability. How to measure these deficits, however, is a matter that is left implicit in the literature (Brandsma and Schillemans 2013). But moreover, the scarce set of truly empirical studies into the setup and workings of accountability in multi-level settings fail to address all included levels of governance. The focus is often on supranational lines of accountability only, and mostly on accountability towards one forum only even when a multitude of accountability forums may be involved.

Much of the research on this matter therefore ignores the essential aspect of multi-level governance in the setup of the analysis: its fusion of administrative layers. Before this can be researched empirically for the existing multitude of multi-level governance arrangements, an analytical framework is needed that is capable of capturing the accountability of the full governance arrangement.

This contribution sets out to come to terms with the concept of accountability in an analytical sense, and gradually works towards a sophisticated framework of analysis that is tailored to multi-level governance settings. The first section defines accountability and discusses its relevance. What does accountability mean, and what desiderata is accountability supposed to contribute to? This section, therefore, discusses the meaning of accountability, as well as normative benchmarks that can be used to assess its functioning.

The second section hones in on key issues for analysing accountability in a multi-level context. Who is to be held to account by whom, and for what? This section demonstrates that the literature on multi-level accountability mainly argues that it is very hard, if not impossible, to have any accountability in multi-level governance settings at all, if only for theoretical reasons. However, I argue that it is possible to move beyond this deadlock. Taking a slightly less traditionalist approach towards who should render

account to which particular accountability forum and for what, could facilitate an empirical assessment of multi-level accountability.

The third section introduces two analytical perspectives by means of which accountability can be mapped empirically. This section discusses principal-agent analysis as well as constitutional analysis. Taken together, these three sections build towards an analytical framework by which accountability can be mapped and gauged in a multi-level context, which is featured in the fourth section.

The concept of accountability

Defining accountability

Although the term 'accountability' certainly has an intuitive meaning to it, it proves remarkably hard to define. The body of literature on accountability in general sets out to define the meaning of the term, to provide different typologies and styles of accountability, or discusses its relevance for the functioning of a democratic system of government (for example, Behn, 2001; Mulgan, 2003; Bovens, 2007; Black, 2008). In parallel, game-theoretical work points towards several mechanisms that underlie the functioning of an accountability arrangement (see further Lupia, 2000; Strøm, 2000; Strøm, 2006).

There is a paucity of behavioural research into the workings of accountability (Brandsma, 2013a). This may well have to do with the fact that common or unchallenged definitions are lacking. In an analysis on meanings of accountability used in the literature, Bovens (2010, 948-54) concludes that this concept can have two qualitatively different meanings. On the one hand, accountability may be regarded as a virtue, as a property of individuals or institutions that is associated with concepts such as responsiveness or transparency (see further Koppell, 2005). On the other hand, accountability may be viewed as a mechanism, by which actors are held to account by forums, to whom they are obliged to explain and justify their conduct. The forum can ask questions, pass judgement and impose consequences on the actor. Thus viewed, accountability is not an end in itself, but is functional for specific relationships between institutions or individuals.

Many authors who are interested in accountability as a mechanism take the definition that was developed by Romzek and Dubnick (1987, 228) as a starting point. They define accountability as "the means by which public agencies and their workers manage the diverse expectations generated within and outside the organization", and they distinguish between four partially overlapping types of accountability: bureaucratic, legal, professional and political accountability. Accountability is not seen as an individual attribute but rather as a means of connecting public agents to a variety of audiences.

Similarly, other widely cited definitions of accountability as a mechanism are also relational, and they typically include obligations to explain and justify past conduct to a significant other (Day and Klein, 1987, 5; Romzek and Dubnick, 1998, 6; Strøm, 2000; Mulgan, 2003, 9; Bovens 2007). Depending on the specific type of accountability included in the research, this could refer either to relationships between agents and principals (for example Strøm, 2000), between actors and forums (Bovens, 2007) or accountors and accountees (Pollitt, 2003, 89).

The most widely used definition of accountability as a mechanism in the domain of multi-level governance is that of Bovens (2007), who defines it as 'a relationship between an actor and a forum, in which the actor has an obligation to explain and justify his or her conduct; the forum can pose questions and pass judgment, and the actor may face consequences'. This contribution makes use of this definition of accountability. Other definitions of accountability as a mechanism include similar elements (Day and Klein, 1987, 5; Strøm, 2000; Mulgan, 2003, 9).

This definition of accountability as a mechanism, including Bovens' definition, can be operationalized according to three elements (Brandsma and Schillemans, 2013). First comes the provision of *information* by the actor towards the accountability forum. At this stage, the forum is made aware of the behaviour of the actor. In the *discussion* phase, the forum may ask follow-up questions, or the forum and the actor may exchange divergent points of view. This is followed by the final phase of accountability in which the forum makes an *assessment* and decides whether or not to impose *consequences* on the actor. Such consequences may be formal or informal sanctions, but they may equally well be rewards (Mulgan, 2003; Bovens, 2007).

The relevance of accountability mechanisms

In modern democracies, the relational interpretation of accountability increases in significance due to the decrease of partisanship in society and the gradual process by which certain parts of policy-making are moving out of the political domain. This decline in partisanship is associated with a decrease in the relevance of party ideology and representation of particular segments in society at the polling booth. As the number of swing voters increases, parties compete more on the basis of issues rather than on ideology, and prospective voting becomes more and more difficult for voters. At the same time, the outsourcing of regulatory competences towards semi-independent, non-majoritarian institutions also challenges the capacity of voters to pursue policy preferences through their votes.

The capacity of citizens to achieve policy outcomes through their votes is even lower in the area of European decision-making, because the European Parliament (and also national parliaments indirectly via governments in the Council of Ministers) only has a weak right of initiative. Furthermore, members of the European Parliament are elected

on a national basis rather than on a European one, and election campaigns use separate programmes made by national parties. Once elected, these national parties collaborate in European factions, which show increasing patterns of party discipline (Hix et al., 2005).

Also, the European Parliament does not support the Commission on the basis of a permanent majority coalition, but works on the basis of majorities per issue. On this particular element the EU system is more similar to a presidential system, where the executive does not depend on the support of a permanent legislative majority coalition for survival. On the one hand, this enables more parties to translate their ideas into policies than in systems with coalition governments, but on the other hand, it does make political competition less visible to the general public. And finally, the Council of Ministers represents the member states through its executives rather than through its legislators, which at best can only count on the support of a majority of domestic voters. Prospective voting, thus, is even more difficult with respect to European policy-making than it is for decision-making that neatly fits within the borders of a member state's jurisdiction.

The result is that prospective voting, by necessity, has to give way to retrospective voting: being able to throw the rascals out, and hoping rather than expecting that things will take a turn for the better during the next term (Curtin et al., 2010, 930; Palumbo, 2010, xi). While perhaps not intrinsically "one of those golden concepts that no one can be against" in all situations (Bovens et al., 2008, 225), accountability may thus well be the best we have in order to safeguard popular control and to prevent tyranny of government, especially with a view to European governance. This significantly underscores the salience of accountability, given that it helps to control unelected decision-makers - provided the actors indeed face consequences for their behaviour.

Accountability mechanisms can help fulfil a number of aims, all of which also serve as benchmarks for assessing its functioning. Depending on the (normative) aims in scope, different accountability forums may be the focus of empirical research (Bovens, 2007; Brandsma, 2013a). The two most important aims of accountability are to provide for *popular control* and for *checks and balances* (Przeworski et al., 1999; Strøm, 2000; Bovens, 2007; Curtin, 2007; Palumbo, 2010, xii-xiv). In the *popular control* perspective, the primary aim is to have the people's preferences translated into policy, or, to reverse the argument, to avoid the pursuit of policies that run counter to the people's intentions. Information, discussion and the possibility of imposing positive or negative consequences are all meant for checking to what degree policies are in conformity with the constituents' preferences. Accountability, thus, provides feedback to citizens who are able to use this feedback to decide their vote (Bovens, 2007; Bovens et al., 2008; Strøm, 2000).

On a slightly different note, a *checks and balances* perspective on accountability argues that there is a need to prevent society from being tyrannized by one government institution or by government as a whole. As a result, it emphasizes the need for independent legality checks by an independent court, and the organization of countervailing powers within clearly defined processes of policy-making. This way,

society is less at risk of being subject to the will of particular actors within government. In this perspective, accountability serves as one of several possible tools to provide for checks and balances. The formal need for explanation and justification of conduct by an actor to a forum, and the possibility of consequences being imposed by the forum upon the actor, may well create mutual dependencies between different institutions within the same decision-making system. In contrast to the popular control perspective, forums do not necessarily need to connect decision-making institutions to citizens. Ultimately, in the checks and balances perspective, accountability is regarded as a means to maintain the purity of government, which is defined as avoiding the misuse of power (Bovens, 2007; Curtin, 2007; Bovens et al., 2008). With respect to accountability for policies, the consequences that forums may impose on actors are to be interpreted as a means to achieve a balanced output. When referring to choices made in the context of designing decision-making processes, choices that are made with respect to organizing accountability are to be interpreted as a means to redress a balance of powers between institutions.

Accountability in multi-level settings

Accountability is therefore key to the functioning of democratic government, even in the absence of prospective voting, whether from a popular control or from a checks and balances perspective. Nevertheless, accountable governance or even accountable government is particularly hard to achieve in systems composed of multiple levels of government, each bounded by their own constituencies but still making decisions in collaborative settings. The question as to what degree multi-level governance is accountable is essentially an empirical one (Bovens et al., 2010). But before actual empirical stocktaking can commence, it must first be specified who is to be held to account, and for what.

Identifying actors and objects of accountability is a more complex endeavour in multi-level governance settings than in more traditional settings. Existing research in this field mainly addresses this matter in conceptual or in theoretical terms, and all in all it presents a deadlock. The debate centres around three complexities of accountability, particularly due to the involvement of multiple levels of government. The conclusion appears to be that there must be a deficit if only for theoretical reasons: the debate presents an *impossibility thesis*. However, even though the literature rightly points out the complexities involved with the dispersion of actors and forums within even single multi-level governance arrangements, conclusions relating to accountability deficits still primarily build on the assumption that individual actors are supposed to be responsible for the entire decision-making process, even when they have been involved only to a limited degree.

This section dissects the arguments behind the impossibility thesis and shows that actors and forums need to be identified exhaustively, as does the object of

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accountability for all respective actors and forums. This mapping of actors, forums and objects will allow the discussion to move beyond the impossibility thesis.

The impossibility thesis revisited: Three arguments against multi-level accountability

To begin with the least complicated of the three arguments, there is a compelling normative point that *individual actors cannot justifiably be held to account for the content of a collective decision* (Thompson, 1980). It is, however, a condition *sine qua non* in multi-level governance settings that national authorities are not able to autonomously control decision-making that includes a supranational component (Strøm et al., 2003, 744). Intergovernmental agreements typically succeed or fail as a result of the conduct of any single individual party, as all of the parties involved are effectively veto players. However, the Council of Ministers in the European Union usually employs majority decision-making, as do other collaborative settings where the voting parties include national actors, such as comitology. Further governance mechanisms do not include any form of voting, such as OMCs or the Commission's expert groups, but have more informal ways of producing effects that may well include the overruling of minority positions. Even unanimous decisions taken under majority voting rules may, and in fact do, obscure minority positions of outvoted governments because of support given in exchange for support on other files (Heisenberg, 2005, 69-70). Individual actors are thus not in full control of the eventual outcome, because different jurisdictions are simultaneously at play in crafting the eventual decision. Hence it has been concluded that the delegation of policies to the European Union has not only stretched the lines of accountability, but also blurred them (Agné, 2009, 55; Palumbo, 2010, xii). Without unanimity rules, individual actors cannot be held accountable for the output of the decision-making process: collective decisions.

A second argument that is commonly referred to is that multi-level governance tends to involve *different and more actors than those traditionally conceived of* in international decision-making, and that these actors are able to evade accountability. National authorities increasingly form networks with other national authorities and their international counterparts, bypassing traditional diplomatic circles such as the Foreign Office. Keohane and Nye (1977) call this complex interdependence, and such networks are mushrooming in the European Union, such as networks of regulators (Eberlein and Grande, 2005; Coen and Thatcher, 2008), expert groups (Larsson, 2003; Gornitzka and Sverdrup, 2011), open method of coordination networks (Borrás and Jacobsson, 2004) or the management boards of supranational agencies (Flinders, 2004).

Complex interdependence supposedly facilitates actors to conceal their behaviour and act against the preferences of their constituencies, making use of the obscurity of the networks in which the decisions are usually made (Papadopoulos, 2010, 1039), far away from the prying eyes of the Foreign Office, which regards certain issues to be too low politics or as falling outside their realm of competence. Mostly, network governance

takes place behind closed doors or deals with very specialized matters, so that outsiders know very little about the goings on in these networks (for an example, see Brandsma et al., 2008). Also, when diplomatic and specialist lines of delegation are at work at the same time, both covering different aspects of the collective decision-making process, coordination problems may arise (Alfé et al., 2009, 141-2). Taken together, these structural features of complex interdependence are said to encourage ex-post blame shifting and a dilution of responsibilities in multi-level governance settings (Oliver, 2009, 13-14; Papadopoulos, 2010, 1033-4). Thus, the multitude of actors as such is said to hinder accountability.

The third issue relates to the *very high number of possible forums*. The rational choice literature argues that simple delegation settings, i.e., involving only one forum per actor, deliver more and better accountability, as forums can claim exclusive credit for overseeing an actor (Strøm, 2000, 278). But the European governance system, even disregarding the fact that it consists of multiple levels, is anything but a simple system. Many actors in the European system have multiple principals, and each principal tries to mould the setup of systems that control the behaviour of actors to its own exclusive needs (Kelemen, 2002; Dehousse, 2008). Also, European policy-making cuts through the traditional trias politica in the sense that executive and legislative competences do not neatly coincide with the borders of the institutions, and sometimes the same individuals hold different roles while acting for different institutional actors (Verhey and Claes, 2008, 7). And this is only the European side of the picture; the complexity further increases when multi-level characteristics are taken into account with different actors and forums at the member state or even sub-state level. All in all, this not only amounts to a myriad of actors, but also to a patchwork of accountability forums, all having different agendas and powers (Vaubel, 2006; Papadopoulos, 2010, 1039).

Competition between forums and different cultures in which those forums are embedded may hinder accountability, in the sense that the object for which account is rendered may become a toy in a different political game than that regarding which account is to be rendered. In the debate about national parliamentary control over European decision-making, for instance, it has been noted that traditional party-political and coalition dynamics always play a major role when ministers are called to account, so that the issue for which account is rendered loses relevance (Peters, 2009, 40-1). In a nutshell, the vast number of forums negatively impacts upon the quality of accountability processes.

The 'too many forums' argument, however, has been challenged. Scott, for instance, notes that the multitude of forums may promote rather than hamper accountability; it may bring about *redundancy* (Scott, 2000, 54). In relation to network structures of governance, redundancy includes the existence of multiple accountability forums even across different jurisdictions, each of which are able to monitor the behaviour of particular actors within the network. The individual accountability forums may then serve as 'fire alarms' to one another, so that other forums may pick up signals and closely scrutinize different parts of the broader issue. Redundancy, thus, means that multiple accountability relationships are at work at the same time and that forums

cooperate, so that in the end the entire arrangement is controlled. On that note, the plethora of different forums may in fact be an asset rather than a nuisance. Although the notion of control through multiple forums runs counter to the previously presented idea of stronger accountability through fewer forums (Strøm, 2000, 278), the idea that teamwork leads to higher detection chances is not without merit.

It follows logically from this reasoning that a multi-level structure of governance may well increase accountability rather than reduce it: multi-level governance naturally brings about redundancy in the existing accountability arrangements (Scott, 2000, 54). In a similar vein, Mulgan (2003, 220) argues that accountability is 'compounded' when every actor involved is held to account by at least one forum. Expanding on this notion, an increase in redundancy – and hence an increase in the number of forums – is thought to naturally constrain the actor, as this will make the behaviour of the individual forums more unpredictable to the actor (Papadopoulos, 2010, 1041).

However, this requires the different forums to oversee the same type of behaviour, if possible also with respect to the very same actors, as they otherwise cannot make effective use of each other's information. Redundant accountability therefore only seems viable in the context of a very specific type of multi-level governance, namely the type where various actors work together in implementing a policy that has already been decided upon at the European level. Financial accountability for European subsidies spent by member states can certainly be redundant accountability, as the object of accountability remains the same across states and jurisdictions. However, redundant accountability for decision-making is simply impossible in a multi-level governance setting, since all member states and EU institutions provide different inputs.

While it may certainly be possible to opt for some sort of accountability at the European level for the content of the decision that has been made, it is not possible to do so at the national level, because the actors can justifiably point out that they were in a minority position, or that the eventual output was the only possible compromise. The object of accountability with respect to decision-making therefore changes from outputs to inputs when it crosses the jurisdictional boundary from the European to the member state level. This makes information collected by national accountability forums useless to other national and European forums, and vice versa. More networking of forums (Slaughter, 2005, 47-9), therefore, is not the answer in all situations of networked governance.

Breaking the deadlock: moving beyond the impossibility thesis

The dominant discourse in studies of multi-level accountability points to its impossibility based on the aforementioned theoretical obstacles: there are no unanimity rules, there are too many actors, and there are way too many forums. However, it is still possible, and in fact necessary, to gauge and evaluate accountability empirically. In fact, the two

latter arguments do not stand in the way of empirical research. The main theoretical deadlock is the first argument and is of a normative nature: individual actors cannot be individually held to account for the content of a collective decision if unanimity rules are lacking.

The key to breaking the deadlock is taking this as a given rather than as an impediment, and therewith specifying the object about which accountability is to be rendered. Following Slaughter (2005, 62-4), I propose to treat accountability as an individual attribute, insofar as behaviour is concerned. For networked decision-making, this means that individuals only need to be able to answer for their own behaviour, even when they represent institutions. In scholarly discussions on accountability, often the accountability of organizations, systems, individuals and positions are mixed together or referred to interchangeably (Page, 2010, 1011). When the object of accountability only refers to the contribution made by each individual actor within an organization, the accountability of each and every actor can be scrutinized.

This alternative view is fully compatible with standard conceptions of state sovereignty and network governance. Even when subscribing to the view that primary power rests in the hands of national governments, and thus regarding officials participating in networks as representing the national state - as they formally do - it is still possible to assess the accountability of individuals within a state for their own respective behaviour. Hence the accountability of a multi-level governance setting should be seen as the sum of micro-level accountabilities, and be researched as such. In addition, accountability for individual input also allows different forums to adopt their own respective standards as to the behaviour that is expected from the actors.

In an empirical sense, this approach overcomes all difficulties commonly associated with accountability for multi-level governance settings. Issues relating to the plethora of actors and forums can be investigated by researching specific actor-forum relationships within the multi-level governance arrangement, whether they are supranational or national actors or forums. The challenge is mostly a practical one: often so many actors and forums participate in multi-level decision-making that identifying and investigating them all defies the best of efforts. However, it is the most accurate point of departure if accountability practices are to be gauged empirically.

Analysing accountability

Thus accountability is shown to be both particularly relevant to multi-level governance settings, and at the same time particularly difficult to grasp or to analyse in that context. The bulk of the literature in this area identifies theoretical and conceptual reasons explaining why multi-level governance is unlikely to be accountable at all, but very little systematic empirical research has been performed in this area. Existing empirical research in the field consistently addresses only one of the multiple levels involved per

arrangement, thereby losing sight of a major set of accountability relationships included in these (for instance Scott and Trubek, 2002; Bovens et al., 2010; Peers and Costa, 2012, but see Brandsma, 2013b). But how to establish to what degree, and where, accountability arises?

Some innovative solutions have been proposed to overcome challenges of multi-level accountability, but these have not yet been embedded into methods of analysis that allow actual practices of accountability to be examined in the light of the two main perspectives of accountability set out in the above. Before presenting an integrated framework for analysis, let us first examine two analytical strands of research that fit the popular control and checks and balances perspectives of accountability, in order to demonstrate what type of analysis is needed in an eventual multi-level framework for analysing accountability.

Earlier sections already identified the core ingredients of such a multi-level framework. Accountability is about a relationship between actors and forums, in which the actor informs the forum and the forum may engage in debate with the actor, assess his behaviour and impose consequences (Bovens, 2007). The type of behaviour at issue reflects the individual contribution of the actor towards the decision-making process (Slaughter, 2005). It goes without saying, however, that the specific indicators need to be tailored to the exact governance setting that is under investigation. Yet there are also several generic analytical approaches that are valuable for an empirical account of accountability, since they identify more generic types of indicators from which further specifications can be made, as well as a specification of actors and forums.

This section examines two analytical strands of research that fit the popular control and checks and balances perspectives of accountability, in order to demonstrate the kinds of actors, forums and indicators that are included in the eventual multi-level framework.

Popular control perspective: principal-agent models

A common way of analysing accountability from a popular control perspective is to make use of principal-agent models. These models present a well-known conceptual toolkit for addressing the relationship between those who delegate power (the principals) and those to whom powers are delegated (the agents). Ultimately derived from the domain of business economics (Miller, 2005, 203-6), the principal-agent approach treats all modern representative democracies as 'chains of delegation': voters (principals) delegate powers to their representatives in Parliament (agents), who in turn (acting as principals) delegate the authority to govern to the cabinet (their agent). This chain of delegation runs all the way from voters (the ultimate principals) to civil servants (who, in the context of multi-level governance, are the ultimate agents). Since any democratic political system ultimately rests upon the notion of government by the citizens,

delegation from one authority to the other involves a whole series of principal-agent relationships, ultimately safeguarding popular control (Strøm, 2000; Miller, 2005; Lane, 2005; Lupia, 2006; Strøm, 2006; Strøm et al., 2006).

Accountability mechanisms from a popular control perspective are meant for keeping a popular 'check' upon the behaviour of public officials enjoying discretion in order to make sure that ultimately the preferences of the people are translated into policy. Using the terminology of the principal-agent framework, this means that the principal must gain some control over the behaviour of its agents, as delegation to an agent involves the transferral of some power or task. Therefore, the agent should be accountable to the principal. Thus, the emphasis of accountability in the principal-agent perspective is on the content of decision-making in the light of delegated tasks (Bovens, 2007; Behn, 2001). Problems emerge if the agent does not act in the interest of the principal (shirking), which is likely if the principals are not able to monitor the behaviour of the agents effectively (Strøm, 2000, 270-1). To find the appropriate accountability forum, one simply needs to look one step backwards in the chain of delegation. For a minister, parliament would be the appropriate forum; for parliament it would be the citizens; for the civil service it would be the minister and for an individual civil servant it would be his immediate superior. This way, accountability contributes to the translation of the preferences of the public into decision-making at all stages of decision-making. A direct consequence of this line of reasoning is that a chain of delegation (and its corresponding chain of accountability) is only as strong as its weakest link; an issue which can be mitigated when weak links can be bypassed (Lupia and McCubbins, 2000).

Without going into the specifics and pitfalls of applying the principal-agent framework in behavioural research in a general sense (see for instance Waterman and Meier, 1998; Delreux, 2011, 45-52; Miller, 2005), as the above theoretical discussion of accountability illustrates, the principal-agent approach has its limits when analysing accountability in a multi-level context. Since multi-level decision-making crosses the borders of jurisdictions, and many actors are involved in making decisions, the object of accountability has to change at some point in the chain of delegation. In domestic decision-making, the content of the final decision can be accounted for within a national system. However, in a multi-level system this can, at best, be traced to the intentions of the actors who made the decision. Although a chain of delegation and accountability is clearly present, account can reasonably only be rendered in respect of input given by individual actors (Curtin and Egeberg, 2008, 652), and individual accountability within member states for the contents of the final collective supranational decision has to be given up on by design.

On top of this, European decision-making typically includes multiple principals per agent. While standard principal-agent models aim to detect to what degree agents may act against the principal's preferences ('agency loss', see further Lupia, 2000), a common issue in the European scene is preference disagreement between principals. Often, the principals each have their own political agendas and are not in agreement about the assignment of the agent. In this respect, decisions of delegation by European principals are incomplete contracts that require revision more or less on an ongoing

basis, with each revision constituting a ceasefire between institutions. It has been noted in this respect that European Union institutions seem more interested in curbing each other's interests rather than in controlling an agent (Dehousse, 2008, 795-6). This makes it hard to parsimoniously evaluate possible agency losses. Nevertheless, an analysis of the chain of delegation, including intersections between multiple chains of delegation where applicable, as well as the degree to which agents inform their principals and can be sanctioned by them, is informative from a popular control perspective on accountability.

Checks and balances perspective: constitutional analysis

Since the checks and balances perspective on accountability emphasizes the prevention of the tyranny of a majority or the tyranny of one particular institution, the analytic starting point of this approach is to define the formal powers of actors and forums, as opposed to their actual behaviour. By extension, this perspective also includes locating countervailing sources of power. A balance of powers is achieved by mutual dependence between actors, who may interchangeably act as actors or forums depending on the situation, and by independent judgment by a forum that does not belong to the mutually dependent relationship (Kiewit and McCubbins, 1991). The main challenge in a checks and balances approach is to map out these mutual dependencies, and to assess whether the balance of power is tipped in favour of one actor or not. Since power comes in many different political and legal forms, it is notoriously difficult to quantify. Hence this perspective on accountability is mostly confined to legal research and looking at the constitutional fabric of an institution's setup.

Constitutional analysis can be used to check whether the theoretical impossibility of multi-level accountability, as proposed by many scholars, actually exists, and if so, where the main issues are located. It helps to identify which actors and forums there are, and where countervailing powers are located. In short, constitutional analysis helps to disaggregate a governance system towards its components.

The main point is to locate countervailing powers at the same level as where a particular power is exercised. In other words, accountability for collective decisions should be in place at the European level, while accounting for individual contributions to those decisions should take place at other appropriate levels. The focus, however, is on formal powers. In the cases of agencies and comitology, for instance, primarily European institutional forums have been under consideration; after all, the supranational level is where formal power is exercised (Bradley, 1992; Busuioc, 2009; Hofmann, 2009).

A framework for analysing multi-level accountability

In sum, the third section shows that we have two valuable analytical toolkits for accountability, each of which can be used to analyse to what degree the two objectives of accountability are actually met, but only as long as there is no sharp division of competences between the individual and aggregate levels. In principal-agent models, the concept of accountability for decision-making is consistently applied throughout the chain of delegation, all the way to the bureaucrats acting in multinational networks, which leads to the object of accountability having to shift away from the content of the final decision towards the input given by a single actor. In the constitutional approach, the input of lower-level participants tends to move out of focus where the formal powers rest at the supranational level, even when these lower-level participants have clearly set their stamp on the final decision.

For analysing the accountability of multi-level governance settings, a more sophisticated framework of analysis is needed that incorporates the multi-level nature of decision-making into its core. In principle, following Scott (2000, 41), the key to understanding a system of accountabilities is to disentangle accountability to the following three questions: Who (that is, what actor) is held to account by whom (that is, what forum), and about what? Clearly, it is the latter of the three questions that has proven to be the crucial aspect so far.

Figure 1 presents a framework for analysing multi-level accountability that addresses this matter in all its complexity. It takes due account of all involved actors at different levels of decision-making, including their forums. Depending on the specific governance arrangement, of course certain accountability relationships can be found not to exist in practice. By distinguishing between accountability for collective decisions and accountability for individual input, this framework overcomes the difficulty in applying traditional notions of accountability. Moreover, it allows for both principal-agent inspired, as well as constitutionally inspired, analysis. For instance, both types of delegation settings are included in the framework: from national authorities towards national participants in the networks, as well as from the European institutions towards other institutions, while in the meantime setting up an instrumental network in that relationship. Accordingly, at the institutional level, checks and balances can be observed between different institutions, including the role of networks themselves in balancing the power of institutions, as well as independent judicial review.
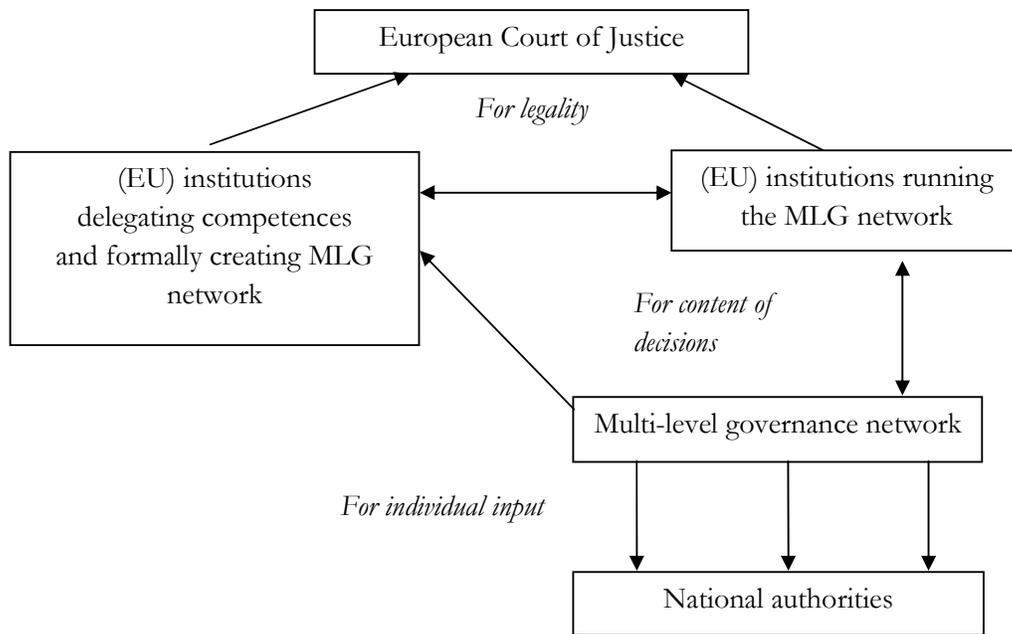
Figure 1   Multi-level accountability

Three levels of analysis become apparent in this framework of multi-level accountability. The *system level* addresses the overall structural make-up of the system that is put in place, probing which of the arrows plotted in Figure 1 are actually in place, and how these are supposed to operate in a formal sense. Which actor-forum relationships are specified in the system's setup? Which specific requirements for transmitting information and for discussion exist in each of these relationships, and what consequences can the forum impose on the actor?

The *supranational level* concerns the actual functioning of those arrangements with respect to actors operating at the European level. To what degree is information actually transmitted and processed, do discussions take place and are assessments made (and eventually consequences imposed)?

Finally, the *member state level* addresses the same questions, but with respect to individual actors operating at levels below the European level. This concerns the individual input given by each national participant vis-à-vis forums within their own respective jurisdictions.

Let us move back at this point to the essence of accountability. It was argued at the beginning of this contribution that the main two reasons why accountability is deemed relevant are that it serves to guarantee popular control and to thwart tyranny by putting into place a balance of power through mutual dependence. On the basis of the framework of multi-level accountability presented here, both these ultimate aims of accountability can be researched through analysis inspired both by principal-agent

models and constitutional analysis, thus to arrive at a full picture of the workings of a multi-level accountability regime.

The key normative benchmarks for evaluating the setup and functioning of accountability, of course, are different in the sense that the objectives of the two perspectives differ. For the popular control perspective the questions run parallel to lines of delegation. Does the design of an accountability arrangement allow for principals to control decision-making delegated to an agent? To what degree does the accountability system put in place information obligations towards hierarchically superior forums, and to what degree can they step in? On a more operational note, how does the formal structure play out in practice? And with respect to the participants in the multi-level governance network, to what degree are their national superiors effectively informed of the contribution they make to collective decision-making?

The checks and balances perspective addresses the countervailing powers that are embedded in the system. Much as this addresses system level choices, it also plays out in the actual interaction patterns between the European institutions and the multi-level governance networks. When networks are meant to balance the Commission due to their formal capacity of being member state representatives, as is the case for comitology for instance, this also presupposes some degree of accountability of individual committee participants within their respective member states, in order to ensure that the input given by them indeed reflects a national position.

Conclusion: Three levels, two perspectives

This contribution has put forward a framework that enables research into accountability in multi-level settings. The framework goes beyond providing definitions or typologies of accountability, an abundance of which has been provided in the literature over the past decades. Most importantly, it comes to terms with the multi-level characteristics embedded in most of the current "new" governance arrangements. Multi-level governance involves a fusion of different actors of different kinds, from different jurisdictions. This necessarily implies the presence of a variety of accountability forums; all with competence for part of the governance arrangement. Notions of accountability, apart from only a handful of exceptions, are applied to this type of governance setting in a rather unitary fashion, thereby ignoring the very nature of multi-level governance. Insofar as structural complexities are recognised, authors tend to be pessimistic in the face of the challenges presented by the multi-level structure; yet standard, unitary notions of accountability simply cannot be applied.

The framework presented here incorporates the structural features of different overlapping jurisdictions, thereby taking a first step towards systematic empirical research into accountability for multi-level governance settings. It opens up new and highly salient avenues for research as it enables the testing of various assumptions and

key questions that have dominated the literature over the past decades. Are there indeed worrisome accountability gaps, or even deficits? And if so, which deficits? Do they relate to system choices or rather to practices? And, equally importantly, at which level are these gaps exactly located, and does this concern accountability for inputs or for outputs? In short, this framework enables the systematic mapping of accountability and identifying white spots. Only then it is possible to observe how accountable multi-level governance systems really are, so that statements as to their perceived under-accountability become more empirically informed.

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