# Accountability in transgovernmental networks
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# CHAPTER I

Introduction

## 1.1 International solutions by civil servants

Increasingly we hear of transboundary or international problems. Often these are tales of epic proportions, think of terrorism, climate change and so on. Problems which are more technical in nature but still count as international problems tend not to attract the same type of attention, even though these international problems often affect our everyday lives. These problems find their solutions by civil servants working together across borders. The following two examples show how civil servants resolve border crossing problems.

The Dutch capital city of Amsterdam announced that it would spend 8,2 million euro on the eradication of Japanese knotweed (Het Parool, May 17th, 2019). Japanese knotweed is a plant. Originally brought to Europe for ornamental garden purposes, it adjusted to the climate very well. This exogenous species has a detrimental effect on biodiversity as well as economic consequences. The effect on biodiversity is such that with its spread it has the potential to overgrow endogenous species, which cannot thrive due to shading effects. Next to this, Japanese knotweed has the ability to hamper the germination of seedlings of woody species, which stops succession of these species (e.g. Lohmeyer 1969). In addition, the plant enables erosion of banks of rivers and streams which could lead to floods. Also, the plant has the capacity to break through tarmac resulting in problems with sewage and pipes (Nobanis, nd.). Japanese knotweed is just one on a list of invasive species that poses a threat to European biodiversity. Its spread is continent wide. As such, to tackle the spread of this plant, the geographical extent of it should be taken into account. Governmental organisations have tried to tackle this invasion (and that of other invasive species) in a variety of ways. Yet the spread is so persistent that international cooperation in this field is necessary. For this reason, one of the recommendations at the Convention on Biological Diversity's sixth meeting of the Conference of Parties in 2002 was the collaborative effort to tackle invasive species. This led to the creation of NOBANIS (The North European and Baltic Network on Invasive Alien Species). This transgovernmental network on environmental issues has been set up to assess these invasions (among other things). Which eventually led to a risk assessment for the plant to be put on the European Union wide list of invasive species (EC, March 7th, 2019). Being put on the list would prohibit the sales and transportation of this plant.

At the start of 2020 the governor of New York signed a bill regarding elevator safety. Explaining the reason for doing so, he stated: "For too long unsafe and defective elevators have led to unnecessary injuries and even deaths, and this new law will help ensure all individuals working with elevators have the proper training and credentials to make sure these machines meet the safety standards necessary to provide reliable service." (Cuomo, A. in: Spectrum News, January 3rd, 2020). The necessity to create reliable and safe elevators has been recognized in the European Union in both legislation as well as transgovernmental collaboration ensuring the same interpretation of standards. Products such as elevators are subject to safety tests in the European Union. This is even proved by the placement of signs that indicate the date of the last safety test in elevators. These tests should follow certain criteria. In addition, the

organisation that executes these tests needs to be reliable. The trustworthiness to execute their tasks is checked throughout the European Union single market by accreditation bodies. These bodies cooperate to check whether testing bodies follow the correct criteria. By doing so, they ensure that within the single market a standard is in place. The accreditation bodies work together not just on elevators, but on all products and services that require performing conformity assessments (EA, n.d.). They have established a transgovernmental network called EA (European cooperation for Accreditation) which has formally been appointed by the European Commission to oversee issues regarding accreditation and mutual recognition of products and services throughout the European Union.

The problems mentioned in these two examples affect our day-to-day life. In addition, these problems are often connected to the major challenges posed by globalisation. These problems show how issues that we perceive as small or less prominent are solved by civil servants in border crossing cooperation. From these examples it is unclear how civil servants provide an account for decisions made in international cooperation. In both cases the necessity for cooperation by civil servants is provided. The impact of international problem solving by means of international cooperation can be seen in a lot of aspects of daily life, which is why we have chosen these examples. Precisely because international cooperation between civil servants impacts our day-to-day life, account giving over this type of cooperation is of importance. This dissertation will therefore address how accountability is arranged for in this type of cooperation.

The type of cooperation mentioned in the examples is defined in the academic literature as a 'transgovernmental network'. Transgovernmental networks are venues that allow public servants working in a specific policy field across state boundaries to have continued technical interactions (Shyrokykh and Rimkute, 2019: 751). In contrast to the, by now familiar, discussions of heads of state or ministers finding solutions to problems of globalisation, transgovernmental networks' participants are technical level civil servants. The idea of realism that the strategic level (i.e. that of ministers and heads of state) proved the sole venue to answer cross border challenges is being challenged at an accelerating pace. At the technical level, exemplified by the participants of transgovernmental networks, we see national-based experts on a specific policy come together. They convene to share information, best practices, and often converge policy. Transgovernmental networks operate in addition to venues at the strategic level to tackle issues without geographical confinement. By convening with their counterparts from other countries across borders, the experts essentially delve into the world of foreign affairs. It is therefore paramount that we understand how accountability is given by these civil servants in relation to their work within TGNs.

A transgovernmental network has the potential to create policy (f.i.Hobolth and Sindbjerg Martinsen, 2013; Maggetti, 2009). They do so under the guise of operating on behalf of a national central government. Yet, these networks' participants work at quite a distance from their political bosses. Not in the least because the participants often work for authorities that operate outside of a ministerial organisation. Often, they work for independently operating

authorities or governmental organisations which are not an integral part of a ministry. But even with this organisational distance, participants to these transgovernmental networks are civil servants. As such they are to be held democratically accountable. This is exactly where the problem with the existence of transgovernmental networks lies, according to scholars (see Papadopoulos, 2007).

The distance from national central government poses a challenge to traditional conceptions of accountability. Traditional conception of accountability are focused on the hierarchical nature of a single central government. This, of course, is challenged by the existence of transgovernmental networks. These networks operate outside the formal structures of international organisations and at a distance from centralised national bureaucratic structures (Shyrokykh, 2019). They are informal organisations in which civil servants partake. Informal in this instance refers to the fact that their existence is not based on a treaty or formalised in other legally binding ways such as is the case with international organisations. Civil servants in these networks discuss policies that have a reach beyond the national central government. They operate with minimal supervision of their national organisations and work on a peer-to-peer basis. They collaborate and meet with varying degrees of frequency but lack the ability to formally negotiate. The civil servants create institutional links in the form of policy networks. In doing so, transgovernmental networks (TGNs) "occupy a middle place between traditional international organisations and ad-hoc communication" (Slaughter and Hale in Bevir, 2013: 342). This type of network is on the rise, and particularly so in regulation (f.i. Hollis, 2010; Slaughter, 2001; Raustiala, 2002; Verdier, 2009). Even though they have the potential to achieve cross-border policy aims, they attract less attention than international organisations or transnational networks (Legrand, 2019).

The rise of TGNs is explained by functional and political reasons. The functional explanation is that TGNs offer a more effective way of cooperation. Due to its informal character and the short linkages between policy experts, transboundary problems can be resolved more easily (f.i. Coen and Thatcher, 2008: Eberlein and Newman, 2008). The political explanation takes into account the need for administrations themselves to work internationally. This offers them prestige. Working with or through an internationally created network provides acclaim for and strengthens interest in their own institutions (f.i. Wessels, 1997; Slaughter, 2004). The functional and political explanations for the rise of TGNs, are not mutually exclusive.

The importance of TGNs should not be underestimated. Scholars highlight the ability of TGNs to converge national policies (see Bach and Newman, 2010; Raustiala, 2002). In addition, in multi-level governance systems such as the European Union, the existence of TGNs could serve as a "fire-alarm oversight mechanism" (Hobolth and Sindjberg Martinsen, 2013). Transgovernmental networks create a new political space (Thurner and Binder, 2009), their impact instructs the necessity to study what is decided in this space.

It is not only national administrations that may find a need to collaborate more internationally. The European Commission can also be seen to spur on the creation of partnerships and networks between national bodies that are responsible for the implementation of European Union legislation (Curtin and Egeberg, 2008: 649). This results in the creation of what has been dubbed Europe's integrated administration (see Blauberger and Ritberger, 2015; Hofmann and Türk, 2007; Trondal and Peters, 2013), by means of transgovernmental networks. Literature on transgovernmental networks specifically operating in a European Union context has labelled these networks European regulatory networks (ERNs). In this dissertation we will make use of the term transgovernmental networks. ERNs also cover networks that are (somewhat) integrated within the context of the European Union (Magetti and Gilardi, 2013), for example expert groups of the European Commission. Moreover, the term ERN presupposes a European Union component in networks (Lavrijssen, 2009; Mathieu, 2016; Vestlund, 2017) whereas TGNs do not. The membership of components of central state government is not excluded, whereas in transgovernmental networks the membership lies with autonomous sub-state actors (Bach and Newman, 2010). In this dissertation, the focus is on networks that specifically operate outside the formal structures of international cooperation and at a distance from national central government (Shyrokykh, 2019). The challenge this brings to traditional concepts of accountability is the focal point of this dissertation.

The differences between the two forms of networks, as described above, shows the challenge in specifying the features of networks in general and TGNs in particular. The definitions sometimes (partly) overlap. This is also because networks come in a variety of forms. This variety is for instance related to the organisational set-up of TGNs as the OECD explains;

> "Trans-governmental networks are multiplying fast and vary widely in their constituency, governance structure and operational mode. Drawing an exhaustive list would not be easy" (OECD, 2018).

In this statement the OECD exemplifies the difficulty in researching the phenomenon of transgovernmental networks. The degree in which they differ is such that what links them together is based on a general definition. This is also what makes studying these networks challenging.

## 1.2 The problem: Democratic accountability and the unavoidable creation of networks

One area of research regarding these networks focuses on accountability deficits. This is also one of the most pressing questions pertaining to the existence of transgovernmental networks. The existence of TGNs lead to a change in the relationship between nationally based politicians and civil servants. In the descriptions of traditional democratic accountability, politicians will oversee the work of their subordinates. With the existence of transgovernmental networks,

this direct line between the politician and the civil servant who needs to be held to account is somewhat divorced. They are divorced in the sense that the civil servants often do not directly work within the organisation the politician oversees. The politician might carry responsibility for the task performed by the civil servant, but the organisation that is performing said task is not an integral part of central government. This distance forms the basis of the critique of the rise of transgovernmental networks from an accountability perspective (Maggetti and Papadopoulos, 2018). It could potentially create a form of governance in which the civil servant as opposed to the politician will become somewhat of an executive. The distance was created by divesting public tasks to independently operating organisations (Maggetti, 2009), while maintaining overall political responsibility for the fulfilment of that task. This phenomenon has been identified in articles concerning the rise and existence of TGNs and in articles on the delegation of political power from democratic institutions to non-representative bodies more generally (f.i. Curtin and Egeberg, 2008; Maggetti, 2009; Papadopoulous, 2007; Slaughter and Hale in: Bevir, 2013). This is also why some scholars state that networks engender a legitimacy deficit as accountability could be weakened (f.i. Legrand, 2015; Levasseur, 2018; Papadopoulos, 2003; Raustiala, 2002: Slaughter, 2001). Oversight of the actual performance of these public tasks would be hindered by the operational distance. In addition, due to the very nature of TGNs, oversight will be difficult. As Raustiala notes:

> "Their very informality and clubbishness, however, invite exclusion and make monitoring and participation by non-state actors and other government officials often difficult" (2002: 25).

This distance created at two levels, can be linked to the emergence of New Public Management. As a mode of government this paradigm encouraged the divestment of public tasks and opened up the creation of new venues such as TGNs. It also ensured that the principle of accountability gained prominence. Even with the delegation of tasks the political responsibility remained intact. To fulfil this requirement of responsibility, political executives were reliant on the notion of accountability to ensure compliance and quality of public tasks. Accountability has become a central term in the democratic legal state, yet it does not hold a singular meaning (Bovens and Schillemans, 2009: 19).

Accountability refers to the practice of accepting oversight, providing accountability, and bearing relational responsibility to someone else (Mulgan, 1997: 27). Calls for greater accountability have increased in recent years, in academia as well as in public debate (Messner, 2009: 918). Working for government equals working for the public. This means that civil servants should be able to explain, justify and take responsibility for their actions to those whose interests they need to guard (f.i. Bignami, 2004; Papadopoulous, 2007). But what happens if these civil servants operate in a setting with peers from different and perhaps divergent governmental backgrounds? Especially when in these settings they acquire the ability to make decisions that impact national policies and lead to a policy converge between states participating in a TGN. This possibility of a trade-off between democratic accountability

on the one hand and the unavoidable creation of technocratic driven networks to tackle issues of globalisation on the other will form the backbone of this dissertation.

Research regarding TGNs and accountability as a concept has focused mostly on theoretical conceptions. By doing so, a meso level approach to TGNs has often been adopted. The literature focuses on the impact of the change (i.e. the creation of TGNs) in the sense that a new way of policy making is institutionalized (f.i. Kinney, 2002; Raustiala, 2002; Risse-Kappen, 1994; Thurner and Binder, 2009).

Multiple accountabilities could act upon a civil servant because of the conflicting demands of different stakeholders (Messner, 2009: 919) and a lack of hierarchical instructions or supervision. What does this entail for the public and the representatives that they elect? Can they make sure that civil servants act accountably to them? If a government is democratic, it should reflect the will of the people and the people should have the ability to check whether their agents act in accordance with their wishes. Accountability as a term has many meanings. In the words of Sinclair (1995):

> "How we define accountability is dependent on the ideologies, motifs and languages of our times" (1995: 221).

Civil servants who act with minimal supervision under the authority of a democratic government could interfere with the accountability of democratic principles that form part of the foundation of governmental action (Busuioc, 2010). Whether or not they actually interfere, has not yet been answered. To date, we know little of how civil servants in TGNs accommodate accountability. Nevertheless, normative stances and preliminary takes on the matter are readily available. What we do know is that concerns arise regarding the imbalance the existence of TGN's could bring to legitimacy and democracy at large. Of these democratic principles, accountability is understood to be the most predominant of these as Pelizzo and Stapenhurst refer to this principle by saying:

> "A central element of good governance is the question of how authority and power are allocated and applied in public life (..)" (Pelizzo and Stapenhurst, 2013: 1).

Sabel and Zeitlin refer to this in more detail by stating:

> "Accountable behavior in this setting no longer is a matter of compliance with a rule set down by the principal, as if the principal knew what needed to be done, but rather provision of a good explanation for choosing, in the light of fresh knowledge, one way of advancing a common albeit somewhat indeterminate project" (Sabel and Zeitlin, 2010: 12).

Accountability, as the relation between a principal and agent is put under pressure if the distance between the two increases. How the relationship between the two is devised is essential to the understanding of accountability. The distance between politician and civil servant is at the heart of the discussions regarding accountability deficits in TGNs. The depiction of the civil servant as being divorced from the politician paints a gloomy picture for accountability. These depictions of the relationship of the civil servant vis-à-vis the politician relationship are in abundance, however. They can be found beyond the concept of TGNs as well. The impact of distance between principal and agent is at the core of discussions regarding possible accountability deficits (Maggetti and Papadopoulos, 2018). Busuioc perfectly describes the setting of distance and its impact on accountability. She relates it to the context of agencies, which are often the type of organisations that form TGNs:

> "Given the relatively large degree of independence and institutional complexity of these agencies, and on the other hand, the importance of the tasks delegated to them, this raises significant concerns regarding their accountability" (Busuioc, 2010: 3).

The underlying assumption of these depictions is quite negative. Accountability will be threatened due to lack of oversight and the level of discretion of the civil servant. If we take a closer look at the literature, we see that the perceived threats to democratic principles such as accountability are not assessed in the same manner across the board. For instance, Raustiala (2000: 418) states:

> "The threats to sovereignty and democracy from multilateral cooperation are not large but they are real" (Raustiala, 2000: 418).

Raustiala claims that these threats arise simply because they are innate to the condition of multilateral cooperation. He argues we should "develop and refine institutional responses" (Raustiala, 2000: 419) to ensure democracy at the international policy making level. Maggetti and Papadopoulos agree as they state that "(..) accountability chains are much more complex than the chain of delegation and that political principals are not necessarily the main 'forum' that controls agencies" (2018:177). Kinney (2002) redirects that TGN may operate outside of formal frameworks and by doing so they have no obligation to adhere to democratic procedures. Slaughter warns us that:

> "Proponents of global governance, particularly through multiple parallel networks of public and private actors, must offer at least a partial response to the problems of democracy as traditionally defined, before redefining it" (2002: 1042).

Black (2008) goes even further by suggesting that civil servants within these networks "may attempt to create and manipulate perceptions of their legitimacy" (2008: 57). More broadly

speaking Gailmard and Patty contend that agents will influence policy if they care about the content of policy, attesting that it is intrinsic to the position of civil servants to create opportunities to steer and influence policy simply because they hold discretion (Gailmard and Patty, 2013: 25). The rationality that gives rise to these attempts to influence and move beyond the oversight of the political superior is also observed by Thurner and Binder (2009) who attest that civil servants carry out cost-benefit analysis when they are operating in TGN. These observations are indications that accountability might be in the crossfire when civil servants use their discretion beyond the oversight of their political supervisors.

The literature on TGNs focuses on the impact of this change in the sense that a new way of decision making is institutionalized (f.i. Kinney, 2002; Raustiala, 2002; Risse-Kappen, 1994; Thurner and Binder, 2009). The portrayal of civil servants in TGNs most often plays tribute to the technocratic nature of these arrangements (Brandsma and Schillemans, 2012; Grant and Keohane, 2005; Thurner and Binder, 2009). This is not to say that technocrats by definition use their position to do harm to democratic principles such as accountability. As Barr and Miller (2006) point out, civil servants or transgovernmental networks as a whole may set up procedures to increase the component of democracy. Slaughter also mentions this in her work (2004).

The debate on accountability in TGNs consists mostly of theoretical conceptions (Papadopoulous, 2018); the general lack of empirical studies on accountability in these new settings is telling. In an article in *The New Republic*, scholar Anne-Marie Slaughter is cited as saying that academia has no formal way of integrating conceptions such as transgovernmental networks into frameworks which are designed to be applied to states (Wynne, September 22nd, 2017). This would be the case for democratic accountability as well, especially considering the fact that the concept was often used in the context of states. Likewise, Maggetti (2009) as well as Curtin and Egeberg (2008) mention that we should be mindful that the new mode of governance (i.e. TGNs) raises questions as to whether it is enough to hold national governments to account or if accountability should be viewed differently to accommodate for these changes. In any case, according to Freyburg et al. (2017) transgovernmental networks are fundamental to our current governance structures, which is why research of their impact on democratic principles, such as accountability, is key. Particularly so because these concepts are touted as essential to ensure good governance. This is why in this dissertation we will focus on how accountability is accommodated for in the context of TGNs.

## 1.3 Contribution to research

Based on the discussion in literature as outlined in the previous paragraphs there are several reasons that outline the significance of this study. First, there is a clear agreement that accountability in TGNs should be studied (f.i. Kinney, 2002; Maggetti et al., 2021; Maggetti and Papadopoulos, 2018; Raustiala, 2002; Risse-Kappen, 1994), as scholars note that they are multiplying fast and are inevitable international arrangements (f.i. Hollis, 2010; Slaughter,

2001; Raustiala, 2002; Verdier, 2009). Second, TGNs are understood to be a political space with a clear impact on policy (f.i. Hobolth and Sindbjerg Martinsen, 2013; Maggetti, 2009; Thurner and Binder, 2009). Third, TGNs should be studied more in-depth (f.i. Freyburg et al, 2017; Papadopoulous, 2018). Next to these more general reasons for studying accountability in the context of TGNs, several gaps in literature have emerged. In this study these gaps are addressed. In this dissertation the gaps will be addressed by 1. combining literature from different academic fields; 2. creating a typology of TGNs; 3. taking a microlevel approach and 4. offering empirical evidence.

Literature on transgovernmental networks is dispersed as the definition for this type of networks is contended. Some scholars refer to transnational networks others to regulatory networks or European regulatory networks (ERNs). The latter of which has been given significant attention in recent years. Literature on ERNs is vast, and numerous studies pertain to the emergence, structures, tasks, and functioning of these networks (f.i. Tarrant and Kelemen, 2017; Vantaggiato, 2019; Vantaggiato et al., 2021; Van der Heijden, 2021). ERNs are described in the literature as specific types of networks operating within the European Union, which consist of "transnational groups that allow national regulatory authorities to formalize, structure, and coordinate their interactions pertaining to the governance of a number of important domains" (Maggetti and Gilardi, 2011). This definition aligns with the definition of TGNs, but nevertheless ERNs have been studied as a sui generis type of network (Blauberger and Ritberger, 2014; Tarrant and Kelemen, 2017; Mathieu, 2016). Literature on ERNs has also focused on how the European Commission could make use of these networks by ensuring harmonized implementation through them (f.i. Mastenbroek and Martinsen, 2018; Thatcher and Coen, 2008; Vestlund, 2015). European regulatory networks are seen as a way for the European Commission to create a European administrative space and by doing so address its own administrative deficit. ERNs were the extended arms of the Commission administration. This focus on the verticality of the network does not do justice to the variety of TGNs in existence. In this dissertation we intend to compare networks, which is why we make use of a singular definition of TGNs. In addition, we make use of an often-used definition, based on a historic and current amount of literature.

We understand the value of TGNs to be fundamental to our current governance system. We know that these networks vary widely in constituency and other components. This should, due to their position in our governance system, strengthen our desire to learn more from them rather than focus on theoretical assumptions. Broadening our empirical knowledge of the foundations of transgovernmental networks is long overdue (Papadopoulous, 2018). These foundations are the properties that reveal how a transgovernmental network operates. They go beyond formalities and focus on the practical implications for those participating in the networks. In this dissertation we will explore the different varieties of TGNs by combining literature on governance styles of networks with the function networks can fulfil. As studies on the workings of TGNs are missing we have turned to literature on networks in general.

This offered insight into the different governance styles that can be employed by networks. In this dissertation we argue that these different governance styles can also be adopted in the context of different TGNs. By taking this position several varieties of TGNs arise. Next to the literature of network governance, literature specific to transgovernmental networks was also assessed. From that literature we understand that there are three different functions that TGNs can have. These three functions were combined with the three types of governance styles of the network governance literature, resulting in a typology of varieties of TGNs. This typology of TGNs provides us with a base for a systematic study to understand the impact of TGNs on accountability. It will help the understanding of how TGNs operate. Moreover, the effect of the specific structure of a TGN can be assessed.

What is still missing in the literature on TGNs is a more bottom-up and state-centered perspective to the workings of TGNs. By adopting a micro-level approach, we can address this gap in the literature. This approach consists of a focus on the actions and perceptions of the individual civil servants partaking in TGNs regarding accountability. They are aptly placed to offer insights into the mechanisms of accountability. They essentially interpret the accountability relationship and are integral to it. To assess whether a trade-off between accountability and the functioning of a TGN exists, the day-to-day working of a TGN and the demands of accountability faced by those within them should be recognised. A micro-level focus on TGNs allows us to research the perceived clash between the demands of national central governments versus the networks more specifically. The clash is perceived to exist between the civil servant performing a task and the manner in which information of performance is relayed back to the national central government structure. Given that accountability should be understood as a social relationship, research should start with those involved in it. The civil servants partaking in TGNs thus offer a starting point to address how accountability is incorporated into the context of TGNs.

By taking a micro-level approach to the principal concept of accountability, we study how civil servants relay information on both performance and their actions for and within transgovernmental networks back to their national central government structure. Stating that the concept of accountability is designed for states does not make the concept of accountability obsolete in a new context of governance. Especially considering that: a. states still exist, and b. accountability is still considered a democratic principle that should underpin governance in a broader understanding as well. TGNs simply work alongside and often in support of these states. Discarding principles that underpin this simply because they are not designed for them is not the avenue we are taking. Rather we would like to see how civil servants in transgovernmental networks incorporate accountability in their work. This would allow us to see if the clash between the different structures is there and if so what the consequences for the traditional concept of democratic accountability are. Literature on accountability informs us that there are different types of accountability. These types differ both in the extent of control and the origin thereof. In this dissertation we argue that the type of accountability is

instructed based on structural dimensions such as governance style and function of a network. The structural dimensions can be placed on a scale that we align with the extent of control and the origin of that control. By doing so we created a theory that we test in multiple case study. As we adopt a micro-level approach, we explore to what extent and how civil servants in TGNs incorporate accountability and how this relates to the ideal types of accountability.

This brings us to our research question:
What is the effect of transgovernmental networks on the principles and practices of democratic accountability within national central governments?

## 1.4 Analytical frame

Literature on TGNs suggest that their arrangements impact accountability. The organisational structure of TGNs are said to create a deficit of accountability. The validity of the existence of accountability deficits in TGNs has not been tested. Therefore, expectations are developed in this dissertation to test if the overarching claim that these organisational arrangements affect accountability holds water. It is not unlikely that the organisational structure directs accountability (f.i. Koop, 2011). Formal structures have a stage-setting function; they create the context in which account giving and holding can take place (Busiuoc and Lodge, 2016). In this dissertation that approach is also taken.

The institutional set-up determines the type of accountability that is required. Given the variety of transgovernmental networks, the varied practices of account-giving need to be examined across predetermined stylized types of transgovernmental networks. By making use of the work by Provan and Kenis (2008), the variety of networks' institutional set-ups in general could be assessed. They distinguish networks based on their governance style. Three governance styles are acknowledged by them. They are placed across a line between two extremes, from the most decentralized towards the most centralized governance style. In line with this extreme the governance styles are: a. participant governed network; b. the lead organisation network; and c. the network administrative governed network.

As TGNs are assumed to have a particular effect on accountability the insights on network governance style in general with the work on TGNs in particular are combined. This allows for the addition of a further distinction based on the function of the network. The work of Slaugther (2004) understands TGNs to vary in the type of function they could hold. Three different types of functions are differentiated: a. information network; b. enforcement network; and c. harmonisation network. Based on the distinctions in governance style combined with the three types of functions a typology of TGNs was devised. This typology helps us distinguish existing varieties in types of networks that could lead to varied practices of account giving. The institutional context we assume will have an effect on how accountability is understood. We take the position that this will be determined in part by the organisational components of the networks. For this we developed an understanding of the development and rise of the

concept and the properties attached to it. Meaning that each variety will have its own set of components that will automatically gravitate to a particular type of accountability. The typology offers us a tool to link up with literature on accountability.

The work of Dubnick and Romzek (1987) on accountability also takes the position that institutional context matters in terms of accountability. Their work enables the move from a typology to a theoretical grid filled with expectations. The steps which permitted the creation of the theoretical grid indicate the deductive component of this research clearly.

Regarding the concept of accountability, we know that literature suggests that deficits arise in TGNs. However, we are currently unaware of how civil servants in networks arrange for accountability. This study will therefore take precisely that approach: how accountability is actually arranged for in the setting of TGNs. To do so we focus on the civil servants in the TGN and how they understand accountability. With a sharp focus on the empirical reality of TGNs we will be able to do so. For our study we will take the definition of accountability by Bovens (2007) as our starting point:

> "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 judgement, and the actor may face consequences " (Bovens, 2007).

This definition is especially useful as it describes the traditional form of accountability that is ultimately reflected in the chain of accountability of the central state. This is where most concerns regarding accountability deficits also stem from. In addition, accountability defined in this manner allows for application at the micro-level. The reason for the existence of accountability is ultimately to justify actions to the people. In essence, the relation of civil accountability is considered to be conducted in a closed system. In this definition Bovens (2007) refers to accountability as a system with different stages: a direction to follow, giving account of the actions conducted, posing questions by the forum, and passing judgements. Moreover, in the case of TGNs we understand this line to be multiplied.

The definition by Bovens (2007) instructs that there should be awareness both on the part of the actor and the forum of the activities. Questioning actions whose existence one is not aware of will most likely not occur. In order to assess accountability as it is understood in the definition by Bovens (2007) we will focus on the different stages that exist in an accountability relationship. We will gauge the different lines of accountability within the context of TGNs. The question relating to hierarchy (singularity of direction) as well as the awareness thereof will also be addressed. And finally, we will look at the intention and the setup of activities, as this might offer a reason as to why a traditional understanding of accountability is not valid in this type of organisation.

This research makes use of empirical data stemming from both interviews of civil servants participating in these networks as well as from participatory observations and document analysis. A combination of these three sources and methods of data collection will offer the insight into the micro foundations of TGNs needed to assess the expectations. The research is by necessity of its topic qualitative in nature. As the concept of accountability is dependent on "our ideologies, motifs and languages of our times" (Sinclair, 1995), we are acutely aware that a focus on how civil servants in TGNs discuss this subject and arrange for it is of primary concern. This also necessitates a focus on the construct of social reality and the constrainment of situations that play a key role in this. In addition, we understand a grand variety of TGNs to be in existence. Their differences are greater than their similarities. This means that quantitative research at this point and on this particular combination of topics is a less obvious route to take, especially as this research presents the first instance of seeking out these varieties, based on a newly devised typology. As we want to assess the varieties and look at the perceptions of civil servants working in these networks, qualitative research is best suited for our purpose. It offers the opportunity to assess whether the varieties we theoretically distinguish exist in real life. As we take a novel approach a first assessment that hinges on the accumulation of in-depth knowledge would suit us best. We understand accountability to be a relationship between an actor and a forum. To grasp what this entails, and especially in a setting where the actor (civil servant in a network) is operating in two spaces, we need to understand how they perceive this experience. Moreover, we know there is a great variety in TGNs; however, as we will make use of a typology we inevitably will have to assess across this typology. As TGNs by their very nature operate in an informal manner, tracing them is a time-consuming task. Especially if we want to uncover the participants. In addition, we want to comprehend how they perceive accountability to exist in their special circumstances of working both nationally and internationally. TGNs remain empirically understudied; this means we are limited in knowing what to ask our respondents. We must place focus on them, as well as on the TGNs in which they are operating. Furthermore, a micro-foundations approach with a reliance on those working in the network will provide is with the knowledge we need. It is because of these considerations that interviews combined with participatory observations and document analysis would benefit the state of TGN research best.

## 1.5 Outline of this book

The structure of this dissertation is as follows. In the second chapter we will provide an overview of the emergence of transgovernmental networks. This overview provides us with the context for this dissertation. We will discuss the differences in nature and characteristics. Furthermore, in this chapter we will offer the reader a typology of the different types of transgovernmental networks. We will do this by making use of literature from Provan and Kenis (2008) combined with that of Slaughter (2004). This theoretical grid offers the backbone to our typology. In this chapter we shall also go into the legitimacy and accountability problems that TGN scholars perceive to exist.

1

In chapter III a more in-depth discussion regarding accountability will be provided. We will address the different meanings given to accountability and state why we will adopt the definition by Bovens (2007). We will address the reasons for differing arrangements of accountability based on the principles that underline the different types and combine this with the theoretical grid of chapter two. This offers us an analytical frame based on the typology that includes expectations. Work by Romzek and Dubnick (1987) is added to the theoretical grid to create the analytical frame. This frame will be used to assess the empirical cases of TGNs and to determine which accountability type is absent or present in specific types of TGNs.

Chapter IV includes the operationalisation of the analytical frame as it describes the methodology that is used in this dissertation. The operationalisation discusses how the four types of accountability are to be characterized in real settings. Our methodological choices will then be discussed.

Chapters V, VI, VII and VIII are our empirical chapters. The practices of accountability will form the focus of these chapters. The analytical frame has provided us with nine varieties of TGNs. In four cases in this frame we expect a distinct accountability arrangement. These four cases are the empirical cases, which correspond with the most extreme positions in the typology, i.e. a participant governed information network, a participant governed harmonisation network, a network administrative governed information network and a network administrative governed harmonisation network. Chapter V will address a participant governed information network called European Union Network for the Implementation and Enforcement of Environmental Law (IMPEL). Chapter VI will assess a network administrative information network called Association of European Vehicle and Driver Registration Authorities (EReg). Chapter VII will address a participant governed harmonisation network called Western European Nuclear Regulators Association (WENRA). Chapter VIII will assess a network administrative governed network called European co-operation for Accreditation (EA). Each of the empirical chapters will end with a conclusion on the assessment of the expectation.

The overall conclusion regarding the match or mismatch between the analytical frame and the empirics will be discussed in chapter IX. This chapter will offer an insight into all the different expectations per case but will also assess the overall analytical frame. It will furthermore, address considerations on accountability as a concept in the governance dynamic where territory is not necessarily coupled with authority. This reflection will detail the principles of accountability in the context of TGNs. By doing so in the conclusion we will thus reflect on both accountability in a national context as well as how accountability is reflected in TGNs. Finally, the concluding chapter will address how research in this field could be expanded upon.

# CHAPTER II

Transgovernmental Networks

## 2.1 Introduction

This chapter provides an overview of both the history of transgovernmental networks and their variety. In order to examine the effects of TGNs on accountability practices, a clear understanding of both the type of network that is addressed as well as the variety in which it can manifest itself is necessary. This chapter therefore develops a typology of TGNs using the frameworks of Provan and Kenis (2008) and Slaughter (2004). The combination of these two frameworks, it is argued, captures quite well, albeit in a stylized manner, the universe of existing TGNs.

The work by Provan and Kenis (2008) addresses the type of governance styles which are used by networks. The work of Slaughter (2004) addresses three types of function a network might hold. These functions can also be placed on a continuum regarding the potential of policy impact or boundary shift (Lavenex, 2007). On one end there is less potential of a boundary shift whilst on the other end the potential is high. By combining the work of Provan and Kenis (2008) and that of Slaughter (2004) the effect of these differences in TGNs tested regarding the type of accountability deployed. The goal of creating a typology of TGNs is to be able to go beyond contextual dimensions and enable comparisons. This combination is innovative. It enhances the analytical tool available to TGN scholars.

By opting for structural dimensions, a categorization of TGNs is possible. It allows for the creation of an overview of the different types of transgovernmental networks. In turn, this will ensure a degree of consistency in case comparisons which is necessary for this research. Before introducing the typology, we will first take a closer look at TGNs by starting with what defines them.

Transgovernmental networks are predominantly informal organisations in which civil servants partake. They discuss policies that have a reach beyond the national state in a functional manner. Transgovernmental networks "occupy a middle place between traditional international organizations and ad-hoc communication" (Slaughter and Hale in Bevir, 2013: 342). This type of network is on the rise, and particularly so in regulation (f.i. Raustiala, 2002; Hollis, 2010).

Noteworthy is that the existence of TGN leads to a change in the relationship between central state level principals and civil servants. It could lead to what Weber called: *Beamtenherrschaft* (Weber, 1988). A form of governance in which the bureaucrat as opposed to the politician will become somewhat of an executive. This phenomenon has been identified in articles concerning the rise and existence of TGNs (f.i. Keohane and Nye, 1974; Slaughter, 2004). This is why some scholars state that TGNs engender a democratic deficit as accountability could be weakened. The fact that civil servants working in TGNs operate on the cross section between independence and authority based on territory, makes this of particular interest. The tension with traditional concepts of accountability and authority and the inescapable global interdependence is especially seen in this type of governmental collaboration.

The differences in types of TGNs could potentially have a differing effect on the way accountability is approached in these contexts. In this chapter we will first address the emergence of transgovernmental networks. This will be followed by an examination on how TGNs fit in the scholarly debate regarding modes of governance. Lastly, we will create a typology of TGNs and will address which problems regarding accountability occur within TGNs.

## 2.2 Globalisation and the emergence of TGNs

Speaking at the World Food Conference in Rome, 1974 secretary of state Henry Kissinger made an interesting remark:

> "We are stranded between old conceptions of political conduct and a wholly new environment, between the inadequacy of the nation state and the emerging imperative of the global community" (US government, 1975).

Kissinger refers to an impasse with on the one hand the traditional nation state whilst on the other the increasing connectedness of societal environment. The government structures are described by Kissinger in the same address as being "at the margin of governments ability to control" (US government, 1975). The structures are inflexible and incapable to absorb the shocks posed by the pressures that globalisation places on society. Any reaction of one government will not suffice to counter problems of interdependence. Traditional government is facing a challenge if we follow the reasoning of Kissinger. This challenge essentially results in a paradox. The paradox is the necessity to address global challenges internationally but being unable or unwilling to do so because of the nation state structure constraints.

The paradox is vested in the idea that states are the primary actors in international relations. It is based on that "the classic state-centric paradigm assumes that states are the only significant actors in world politics and that they act as units" (Keohane and Nye, 1970: 371). This, to them, is not reflected in reality. As they reveal that: "A good deal of intersocietal intercourse, with significant political importance, takes place without governmental control" (1970: X). They also assert that these relations have existed for a long time already, yet that these relations have "greater political significance" than they did previously (1970:375). Although there have been some voices calling for a more centralized governance response regarding the paradox of globalisation (f.i. DeHousse 1997, Keohane, 2001), the creation of a sort of world-government has not seen the light of day. What has transpired is a shift away from government to governance (Eberlein and Newman, 2008) as a response to the paradox of globalisation.

Governance refers to the process of governing that could encompass more than just governmental actors being involved. Cooperation between governments is taking place in a way that no longer follows the rigid demarcations of state governments (Eberlein and Newman, 2008). It is a response to the changing nature of how policies were devised and

implemented. Where previously the focus was on the central role of government, awareness rose to the role that other actors played in the governing process. In addition, the centrality of governing that underlined the government paradigm of governing was being questioned as processes such as decentralisation and professionalisation of the civil service started to gain more prominence.

There are four developments which are significant regarding the contesting of the national state as a unitary actor and should be viewed in parallel to the paradox of globalisation. The first is multi-level governance, which prescribes the reallocation of authority upwards (beyond the realm of the central national government), downwards (in terms of decentralisation) and sideways (referencing the professionalisation of the civil service) ensured the steady development of what has been labelled multi-level governance (Hooghe and Marks, 2001, 2003; Stephenson, 2013). This in turn is clearly linked to the second development: network society (see f.i. Castells and Cardoso, 2005). This latter term is reflective of the structural transformation society has undergone that stipulates a more flexible and connected way of governing by using networks more notably. As Castells and Cardoso confirm:

> "Indeed, the rational bureaucratic model of the state of the industrial era is in complete contradiction to the demands and processes of the network society" (2005:17).

This reaffirms the response to the paradox as discussed by Kissinger (US government, 1975). The paradox that global challenges should be addressed internationally but that the nation state structure is hindering this. By circumventing the nation state structure somewhat by means of network society and multi-level governance, this can be seen as a response to the globalisation paradox (Behr, 2008). A third development is that of technology advancement. With the increase in people's ability to communicate easier at long distance via telephone, mail and so on, and the simultaneous progress in transportation both in cost, duration and accessibility, has made cooperation easier. This has ensured that the creation of linkages between institutions, organisations and individuals became a more straightforward process and has decreased the costs of maintaining the contacts. These linkages in turn are reflected in new, and more stable forms of transboundary relations. The fourth development, the rise of the regulatory state, also needs mentioning. We see an increase in the usage and formation of regulatory law to steer society (see f.i.: Bernauer and Koubi, 2006, Majone, 1994: Moran, 2002: Raustiala, 2002). Regulating societies develop in different ways and rates between states. With the interdependence between states increasing a need to coordinate or cooperate regarding regulating societies arose.

As a result of these four developments, new modes of governance were sought to overcome collective action issues. These modes of governance move beyond government and create new linkages. Linkages between actors within and outside of government became of such importance that they obtained the ability to steer policy making. As the linkages become

ever more crucial for the day-to day operations of policy-making and implementation, the formation of more institutionalised ties are increasing in number. These linkages range from networks of executives of governments, to networks of both public and private actors as well as networks of public administrators discussing specified policy fields. Yet, these new arrangements operate next to the still relevant traditional forms of government.

The understood coexistence between government and governance developed because of the globalisation paradox. Interdependence for alleviating policy issues is seen as the fuel that led to the coming into being of transgovernmental networks (Coen and Thatcher, 2008; Kahler, 2009; Slaughter, 2004; Swyngedouw, 2004). Even though interdependence has always been in existence (especially so regarding collective action problems transcending borders), it gained in traction in the early nineties.

The end of the Cold war is oftentimes mentioned as the cataclyst for systematic transformation of world politics (Levi-Faur, 2013, Coen and Thatcher, 2008). Cooperation between states increased after years of overall containment and stalemate in international relations. Additionally, the end of the Cold War coincides with the increase of policy issues being addressed by the European Union (f.i. Raustiala, 2002; Legrand, 2012) creating a need for regulatory cross-border cooperation. This has effectively catapulted the rise of TGNs.

TGNs are a specific form of these new modes of governance. The emergence of TGNs has been classified in literature as either a functional response or it is given a political explanation. The functional response references that the informal character of the network ensures a more effective response to transboundary problems, in that they fill a regulatory gap (f.i. Coen and Thatcher, 2008: Eberlein and Newman, 2008). The second explanation for the emergence is a political explanation. The emergence of TGNs is seen as a result of (political) leaders making use of these networks to strengthen their own interests or setting these networks up to give more importance to their own institutions (f.i. Wessels, 1997; Slaughter, 2004). In other words, the political explanation gives rise to the belief that administrations need to work together internationally to gain more standing and acclaim.

TGNs are defined by direct interactions between: "subunits of different governments that are not controlled or closely guided by the policies of the cabinets or chief executives of those governments" (Keohane and Nye, 1974; 43). Participants of transgovernmental networks fall under national political authority with regards to their position within the governmental sub-unit they work for. However, when they venture out to work in a transgovernmental network they are not closely guided by this national structure of authority. As such they experience independence in their work internationally. Transgovernmental networks are a form of governance that exists next to traditional modes of governance (f.i. Curtin and Egeberg, 2008; Eberlein and Newman, 2008; Keohane and Nye, 1974; Mastenbroek and Martinsen, 2018; Raustiala, 2002). Traditional modes of governance are understood to be aligned with (national) territory-bound authority. To make this more concrete it refers to the

system of policy making based on hierarchy which can be found (predominantly) in national governments. The definition by Keohane and Nye (1974) does not deny nor disregard the existence of the traditional forms of governance. The traditional form of governance very much relies on (national) territory. Transgovernmental networks operate outside of this territory, and thus works next to these traditional forms of governance.

There are terms, and other types of networks, also considered to belong to new modes of governance that hold a similar meaning such as transnational networks, or (European) regulatory networks. These terms are often used to describe the same phenomenon (Mastenbroek and Martinsen, 2018); as hubs that link organisations in resolving a common and public problem in an informal capacity in a national border-crossing manner. However, TGN is a name that is both distinct and like these other types (Keohane and Nye, 1974). Transnational networks for instance refer to networks with actors/organisations partaking in the network not necessarily belonging to government institutions. Within transnational networks companies or their representatives can also participate. Regulatory networks, although often used to describe networks of governmental regulatory agencies working together, could also include private actors or NGO involvement. Transgovernmental networks deal *exclusively* with governmental actors involved in the network.

Definitions of new modes of governance such as European regulatory networks (ERNs) are somewhat similar to the definition of TGNs. ERNs operate within the European Union and allow national regulatory authorities to coordinate their interactions in specific policy domains (Maggetti and Gilardi, 2011). This definition could fall under the umbrella definition of TGNs, nevertheless ERNs have been studied as a sui generis type of network (Blauberger and Ritberger, 2014; Tarrant and Kelemen, 2017; Mathieu, 2016). The focus on the role of these networks in the context of the European Union system excludes some type of TGNs. It also does not do justice to TGNs that have participants of outside of the EU. In addition, this body of literature has focused on how the European Commission can specifically make use of these networks to harmonize implementation (f.i. Mastenbroek and Martinsen, 2018; Thatcher and Coen, 2008; Vestlund, 2015) thus moving beyond the functional differences TGNs may have. In this dissertation a focus is on how networks influence accountability directed to the national central government which is why we focus on TGN literature rather than on the literature on European regulatory networks.

In addition, as previously mentioned TGNs operate in an informal capacity. This is reflected in that the actors involved are substate entities whose work is not based on a treaty. TGNs thus differ from international organisations. Informality in this context refers to the far more loosely based relationships between actors that define the strength of the network. This is different from other types of organisations where formal arrangements predetermine the institutional set-up more than the behaviour of individual actors. In this we follow Faude and Abbott who stated that this informality is based on: "their reliance on non-legally binding obligations and relatively uncomplicated operating procedures" (2020). This is not to say that

they cannot influence or even direct the creation of legally binding obligations but in the core of TGNs this is not the intention. Although the level of informality does vary across different TGNs, often cooperation is based on collaboration, memoranda of understanding (MoU) and results in soft law. In general terms, TGNs can be considered informal.

In this dissertation we will use these distinctions, especially regarding the governmental aspect of TGNs, as it is specifically this type of network that operates on the cross section between national authority and international independence. The clear and definite link with the traditional territory bound forms of governance are most entwined in this type of network. The participants are part of both the traditional as well as a new form of governance. This juxtaposition has arisen not simply due to the rise of TGNs. Globalization and international interdependence were instrumental. TGNs have thus arisen because of a change in society. They are however one mode of governance that emerged as a result of the globalisation paradox. In the section below we will address how TGNs are a new mode of governance, and we will address their significance.

## 2.3 TGNs as new modes of governance

In providing an overall picture of the different modes of governance and the institutional relations that are at play when discussing global governance, we turn to the work of Bach (2010). Bach (2010) asserts that global governance is characterised by a variety in institutions he divides the relations in four ideal types:

**Table 2.1: Four Ideal Types of Global Governance by Bach (2010: 564)**

| Type of Global Governance | | Constitutive actors |
|---|---|---|
| I | Interstate | Nation states |
| II  Regulatory co-operation | Transgovernmental | Sub-state public actors |
| III | Transnational | Non-state private actors |
| IV  Market governance | Market | Market participants |

These ideal types shows that two of the governance relationships distinguished still have a clear link with government. These are the interstate and the transgovernmental type. Both are made up of governmental actors. Whereas the other two are not directly related to government, with actors stemming from the private sector. The transgovernmental relationship in global governance is of interest as its actors befall the authority of the central government but challenges the realist perspective set out by the interstate cooperation. Transgovernmental networks, more than the other types of global governance, exemplify the blurred line between government and governance. It embodies the cross line between the two.

International cooperation in the form of transgovernmental networks are seen as a way forward. They are considered arrangements that promote cooperation and help resolve conflict and will thus be developed further (Keohane, 2001: 1). These governance arrangements are administrative in nature in the sense that they involve civil servant participants. Civil service being the institution that forms the organisational and normative structure (Olsen, 2006: 2) is connecting governments beyond territorial borders in these networks. Civil services will develop their relationships beyond the realm of the central government. Seeking out counterparts will become essential considering the problems governments and society currently face. By doing so the transgovernmental networks will develop (see f.i. Abbott and Kauffmann, 2018).

TGNs are defined by direct interactions between: "subunits of different governments that are not controlled or closely guided by the policies of the cabinets or chief executives of those governments" (Keohane and Nye, 1974; 43). Transgovernmental networks are hailed as modes of governance that enable fluent cooperation – (by means of information-sharing and/or harmonization and or compliance) – between national states and international organisations. This is exemplified by the creation of benchmarks or guidelines for instance. The cooperation between national states and international organisations is best served by the inception of a transgovernmental network as they combine local expertise in that domestic civil servants of different nations come together to overcome issues that transcend borders. They have the ability to be "fast, flexible and decentralised" (Slaughter, 2001: 347). This is a key feature that is particularly helpful in the pace of the information age. And it balances the oftentimes difficult to achieve interstate cooperation.

The definition by Keohane and Nye (1974) has been long-standing. However, due to developments in the years since, with more knowledge about these networks accumulating, small additions have been made to the definition. Raustiala (2002) defines transgovernmental networks by dissecting the words that form the label as follows:

> "They are "transgovernmental" because they involve specialized domestic officials directly interacting with each other, often with minimal supervision by foreign ministries. They are "networks" because this cooperation is based on loosely-structured, peer-to-peer ties developed through frequent interaction rather than formal negotiation. Thus defined, the phrase "transgovernmental networks" captures a strikingly wide array of contemporary cooperation" (Raustiala, 2002: 5).

He includes the international component as well as the specialization of the actors involved in the network. Moreover, considering transgovernmental networks deal with international issues he assumes oversight to lie with the foreign ministry. Although he mentions "specialized domestic officials" the line of authority to their specialized ministry is not mentioned. A further emphasis is placed on the peer-to-peer ties and the lack of formal negotiation. This is hinted at in the definition of Keohane and Nye (1974) but made more explicit in the definition

by Raustiala (2002). In an article by Legrand (2015) these peer-to-peer ties are also raised as he states: "(..) transgovernmentalism is concerned with groups of government actors working collectively in non-state-based networks to develop collaborative responses to transnational issues" (Legrand; 2015: 976).

The attention paid here to the collaboration is a clear indication of this type of cooperation within transgovernmental networks.

In relation to the cooperation but also to the fact that domestic specialists are involved, Slaughter (2004) detailed how actors involved in these networks work:

> "They would each be operating both in the domestic and the international arenas, exercising their national authority to implement their transgovernmental and international obligations and representing the interests of their country while working with their foreign and supranational counterparts to disseminate and distil information, cooperate in enforcing national and international laws, harmonizing national laws and regulations, and addressing common problems" (2004:7).

By detailing these aspects, she gives us more insight into the workings of transgovernmental networks. She includes their objectives but also makes clear that civil servants partaking in the networks are both working in the national state and in the international sphere. As we see the definition is evolving still, but we lack empirical evidence about the phenomenon of transgovernmental networks. Inquiring the different aspects of the definitions empirically will therefore be part of this dissertation. This is additionally of importance as the OECD acknowledges that TGNs "are multiplying fast and vary widely in their constituency, governance structure and operational mode."[1]

Making this more concrete we understand that membership sets TGNs apart, as does their structure, the level of enforcing decisions onto others, the mode of decision-making, the nature of their work and the cooperation style between participants. TGNs being the playing ground of experts with similar technical and professional backgrounds ensures a shared value and knowledge systems that helps create a highly technical and functional network setting (Craik and VanNijnatten, 2016: 495). As civil servants of distinct central governments work together, they do so without creating a supranational entity and thus seemingly safeguard sovereignty. TGNs hold no binding powers over their members as they focus on cooperation rather than coercion. Ultimate authority, in the form of strict sanctioning, is not delegated to the network. This allows for more room to discuss at a highly technical level. However, TGNs do have a non-formalised way regarding authority by means of peer reviews and the setting up of guidelines that members are expected to adhere to.

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1   OECD (2016). *Transgovernmental Networks*. Viewed 12 august 2016 via: http://www.oecd.org/gov/regulatory-policy/irc7.htm

The different elements that need to be present before we can speak of a transgovernmental network enable us to compare the same type of networks. To make this more specific the different characteristics we understand TGNs to possess are listed in the table below. We have created this list based on the most widely used or referred definitions, which we have discussed above. These characteristics need all be present to speak of a transgovernmental network.

**Table 2.2: Characteristics of TGNs**

| Transgovernmental networks | | Author(s) |
|---|---|---|
| Membership | Civil servants/ non elected officials | Raustiala (2002), Keohane and Nye (1974), Bach (2010), Slaughter (2004) Legrand (2015) |
| Structure | Decentralized/ horizontal | Raustiala (2002), Keohane and Nye (1974), Slaughter (2004) Legrand (2015) |
| Enforcement | None/ self enforcement | Raustiala (2002), Keohane and Nye (1974), Slaughter (2004) Legrand (2015) |
| Decision making | Focused on consensus rather than coercion | Slaughter (2004), Legrand (2015) |
| Nature | Highly technical | Raustiala (2002), Keohane and Nye (1974), Bach (2010), Slaughter (2004) Legrand (2015) Craik and VanNijnatten (2016) |
| Relation between members | Trust based | Raustiala (2002), Keohane and Nye (1974), Bach (2010), Slaughter (2004) Legrand (2015) Craik and VanNijnatten (2016) |

Next to the defining characteristics, the variety in TGNs can also be seen in contextual dimensions of TGNs. These dimensions are also defining for unique singular TGNs which is why we will address them in short but are not defining features of the concept of TGNs.

To give an example of the variety of TGNs regarding contextual dimensions one can think of the form of inception. TGNs either arise as a result of a supranational organisation that institute the network, or they derive from peer-to-peer collaboration resulting in the inception of a network (f.i. Keohane and Nye, 1974; Thurner and Binder 2008). A distinction in attributes can also be noted in membership rules. Lavenex and Wichmann (2009) distinguish between two levels of membership involvement in transgovernmental networks: meso and micro. These scholars have focused their research on the policy area of security and give examples of operational level functionaries in that field who work in transgovernmental networks.

> "Transgovernmentalism is one form of 'network governance'; it can occur both on the meso-level of law enforcement officials (e.g., magistrates) and, on the micro-level, where police officers and judicial authorities work together to enforce the law in a cross-border setting" (Lavenex and Wichmann, 2009: 88).

Although all participants in transgovernmental networks are public actors; it can be that particular agencies form the participants, it could allow for just one organisation per country,

2

or perhaps that multiple sub-units of governments work together in one network. This has to do with the subject matter and the level of decentralisation involved. As institutional backgrounds differ per policy field but also per country this issue of membership is something every TGN needs to deal with at one point or another. Domestic context is still the catalyst for cooperation or opting out (Bach and Newman, 2014). Moreover, the structural set up of TGNs diverges as some TGNs opt to work with working groups, or work project based.

By focusing on what combines a larger group of networks within the general population of TGNs (as defined above) we could compare between cases. Discussing these differences will help us in refining the concept and showcasing the sheer variety of TGNs. It offers an insight in the general population that we otherwise would not be able to achieve.

## 2.4 Typology of TGNs

The sheer variety in TGNs is explained by Klijn and Koppenjan (in Bovens edt:2014: 242) as they attest that government networks result from spontaneous and emerging rules and arrangements. We will be looking into the attributes of the networks based on their function and governance style which will result in a typology. This typology will offer a mapping of the varieties of transgovernmental networks. This is subsequently used to instruct a comparative analysis regarding how different types of transgovernmental networks deal with the process of accountability.

Concerning the function of a network we can take a more meta-approach in the sense that organisations can be categorized abstractly. Networks are connections combining resources towards a specific end, we see this end as the function of the network. The function of TGNs can be distinguished into three types: information networks, enforcement networks and harmonization networks (Slaughter, 2004). The type of network is related to the type of instruments the networks makes use of, which in turn is related to the capacity of a specific network to influence or steer policy (Lavenex, 2008). The enforcement and harmonization networks do not operate by means of traditional authority or coercion. These types of TGNs make use of instruments such as the creation of guidelines or the development of peer evaluations. These instruments are not imposed by means of a hierarchical central government but rather stipulated by the TGN, which consists of peers. By combining both the function and the instruments we will be able to assess the potential for interference by the network. The bigger the potential to steer policy the bigger the shift away from the home organisation of the network participants to the network itself. This will allow understanding of the distance from traditional governance *vis a vis* new modes of governance. We make use of the work by Lavenex (2008) as she offers insight into the ability of policy integration combined with the existence of networks. She demonstrates that integration of policy between states is to be construed as the highest level of policy influence because the capacity of the international network will ensure policy to reach beyond confined national borders, and influence policy beyond them. The capacity of the network speaks about the potential impact it has on

policy, which she sees as a scale. She has termed this scale boundary shift. It determines the potential of the influence of the network and how much it is independently operating next to traditional government structures. It enables us to determine how much of a boundary shift is taking place both in a regulatory and organisational meaning. In accordance with Lavenex (2008) understanding of boundary shift we shall go through the different types of TGNs to determine their level of boundary shift.

In the first type, information network, members come together and discuss their experiences and problems. They formulate best practices and exchange information. This exchange of information not just takes place in meetings of the networks but also in "technical assistance or training programs provided by one country's official to another" (Slaughter and Hale in: Bevir, 2010: 344). The instruments this type of network makes use of are described by Lavenex (2008) as: voluntary, process oriented, and could consist of data, information or best practices. Based on that she concludes that this type of network would create only a "very moderate shift of regulatory and organizational boundary" (Lavenex, 2008: 942).

The mandate of the second type; enforcement network, stretches somewhat further than the information network. This type of network focuses on the enhancement of cooperation among peers regarding the enforcement of regulations on a domestic level. This cooperation is mostly on the operational level (Lavenex, 2008: 942). The regulations they enforce may stem from supranational organisations, but they may also just involve enforcement of existing domestic rules (Slaughter, 2004; 55). This would lead to a "moderate shift from regulatory and organizational boundary "(Lavenex, 2008: 942).

The third and last type of TGNs is the harmonization network. This type of network aims to harmonize regulations such as benchmarks and standards in a particular policy area. This type of network is often met by critics that state that these networks often quietly change domestic regulation whilst ignoring the domestic public (Slaughter and Hale in: Bevir, 2010). This type of network would lead to a "strong shift of regulatory and organizational boundary" (Lavenex, 2008: 942). In the figure below we list both the type of network which we base on Slaughters' labels (2004) and combine them with the findings of Lavenex (2008).

**Table 2.3: Typology network types based on Slaughter (2004) and Lavenex (2008).**

| Type of network | Instruments | Boundary shift |
|---|---|---|
| Information network | Voluntary instruments, process oriented, data, information, best practices | Very moderate shift of organisational and regulatory boundary |
| Enforcement network | Like information network, plus operational co-operation and capacity building | Moderate shift of organisational and regulatory boundary |
| Harmonization network | Like information network, plus adoption of benchmarks and standards | Strong shift of organisational and regulatory boundary |

2

These functions do not give an indication as to how networks are governed, which is essential for understanding the micro-foundations of TGNs. The ability to formulate agreement is clear in the conditions or at least the expectation to do so. What is still left in the dark is on what and on how this agreement is possibly made.

The emphasis placed on the voluntary nature of TGNs to partake, the informality and the reliance on cooperation is however something that is included in the structure of each transgovernmental network (Slaughter and Zaring, 2006: 215). According to Hollis "(..) a standard rule for the structure of TGNs is that decisions must be non-binding and made by consensus." (Hollis, 2010: 317). As Hollis also attest there is however quite a diversity in structures regarding networks: "while some networks are highly informal, others reflect a hybrid of decentralized and centralized structures. These differences have resulted in a patchwork of definitions pertaining to the structure of networks. (..) The varying degrees of formality in TGNs are significant as this may affect the choices available to participants" (Hollis, 2010: 318). With these choices Hollis (2010) is referencing that by including more formality in the structure participants could be deterred from participating due to the sensitive nature that could arise because of this. Even though we attest the variety in governance styles within TGNs there are some overall guidelines to distinguish between the varieties.

Governance styles in transgovernmental networks have so far been addressed in theory. The difference in the level of informality, the organisational chart of the network, the project or not project based type and so on all exemplify the existence of variations in TGNs but they do not offer the ability to form a clear typology yet. The distinctions have not been solidified in a clear overview of what is out there. We turn to other types of literature to help us understand the differences in governance style to distinguish and make the variations in TGNs clearer. Which is why we will turn to more general literature concerning networks first before we attempt to make a typology that is in line with what we already know of transgovernmental networks. Even though we already take a broader look by going into literature regarding networks in general, we found that networks have been studied in numerous ways. These studies have adopted a sheer variety of perspectives but that "(..) rather scant attention has been paid to the governance of network as a whole" (Antivachis and Angelis, 2015: 587), which is something Provan and Kenis's work does offer (2008). In their work they take both a governance perspective by making the network the unit of analysis and create an analytical tool in assessing them as they offer a categorization of the variety of networks. By making use of this literature, we will be able to do same for transgovernmental network.

The work of Provan and Kenis (2008) offers guidelines in how we can assess the variations in the networks. They assess that there are three distinct ways in which networks in general are governed. They did not distinguish nor focus on transgovernmental networks. Nevertheless, their general assessment is applicable to this specific type of governance, as the components of a network as they see them do not deviate too much from the concept of TGNs.

The three governance styles they feature are participant-governed networks, lead-organisation networks and network administrative governance. The first type, participant-governed networks, hinges on the collaboration of the members themselves. There is no entity within the structural make-up of the network that coordinates or supports. This type of network is very dependent on the involvement of the members as they are solely responsible for the work of the network. Provan and Kenis (2008) explain this further by stating:

At one extreme, participant-governed networks can be highly decentralized, involving most or all network members interacting on a relatively equal basis in the process of governance. This is what we refer to as shared participant governance. At the other extreme, the network may be highly centralized, governed by and through a lead organization that is a network member." (Provan and Kenis, 2008: 234).

What is specific about this type of governance model is that the responsibility of all internal and external affairs of the network is shared by all the members. They are in control. This type of governance style is reliant on active participation. And would be most appropriate in "small, geographically concentrated networks where full, active face-to-face interaction between network members is possible." (Cristofoli et al., 2012: 79).

The second type, lead organisation-governed, is a more centralized governance structure in the sense that "all major network-level activities and key decisions are coordinated through and by a single participating member, acting as a lead organization" (Provan and Kenis, 2008: 235). In this scenario responsibility is no longer as shared as it is in the participant governance type. Power is assymetrical as every major issue needs to travel through the one leading member of the network. This type of governance style has also been referred to by Jarillo (1988) who coined the turn 'hub-firm' for it (1988: 32). Often a lead organisation offers administrative and secretarial support for the activities of the network. The lead organisation is often compensated for their role as facilitators by the network. What is essential for this type of governance style is for one organisation to have enough resources but also legitimacy among the other actors involved to fulfil this task (Cristofoli et al., 2012: 79).

The third and final type is that of network administrative organisation. In this type, an external administrative entity is set up to help steer and coordinate the network. It facilitates and governs the activities of the network. This form of network is highly centralized. As the entity is external, the members are no longer in the lead regarding the governance structure of the network. The network administrative organisation is effectively the network broker (Provan and Kenis, 2008). An example of this type of governance within the context of transgovernmental networks can be found in ASBA (Association of Supervisors of Banks of the Americas) (Jordana, 2017).

Cristofoli et al. (2012) provides us with some considerations regarding this type of governance:

> "These organizations may have relatively informal structures revolving around single individuals who act as network facilitators or brokers, or they may be more formalized and complex organizations with a board and a management team." (2012: 80).

The level of formalisation has an effect on the instruments available (Hollis, 2010). Formalisation could deter collaboration (Hollis, 2010).

These different types of network governance styles are applicable for each of the network types based on function. Slaughter (2004) provided us with the distinction of three different functions a TGN could have: information network, enforcement network and harmonization network. Lavenex (2008) offered us insight into how big the effect of each function type on the network was, which offers us the ability to rate the functions in terms of potential impact on policy. This is important as the level of boundary shift and the level of centralisation would have an effect on the type of accountability which we shall address later on in chapter III. We have created a typology by using insights from each of the authors. This combination is new and will allow us to move the scholarly debate further. It relies heavily on the work of others, but this combination has not been made. The combination will provide us with the analytical tool needed to assess the variety of TGNs on more than one dimension. It essentially combines the questions; what does the network do? (function), how big is the potential of that network (boundary shift) and how do they go about reaching that goal? (governance style). This will be instrumental if we want to link accountability to the type of TGN. As accountability is about giving account on what it is supposed to do, and we need information on how this goal is reached we need both of these dimensions to be able to answer questions pertaining to accountability in TGNs.

As we have seen in our discussion on the variations in characteristics, this leads to a general typology. But it will offer some guidance in analysing the differences within the family of transgovernmental networks. Whatever the outcome of the network, this international and specialized network of civil servants will have an effect on the development of policy within the national context as well. In the networks, civil servants with similar expertise work on specific matters that require specialized knowledge. We need this distinction based on these three characteristics as they determine what the networks do, how big the potential impact may be (Slaughter, 2004; Lavenex, 2008) and how decisions in the network are reached (Provan and Kenis, 2008; Hollis, 2010). This combined indicates how TGNs operate. Understanding the process of how and why TGNs function would enhance our knowledge of TGNs. Operating on the cross section between national governments authority with the international interdependence could spark more or less interest into the work of participants. This could very well be related to the potential of boundary shift of the network, which is related to the function of the network, but could also be connected to the governance style adopted. In addition, the

governance style demonstrates the decision-making structure within a network. The choices a national government makes regarding positioning its personnel could be emblematic to the importance given to the network's work. This, we expect, would be tied with the type of accountability they would employ. In chapter three we will dive into this assumption.

Going back to the typology, if we look to the boundary shift which is related to the function combined with the governance style, we can identify a difference in impact. An information exchanging network with a participant governed governance style will have to focus most on active participation of the members. As noted by Cristofoli et al. (2015) it is likely to involve a small group with plenty of face-to-face interactions. In the case of a transgovernmental network the inclusiveness of members and their resources for participation will be key to its development. This will of course also go for the other two functional types of transgovernmental networks but given the fact that their possible impact is larger it will be even more essential. If we take a harmonization network in the same governance style it will be more or less imperative to join in order to be part of the discussion table as policies might be devised here. If we look at the lead organisation governed networks, we notice that it will be crucial that there is a lead organisation willing, able and acceptable for other participants to take up the task. With a lesser boundary shift, as would be the case with information networks this might prove difficult. However, in case of highly salient policy issues this could prove to be worth the effort. These examples show how governance style and function need to be combined to understand how TGNs work.

This concludes our typology thus far. In the following chapter an addition to the typology is made by including the drivers of accountability to the types of TGN. In that chapter the visualisation of the complete typology is presented. This addition to the typology is needed in order to provide a full answer to our research question. It also instructs furthering the discussion on how the two elements (governance style and function) affect the relationship between the national government on the one hand and the participants collaborating in the network on the other will be discussed. As referenced in the introduction there is scholarly debate on the effect of TGNs on democratic accountability.

## 2.5 Problems of accountability with TGNs

Due to a rise in the number of TGNs power is delegated away from democratic institutions to organisations which are not democratically responsive (Maggetti, 2009: 465). TGNs have been identified as elements of broader patterns of "experimentalist" governance, with the recursive revision of goals, metrics, and procedures (Sabel and Zeitlin, 2008). This is reflected in their loosely structured characteristics. In addition, the existence of TGNs summon suspicion - of secrecy, technocracy, exclusion, and conspiracy (Slaughter, 2001: 522). This is due to a perceived lack of control of the principal (elected politician) and heightened by the technocratic nature of the knowledge involved in the day-to-day operations of the TGNs (f.i. Eberlein and Newman, 2008; Slaughter, 2004). However, it could also relate to the increase in

both the length of the chain of delegation and the number of forums to please in the chain of command (Curtin and Egeberg, 2008; Papadopoulos, 2010).

The existence of TGNs lead to unfamiliar territory concerning hierarchical relationships between executives, bureaucracy and citizens (Bakvis, 2013: 205). This is particularly linked to democratic accountability. Answering for and explaining actions by a civil servant to a political superior is understood to be under strain as a result of the existence of TGNs. TGNs are somewhat divorced from the national central government and as such the civil servants participating in them operate at a distance from their superiors.

With regards to the relationship between TGNs and national central government there is some variance amongst scholars on how this relationship should be perceived. For instance, we can see TGNs as part of the national central government and as such they need to adhere to the same standards concerning democratic accountability as national central governments (Raustiala, 2000). Kinney (2002) however redirects that TGNs may operate outside of formal frameworks and by doing so they have no obligation to adhere to democratic procedures. Slaughter warns us that:

> "Proponents of global governance, particularly through multiple parallel networks of public and private actors, must offer at least a partial response to the problems of democracy as traditionally defined, before redefining it" (2002: 1042).

With that she is taking a middle position to Raustiala (2000) and Kinney (2002), claiming that TGNs have an obligation towards eliminating problems of democracy but contesting that these democratic problems might be in need of a new configuration or definition. The problem of democratic accountability posed by TGNs is according to Black (2008) related to actors within these networks who "may attempt to create and manipulate perceptions of their legitimacy" (2008:157). By this she refers to actors building and seeking legitimacy in TGNs as they face pressures regarding accountability to do so. According to Gailmard and Patty agents will influence policy if they care about the content of policy. In their words: "That opportunity is simply discretion" (Gailmard and Patty, 2012: 25). The rationality that gives rise to these attempts is also observed by Thurner and Binder (2009) as they attest that bureaucratic agents carry out cost-benefit analysis when they are operating in TGNs. The literature focuses on the impact of this change in the sense that a new way of policy making is institutionalized (f.i. Kinney, 2002; Raustiala, 2002; Risse-Kappen, 1994; Thurner and Binder, 2009). Oversight as a prerequisite for upholding the democratic principle of accountability is questioned by scholars. The portrayal of agents in TGNs most often highlights the technocratic nature of these arrangements (Brandsma and Schillemans, 2012; Grant and Keohane, 2005; Nye, 2004; Thurner and Binder, 2009). This does not mean that technocrats by definition use their position to harm democratic principles in the settings of TGNs. Barr and Miller (2006) point out that agents (or networks as a whole) may set up procedures to increase the quality

of democratic accountability. Moreover, it might also be that oversight itself is hampered because the principal is less able or willing to control the civil servant (Ansell, 2004).

The reasoning and interpretation of how democratic principles accountability of the national central government system are hampered due to the existence of TGNs, boils down to the fact that these networks are intrinsically different from traditional governance. The rationale for this is sought in actors venturing out, although some scholars point out that the problems of democratic principles might also be related to the fact that we are using an outdated definition of them. Regardless, the scholars do seem to agree that more understanding is necessary (f.i. Barr and Miller, 2006; Faude and Abbott, 2020; Maggetti, 2010; Papadopoulos, 2003). At the very least they hint to this, as their wording is quite careful, stating that things *may* be the case (f.i. Ansell, 2000; Black, 2008; Thurner and Binder, 2009). Empirical proof for their theoretical insights is limited. Which is why this dissertation will especially tackle this issue. In the following chapter we will detail how the different types of TGNs might affect democratic accountability. To address this effectively, an understanding of what democratic accountability entails and how it presents itself should be made clear. This is necessary as the challenge to accountability posed by TGNs is thought to be undermining of it. However, aware that accountability can be divided into subtypes like TGNs, we argue that the variety of TGNs should be taken into consideration. This consideration should also stretch to the differences that exist in the concept of accountability. With this dissertation we move beyond general statements and look to the specific nature of TGNs and their effect on accountability.

## 2.6 Conclusion

In this chapter the emergence of TGNs has been addressed. Secondly, how TGNs fit in the wider context of new forms of governance has been established. Thirdly, the differing characteristics of TGNs were considered which resulted into the start of a typology. Fourthly, the first considerations regarding accountability and TGNs were shared. In the following a summary of this chapter is provided. Some considerations regarding this chapter are offered, before addressing how the following chapter is linked to these.

As a result of four developments (multilevel governance, network society, technological advancement and the rise of the regulatory state) related to the paradox of globalization, new forms of governance have emerged. One of these forms is TGNs. This type of network features civil servants working for central government but venturing out to collaborate with their international counterparts in loosely structured arrangements. Between these networks we can distinguish in three types of functions they might hold: information driven, enforcement or harmonization networks. In addition, as we have noticed quite a variety in terms of attributes in this family of networks, we can still make a distinction on a more general level regarding their organisational structures. By making use of the work by Provan and Kenis (2008) we can distinguish TGNs based on participant governed structure, lead organisation governance and network administrative governance.

Focusing on dimensions that transcend the individual network has helped to provide a clear typology, which will be visualised and elaborated on in the next chapter. However, we need to assess the particularities of the individual network. By this we refer to the type of function but also the structural make up of a network. In addition, when we apply the typology, we need to be mindful of the loosely-structured nature of TGNs. Because of the flexible and adaptable nature of a network the governance style might change or form a hybrid form between functions or governance styles. For instance, a project-based network might be organised generally speaking as a participant governed network, but for a project a lead organisation tactic might be employed. However, the characterization will still be useful as the forms can be distinct from one another. We need to treat them as ideal types, rather than perfect matches. This has to do with the fact that no specific literature is available regarding governance styles of transgovernmental networks. We have used the more general literature of Provan and Kenis (2008) as a guideline. Their typology of governance style is however applicable to TGNs as well.

The sheer variety and lack of clarity regarding TGNs is due to the very nature of the informal network type it is. The peer-to-peer ties that are prevalent in these networks are the reason for some to label the character of the network as 'clubbish' (Raustiala, 2002). This also results in the fact that we need to assess from the micro level up in order to fully grasp a TGN. The features that make a TGN distinct need to be included in the assessment of said network, especially how these features refer to the applicability of traditional notions of political conduct such as accountability. The impact of these networks should nevertheless not be dismissed as they are a key feature to the new global order of governance (Slaughter, 2004). They have the ability to steer or even feed into the policy making process. At the same time, they give rise to problems of legitimacy. The fact that networks function both within and outside of the traditional lines of accountability in particular needs to be addressed.

Thus far, a clear answer on the effect of TGNs on accountability has not been provided in the literature. By using the typology as a guiding tool, we will look for the variations of governance styles and function of transgovernmental networks in practice. We will thus be able to provide more empirical evidence for whether the theoretical assertions in literature regarding democratic deficits arise in TGNs. By comparing the real networks with the assumed difficulties regarding accountability, we can attest whether traditional notions of political conduct still work as intended, or whether they need to be altered to be legitimate. The objective is to answer questions related to accountability as a concept and transgovernmental networks as a phenomenon. Are the civil servants that have the ability to form networks who discuss and decide upon public policy and perhaps do so in an executive way, the guardians of national-based democracy? Or as the linkages between principal (national state) and agent (national civil servant) are at arms' length is democracy itself the victim of a central government faced with problems of interdependence? In the following chapter we will first address how accountability as a concept is perceived with regard to the 'old conceptions' as mentioned by

Kissinger of the inflexible and incapable government structure that cannot absorb the shocks of globalization. This will be followed by an understanding of accountability in this 'new' prevailing form of governance, where TGNs belong to.

2

## 3.1 Introduction

The aim of this chapter is to develop expectations regarding the expected effects of various types of transgovernmental networks on forms of accountability. This will be done by combining literature on three subjects; 1. on network governance styles (Provan and Kenis, 2008) 2. the functions of transgovernmental networks (Lavenex, 2008; Slaughter, 2004) and 3. accountability types (Romzek and Dubnick, 1987). By combining these we can analytically derive which accountability type most likely occurs in which network setting and forgo discussions on which type should occur. Expectations of accountability type based on the type of network are formulated. We argue that the type of accountability is dependent on the level of formality with regards to governance style combined with the potential policy shift the function of the network could create.

Accountability is of "growing importance in contemporary governance" (Schillemans, 2015: 433). Accountability is labelled by authors as lacking currently in transgovernmental networks (f.i. Levasseur, 2018; Papadopoulos, 2003; Raustiala, 2002: Slaughter, 2001), a trait that is seen as crucial to democracy. This could also be the reason as to why accountability, and its apparent deficit, is highlighted so often and accountability is often equated with a lack in legitimacy (Anderson, 2010: Black, 2008; Majone, 1999; Sorensen and Torfing, 2009; Van Beek, 2019; Zürn, 2004).

There is a lack of studies that study the effects of transgovernmental networks on the accountability of national civil servants vis-a-vis their national political principals. The problems raised in literature regarding accountability deficits highlight the difference between network governance and more traditional forms of governance. As we understand there to be differences in networks on two dimensions, we would argue that these differences are also important in understanding how issues of accountability would affect each of them. Institutional design has been taken out of the assessment of accountability issues thus far but needs to be included. Deleon explains the reason for this: "(..) the appropriateness of various methods by which accountability may be ensured are also a function of organization structure" (Deleon, 1998: 540).

That the concept of accountability is pliable to circumstances is also noted by Romzek (2000). Accountability is understood to be the most affected in the new settings of transgovernmental networks (Bignami, 2005; Mastenbroek and Martinsen, 2018; Papadopoulos, 2010). We will be addressing how the concept of accountability is affected in transgovernmental networks. This shall be done by discussing the problems of accountability in TGNs. Moreover, we will be taking into account the different types of TGNs and their effect on accountability. In order to understand how the traditional concept of accountability relates to this new type of governance. Afterwards, we shall address the different varieties of accountability. This will be followed by a discussion on the four modes of accountability in TGNs. Subsequently we shall present a model and expectations with regards to which type of accountability is likely related to which type of TGN.

## 3.2 Problems of accountability in transgovernmental networks

TGNs are changing the traditional understanding of democratic accountability. Particularly in relation to the administrative relations between political superiors and civil servants. Slaughter explains the concerns regarding accountability in TGNs well when she states:

> "The image of national regulators coming together of their own volition and regularizing their interactions either as a network or a networked organization raises the spectre of agencies on the loose, unrestrained by democratic accountability" (Slaughter 2004, 4).

Civil servants have been the recipients of power because of delegation. For politicians to keep them in check, the mechanism of accountability is put in place. This principle seems to be given more prominence considering internationalization of governance, as is the case in the establishment of TGNs. Fisher explains:

> "It is the ultimate principle for the new age of governance in which the exercise of power has transcended the boundaries of the nation state. It is a pliable concept that can seemingly adapt to novel modes of governing while at the same time ensuring such modes are legitimate" (Fisher, 2004: 495).

Where the relationship between the central state government on the one hand and accountability on the other seem to have been a close knit, this is now contested (Pierre, 2009: 592). Where theoretically a vertical line was to be drawn between the people and government and back via the bureaucracy to the citizen (Fukuyama, 2014: 520) this is no longer the case (Yesilkagit, 2012). The multilevel aspect that has seeped through government and has formed governance as a new mode of management instead, resulted in this singular vertical line to become opaque (Hofmann and Türk, 2007). The direction of account giving can therefore not automatically be assumed to be directed at solely the national government when discussing TGNs as supranational institutions might also be involved as well as other peer organisation across borders (f.i. Curtin and Egeberg, 2008). Regardless, the line between the civil servant and the public remains intact even if opaque.

The way in which accountability is organised in TGNs has, however, not been addressed empirically. TGNs represent a divergent form of policy making from a more hierarchical mode to a horizontal mode of cooperation, in essence from government to governance (Eberlein and Newman, 2008: 25). Considering the different dimensions that come into play, we need to assess the effect on accountability as a practice in order to substantiate claims regarding accountability deficits (Curtin and Egeberg, 2008). It is unclear if there actually ís a deficit in accountability, due to the lack of empirical studies. Normative and conceptual literature about this subject can readily be found, empirical support is what is missing.

Moreover, it is unclear how TGNs and their actors define or deal with matters related to accountability. Papadopoulos (2007) sums up the possible explanations for a deficit as he mentions four properties: the weak representation of citizens, a lack of visibility from the democratic circuit, the importance of peer-to-peer accountability, as well as the multi-level aspect. With all these different positions, the general lack of empirical evidence for this, is telling as the debate exists mostly in the theoretical conceptions. We shall delve into these theoretical conceptions in detail.

Civil servants who act with minimal supervision under the authority of a democratic government could interfere with the democratic principle of accountability that form part of the foundation of governmental action (Busuioc, 2010). This could be the case for civil servants working in TGNs. We to date know very little of the ways in which civil servants in TGNs as agents give account to their political principal. We need to understand how authority and power are allocated (Pelizzo and Stapenhurst, 2013: 1) in TGNs in order to assess accountability in these networks. Sabel and Zeitlin refer to this in more detail by stating:

> "Accountable behavior in this setting no longer is a matter of compliance with a rule set down by the principal, as if the principal knew what needed to be done, but rather provision of a good explanation for choosing, in the light of fresh knowledge, one way of advancing a common albeit somewhat indeterminate project" (Sabel and Zeitlin, 2010: 12).

With this statement they argue that the relationship between the civil servant and the elected politician has changed. The technical nature of TGNs is such that the principal might be unable to assess the information that is provided by the actors in TGNs. In addition, this might also lead to a lack of awareness on the part of the principal. The fact that the actors also operate at quite a distance from the principal further limited oversight by the principal. This depiction of the relationship between the civil servant vis-à-vis the politician are in abundance in both literature but also public debate. Busuioc describes the difficulty of oversight over the actions of the civil servant in a TGN perfectly:

> "Given the relatively large degree of independence and institutional complexity of these agencies, and on the other hand, the importance of the tasks delegated to them, this raises significant concerns regarding their accountability" (Busuioc, 2010: 3).

Oversight over the conduct pertains to the control of the principal. Busuioc (2010) explains this by stating that accountability precludes direct control on the part of the principal. She furthers her reasoning by saying that:

> "The direct principal is the body or institution delegating certain powers or authority to an agent. The 'principal' is not necessarily synonymous with the 'accountability forum'.

Usually, after the delegation of powers by the principal, agents are subject to oversight of multiple accountability forums, which can include the direct principal, but also third parties or even institutions with partially opposing mandates" (Busuioc, 2010: 35).

By this statement Busuioc raises an important question on the matter of accountability, the existence of plural accountability relations at the same time. In essence, there could be several accountability relationships at the same time. They need not focus on the same elements of behaviour but exist next to each other. This could create confusion for the civil servant working in the TGN, regarding which standards to prioritize for instance. Multiple accountabilities placed upon a civil servant can create confusion because of conflicting demands (Messner, 2009: 919).

Moreover, Bovens (2009) states that if accountability is truly in place that civil servant and their principal are aware of their activities. It implicitly states that the civil servant works under the authority of the principal and adjusts its behaviour to fit the desire of the principal. In order for this to be possible pre-conduct acknowledgement of both position and the discretion should be set out. Otherwise, the superior(s) is (are) unable to check if the conduct is done in accordance with their desire and does not abuse discretion granted to the civil servant.

In the setting of TGNs we understand that the elected politician, is not necessarily monitoring nor directing the actions of the civil servants they need to oversee (Keohane and Nye, 1974; Papadopoulos in Bovens edt, 2014). Nor is the elected politician the only principal involved in the work of TGNs. The evolvement of the mandates or better the objectives that the civil servant needs to obtain via the network is a concern. Being unaware of the conduct that is expected or the expectation one needs to obtain hinders the ability of the civil servant to act in accordance with the wishes of those they need to appease. As actors in TGNs are part of multiple accountability relationships, they need to adhere to multiple expectations of differing constellations of these accountability relationships. This makes it harder to know who to justify actions to, who should be aware of what, how and when.

Within TGNs there are at least three direct relationships noticeable. First, the actor in TGNs often works for an agency which operates at arms' length of national central government ministry. Second, the ministry the agency gives account to is also part of the accountability line of the actor. Third, the TGN itself could also be considered an accountability line.

Another concern is that networks are characterized as being in constant change. They evolve due to the stakeholders involved, but also because of their changing role and tasks. The role of a network and the tasks it fulfils is negotiated by the actors involved. As these actors change so does the role and the tasks. Given that these networks also operate in a multilevel setting the negotiations take place on different levels making the evolution of networks even more difficult to assess. Klijn and Koppenjan (2014) claim that accountability is subject to these new roles

that emerge within a network setting. Holding the civil servants partaking in the networks, to account, is a rather difficult task. Actors working in settings with limited oversight and interest due to the amount of technical knowledge involved, diverging from the objectives of principals is not unimaginable. This is because the parameters that are set, are vague or sometimes non-existent, leaving an actor to fill in the blanks. If there is no policy stating what defines the boundaries or even the outcomes, it might be quite impossible to give account and hold to account. The singular principal-agent relationship is undermined with regards to TGNs. The process of accountability thus starts before a civil servant ventures out into the network, it continues thereafter with both the conduct and the results obtained in the network.

What is becoming clear is that the micro level, between the participant of the TGN and their superiors, is at the very start of accountability problems. We know that a participant of a TGN is caught between accountability problems relating back to national central government structures and the network itself. To address how accountability in TGNs is arranged for, we need to be mindful to cover the entirety of the process of accountability.

In relation to civil servants working in TGNs we distinguish three lines of accountability: 1. between the civil servant and the network; 2. the civil servant and the administrative superior, 3. the relation between the civil servant and political superior (culminating to parliament). In this research we focus on democratic accountability, which is why we emphasise the position of the civil servant. The civil servant is expected to execute or implement the will of the people. Given the crucial role of civil servants in TGNs, it is these actors that need to be researched. Specifically, so as the literature so far has pointed to them regarding possible democratic deficits. These different lines still need to be researched. As mentioned, civil servants working in settings with limited oversight and interest due to the amount of technical knowledge involved, diverging from the objectives of elected officials is not unimaginable. Furthermore, the diversity of levels involved, and the lack of singular direction introduces yet another difficulty to the holding to account.

 Before we can assess accountability in TGNs, we first need to provide an overview of how accountability is defined and which definition we will use in this dissertation. Moreover, we will address the different varieties of accountability. As we know multiple lines of accountability are in place in TGNs we need to understand how they differ. For this we have to understand the term accountability and its varieties.

## 3.3 Varieties of accountability

Demands for increased accountability of government and civil servants have been made over the last decades (Olsen, 2015; Messner, 2009). Yet research on how accountability in new modes of governance, such as TGNs, are addressed is missing still. The need to assess the complexity of accountability in the dimensions of network governance in particular is explained by Klijn and Koppenjan:

"The accountability mechanisms that are present in networks, the standards that are used, the roles that accounters and accountees fill, and the ways actors deal with accountability problems as identified in this contribution, are largely a *terra incognita* and remain an important and actual research challenge. When it comes to governance networks, the research on accountability has only just started." (in Bovens edt., 2014).

What needs assessing is how civil servants are able to explain, justify and take responsibility for their actions regarding their work in TGNs to those whose interests they need to guard. The difficulty in doing so does not solely lie in the realm of the institutional structure of networks. It is also connected to the variety of meanings given to accountability.

Bovens, Schillemans and 't Hart (2008) mention a transatlantic divide in the academic literature on accountability. The American literature predominantly focuses on the normative concept that accountability entails whereas the other side of the Atlantic focuses on a more narrow and descriptive sense. The American literature focuses on the virtue side. It links behaviour of officials to responsiveness and responsibility. It is used in a way to qualify behaviour. It tries to answer questions relating to the more-or-less debate regarding accountability. Literature from Europe and Australia however, direct their attention to the mechanism of accountability. They take a descriptive stance in studying the concept. They focus on the arrangement and the relations that underline the structure of the concept. Accountability to them is not an individual attribute but rather "a means of connecting public agents to a variety of audiences" (Brandsma, 2013: 46).

Regardless of the stance though, accountability is a concept with a multitude of definitions. It has been described by Sinclair as a chameleon (1995: 219). The term accountability remains opaque due to the differences. Moreover, the concept of accountability has been used in a myriad of settings. It has become a contentious and ambiguous concept. Sinclair explains this diversity in definition as follows:

"The research shows that accountability changes: it exists in many forms and is sustained and given extra dimensions of meaning by its context. Accountability will be enhanced by recognising the multiple ways in which accountability is experienced, rather than by attempting to override this chameleon quality" (Sinclair, 1995: 219).

She states that we should embrace rather than eliminate the range of definitions. A recognition of the sheer variety would give more meaning to the concept. The 'golden' concept of accountability (Bovens, 2008) is per definition a dependent variable as it changes shades due to the perception of the structures it is part of.

A systematic study of accountability on a 'new' form of governance can only be obtained by making use of the narrower definition that the European/Australian literature provides us

with. The European/Australian stance offers students of accountability the opportunity to study the concept as a social mechanism. The behavioural aspect and the bigger questions pertaining to the normative virtue stance in the literature is not to be discarded by any means but for this study, it offers more analytical abilities.

Understanding the value of the 'golden' concept but also bearing in mind that the concept is pliable to situations, adopting a narrow definition of the concept will be best suited. A narrow definition offers the potential of distinguishing genuine forms of accountability (Busuioc, 2010: 32). It offers the opportunity to analyse behaviour that is consistent with accountability and leaves the normative and more general debate to the side, for now. By limiting the range of the definition, we can focus on the more visible and distinctiveness of accountability. We can classify accountability more precisely. In this we follow the reasoning of Collier and Mahon (1993) that stable concepts and shared understanding should be valued especially when doing comparative work. Bearing in mind the position of Sinclair (1995), that we should embrace the variety of definitions, deciding on a definition that allows for differences based on the structures it is part of is also necessary. For these reasons, we are opting for a definition that is agreed upon among by many scholars but is broad enough to allow for specific differences due to structures. This provides us with a core and basic form of what accountability is and is not.

Fortunately, there is such an agreement on accountability (f.i. Schillemans, 2008: 176, Mulgan, 2003). This agreement is on the basic and core form of accountability. In the words of Mulgan accountability should be: "(..) understood in its core sense as the obligation to answer for duties performed (..)" (2014: 4). This definition implies a relationship. An obligation refers to being compelled to act. This would entail that someone is required to do something. The answering part suggests that the someone needs to act in response. Something took place which now needs to lead to possible consequences or retaliation. It essentially boils down to a question of power. The explanation by Mulgan (2014) regarding agreeance of the core characteristics of accountability need to be reflected in the definition this study will use and it needs to be mindful of the position of Collier and Mahon (1993) and Sinclair (1995). This study therefore adopts a definition devised by Bovens (2007):

> "Accountability is a relationship between an actor and a forum, in which the actor has an obligation to explain and to justify his or her conduct, the forum can pose questions and pass judgement, and the actor may face consequences." (Bovens, 2007: 450).

This definition has become influential in European scholarly literature (Black, 2008; Lindberg, 2013: 203; Papadopoulos, 2007), moreover it is in line with definitions by others as well (f.i. Olsen, 2013, Mulgan, 1997; Mulgan, 2014; Romzek and Dubnick, 1987). The definition furthermore fulfils the point made by Sinclair (1995) as accountability in the definition by Bovens (2007) reveals a type of mechanism to be applied to a variety of social relationships.

For instance, this definition ranges from a child that has the task to make his bed in the morning, to a civil servant instructed with the task of awarding subsidies. As Mashaw notes:

> "Accountability seems to be a relational concept, but the parties to the relationship remain unspecified" (Mashaw in: Dowdle, 2006: 117).

The actor nor the forum are specified by Bovens (2007) as he concurs that they may constitute an individual but could also be an organisation or entity. Distinguishing who is responsible to whom and for what is a necessity in order to understand the relationship. The direction of the relationship tells us how the actor and forum relate to one another. In other words, to whom is the actor accountable and why. According to Schillemans there are three types of accountability relations;

- Vertical: based on authority/hierarchy.
- Horizontal: non-hierarchical lines, authority based on expertise.
- Diagonal: a third organisation has been delegated the task of oversight by the hierarchal authority of the actor (Schillemans, 2007: 67).

In the first type the obligation is clear, and perhaps this is also the case for the third type as this is a form in the shadow of hierarchy. The second type of relation has no linkage to hierarchy; there are no formal obligations to give accountability on the part of the actor nor forum. This could have an effect on the execution of providing answers, shedding light on conduct and so on. Meaning that peers are assessing each other. And based on the acceptance of their assessment the effectiveness of accountability is established. If an actor according to the forum in the horizontal relationship is at fault, that actor is not obliged by reasons of authority to comply to consequences imposed. However, if the actor *feels* an obligation the accountability relationship can be there. Accountability relationships arise due to a felt obligation and acceptance to be part of a moral community (Bovens, 2007; Dubnick, 2002). In the third type this obligation could be present. This is however related to the authority of the third organisation. If the forum has been given the authority to oversee the actors' behaviour this is the case. Even though the distance is greater than it is considered in the vertical relationship, where the actor and the forum are part of the same hierarchy. If the task of oversight has been taken on by a third party (f.i. media, interest group) this is not the case.

By introducing the element of a relationship between two distinct types: the actor and the forum, accountability becomes a process or in the words of Bovens a mechanism (Bovens, 2010: 948). The process consists of consecutive elements. First, the actor is obliged to explain and justify conduct. Second, the forum can pose questions based on the explanation and/or justification. Third, the actor may face consequences given by the forum. This process or mechanism serves both the actor and the forum in doing their job. Accountability offers the actor the opportunity to take responsibility, to get feedback and to learn. The forum is helped by the mechanism of accountability as it ensures having oversight as well as the ability to coordinate and correct developments.

The mechanism of accountability is divided into three distinct phases. These are the information phase, the debating phase and the sanctions phase (Mulgan, 2003; Bovens, 2005). The information phase refers to the stage of the relationship in which the actor provides information regarding conduct to its forum. The debating phase subsequently offers the forum a platform to discuss the information with the agent. The final phase is the sanction phase which determines which consequences should follow specific behaviour by the actor.

A necessary prerequisite for each of the phases is that the rules of the game are known. By this we mean that the actor is aware it needs to provide information to a forum (Bovens, Schillemans and 't Hart, 2008). Bovens concurs with Mulgan on this as the latter makes the following point:

> "Accountability does not come into play until procedures are required for enforcing the rules and guidelines, for determining how public servants are to be made to answer for their conduct and, if necessary, made to accept sanctions" (Mulgan 2003: 19).

These procedures also ensure that the forum is knowledgeable of the actions it has the ability to render account on (Bovens, 2007). In addition, it is paramount that the forum understands the information provided but also is aware of the type of actions that necessitates the behaviour of the actor. In case of highly technical expertise on the part of the actor the forum might be unable to process and sufficiently understand the account given (Bovens, 2007). What is clear is that the actor and forum are crucial regarding the setting up of procedures on accountability. They determine the mechanism of accountability.

The relationship between the actor and the forum determines the model of accountability employed. Having established the definition on democratic accountability as a general benchmark we now move to discuss the different forms of accountability.

## 3.4 The different forms of accountability in TGNs

In this section we will address how accountability can be further specified. The work of Romzek and Dubnick (1987) in creating a typology for accountability is specifically of interest. Their typology has been used in academic literature ever since (f.i. Koliba et al., 2011; Busuioc and Lodge, 2017; Mills et al., 2018; Mulgan, 2000; Sinclair,1995).

According to Romzek and Dubnick (1987) accountability revolves around the managing of public organisations and their workers of expectations both from within and outside their own organisation (1987: 228). Therefore, the structural dimension is what should guide research on accountability. They further explain the structure of the social mechanism of accountability by dividing it into four types. The division into four distinct types, however, does not mean that only one of the types can exist in one organisation. As Romzek (2000) in a later article articulates:

"In theory, any one individual or agency can be answerable for performance under all four different types of accountability simultaneously. More often, one or two types of accountability relationships are primary, with the others 'in place' but underutilized, if not dormant" (Romzek, 2000: 29).

In this dissertation we follow this assertion by Romzek (2000). Our focus on accountability in transgovernmental networks will be on analytically deriving which type(s) are visible in which type of TGN and which is/are prevalent.

The division between accountability types is based on two factors related to the structure of the accountability relationship: how much control a forum has over the agency it oversees in terms of duties performed, and where the control stems from. These two factors should be seen as a scale that direct the typology. Whether the control stems from within the same vertical structure of command or not will hold implications for the type of accountability. The table 3.1 pictured below shows the division of the accountability relationships based on these two factors.

**Table 3.1 Romzek and Dubnick (1987) typology of accountability**

| Degree of control over agency actions | | Source of control Internal | External |
|---|---|---|---|
| | Low | Professional accountability | Political accountability |
| | High | Bureaucratic accountability | Legal accountability |

The two factors Romzek and Dubnick (1987) used to distinguish between the two forms (control over actions and source of control) have different functions within the relationship between the actor and the forum.

The dimension of source of control hints at were the authority to judge stems from. In internal sources this authority might be due to hierarchical relationships between actor and forum or it might just be informal peer-to-peer types of authority. The external source derives its authority either from legal arrangements or hierarchical relations outside of the preliminary organisation, in this study the preliminary organisation would be the organisation by which the actor in the transgovernmental network is employed.

The second dimension entails the level of scrutiny a forum (the control over actions) might have over the actor, with a high degree reflecting the forum's ability to determine the range and depth of actions by the network and its members, and a low degree reflecting the limited degree to which it can do so (Romzek and Dubnick, 1987: 228). This dimension is equal to how we perceive autonomy of the actor. In case of a high level of control over the actions,

frequent contact and close monitoring by the forum is necessary. Compliance with the forum is highly valued in this relationship, whereas this is less obvious for the low degree of control over actions. In that case discretion of the civil servant is higher.

There are four distinct types of accountability: bureaucratic, legal, professional and political accountability. The first type identified by Romzek and Dubnick (1987) is bureaucratic accountability[2], in this type the degree of autonomy of the actor from the forum is high, and the source of control is internal meaning that the vertical line between actor and forum is within the same organisation. The relationship is based on close supervision as the subordinate-supervisor role is stressed, and the subordinate faces internal controls within the organisation (Romzek, 2000). Furthermore, the emphasis by the forum on obedience by the actor is high. Codification of rules and directives are particularly visible in this type of accountability. The most classic example of an accountability system with this type of relationship is the military (Romzek and Ingraham, 2000). This type of accountability clearly falls within the vertical dimension (Klijn and Koppenjan, 2014).

The second type of accountability relationship is legal accountability has an external source of control, meaning that the forum is outside of the organisation. In the case of TGNs it needs to be an organisation for which the actor participating in a TGN does not work. Different than with the previous types of accountability the actor and forum in this relationship can act rather autonomously of one other, provided that the actor in this situation complies with legislative strictures. The process of the actors' conduct is under scrutiny, not the actor itself. In other words, the actions of the actor are tested based on whether procedure as stipulated has been followed.

> "The underlying relationship of legal accountability is that of principal-agent; the accountability standard focuses on whether the agent has complied with the principal's (externally derived) expectations" (Romzek, 2000: 25).

Legal accountability is however not limited to courts of law as administrative law review committees may also be established. Auditing reviews can also be seen as part of legal accountability. The accountability given is on process and set standards by an external source that offers the actor a low level of discretion. The direction of the accountability line in this sense is diagonal, which means that the forum is not part of the same organisation as the actor it operates distinct from it. Compliance with externally set standards is emphasized.

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2   In later work both Romzek labels this type as hierarchical accountability see Romzek (2000). In this study the term bureaucratic accountability will be used as hierarchical accountability would suppose that the distinguishing feature is hierarchy between actor and forum. This feature can however also be seen in political accountability in the context of TGNs.

Regarding type three, professional accountability, the actor and the forum are peers. Based on professional norms and standards an actor may be scrutinized. The source of the control is internal, in other words that control stems from within the same organisation, and the level of discretion of the individual actor is high. The standards and norms are not as clearly demarcated or listed as those of the previous types. This has to do with the technical nature of the job performed. The relationship between the actor and forum is horizontal as actors are giving account to peers based on set standards of professional conduct. These standards are based on expertise, best practices in the field, organisational conventions, personal conviction and consistency therein (Romzek, 2000: 26).

The final type of accountability is political accountability. Similar to professional accountability the actor has been awarded a high level of discretion to perform tasks. The source of control is, however, external because the actor must give account to representative bodies. The standards here are less demarcated than is the case with legal and bureaucratic accountability. The focus on the expertise of the actor is high, due to the technical nature of the job of the civil servant in the TGN. The primacy of democracy is exemplified in this relationship, as responsiveness to the voters is key (Klijn and Koppenjan in: Bovens edt. 2014).

The focus on the source of control and the level of control over actions determines the type of accountability according to Romzek and Dubnick (1987). The types that they distinguished based on this have been studied further by scholars particularizing the characteristics of each. This eventually culminated into the Comprehensive Accountability Framework (CAF) as put forth by Christie (2018). She has linked the most prominent components of accountability of each type together. As said, she makes use of the work of others in doing so. She divides the characteristics along the lines of the stages as identified by Bovens (2007), the information phase, debating phase and the sanctioning phase. Moreover, each component of the definition by Bovens (2007) is addressed. For instance, she specifies for each accountability type who the actor and forum are. The CAF is based on questions: 1. relating to how accountability is given, 2. on what type of activity account is given, 3. which values are emphasized most by the accountability relationship, 4. what the debating phase focuses on most, 5. what type of sanctions are dominant for each type. The answers to the questions have been determined by other scholars.

Regarding the answering of how account is given, i.e. the techniques for review deployed in the accountability relationship, Christie (2018) turned to the work of Dicke and Ott (1999). They have identified which techniques for review exist and which are predominant in which type of accountability (Dicke and Ott, 1999). These techniques are auditing, monitoring, licensure, markets, contracts, registries, courts, whistleblowing, codes of ethics, outcomes-based assessment. Each technique is, according to Dicke and Ott, more suited than others for achieving some of the types of accountability (1999: 510). This means that a technique can be expected in more than one type of accountability, but the type of accountability determines

its suitability. In the study they make predictions regarding which technique fits which accountability best. They base their predictions on the work of Romzek and Dubnick (1987) as well. We will go through each of the techniques first before we provide the overview.

The first technique is auditing. This technique is a systematic test to evaluate performance on established standards. Dicke and Ott (1999) expect this technique to be deployed in bureaucratic and legal accountability relationships. The second technique is monitoring. This is a method that focuses on continuous or ongoing oversight over the actions by the actor in the mandate provided for by the forum. This technique is to be expected in the bureaucratic and legal accountability relationships. The third technique is that of licensure. Licensure is given the actor a legal permission to perform professional duties (Dicke and Ott, 1999: 506). A clear example of a license based is actor is for instance a lawyer being allowed to practice law by his license. The sanctioning of the breach of norms set forth in the license is often conducted by committee of professional peers but this could also be done by a government agency providing that they gave out the license. This technique is suited for bureaucratic, legal, and professional accountability. The fourth technique is markets. In this case competition is the main driver ensuring actors' use of resources is as efficient and effective as possible. It does operate under the premise that there is a choice between actors performing the task delegated to them. In the case of TGNs with civil servants we expect this to be an unlikely technique but nevertheless it is considered most suitable for political accountability (Dicke and Ott, 1999). The fifth technique is contracts. These are formal agreements made between an actor and forum that stipulate "to do or not to do a certain thing" (Dicke and Ott, 1999: 506). It is expected to occur in legal accountability. The sixth type of technique is registries. Registries are lists with records regarding conduct. They are designed to prevent misconduct by following the professional conduct of an actor. This technique is most likely to occur in bureaucratic, political and legal accountability. The seventh technique for review is that of courts. These are institutions specifically set up to be able to judge and sanction an actors' conduct. This technique is most suited to the legal accountability type (Dicke and Ott, 1999). The eighth technique is that of whistleblowing. This is the act of exposing information on misconduct, illegality, abuse, or fraud. This act is expected to be best suited for political or professional accountability. The ninth technique is codes of ethics. These are (written down) agreements on norms for professional conduct. It determines the expectations and standards that need to be upheld in a certain field. Codes of ethics are mostly non-binding but operate as a sort of nonformal agreement. This technique is best suited for professional accountability. The last technique is that outcomes-based assessments. This technique focuses on the end-result of a program. Evaluation with this technique places emphasis on performance.

The second question the CAF answers is that of what type of activity account is given on. The answer to this question is closely related to question 3, which values are emphasized most in the accountability relationship? Christie (2018) makes use of the work by Romzek and Dubnick (1987) and Romzek and Ingraham (2000) to answer this. Christie details the

differences between the accountability types based on values and the question regarding giving account on what, as follows:

> "Specifically, the bureaucratic/hierarchical type puts value on efficiency, and the associated behavioral expectation is obedience to organizational directives. The legal type emphasizes the rule of law and uses compliance with external mandates as the expected behavior within such relationships. The professional accountability type emphasizes expertise and expects deference to individual judgment and expertise. Political accountability values responsiveness, and the behavioral expectation is responsiveness to key external stakeholders." (Christie, 2018: 85).

The fourth and fifth question of the CAF, regarding the debating phase and the sanctioning phase of accountability are answered by means of the work by Bar Cendon (2000) and Romzek and Ingraham (2000). Bar Cendon provides an overview of the different types of accountability and discusses the various components the accountability relationships consist of. A table in which the differences between the types of accountability are highlighted show that bureaucratic accountability is on debating regarding forms and procedures followed by administrative action (Bar Cendon, 2000: 33). The sanctioning that occurs in this type of accountability is the resignation or dismissal of the actor not adhering to the forms or procedures. In the legal accountability type the debate focuses on the compliance with legal requirements such as rules and procedures. The sanctioning phase in this type revolves around three things, 1. revision of the administrative act, 2. the sanction or recognition of the official involved and, 3. compensation for the citizen (Romzek and Ingraham, 2000). The debating phase in professional accountability focuses on results of professional performance and/or if professional rules are followed (Bar Cendon, 2000: 33). The sanctioning phase in this type of accountability emphasises the role of the professional involved as the professional is either recognized for their performance or sanctioned for it. The last type of accountability, that of political accountability, debate is centred around the result of administrative performance (Bar Cendon, 2000). The sanctioning in this type is the actors' action facing political criticism or recognition. The actor itself or a (political) supervisor might also be sanctioned, this could result in dismissal or resignation. The answers to the questions posed, combined with the work of Romzek and Dubnick (1987) and the general definition of Bovens (2007) who specified the stages of accountability offers us the ability to measure which type of accountability is present. In chapter IV we outline how in this research we make use of the CAF. The components of which we have addressed already yet based on our own research we have formed a comprehensive overview combining these.

Knowing how the different types of accountability manifest itself is however only part of the puzzle, which type of accountability will likely occur is the second part. In the following section we will address the expectations which can be made for each of the TGN types.

## 3.5 Model and expectations

Each accountability type is related to a specific setting. Romzek and Dubnick (1987) go into what determines which type will be preferred in a particular situation, as they state that:

> "The appropriateness of a specific accountability system to an agency is linked to three factors: the nature of the agency's tasks (technical level accountability); the management strategy adopted by those heading the agency (management level accountability); and the institutional context of agency operations (institutional level accountability)" (Romzek and Dubnick, 1987: 230).

Romzek and Dubnick (1987) also state that attaining alignment with accountability and all three layers is impossible as a primary accountability relationship will prevail. The likelihood that one type of accountability will prevail over the others in a particular context needs to be discussed. The reason for external or internal control over actions is linked to the function a network holds. For instance, a network with a limited scope and impact on decision making will be less likely scrutinized from an outside source as would a network with a far-reaching scope and impact on decision making. The potential of boundary shift that a function has offers the best indication for the interest of an external source to be triggered. This is also established by Lavenex (2008) and Slaughter (2004) in their description of function and impact as they attest that the type of function is linked to the potential policy shift. An information network function has a lesser potential for policy shift than a harmonisation network. In addition, although Romzek and Dubnick (1987) rightly point to the source of the forum as a way to distinguish the type of accountability that can be derived from it, it excludes the internal structure of the network altogether. The internal structure of the network is the governance style the network itself adopts. The sole focus on the agency to which account should be given does not do justice to the context in which TGNs operate. Both the internal structure of the TGN and that of the agency account should be given to need to be taken on board. As the structural dimension is perceived as vital, we feel that the internal structure should therefore also be considered. In this we follow both Deleon (1998) and Romzek and Dubnick (1987) who argue that accountability is construed based on institutional context.

In their typology Romzek and Dubnick (1987) focused on factors pertaining to a forum. They relate accountability to the work of an agency. In the case of a transgovernmental network that agency would be the governmental sub-unit the civil servant is employed by. However, this would not do justice to the position TGNs are playing in the accountability relationship. Also, if we would focus solely on the position of an agency, we will not be able to study the specific nature of TGNs that could drive an accountability deficit. This is why the network itself should also be included as part of the levels as discussed by Romzek and Dubnick (1987). Which is why the inclusion of the work by Provan and Kenis (2008) is of key importance as they offer insight into the structure of the governance style of the network. The organisational

set-up of a network will determine the composition of an accountability relationship as well. In this we follow and expand the reasoning of Romzek and Dubnick (1987) for including institutionalization as a factor. Like Hupe and Hill (2007) we argue that:

> "Institutionalization may influence both the extent to which and the level on which the inherent presence of substantive degrees of autonomy produces self-binding mechanisms" (1987: 282).

This would also include an effect on accountability as we see this as a mechanism. To include the organisational set up of TGNs in an assessment regarding accountability we have chosen the work by Provan and Kenis (2008). Their work distinguishes between three governance styles in (transgovernmental) networks: participant governed, lead organisation governed and network administrative governed. These different styles will have their effect on the relation with the source of control, as defined by Romzek and Dubnick (1987), as well. The division in governance style can be seen as a ranking of formalization of the organisation. By this we mean that participant governed networks rely heavily on the input of all members, the focus on cooperation, equality and peerage is evident here. Formal procedures with strict rules, and enforcement is less likely as there is no actor able to authoritatively impose this on the others. In the case of a lead organisation governed network, we can already see a different dynamic. Procedures and enforcement are more likely than in a participant governed network, due to the fact that the lead organisation is in essence still a peer of the other organisation, actual enforcement is difficult and solely based on peer-to-peer and professional responsibility. The network administrative governed has the highest level of formalisation as the governance style introduces an independent body to actually oversee their actions. The level of enforcement of organisations' rules is expected to be the highest here. If we include the dimensions of Romzek and Dubnick (1987) we would expect that high levels of control are most likely in the most formalised way of governing. Whereas low levels of control will occur in less formalized networks such as a lead organisation or a participant governed network. However, we need not forget that the function of the network needs to be considered as well. As we distinguish between three functions this will help indicate the expected level of accountability as well.

The more formalised the governance structure, the degree of control over the actions will increase. If we look at the typology, we have devised in chapter II which combines type of TGNs with governance styles in networks and combine it with the work of Romzek and Dubnick (1987) we will be able to formulate some concrete expectations regarding accountability in transgovernmental networks. Before we do so we will however first address how the different components fit into the typology we devised.

Following the discussion of types of TGNs, we understand two things: 1. there are three types of functions a TGN could hold, 2. there are three types of governance styles a TGN could have. The type of function a TGN could hold is related to a level of impact that accompanies it. For instance, an information network has a lesser impact regarding policy integration

than an enforcement network. An enforcement network in turn has a lesser impact on policy integration than a harmonisation network. This is based on the work of Slaughter (2004) combined with that of Lavenex (2008). The second, the different types of governance styles are linked to a level of formalization. Where the participant governed governance style is considered the least formalized, formalization in terms of governance processes is increased in the lead organisation governed network and is most formalized in the network administrative governed network. This is based on the work by Provan and Kenis (2008).

Although this tells us something about the varieties in TGNs it does not help to identify how accountability fits in to it. In the next section the rationale behind the typology regarding accountability relationships in TGNs we propose is outlined. This typology is based on the academic work by Lavenex (2008), Slaughter (2004), Provan and Kenis (2008), and Romzek and Dubnick (1987), the typology consists out of six assumptions which are listed below:

1. TGNs can be differentiated based on the function they hold. These functions are information, enforcement and harmonisation (Slaughter, 2004).
2. The function of a TGN determines the potential policy shift, with the information function having a lesser ability for a policy shift than the enforcement and harmonisation function (Lavenex, 2008).
3. TGNs are networks that make use of governance styles. In the literature on networks three distinct governance styles are distinguished: participant governed, lead organisation governed and network administrative governed (Provan and Kenis, 2008).
4. TGNs can be distinguished based on the governance style, which have a variance in terms of formalization. The participant governed being the least formalized form of governance and the network administrative governed the highest formalized form, with the lead organisation taking the middle position. Combined with the build-up in potential policy shift this leads to nine possible varieties of TGNs.
5. There are four distinct types of accountability. These are: professional, bureaucratic, legal and political accountability. Determining the type of accountability are the degree of autonomy the actor has from the forum and the degree of control a forum has over the actions of an actor (Romzek and Dubnick, 1987).
6. The degree of autonomy is linked to the potential of policy shift, which is linked to the function of the network. The degree of control is however determined by the governance style and the formalization of it.

By looking at the work of Romzek and Dubnick (1987) we found that accountability can be split up into four distinct types: a. professional, b. bureaucratic, c. political or d. legal accountability. Which type of accountability will prevail is determined by two factors: 1. source of control 2. degree of control over actions. We know that source of control is linked to the function of a network. The potential impact of the network determines the source of control with the network. In other words, if the network has a lesser impact, the source

of control will likely be internal. The line of accountability can be dealt with, within the confounds of the own organisation there is a lesser impact regarding policy shift meaning less interest and concern from outside the organisation. When impact is expanded, the likelihood that the source of control would be external would increase. This is due to the potential policy shift that could occur.

This is very much related to the second factor: degree of control over actions. This factor is essentially the ability by which the forum can secure oversight over a network. To establish oversight and have the ability to oversee the actions of a network the level of formality regarding procedures and governance is essential. When a TGN is organised in the least formalized way, participant governed, it operates based on the ties in the network. Oversight in this case is hindered as the likelihood of strict procedures, rules and regulations is less. When formalization is more prevalent in a governance style, for instance in the lead organisation and the network administrative governed TGNs, the implementations of procedures and rules as well as the implementation of these are better safeguarded due to the existence of organisational components in a capacity to oversee these. This is the reason why in the case of TGNs we need to combine the degree of control over actions with the type of governance style. The ability to hold oversight is increased if the institutional structure of a network becomes more formalized. Procedures and statutes as well as clear organisational components would work advantageously in the ability to control actions. When we combine all these aspects, we can fill in the table. We can make clear in which type we would expect the different types of accountability that Romzek and Dubnick (1987) have provided us with.

We do have one reservation regarding this. As understood from the work of Romzek and Dubnick (1987) multiple accountabilities can be present in one accountability relationship. However, they have stated that one accountability relationship would be more predominant than the others. Because of this we shall focus on four ideal types in which we could, more so than in the other varieties, assess one type prevailing over the other types. These ideal types would occur in the outer corners of our typology. This is because we understand the degree of control over actions, and the governance styles to be a continuum, but also a scale. In addition, the lines between the varieties of TGNs and the types of accountability cannot be drawn as strictly. An information network for instance may hold some characteristics of a harmonisation network or an enforcement network, however determining in which box to place a TGN is about the best fit. We should therefore view the typology presented below as a continuum with four distinct corners. The typology should be viewed as presenting a scale on both the horizontal and the vertical axes. Nevertheless, given the fact that varieties of TGNs nor the type of accountability cannot be distinguished strictly, hybrid forms may occur.

**Table 3.2: Typology type of network (Slaughter, 2004) combined with governance styles (Provan and Kenis, 2008) and accountability type (Romzek and Dubnick, 1987)**

| | | Source of control | | |
|---|---|---|---|---|
| | | Internal | | External |
| | Characteristic | Information network | Enforcement Network | Harmonisation network |
| | Participant Governed | Professional accountability | | Political accountability |
| | Lead Organisation Governed | | | |
| | Network Administrative Governance | Bureaucratic accountability | | Legal accountability |

*(Left axis, rotated: Degree of authoritative element / control actions — Low at top, High at bottom)*

In accountability relationships, the type of accountability is dependent on source of control: control over actions; the type of governance style; and the function of the network. In the most extreme cases of our typology, we would expect the clearest prevalence of one of the accountability types. Which is why we shall focus on the outer corners of our table. The types of TGNs in between would logically have a prevalence expectancy of accountability types in between the corners closest to them. In accordance with the typology that would lead us to the following expectations:

Expectation 1: When a TGN is an information network and participant governed, the TGN incorporates professional accountability in its and day-to-day functioning.

Professional accountability has a horizontal actor-forum relationship as the two are peers (Romzek and Dubnick, 1987). The source of control is internal and the level of discretion by the actor is high. There is a referral to professional norms and standards, which are based on expertise (Romzek and Dubnick, 1987). The governance structure of the network itself is the least formalized. This type of governance style hinges on the input from and the cooperation of the participants to function properly (Provan and Kenis, 2008). There is no entity within the structural make-up of the network that coordinates or supports. This would result in a low degree of control.

Expectation 2: When an information network is network administrative governed, the TGN incorporates bureaucratic accountability in its day-to-day functioning.

Bureaucratic accountability is a type of accountability that is based on close supervision with a subordinate-supervisor role stressed (Romzek & Dubnick, 1987). The emphasis on obedience is high (Romzek & Dubnick, 1987). This type of accountability has a strong vertical dimension with codification of rules and directives being particularly visible here. We expect to find this type prevalent over the others because the impact of an information network is not considered great (Lavenex, 2007). A lesser impact would not necessitate a stringent

accountability relationship with oversight from third parties but rather keeping accountability within the organisation attending. However, due to the network administrative part, the network has a formalised component to it which would make supervisors involvement more likely than if the network was participant governed.

Expectation 3: When a harmonisation network is participant governed, the TGN incorporates political accountability in its day-to-day functioning.

Political accountability should be expected for a TGN with a great potential for boundary shift (Lavenex, 2007). A harmonisation network would fit with this expectation. The less demarcated standards hint at lesser oversight over actions which is most likely to coincide with a less formalised governance style; i.e. participant governed (Provan and Kenis, 2008). Political accountability is defined as a vertical relationship between an actor answering to a forum in which the source of control is external and the degree of control over actions is low (Romzek and Dubnick, 1987). This type of accountability has a strong emphasis on responsiveness. This is assessed based on results of administrative performance.

Expectation 4: When a harmonisation network is network administrative governed, the TGN incorporates legal accountability in its day-to-day functioning.

Legal accountability is likely to occur in a TGN type which has a high degree of autonomy for participants combined with a high control over procedure. This is most likely in a TGN with a harmonisation function, with more formalised governance style. Legal accountability is a type of accountability which is based on a diagonal relationship (Romzek and Dubnick, 1987). The source of control is external and the level of discretion for the actor is high (Romzek and Dubnick, 1987). The emphasis of account giving is placed on procedure, as the forum is a court or auditors from outside of the organisation. Accountability is given based on compliance with set rules and procedures.

## 3.6 Conclusion

In this chapter the different problems for accountability related to the emergence of TGNs were addressed. Secondly, the different varieties of the concept of accountability were addressed. Thirdly, the link between different forms of accountability in TGNs was made. Fourthly, the accumulated knowledge of the previous paragraph resulted in the presentation of the filled-in typology. In addition, the expectations were introduced.

Problems related to accountability revolve around the changing relationship between civil servants and their political superiors. Were once the connection between the two was clear and uninterrupted, this has been challenged by the rise of TGNs. The participants of TGNs are civil servants. These civil servants often work for an agency at a distance from national central government. Their work for a TGN might be overlooked. This could be due to the

distance between actor and forum but could also be related to the technical nature of TGNs. This technical nature might render a principal unable to assess the information provided by an actor. Moreover, because of lacking oversight the mandate could be unclear or be left to the actor to create. This would have due effect on accountability.

In order to establish whether or not accountability is threatened, understanding the varieties of accountability is crucial. In this dissertation the often-used definition by Bovens (2007) is used. It details the obligations of an actor and a forum with regards to the sharing and judging of information on actions. Moreover, four sub-types of accountability have been identified that could be deployed in TGNs. These types are: bureaucratic, professional, legal and political accountability (Romzek and Dubnick, 1987). These types can be distinguished based on two dimensions: 1. the source of control, which can be internal or external and 2. the degree of control over actions, which can be high or low. By adding these dimensions to the typology of TGNs of chapter II, we were able to create expectations. In the following chapter we will discuss how we will assess if the expectations hold. We will do so by setting out our methodological choices. Moreover, we will provide the analytical frame that we may use to assess our expectations in empirics.

3

# CHAPTER IV

Methodology and Analytical frame

## 4.1 Introduction

In the previous chapter we have formulated expectations regarding accountability types across varieties of transgovernmental networks. In this chapter we will make clear how we will assess if these expectations hold. We will provide an outline of the research design. We will discuss the methodological choices. These are based on the research question set out in the first chapter of this dissertation:

*What is the effect of transgovernmental networks on the principles and practices of democratic accountability within national central governments?*

In previous chapters we have discussed how this question pertains to combining a concept on a new setting; accountability in transgovernmental networks. This gives way for a research approach that is qualitative in nature. In this chapter how this question shall be answered will be discussed. Which methodological choices have been made and what techniques have been used. The rationale behind these choices is discussed. First, we shall go into the overall aim of the study: theory building and testing. Second, the overall design, which is a multiple case study, will follow this discussion. Given the theoretical framework we have distinguished different varieties of transgovernmental networks. These were coupled with accountability types. Third, the reasoning for sampling varieties will be addressed after this. This will be followed with a discussion on the different techniques: participant observation, interviews and document analysis that will be deployed in this research. We will address how these methods and techniques will help gather the data needed to assess the expectations. As the expectations are derived from theory, we need to create an analytical frame that helps us determine how and when the expectations hold. The operationalisation of the concept of accountability and how it will be addressed in this dissertation will be presented after the techniques. We conclude this chapter with a summary of the methodological choices before moving on to the empirical chapters.

## 4.2 Explanatory theory building and theory testing

The aim of this research is to add nuance to discussions regarding accountability in TGNs. Currently, these discussions centre on conceptions of traditional democratic accountability. In other words, the presumption that as civil servants participate in TGNs they need to adhere to democratic accountability as in relaying information to those politically responsible. The perveiced democratic deficits that TGNs might have been fueling the discussions among scholars. These deficits have been summed up by Papadopoulos (2007): the weak representation of citizens, a lack of visibility from the democratic circuit, the importance of peer-to-peer accountability, as well as the multi-level aspect of TGNs. In this research the idea is to see how accountability is actually construed in practice. By making use of academic work on both accountability, TGNs and networks in general expectations were devised. The focus on traditional democratic accountability we argue is too limited. By broadening our research to include other types of accountability, nuance can be added to the debate.

Neglecting the types of accountability in discussing accountability in TGNs also means that this research moves in the direction of unchartered waters. By combining theories that have been devised in different context and applying this to a new context, the explanatory nature of this research is easily detected. In this we follow King, Keohane and Verba (1994) who argue that in the development of theory awareness of prior work on the subject is essential.

To reach the goal of this study a novel approach, combining literature and applying it to a new context, is utilised. By offering a first assessment of innovative expectations derived from existing theoretical perspectives both theory building and theory testing is employed. The explanatory nature embedded in this study is seen in four parts. First, the combination of three strands of literature: network governance, TGNs, accountability, and the creation of a theory based on these. Second, the micro level foundations to the subject matter of TGNs taking centre stage as an explanatory factor and operationalizing these foundations. Third, the open-ended and reflexive method exemplified by the techniques, observations interviews and document analysis. Each of these parts is conducted to fulfil the need for inference (King, Keohane and Verba: 1994). The first part is made explicit in chapter II and III. The other two parts shall be discussed in this chapter.

The micro level approach of this research is undertaken because accountability is a relational concept (see Bovens, 2007). In this we follow the work by Joshi (2014) and Hupe and Hill (2007) who both attest that context not only matters but that it can determine outcomes. The interpretation of accountability lies within the relationship between actor and forum. Therefore, in this research a focus will be placed on the participants of TGNs and their relation to the mechanism of accountability. The focus on micro foundations, in essence on participants in TGNs, is neglected in research with the notable exception of Papadopoulos (2018). Like Papadopoulos, unravelling the black box of TGNs should include data from precisely these foundations first. Unlike Papadopoulos' study, venturing out to include more than one case has the opportunity to create a more structured and generalizable result. The micro foundations will help determine how actors in TGNs establish routines regarding accountability. Moreover, we agree with the notion held by Tetlock (1985) that: "(..) the specific norms, values and ideologies to which people are held accountable differ dramatically from one situation to the next" (1985: p. 307). The situation would thus determine the outcome. To put it plainly the context of the TGN determines the type of accountability deployed. This reasoning demonstrates the effects-of-causes approach this research takes. This effect-of-causes approach is centered around a research goal to "estimate average effects" (Mahoney and Goertz, 2006: 231). This approach differs from a causes-of-effects approach that has a research goal to explain the outcome. The causes-of-effects approach is backtracking to understand outcomes. The effects-to-causes approach is trying to explain which outcome we could expect based on the identified causes. This approach is in line with the work of King, Keohane and Verba (1994) as they state that:

"(..)the best scientific way to organize fact is as observable implications of some theory or hypothesis. Scientific simplification involves the productive choice of a theory (or hypothesis) to evaluate; the theory then guides us to the selection of those facts that are implications of theory" (King, Keohane and Verba, 1994: 46).

By devising our own theory and complementing this with expectations the ability of inference is created. The expectations based on theories offer the opportunity "using the facts we know to study the facts we do not know" (King, Keohane and Verba, 1994: 46). Having constructed a typology based on facts on TGNs, and network governance, we understand there to be different varieties of TGNs. Based on the assumption that context determines outcomes we need to assess these differences in order to assess our expectations. This variety will help in questioning our foreknowledge in essence the assumptions that are in the theories we use.

 In the work by King, Keohane and Verba (1994) there is an understanding that statistical inference is the gold standard of scientific inference and that this is also possible in qualitative research. This research will diverge from that assessment as we first investigate the external validity of the causal claims of the theoretical framework. In this we follow the reasoning provided by McKeown:

"What matters here is that a causal mechanism has been identified, and the researcher has some framework within which to begin to investigate the external validity of the causal claims. Such a framework permits initial judgments about which cases are theoretically "near" the case in question and whether similarities and dissimilarities in causal patterns in different cases are in line with or diverge from initial understandings of how similar the cases are" (McKeown, 1999: 184).

This type of analysis will allow for causal inferences in qualitative research (Plümper et al. 2019). This will allow for both theory testing and building. The position of King, Keohane and Verba (1994) is focused on improving theories rather than constructing new ones. However, this research aims to connect theories to build a new one. We make use of the notion forwarded by Diesing (1992) that it is the purpose of research to create hypothesis based on foreknowledge, which in turn direct us to certain passages, that subsequently will lead to other passages which will eventually lead to the researcher interpreting these passages to fit in a connected and coherent story (1992:108). In order to do so and see whether the assumptions of the theoretical expectations hold we need to study different varieties of TGNs.

## 4.3 Multiple case study

As both context and understanding of the different types of transgovernmental networks are key to the conceptual framework (see table in Chapter III), a qualitative approach of case studies is chosen. Moreover, a multiple case study is selected as four varieties of

transgovernmental networks are assessed. The effect of governance style and function of the network on the type of accountability relationship within a TGN, transcends a single case. For this reason, comparison between the different cases is necessary. This will enable determining whether the expectations are corroborated in empirics. A comparative case study is best suited because of its ability to study a specific phenomenon in its natural context and the ability to see overarching patterns (Eisenhardt and Graebner, 2007).

Chapters V, VI, VII and VIII will each feature one of the varieties identified in the typology. Each having the characteristics necessary to assess the expectations. The expectations focus on the extreme cases that would yield towards a predominance of one accountability type over the others. By applying established theory in a novel combination to a new context, the understanding of accountability in TGNs shall be expanded. For this, awareness of the context that is specific to transgovernmental networks is key. A case study is particularly suited for this aim (see Yin, 2015: 194). Studying accountability in TGNs by actually seeking out what is done and why, is instructive to this research. An in-depth investigation into real-life settings of TGNs is therefore necessary.

With the phenomenon of transgovernmental networks being specific and the limited amount of empirical knowledge of the functioning of these TGNs we are directed towards studying it in its natural context. In addition, we make use of the concept of accountability in a new setting. Because of this we want to explain a process of change for which a detailed description, in order to seek out causes of the process, is necessary. Specifically with regards to the interpretation of the civil servants within TGNs concerning the relational concept of TGNs this is important. They are key to understanding accountability within the context of TGNs. This combined fills the traits commonly associated with case study research (see Swanborn, 1996 and 2010). A case study is research on a particular social phenomenon, conducted in a natural context, conducted in the boundaries of a (few) social systems, the usage of several data collecting techniques within a specific time period, explaining processes of change of a particular phenomenon by construing a detailed description of stability and change of the causes of the processes, testing results with the people involved in the processes (Swanborn, 1996: 22).

The specific nature of transgovernmental networks has been addressed in chapter II. This nature has been theorized to yield certain expectations. By having the ability to focus on the peculiarities of the networks because of the choice to conduct detailed case studies of TGNs, the context of the entire relationship of accountability will become clear. Moreover, as accountability is a relational concept, interest should lie with the interaction within the case. By this we will be able to address the call by Yang (2012) who states that: "What is useful for future research is to focus on the interactivity between accountability structure and human agency—instead of treating accountability as exogenous to actors, future research should take it as endogenous" (Yang, 2012: 256). By means of case studies we will be able to do just that.

4

Given that the expectations are founded upon a theorized conception of manoeuvring by a network participant between the function and the governance style of the network, this can be studied best in an in-depth bottom-up way.

In addition to the explorative goal, we would like to use a multiple case study design to explain a process of change in accountability because of transgovernmental networks. According to Yin (2015) in case studies with an explanatory aim, validity issues especially arise. The validity of research could be threatened because it implies looking for causal relations whilst maintaining a connection with the complexities of the case. To overcome this, a multiple case study is adopted. Multiple case studies would allow to contrast results best as they can seek out contrasting results whilst offering the ability to compare on the basis of similarities. Especially as case studies offer the opportunity to isolate one particular issue (Noor, 2008). In the words of Noor (2008):

> "Case study is not intended as the study of the entire organization. Rather is intended to focus on a particular issue, feature or unit of analysis" (Noor, 2008: p. 1602).

In this research an emphasis on a rigorous qualitative approach in order to shed light on mechanisms of accountability is used in the analysis.

Although often assumed that case studies are not fit to address a wider range than the studied case, we follow Flyvberg (2006) as he argues that opting for multiple cases, and through a focus on falsification we could very well generalize based on case studies. However, to do so, we need to "maintain a maximal openness towards unknown aspects, and to 'let the object speak'" (Swanborn, 2010; 17). The importance of the latter is not lost in this study. As stated, this research has the aim of theory building and testing. Theory building is about being made adamantly aware that there is the theorizing about practice and there is practice (Longhofer, Floersch and Hartmann, 2017). The choices for data collection (explained in detail below) are reflective of this assessment.

In this research we have chosen a qualitative approach. This is because accountability cannot be measured in a quantitative way given the research aim. Accountability is context dependent, and a relational concept. Because of this interaction between the participant of the TGN and the forum devising this relationship and filtering out the perspectives of the forum provide the insight to understand accountability in the context of transgovernmental networks. Moreover, the three-step process of accountability: information, debating and sanctioning (Bovens, 2007; Mulgan, 2003), informs researchers that the overall relationship needs to be assessed not as distinct features but in cohesion to one another. Furthermore, even though Brandsma (in: Bovens edt 2014) and Brandsma and Schillemans (2012) discuss the possibility of quantitative research in accountability studies, it will not serve the aim of this study. We agree with Brandsma (in Bovens, 2014) in his assessment that quantitative

studies might be deployed if the aim is to detect the intensity of accountability relationships, or deficits or overloads. But the inner working of the accountability mechanism in a specific context needs to be addressed in a qualitative manner. Moreover, this study aims to find out how accountability is apparent within the context of TGNs. Because of this we take a fact-finding approach regarding accountability practices in TGNs in a qualitative manner. This is reflected in the research choices and will be addressed below.

## 4.4 Case Selection

In this dissertation we propose that different types of TGNs will manifest in different types of accountability. We expect the distinction to be based on the function of the network (Slaughter, 2004; Lavenex, 2008), the governing style of the network (Provan and Kenis, 2008) as well as the direction and degree of control (Romzek and Dubnick, 1987). A typology distinguished nine varieties of TGNs. Four of the nine varieties are the best combinations of function of a network and governing style to expect a distinct accountability type to be dominant. These four varieties therefore form the core of the empirical assessment.

As such, the cases are selected based on function and governance style of the TGN. Moreover, we make use of maximum variation sampling.

> "A maximum variation sample is constructed by identifying key dimensions of variations and then finding cases that vary from each other as much as possible" (Suri, 2011: 67).

By doing so we will be able to compare between the cases. We can do so because we can refer to: "Important shared patterns that cut across cases and derived their significance from having emerged out of heterogeneity" (Palinkas et al., 2015). By focusing on the extremes in the typology, the case selection is a form of maximum variations. This allows for research into all angles to the same phenomenon (Etikan, Musa and Alkassim, 2016). Moreover, by choosing the extremes of the typology we are mindful of the position held by Romzek and Dubnick (1987) that hybrid forms or mixtures of accountability can occur. The prevalence of one type of accountability is likely to exist in the outer corners of our typology which is why we opted for these.

Next to the selection of the empirical cases the decision was made to study the phenomenon based in a single country. This was done for five specific reasons, one this study focuses on democratic accountability designed for a specific political system, second accountability is a relationship that stems from the voter to the civil servant, third context determines this relationship, fourth bearing in mind cultural and structural differences a focus on a single country in determining the entirety of the relationship is essential, and fifth because due to the variety in TGNs we needed to assess we wanted to keep other factors as much *ceteris paribus* as possible to be able to determine a causal explanation.

4

For this research the Dutch participants to TGNs were interviewed and observed. The choice to study the Netherlands specifically was made because:

- The Netherlands is described as pace setter and pusher of Europeanisation in networks of policy making beyond national borders (see Börzel, 2002).
- They have held the above position for a long time as they are founding members of the European Union.
- The Netherlands is a country with *strong regulators* which is seen as a necessary condition to offer action capability to become pace setters in international contexts (see Zaun, 2016).

Although for future research into this subject, including other countries is beneficial, it would go beyond the scope for this study to include more. Based on the theoretical frame we have distinguished four cases and to which accountability type they would yield. These cases are highlighted in the table below:

**Table 4.1: Cases in the TGN varieties**

| | | Degree of autonomy/ source of control | | |
| --- | --- | --- | --- | --- |
| | | Low/internal | | High/external |
| | Characteristic | Information network | Enforcement Network | Harmonisation network |
| Low → High / Degree of authoritative element / control actions | Participant Governed | **Professional accountability** | Professional or political accountability | **Political accountability** |
| | Lead Organisation Governed | Professional accountability or bureaucratic accountability | All | Political or legal accountability |
| | Network Administrative Governance | **Bureaucratic accountability** | Bureaucratic or legal accountability | **Legal accountability** |

To assess if the expectations are corroborated in empirics, we will have to be clear on what basis we will assess if the transgovernmental network that we study actually is a case of the particular category. Because the networks of interest are either an information or a harmonisation network we have focused here on these dimensions. In addition, as the critical cases are either participant governed or network administrative governed, we will also provide the indicators for these. The indicators have been derived from the literature as we have discussed in chapter 2 and 3. The table 4.2 will serve as a tool for analysis.

**Table 4.2: Indicators maximum variation cases**

| Dimension | Indicator |
|---|---|
| Information network | Voluntary network; process oriented; dissemination of data, information and/or best practices |
| Harmonisation network | Voluntary network; aimed at harmonising rules and guidelines; they take a proactive role in the creation of standards, benchmarks and regulation. |
| Participant governed | Governance structure hinges on collaboration between participants on a peer-to-peer basis, no entity in the governance structure that coordinates or supports, focus on active participation members, face-to-face contact, decentralized. |
| Network Administrative governed | An external administrative entity is set up to help steer and coordinate the network, network administrative organiser works as a broker, centralized. |

We used these indicators to select the cases. In table 4.3 we have included the cases based on the above stated criteria. We will briefly discuss why we have chosen these cases but will provide more detail regarding the reasons for this in the respective chapter of the individual cases.

**Table 4.3: Selected cases**

| | Case | Reasoning for selecting case |
|---|---|---|
| Information network/ participant governed | IMPEL (The European Union Network for the Implementation and Enforcement of Environmental Law) | "The core of IMPEL's activities take place within a project structure and concern awareness raising, capacity building, peer review, exchange of information and experiences on implementation, international enforcement collaboration as well as promoting and supporting the practicability and enforceability of European environmental legislation." (IMPEL, 2020) There is no entity within the structural make-up of the network that coordinates or supports to the extent that is becoming a key player itself. |
| Information network/ network administrative governed | Ereg (Association for European Vehicle and Driver Registration Authorities) | The aim of the network is to help authorities regarding vehicle and driver registration to work as effectively as possible and do so by disseminating best practices, experiences and knowledge. The network's work is coordinated from a network administrative governance style. An external administrative entity was set up to facilitate and govern the activities of the network. |
| Harmonisation network/ participant governed | WENRA (Western European Nuclear Regulatory Association) | The aim of the network is to establish harmonised and implemented safety reference levels among all participating organisations. The network has a structure composed of technical working groups and annual meetings. Without an overarching network administration nor a lead organisation. |
| Harmonisation network/ network administrative governed | EA (European co-operation for Accreditation) | The network's aim is to create coherent accreditation across the European Union. They have created a formalized structure with full time employees to coordinate to ensure this aim is reached. |

## 4.5 Data collection

This research makes use of three data gathering methods: participant observations, interviews and documents. We make use of three different data gathering methods in order to be able to determine whether the evidence leads to a similar set of explanations. This automatically means that the analysis is conducted during the data collection process, which is key to case study research (Yin, 1981). The triangulation of data derived from the different methods is a way to bolster validity. However, there are further reasons as to why these techniques have been adopted in this study. First, document analysis is used to understand the governance structure of the network. Second, regarding participant observations we understand context to be paramount to accountability as a mechanism, which is why we need to be able to see this context. Third, the technique of semi-structured interviewing is chosen because this offers us the perspective of those in charge of constructing and interpreting the relational concept of accountability. In the following section a more detailed description of the methods regarding the techniques chosen is discussed.

### 4.5.1 Participant observations

Regarding participant observations, context is understood to be paramount to accountability as a mechanism, which is why we need to be able to see this context. The purpose of this research is to uncover the workings of the networks and how this relates to the mechanism of accountability. The descriptive nature of this research is emphasized by the strategies used in the methods of data gathering, which allow to go beyond simply chronicling the facts. By conducting a participant observation, a focus on the direct interactions between participant of the transgovernmental networks can be placed. This in turn will enable understanding of the implications of these interactions on accountability as a mechanism (Berg, 2001: 136).

The potential that this method offers is great (Burnham et al, 2004). This method offers the opportunity to submerge in a setting. It will provide the opportunity to the researcher to see how people interact (Rhodes, 't Hart and Noordegraaf, 2007). Observations offers researchers a wealth of information that is hard to come by with any other type of research technique. Interactions within TGNs are not well studied to date which is a reason to use this technique. Moreover, the interpretation and conduct of actors in an accountability relationship offers key information to studying accountability between an actor and a forum.

Unlike etnographical classical observations, in this study the opportunity to submerge for a longer time into a department is not an option. Nor is there a need for it. As the focus is on accountability of transgovernmental networks, observing when TGNs actually convene is what needs to be studied. This offers the opportunity to study where the interaction takes place. During observations, the role of the researcher was less visible as the participants observed were themselves not part of the setting on a day-to-day basis. The participants of TGNs attend meetings of a day or a few days, during the course of the year. In this research

four different observations of two networks (IMPEL and EReg) were undertaken. In total 11 full working days comprised the observations. These observations were of working group meetings and one annual meeting.[3]

**Table 4.4 Observations per case**

|                              | IMPEL               | EReg              | WENRA | EA |
|------------------------------|---------------------|-------------------|-------|-----|
| Observation annual meeting   | 0                   | 1 (duration 3 days) | 0     | 0   |
| Observation working group sessions | 2 (duration 7 days) | 1 (duration 1 day) | 0     | 0   |

Observations of TGNs are used to determine how information is transferred to the network, what is discussed and how it is discussed. The transmission of information is part of the process of accountability. Observations help answer questions such as what type of conduct, as well as how account is given within the TGN. Furthermore, discussions on how information of the activities are shared by the participants of TGNs help disseminate how account is given to the home organisations of the participants. Additionally, observations offer the unique opportunity to see interactions and discussions of participants. This helps construe a clearer picture of the governance style and function of TGNs. How these formal characteristics affect the work and interactions of TGNs will help see the ability of these to influence accountability styles.

To understand the workings of a TGN, being present when participants convene in meetings organised by the TGN is crucial. In addition, given that the research question refers to an accountability line back to a national central government, and the choice for the Netherlands to be that line, the observations needed to include Dutch participants. Moreover, the TGN meetings selected for this research, should exemplify meetings that are used to come to decisions on the development of the network in terms of topics and on results. For the observations it is vital to have a view of the different types of meetings of a TGN. Meetings on a strategic level for instance have a different type of decision making structure than at technical level meetings. The subjects discussed can prove instructive to the type of accountability deployed. The difference in perceptions to accountability could relate to these differences as well. How TGNs organise meetings and what is discussed where, and by whom is also indicative for the type of governance style.

There are roughly two types of meetings in TGNs. The first type is that of a general meeting in which results, and reports of the different working groups are shared. This is the annual or general meeting, which occurs once a year. In most TGNs this meeting also represents the highest decision-making body of the organisation. In this type of meeting the participants convene to outline the strategy of the TGN in the upcoming year(s). This type of meeting

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3    Observation 1: 18-21 2016 September; observation 2: 18-20 January 2017; observation 3: 20 feb 2018; observation 4: 2-4 May 2018

is designed to allow participants to have oversight over TGNs, they do so by for instance electing the board of the TGN which is responsible for the day-to-day operations. In addition, achieved results and the financial accounts are discussed during these sessions. Participants of these meetings are allowed to make decisions on behalf of the home organisation, they cast their votes as a representative of the home organisation. Oftentimes these participants constitute or represent the executive level of their respective home organisations. During one of the observations the executive level representatives were often supported by administrative level staff form their home organisation. The supporting staff at the annual or general meetings are often involved in the second type of meetings in TGNs.

The second type of meetings in TGNs are more content-based meetings. During these meetings, participants meet in working groups. Experts on specific topics related to the general objective of the TGN, are discussed. For example, the European Union Network for the Implementation and Enforcement of Environmental Law (IMPEL) has the general objective to ensure a more effective application of European environmental law. One of the specific topics the network focuses on is nature protection. As part of this topic, meetings are held regarding the creation of a planning tool that could be used for inspections of Natura2000 protected sites (Holzgraefe, 2017). The development of the tool is discussed by experts with knowledge of both the necessary legislation, f.i. the Birds directive and the Habitat directive, and experts with understanding of the practicalities related to conducting inspections.

The discussions held in work group sessions are primarily based on the practicalities of policy implementation. The level of technical expertise is higher in these meetings of TGNs than in the first type of meetings. This second type of meetings occur more often but access is more difficult given the need for detailed and open discussions. Sensitive and confidential information of the home organisation of the participants is shared readily during these meetings. The type of information shared includes policy choices and operational procedures. The participants of these meetings are often policy experts at the administrative advisory level. It is however very much dependent on the topic as well as the home organisation what type of background the participant partaking in these meetings have. Some meetings could cover issues that are fundamental to a home organisation or are seen as highly salient, if that is the case an executive level civil servant might be attending the meeting. In case the meetings are more technical in nature this is unlikely the case.

In this dissertation both types of meetings are observed divided over two cases: IMPEL and EReg. This has been done because the different types of meetings offer insight into different aspects needed to assess the research question. The first type of meeting, the annual meeting, provides insight into how results of the working groups are shared, how decisions are made regarding the networks strategy which includes its mandate. This type of information is used to assess the type of function the network holds. In addition, the annual meeting offers the opportunity to determine the governance style. The statute of a network is put to use

during an annual meeting. This allows the researcher to judge how the written rules of a TGN are practiced. Next to that, this type of meeting also indicates how the different phases of accountability (Bovens, 2007) are used.

The second type of meeting, the working group sessions, occur more often. They determine the pace of the network. An example of this is the development of the IT tool for planning inspections, when this is implemented by the different home organisations the contribution of IMPEL is undeniable. The success of working groups is dependent on their ability to yield results. This type of meeting thus enables the assessment of the function of the network. The type of governance style of a TGN can also be determined based on these meetings as the dynamic of the participants provides the evidence. During the observations of these meetings preparations for the rendering of account regarding the activities of the working groups can also be assessed. For instance, when participants consider the goals of the meeting, or how they want to convey their results and to whom, provides crucial information regarding the accountability relationship they perceive.

Gaining access to the meetings proved difficult. In any observation study the point of access is often a case of "more often beggars than choosers" (Fine and Schulman, 2009). However, invoking a convenience sample was out of the question for this research, in essence we had to be choosers. A purposive sample of four varieties was drawn. Fortunately, access for two of the four varieties could be provided. In order to gain access, we made use of a snow balling technique. Asking a transgovernmental network for access was done via first sending e-mails requesting an interview. At the conclusion of the interview the respondent was then asked if an observation could be possible. Often requests for observations were met with the offer to provide contact information of different actors within the network to interview. In the case of WENRA and EA observations were not possible given the content and nature of the policy field. Both WENRA and EA deal with issues that are sensitive in nature, in the case of WENRA this is about nuclear safety requirement negotiations whereas the sensitivity in the work of EA lies with confidential information of organisations for instance. The work of IMPEL and EReg was open to the researcher to study on two occasions each. This offered a unique insight. This is exemplified in the empirical cases included in chapter VI and VII. Because transgovernmental networks by default work internationally this meant observations were too. This meant that joining a meeting came at extra costs. The exercise is also time consuming but as said the value added cannot be stressed enough.

Participant observations have the ability to explicitly make the link between researcher and researched visible. Before the start of each observation all participants to the meeting were send an e-mail that the researcher would attend. At the start of the observation the researcher was introduced by the respondent with whom the researcher had the initial contact. Participants were given the opportunity to question the researcher on her topic, after which the meetings started. During the formal meetings the researcher took notes on her laptop.

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This was inconspicuous as other participants made use of their laptops as well. During a meeting where no laptops were used the researcher switched to paper and pen note taking. As effective observations are fulfilled by "seeing as much as possible" (DeWalt and DeWalt, 2011: 81) and taking into consideration that the position of the researcher needs to be reflected upon, confessional tales (Mulhall, 2003: 312) were adopted as a method. Confessional tales is a way of taking field notes which also include the personal experiences and methodological confessions of the researcher (Mulhall, 2003). It highlights the position of the researcher and is transparent of the interpretation of the observed activities.

The choice for participant observation was made as it can be used as "a yardstick against which to measure the completeness of data gathered in other ways, a model which can serve to let us know what orders of information escape us when we use other methods" (Becker and Geer, 1957: p. 28). When conducting qualitative research and one based on theory building, the need for multiple sources of information, given the structure provided for by the context, is preeminent. Bearing in mind that the theoretical framework is guiding our research, the option of a less structured observation is the best solution in balancing the level of openness necessary for conducting a first assessment of a conceptual theory (Mulhall, 2003). The observations will be analysed and assessed based on the theoretical framework and the defining elements distinguished. Given the centrality of the concept of accountability a semi-structured approach was chosen. The instruction of the researcher was to record what was happening. The definition by Bovens (2007) including the process steps where however in the back of the mind of the researcher. The defining process consisting of three fases: information, debating and sanctioning, structured the observation. However, given the interactive nature of communication revolving around accountability was considered important, this too was made part of the set-up by which to observe specifically. The observations themselves were conducted during the formal meetings of transgovernmental networks. But also included meetings during lunch, dinner and at social gatherings surrounding the main formal meetings of the TGNs. The dynamics of the network proved to be especially visible in these type of interactions. As we adopted a yo-yo fieldwork approach we could compare between observations and establish patterns and refine our frame during the observations.

Aware of the fact that a researcher cannot be everywhere, and therefore will not be able to observe everything a special interest was placed on the Dutch participants, as they are key for the assessment to the expectations. Field notes were not taken during the more social activities as this would exemplify the researchers position and thus possibly hinder observation. Notes of these activities were taken at the end of the day. With regards to interactions between the researcher and the researched, the researcher is not involved in the formal meetings unless directly addressed. During the more social events, the researcher is involved by asking questions that relate to the topic of the conversation between participants. At times in one-on-one conversations the researcher also asked for follow up information regarding points addressed in the meeting.

In this research observations are used as they offer a unique insight into a social relationship namely: accountability. Observations offer a big part of that understanding but not the entirety for that we need information from different techniques as well which we will address now.

## 4.5.2 Interviews

In this research interviews have been conducted with participants of the various networks. The method of interviewing is employed as this offers the valued perspective of those in charge of constructing and interpreting the relational concept of accountability. By firstly assessing participants of a particular TGN, we can identify which actors might be relevant. These actors are approached by means of semi-structured interviews. Noteworthy is that when participants were approached, the topic of this study: accountability, was met with wariness. Anonymity was asked for and some occasions interviews with employees were denied. To ensure that this research would be able to come by the information of these participants a semi-structured in-depth approach was taken (Guion, Diehl and McDonald, 2011). This means that during the interviews the interviewees were instructed to provide overviews. This was done by asking broad questions such as: *Could you describe how you prepare for a meeting of the TGN?*, but also included pauses as an interview technique. By adopting these strategies, the interviewee is able to tell a story.

In addition, in-depth interviewing helps in this research particularly as knowledge of TGNs is lacking in empirical data. Knowing the proper questions to ask is difficult when the context that shape the topic studied is still a black box. By offering the interviewees to shape and explain the context, the opportunity of following up with a clearer understanding of context arises. Additionally, interviews are used to ask follow-up questions regarding the formal procedures of accountability we have already disseminated from either document analysis or observations. It provides the opportunity to ask question regarding how accountability is set up according to those involved. Their interpretation is crucial for the micro level approach of this research.

Contact with interviewees was first established by reaching out to either a personal e-mail account of a known Dutch participant of a network, or we have e-mailed the general network e-mail account with a request to get in touch with a Dutch participant. In case we were able to identify a Dutch participant but had no work e-mail address we made use of the social platform LinkedIn, to send direct messages. In this e-mail an introduction to both the researcher and the topic was included. In addition, an attachment was sent which elaborated on the topic of the project as well as the background of the researcher and how she might be reached. As in the early stages of the research we found people to respond with questions relating to confidentiality and anonymity. A decision was made to include the option for both confidentiality and anonymity in the description of the research in the attachment. Respondents were hesitant on talking about accountability and had a perception that the research would focus on non-compliance. Those willing to discuss their participation asked

for their interviews to be anonymized. All respondents have been anonymized but with the permission of all respondents the network in which they partake may be referenced. Although this restricts references to particular identifiable events and has an effect on replicability, we believe the opportunity to foster an open conversation would outweigh these. The respondents have however been recorded (audio only), with their permission. One respondent did not want to be recorded. The respondent did allow the researcher to take notes but asked if they could be sent for review before the start of the analysis. We have agreed to this procedure as the respondent played a vital role in the transgovernmental network. In this particular case, approval on the content of the notes strengthened the mutual understanding of the subject. All but two interviews were held at the offices of the respondents. One interview was held in a restaurant of a train station in the Netherlands and one was held in one of the buildings of Leiden University. The choice of location was left to the respondents in order to accommodate them and for them to be able to speak freely.

This research is based on 27 interviews with a combined duration of 18 hours and 54 minutes. As said, it proved difficult to research who participates in TGNs, in addition to the difficulty of finding TGNs that fall into the categories to assess the expectations. Non-response to emails for contact was high, declining cooperation was as well. In one case an organisation stated that the burden to free employees for interviews was deemed too high. This resulted in a lower number of interviewees. The referral of possible respondents to their supervisor to ask for permission was particularly noticeable in the network of EA. Nevertheless, the respondents of this network offered a unique inside look at the accountability mechanism deployed. It should be mentioned that the networks selected in this dissertation differ in size. This relates to the number of working groups, topics covered and number of participants. The biggest network is IMPEL, followed by EReg. At quite a distance in terms of size the smallest networks WENRA and EA can be found. To be able to comprehend the work conducted in the networks an effort was made to interview participants of the different types of meetings and cover the scope of the network. This was achieved in all cases.

In addition, in the initial stages of this research respondents from different TGNs than the ones included in the empirical cases were also interviewed. In some cases, initial cooperation was rescinded, and in other cases the TGNs did not fit the category necessary for the assessment. Interviews held with respondents of three other TGNs could not be used. The respondents of these interviews rescinded their cooperation because of fears that a focus on accountability would mean a focus on deficit, this in turn would create problems for their work environment. In accordance with their wishes and obvious ethical considerations the choice was made to exclude these interviews. However, these interviews did prove valuable as they provided proof for the feasibility of the study. The interviewees provided evidence for the different types of TGNs based on a division in both function and governance style. One of the TGNs operates in the domain of IT, is participant governed with an information function. One of the respondents participated in a TGN concerned with the application of common market principles. Whereas the third TGN dealt with issues regarding auditing, with

an information function but lead-organisation governed. The informality regarding decision making in TGNs and the loose link with accountability towards the national line was also established. This was the case for each of the interviews, although how the interviewees went about providing account did differ. This has informed the decision to select cases that would closely resemble the outer corners of the typology. The value of these additional 4 interviews was in the ability to use these as probing cases. It helped determine difficulties in assessing whether or not TGNs would fit a particular category and whether the typology was sufficient. These 4 interviews were not recorded upon request of the respondents. Notes, which were shared with the respective respondents, have been made regarding the interviews.

The interviews included in this research were conducted based on the technique of semi-structured interviews. The questions were devised based on the theoretical concept of accountability as described by Bovens (2007). The different steps of the accountability relationship were all addressed in the structure of the interview. The choice was made to not opt for a structured design as this would leave out the possibility of detailed accounts and narratives that would disclose the practice of accountability (Whiting, 2008). Given that we are also dealing with a concept that carries emotional baggage (Romzek, 2015), an intimate and open setting that semi-structured interviews can provide are best suited. Candid conversation on a value laden concept is best addressed in such a manner. This ensures that the interviewer and the interviewee can address the issues they feel are important to discuss. This technique is especially helpful when motivations for a particular procedure are asked. In addition, by the freedom to ask questions in a more focused way, context is more easily grasped. These interviews have been analysed based on the elements of the accountability types. The process of accountability in the different cases, is determined based on the answers by respondents. By combining the different aspects of this design, we will then be able to assess the implications of these arrangements.

It was desirable to interview participants of TGNs at the administrative level as well as the executive level of home organisations involved. This allowed for both the operational activities as the strategic aspects of the work of TGNs to be assessed. The administrative level included respondents who mostly attended the workgroup sessions, at which their technical expertise is most welcome. Because the pool of participants to TGNs is limited for some of the cases, and confidentially needs to be safeguarded, detailing the functions of participants is highly restricted. The expertise and functions of some of our respondents are so specific that disclosing these would reveal their identities. With these restrictions in mind, the background of the respondents can be described on a more abstract level. The respondents all have attended meetings for the respective TGN during the research period. They are all employed by the home organisation in the Netherlands, and as part of their job they partake in sessions for a TGN. At their respective home organisations, they are policy makers. They formulate policies and create guidelines to implement policies. Moreover, they ensure the proper execution of policies because they conduct inspections or audits themselves. In general terms, for a working group of EReg where the topic of Data protection is discussed, administrative level

experts with knowledge of the GDPR[4] and an understanding of the operational procedures of vehicle and drivers' registration would likely attend.

The executive level included respondents that are involved with the strategic aspects of the work of TGNs. In their home organisations those respondents are in a position of management. They have been given the authority to vote on behalf of the home organisation in international network settings. In cases where a single home organisation is involved in the work of a TGN, the executive level respondent(s) often coordinate the work of the home organisation in the TGN. They oversee who attends meetings and have a general idea on what the activities of the working group sessions of the TGN entail. In case multiple home organisations are involved in the work of a TGN this coordinating aspect is limited to the own organisation.

Both types of respondents were selected based on the criteria that they were currently and actively involved in meetings of the TGN. Given the focus on the Dutch accountability line other criteria was that the respondents worked for a Dutch home organisation. Although transparency is important in relation to methodological choices, so is the protection of the anonymity of respondents. Because of this clarifying the type of respondent per case is not feasible. Nevertheless, in the table below an overview of respondents per case is provided.

**Table 4.5: Number of respondents per case**

|  | IMPEL | EReg | WENRA | EA |
|---|---|---|---|---|
| Respondents | 11 | 7 | 4 | 4 |

Even though in this research a theoretical framework was devised that was instructive in the creation of the topic list, it does not drive the results. Searching for similarities and dissimilarities is key to assess the expectations. By using semi-structured interview technique, we allow ourselves the freedom to "bring our and resolve apparent contradictions" (Horton, Macve and Struyven, 2004:430). Moreover, it allows researchers to reveal certain issues that were not identified beforehand and could be followed up by further questioning either in a follow up interview or by means of a different research technique such as observations or document analysis (Horton, Macve and Struyven, 2004). The focus of the research was thus based on the general understanding of accountability provided for by Bovens (2007).

### 4.5.3 Document analysis

This research will also make use of document analysis. This final method will be used to establish the formal lines of accountability. It both serves as input for the observations and interviews as well as that it enables us to investigate the formal characteristics of the TGN. With the latter we refer to both governance style and function. The governance style can be determined based on inaugural documents as these often list the components of the networks

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4    General Data Protection Regulation

and the decision-making process. Next to inaugural documents such as statutes, we have looked at newspaper articles references on the specific TGNs documenting the activities or results of these networks. Thirdly, academic articles on the cases studied have been examined. These offered insight into the technical work of the TGNs. Reports by TGNs have been analysed with reference to the definition of accountability by Bovens (2007) and the defining elements of the types as described above. And finally, reports of the home organisation of participants, such as annual reports have been cross checked for references to the TGN.

Making use of documents in this research is essential as it can determine the formalisation of accountability lines by transgovernmental networks. Where both interviews and observations deal with the empirical or real-world assessment of accountability in these settings, documents shed light on how accountability is formally structured. The documents analysed relate to network inception documents such as statutes. Statutes explain the governance structure, state the role and obligations of participants and other organisational aspects. This would measure the level of formalised accountability.

Reports on activities of the network shed light on how account is given. Authorship but also to whom the document is directed shows how the mechanism of accountability is institutionalised in the transgovernmental network. Reports about activities include minutes, annual reports, up-dates on projects, project reports, newsletters and social media articles. Most of the documents originated from the TGNs or member organisation participating in these TGNs. Three different sources of documents were also included. First, academic literature on the TGNs studied was also included when available. Second, by using a database of newspapers and professional news articles, specific mentioning of the work of the TGNs studied were also able to be included. Third, documents stemming from the European Union (European Commission, European Parliament) specifically mentioning the work of the TGNs were also used for the document analysis.

For each type of document a search strategy was devised. Firstly documents authored by the network are predominantly found on the website of the TGN itself. Inaugural documents such as statutes can be found on these websites, although for two of the cases the general registry for organisations in Belgium needed to be accessed to find these. This was because the networks were registered as an association under Belgian law. A copy for the statutes was not available on the website of the TGN but it could be accessed via the registry website.

Documents authored by the TGN are varied. The type of documents used for this dissertation which are authored by TGNs are: a. reports on the activities of the working group sessions, b. rules of procedure, c. speeches by chairman or coordinators of the TGN, d. reports on the annual meeting of the TGN, e. internal reviews of the work of the TGN, f. operational documents such as reimbursement forms, g. annual (financial) reports, h. policy documents, i. press releases, j. mission statements, k. strategy documents or work programmes, l. terms of reference documents regarding activities of the TGN, m. memoranda of understanding with

other organisations, n. outreach and training material of the TGN, o. organisational charts, p. visual presentations or videos of the work of the TGN, and q. newsletters of the TGN.

Secondly, this dissertation makes use of news articles regarding the work of the TGNs. The search engines Factiva and Nexis Uni were used. Key words that were used in the search engine were specific to the cases. For the EReg case for instance the key words used were:

1. EReg AND network
2. EReg AND network AND EU
3. EReg AND association AND EU
4. EReg AND European Union
5. EReg AND authorities
6. EReg AND drivers' license
7. EReg AND vehicle.

The search strategy for the other cases were similar regarding the first four keyword combinations but the last three combinations were altered to include the specific activities of the TGN. For instance, for EA the choice was made to include accreditation, and mutual recognition. For IMPEL, the names of the different topic groups were used. For WENRA keywords such as nuclear, and the names of the topic groups were used.

After the initial search the articles were scanned by reading the first sentences regarding relevance. When an article detailed the activities or results of the network, an article was deemed relevant. When an article described the interactions with other organisations such as the European Commission with regards to the TGNs goals this was also considered relevant.

Thirdly, academic literature regarding the work of the TGNs is also included in this dissertation. The search engine Google Scholar was utilized for this. Keywords that were entered into the search engine were again tailored to the different cases. For example, with regards to the case of IMPEL, the following keywords and combinations were used:

1. IMPEL AND European Union
2. IMPEL AND transgovernmental network
3. IMPEL AND EU AND network
4. IMPEL AND network AND accountability
5. IMPEL AND network AND deficit
6. IMPEL AND network AND waste
7. IMPEL AND network AND illegal hunting
8. IMPEL AND network AND water management
9. IMPEL AND network AND industry
10. IMPEL AND network AND nature protection
11. IMPEL AND network AND natura2000
12. IMPEL AND network AND environmental law

The keyword combination of the first five were similar for the other cases. The other keyword combinations were adapted to fit the other cases. The names of topic groups and general themes of the TGN were included as a keyword.

Fourthly, this dissertation includes external documents by the European Commission and home organisations. For the documents authored by the European Commission the website Eurlex was used. Documents authored by the home organisation were accessed via the publicly accessible websites. In addition, the ministries which carry responsibility for the work of the home organisation were also checked. Keywords that were entered in the search bar of the respective websites were initially solely the acronym of the network. This did not lead to many hits for especially the websites of the ministries, the keywords were broadened following the keyword combination followed for the academic articles but translated to Dutch. When the number of documents still was quite low, the choice was made to access all annual reports and crosscheck by using the command Control+F on the names of the TGNs selected for this dissertation. Table 4.4 shows the number of documents used per case and per type of document.

**Table 4.6 : Types of documents per TGN**

| Type of document | IMPEL | EReg | WENRA | EA |
|---|---|---|---|---|
| Documents authored by network (including statutes) | 67 | 31 | 119 | 113 |
| News articles | 8 Nexis Uni, 82 Factiva | 4 Nexis Uni, 29 Factiva | 6 Nexis Uni, 141 Factiva | 15 Factiva |
| Academic literature on the work of the cases | 32 Google Scholar | 3 Google Scholar | 24 Google Scholar | 10 Google Scholar |
| External documents (European Commission, Home organisation) | 7 (Eurlex) 8 (I&W) 10 (LNV) | 8 (Eurlex) 14 (RDW) | 34 (Eurlex) 4 (ANVS) | 7 (Eurlex) 10 (RvA) |
| Total | 214 | 89 | 328 | 155 |

The documents were assessed based on our theoretical understanding of accountability, supplemented with the information that we derive from the other techniques and then set against the expectations formulated. If documents were available online through the website of the transgovernmental network we would make use of those directly. For information only available to participants of the network we asked for the information either through the network administration or via established contact. One respondent put the researcher on the e-mailing list of an internal newsletter that was only available to employees of a Dutch governmental organisation which has subsequently also been used for assessment. The difficulty with studying documents regarding accountability that go beyond the open network is that they are either not accessible or the researcher is unfamiliar with the existence of a particular line of accountability. By using the interviews to probe in which direction accountability is addressed the researcher has been able to assess a broad range of documents.

## 4.6 Analysis

The methods that were used have provided the necessary material to conduct the analysis. For the analysis we rely heavily on the presented theoretical framework of chapter III. Based on these theories three overarching issues to help determine which type of accountability is prevalent need to be addressed:

1. The questions: How is accountability given? On what is accountability given? and To whom is accountability given?
2. The three steps: information phase, discussion phase, sanction phase.
3. The nature of the relationship: based on the degree of autonomy and the source of control.

These issues are therefore included in the operationalisation of the different types of accountability. Each type has distinct characteristics, and these are reflected in the specific issues raised here. For our operationalisation we make use of the distinctions as presented in the framework by Christie (2018) but have supplemented this with assertions from Romzek and Dubnick (1987) to ensure it fits the purpose of this study best.

The framework by Christie offers "a synthesis of the components of the prominent accountability frameworks published in the field" (Christie, 2018: 80). She has included the works of Romzek and Dubnick (1987), Dicke and Ott (1999), Bovens (2007), Koppell (2005) and Bar Cendón (2000). In addition, she added to the four types of accountability raised by Romzek and Dubnick (1987) by including two other types notably: social accountability and moral accountability. Given that our expectations are linked to the work of Romzek and Dubnick (1987) we focus on the provisions of her framework for the four types rather than the six. Moreover, as we focus so clearly on these four types, we emphasise the distinctions made by Romzek and Dubnick (1987) in this study. The inclusion of the degree of autonomy and the source of control is essential in their attributions of the types. The comprehensive accountability framework by Christie (2018) leaves these out. The above choices have led to the framework below which is loosely based on Christie (2018). This framework represents the operationalisation of the elements of each accountability type. The empirical evidence of the four case studies shall be assessed by looking at the different elements that make out accountability.

Each accountability type has its own set of characteristics. By means of the methods chosen we are able to assess, which elements are reflected in empirics. The results of each case shall be contrasted with the characteristics of each type. We expect to find a prevalence of one type over the others rather than perfect matches. The importance given to the characteristics will thus play a pivotal role in establishing which type is prevailing. How these characteristics will play out in each type of accountability will be explained in the following sections.

**Table 4.7: Framework of accountability types based on the work by Romzek and Dubnick (1987), Bovens (2007), Dicke and Ott (1999) and Christie (2018).**

|  | Professional | Bureaucratic | Political | Legal |
|---|---|---|---|---|
| **Definition** | Horizontal relationship between an actor answering to a forum in which the source of the control is internal and the level of discretion of the individual actor is high. | Vertical relationship between an actor answering to a forum in which the source of control is internal and the degree of autonomy is low. | Vertical relationship between an actor answering to a forum in which the source of control is external and the degree of control over actions is low. | Diagonal relationship between an actor answering to a formal in which the source of control is external and the degree of discretion is high. |
| **Forum** | Professional peers | Supervisor role to actor within bureaucracy | Voters, elected representatives | Courts, auditors from outside the organisation |
| **Relationship** | Horizontal | Vertical | Vertical | Diagonal |
| **Source of control** | Internal | Internal | External | External |
| **Information on what conduct?** | Deference to individual judgment and expertise | Obedience to organisational directives | Responsiveness to external stakeholders (voters) | Compliance with external rules/ mandates |
| **Emphasis** | Expertise | Obedience | Responsiveness | Procedure |
| **Techniques of review** | Codes of ethics Licensure Outcomes-based assessments Whistle-blowing Registries | Auditing Licensure Monitoring | Markets Outcomes-based-assessments Registries Whistle-blowing | Auditing Contracts Courts Monitoring Registries Licensure |
| **Discussion on what** | Results of professional performance Professional rules followed | Forms and procedures followed by administrative action | Results of administrative performance | Acting in full compliance with legally established rules and procedures |
| **Control over actions** | Low | High | Low | High |
| **Sanctions** | Sanction or recognition for professional involved | Resignation or dismissal | Political criticism or recognition Resignation or dismissal | Revision of the administrative act -sanction or recognition of the official involved Compensation for the citizen |

The first type is professional accountability. In this type, the forum is within the same organisational line as the actor. The organisational line here is the home-organisation of the actor. This is not the network, but the organisation for which the actor works on a day-to-day basis. In addition, the forum has no hierarchical relationship to the actor. The relationship is in nature horizontal. Controlling the actor is done internal, meaning within

a singular organisation. The emphasis of the review is on the competence and expertise of the actor (Romzek and Dubnick, 1987). This is also reflected in the high level of discretion offered to the actor. Standards on professional conduct are the measure by which the actor can be reviewed. In case peers have the oversight or influence on registries and licensure these techniques can be included. However, codes of ethics, outcomes-based assessments and whistle blowing are more likely techniques (Dicke and Ott, 1999). The discussion phase will focus on the professional performance of an actor and if the actor has followed professional rules. The possible consequence for the actor is either sanction or recognition of the work of the professional (Bar Cendon, 2000).

The bureaucratic type of accountability has a forum that has a supervisor role in relation to the actor. The forum is in the same organisational line as the actor but has a hierarchical position. The relationship is vertical in nature (Romzek and Dubnick, 1987). Reviewing the conduct of the actor is internal in source. The emphasis in the review is on obedience of the actor to organisational directives. There is a high degree of control over the actor. The following of bureaucratic forms and procedures is what will instruct the discussion phase. The techniques deployed most likely are auditing, licensure, or monitoring (Dicke and Ott, 1999). The sanction in this type might be more severe than in the case of professional accountability as it might be resignation or dismissal of the actor (Bar Cendon, 2000).

The political accountability type has a forum that is external to the organisation for which the actor primarily works. However, there is a link to this organisation. As the actor is employed in the public sector, the actor needs to be responsive to the needs and wishes of the voter (Romzek and Dubnick, 1987). Therefore, the forum in this instance is the voter or by extension elected representatives, the latter being more likely in the case of transgovernmental networks. The relationships' nature is thus vertical and the source of control external. Information on the conduct of the actor must refer to responsiveness to external stakeholders. The most likely techniques that are carried out in order to review are markets, outcome-based assessments, registries and whistle blowing (Dicke and Ott, 1999). The sanctions that can be imposed are political criticism or recognition, and resignation or dismissal (Bar Cendon, 2000).

The fourth and final type we will discuss is that of legal accountability. Like political accountability the forum is external to the primary organisation of the actor. The forum in this instance is at a clear distance to this organisation. The forum can be a court or an auditing body that operates outside of the organisation. The direction of the relationship is diagonal, with the source of control external. Information on compliance with external rules and mandates needs to be offered by the actor. The emphasis in the review is on compliance with procedures (Romzek and Dubnick. 1987). The discussion phase will focus on legality of the conduct of the actor, relation to established rules and mandates (Romzek and Ingraham, 2000). The techniques for review that might be deployed are auditing, contracts, courts, monitoring, registries and licensure (Dicke and Ott, 1999). The level of control over actions

is high. The consequences of this type are: revision of the administrative act, sanction or recognition of the official involved, and compensation for the citizen (Romzek and Ingraham, 2000).

The sources of information have been used to serve different ends for this dissertation. To answer the research question, it was paramount that the type of TGN based on function and governance style could be established. To be able to assess the type of accountability that was put in place we have made use of the dominant definition on accountability by Bovens (2007). This instructed this research to place focus on the different phases of accountability. In table 4.6 we have indicated what source of information was used to establish which finding.

**Table 4.8: Sources of information used for findings**

| | Function network | Governance style network | Information phase | Debate phase | Judgement phase | Method per case |
|---|---|---|---|---|---|---|
| Observation Annual meeting | X | X | X | X | X | EReg |
| Observation Working group session | X | X | X | X | | IMPEL, EReg |
| Interview Executive level | X | X | X | X | X | IMPEL, EReg, WENRA, EA |
| Interview Administrative level | | X | X | X | X | IMPEL, EReg, WENRA, EA |
| Documents authored by network | X | X | X | | | IMPEL, EReg, WENRA, EA |
| News articles | | | X | X | X | IMPEL, EReg, WENRA, EA |
| Academic literature on the work of the networks | X | | X | | X | IMPEL, EReg, WENRA, EA |
| External documents (European Commission, home organisation) | | | | X | X | IMPEL, EReg, WENRA, EA |

In this dissertation a focus was placed on the mechanics of accountability. By this we refer to what Schillemans (2016: 4) calls "the actual interactions between accountable entities and their accountable forums". For instance, the interviews were used to ask respondents for descriptions on how they prepare for TGN meetings. To understand where they perceive the mandate to act stems from. By asking questions like, after you come back from a TGN meeting what do you share? and; with whom? we can tease out both the information phase but also what type of information is shared. By offering enough room for a respondent to paint a picture, a researcher can assess the different elements that make up accountability

arrangements. Especially as accountability should be seen as a relationship. Observations are used to check these assessments as well. The researcher made use of the observations to see if references were made to outreach regarding the results of a meeting. Where goals set out? Were there discussions on how to disseminate information about the network meeting? Who is conversing with whom?

In addition, during the observations the researcher was in the right position to assess if the goals set out in strategy documents and the activities mentioned in newsletters and the website were a good reflection of the type of function the TGN holds. Do discussions or topics move beyond the paper reality of what a TGN portrays to be? This is similar to how observations were used to assess the governance style of the TGN. Documents authored by the TGN offered the paper reality, but the observations, and interviews were used to see if the reality is reflected in the perception of the participants and is supported by actions in the meetings of TGNs. To increase the credibility of the analysis, triangulation was used. Information of the different sources was used to determine the different elements of the typology.

For example, to determine the governance style of IMPEL, different source material was assessed. Based on the documents authored by the organisation, we found a secretariat was part of the organisation. The activities employed by the secretariat needed to be determined. This was necessary as to ascertain a specific governance style the coordination structure and the level of organisational support is crucial to understand. Therefore, both respondents in interviews were questioned about the role of the secretariat and the observations were used to see how the secretariat is involved during meetings. To clarify this further, we have reported on this as follows:

IMPEL has a secretariat. It is quite small with currently only 1, 5 FTE (Respondent IMPEL I). They offer a coordinating role to assess the advancement of project for the general meeting. Also, they prepare for the general meeting and facilitate a central point of contact for the network. A side note needs to be made here as the day-to-day management is in the hands of the board which does not include a member of the secretariat (Respondent IMPEL I). In addition, the role of assisting the projects or activities is also limited (Observation IMPEL I, Observation IMPEL II, Respondent IMPEL II, Respondent IMPEL VI).

By making use of different types of sources, activities of the network could be traced. This offered the opportunity to see if the different sources pointed to a similar interpretation of accountability or if there were differences. In the case of WENRA the establishment of Safety Reference Levels (SRLs) is the most important part of the work of the network. A key event in the field of nuclear safety was the Fukushima Daiichi disaster. This ensured that the SRLs established after that disaster and the procedure, could be traced in newspaper articles, documents authored by the European Commission and documents authored by WENRA itself. This offered a difference of perspective to sources used and enable the tracking of

accountability. Also, interviews with respondents were used in this instance to determine how the accountability arrangement on this activity of WENRA is formed.

In cases where different sources contradicted each other the decision was made to include information of both sources. This was for instance the case for the inception of the WENRA network. One respondent presented the establishment of the network as a desire of regulatory bodies to work together. However, in scientific articles the role of the European Commission was mentioned as the driver behind the creation of the network. By means of looking for different sources to back up elements of the process of establishment nuance was provided for. If a claim could not be backed by different material the choice was made to leave out the claim unless the claim was made based on a specific authority.

Usage of a singular source was included in the dissertation if that source was authoritative on the topic. To exemplify, the nature of the work of EA is quite sensitive. This means that transparency is limited. Documents on the work procedures of the network are disseminated via a closed off section of their website, only accessible to participants of the network. Obviously, a website can be checked to see if it has a closed off section, which it did, but what is shared on that closed off section is only visible to those using it. One respondent offered insight in the type of documents shared there, given that this respondent had access to this section, their assessment was included.

In the event findings led to contradictory results, with regards to the type of accountability, all findings were shared. The contradictions are assessed in the concluding paragraphs of each of empirical chapters. The importance of the findings was assessed based on the number of respondents that mentioned the elements of the accountability relationship and how they valued them. This was also supplemented by support offered for each finding by other sources. To illustrate, the case of WENRA provided findings that fit all four of the accountability types distinguished. By discussing the findings and sharing the importance allotted to them by the different sources and emphasis placed on each, determining which line was more prevalent than others could be assessed. However, this case also proved that assessing accountability is a dynamic process and should not be seen as static. Networks develop over time, as in the case of WENRA it became apparent that one line of accountability was becoming increasingly important. As this line was still being developed during our research period, we reflected on this but included a nuance in our assessment that for this research it is still undetermined how this will play out specifically.

## 4.7 Summary of methodology

To sum up, this research is a qualitative multiple comparative case study with the aim of assessing theory and theory building. By using a maximum variation design based on four cases, that we select by means of dimensional sampling we will be able to assess our

expectations. By making use of three distinct data collection techniques, we can assess the accountability relationship in TGNs from different angles.

The document analysis will provide us with the input for describing the de-jure form of accountability. Whilst both interviews and observations will inform us on the de-facto accountability. This study furthermore is very much theory driven. The elements established in our framework will give us the frame and gauge by which we will be able to analyse. Nevertheless, falsification of our expectations would help broadening our understanding of the phenomenon of accountability in transgovernmental networks.

The inclusion of three distinct techniques enables us to oversee patterns that might not have been observed in research on TGNs so far. Extant literature on TGNs has focused on "deliberative and often informal networking mechanisms designed to attenuate the national interest orientation of member state representatives, in favour of functional best practice, or a common supranational good" (Eberlein and Newman, 2008). Empirical research regarding TGNs has mostly discussed institutional aspects of TGNs such as the role of experts in TGNs, the policy making process in a TGN or the output of TGNs (see Calcara, 2017; Abbott and Kauffmann, 2018; Mastenbroek and Martinsen, 2018). By adopting a semi-structured strategy to deploy our techniques we will be able to consider a larger variety of involved issues than in empirical research on TGNs so far. A semi-structured design is useful for assessing our expectations. As the aim of the research is both theory testing and theory building, we want to seek out possible contradictions to our expectations. In using semi-structured interviews and participant observations we can achieve this.

Being clear on our choices and on what we base these is reflected in our discussion on the theoretical basis that will guide our analysis. The varieties of the TGNs and how we assess the indicators of the dimensions for types of TGNs and network governance is one way in which we will make this clear. The second way in which we clarify our analysis relates to our key subject: accountability. The dissection of the different types of accountability, the definition we have given each and the indicators that follow from these are what structures the final analysis of this. After offering transparency in how we have set out our research we shall now turn to the empirical part of this research. The following chapters will be structured per transgovernmental network. The description of the accountability lines in each will be given before we will compare and analyse the entirety of the empirical material in chapter IX of this dissertation.

4

# CHAPTER V

IMPEL:
A case of a participant governed information network

## 5.1 Introduction

In this chapter we will address the accountability type of a participant governed information network. In accordance with the expectation, we expect to find a predominance of the professional accountability type. Professional accountability has a horizontal actor-forum relationship as the two are peers. The source of control is internal and the level of discretion by the actor is high. There is a referral to professional norms and standards, which are based on expertise. In order for us to be able to assess whether this is correct we have chosen to study the case of IMPEL, which stands for: The European Union Network for the Implementation and Enforcement of Environmental Law. The network operates within the policy domain of environmental protection. Their activities range from wildlife protection against illegal hunting to waste shipment management. An increase in legislation on the environment was not met with an increase in environmental quality, which was the motive to form the network (IMPEL, July 2015).

The network itself is structured along the lines of a participant governed governance style. This type of governance style hinges on the input from and the cooperation of the participants to function properly. There is no entity within the structural make-up of the network that coordinates or supports to the extent that is becoming a key player itself. This type of network is very dependent on the involvement of the members as they are solely responsible for the work of the network. After discussing the history of the network in brief we will show the institutional set up of the network that outlines the governance style.

IMPEL is an example of an information network. IMPEL is set up with the idea to ensure that legislation on the environment such as the Basel Convention, which is designed to control transboundary movements of hazardous waste, is implemented across the European Union. The members of IMPEL are public environmental authorities that implement or enforce environmental law in a particular territory. The members in the network focus on the practical issues concerned with implementing environmental law and legislation. In addition, we see that the European Commission is at times involved in the information sharing link of the network. The European Union has a shared competence with member states concerning environmental issues. The collaboration between IMPEL and (parts of) the European Union is to be expected. Nevertheless, the activities in the project are conducted by the work of the members of IMPEL. Their practical and technical input spearheads the project. This again shows the participant governed network style of IMPEL, which we shall discuss in more detail later on in this chapter. We will address the different activities and will assess why IMPEL is an information rather than an enforcement or harmonisation network.

Before we go into the details of the function, we will first address the history of the network. We will then describe the governing structure of the network. This will help us determine the type of governing style. After which the function of the network shall follow. We will then direct our attention how the network sets up its accountability relationship. As a participant

governed information network we expect to find a prevalence of professional accountability. We will assess if this is the case by making use of the table of distinguishing features for this type of accountability. We will go through the different aspects of the accountability relationship. We will assess this by means of the distinguishing features for each type, as presented in the methodological chapter. To simplify this, we will focus on three questions; To whom? On what? And how is account given. These three questions will form the systematic structure to our assessment of the accountability type present in this network. Moreover, they are the basic structure as presented in the table 4.7, which indicates the framework of the different accountability types.

## 5.2 Background of IMPEL

The European Union Network for the Implementation and Enforcement of Environmental Law (IMPEL) is a network that can be traced back to the early 1990's. When under Dutch presidency a study was commissioned concerned with the question why the increase in environmental legislation was not met with an increase in quality of the environment (IMPELa, 2019). This study recommended the establishment of a European enforcement network. It resulted in the formation of the Network of EC Environmental Enforcement Agencies under the English presidency in Chester in 1992. Therefore, the network became known under the name Chester Network as well. This network eventually changed its name to IMPEL. The network has subsequently also been registered under Belgian law as an international non-profit association in 2008. The network was informally established. The European Commission nor any other European institution was part of its creation. However, since its establishment the European Commission has come to acknowledge the networks' potential. Given this potential a need for involvement of the European Commission in the network has increased.

The involvement of the European Commission in the establishment of the network has been recognized in a document recounting the history of the network as it states:

> "The Commission's involvement in the network as co-chair began in 1994. In the Communication of the European Commission of 5 November 1996 on implementing Community environmental law it was said that: The Commission will consider the existing position of the informal IMPEL network as a useful instrument of cooperation and capacity building, and will make proposals for improving, developing and reorganising its tasks" (IMPEL, July 2015).

The very first formal recognition came in 1998. When in September decision 2179/98 was published by the European Parliament and the Council. The decision outlined a review of the European Community programme on the environment and sustainable development.

Article 4 of this document outlines an aim to:

> "(..) enhance the effectiveness of cooperation between the authorities in the Member States responsible for implementation and enforcement of Community environmental legislation, inter alia via the network of environmental inspectors; in this context, to seek to achieve greater transparency as regards supervision and enforcement efforts in the individual Member States, and to step up joint cooperation efforts via the same network by means of pilot projects and exercises on the ground" (Decision 2179/98 EC, article 4 c).

According to Kingston et al. (2017: 73) the network that is referred to is IMPEL. In the interviews and observations, the role of the Commission is however nuanced with one respondent explaining the involvement as:

> "Everything that might smell of a European dictate of you should do so and so, that is not only in the environmental field quite a sensitive topic. So, you need to avert that the idea takes hold that Europe indirectly dictates what should be done via networks. Factually speaking this also just not the case. It is true that the European Commission is an observer at IMPEL. Also, IMPEL is funded for two-thirds by the European Commission for a number of good reasons." (Respondent IMPEL I).

The role of the Commission in the network is staying informed about its activities but IMPEL generates its own activities and projects (Observation IMPEL 1, Respondent IMPEL II). This has been solidified in a memorandum of understanding between the European Commission and IMPEL in 2009 (Commission and IMPEL, September 15th, 2009). The limited role can also be linked to the legal basis of environmental legislation in the European Union. The shared competence with regards to agriculture is limited in the scope of action as: "(..) the principle of subsidiarity and the requirement for unanimity in the Council in the fields of fiscal matters, town and country planning, land use, quantitative water resource management, choice of energy sources and structure of energy supply" (European Parliament, November 2019) is currently in place. The actual implementation of environmental policies remains with the member states, which in turn gives impetus to the network of IMPEL (Molle, 2011).

## 5.3 Governance structure of IMPEL

Currently the network has 53 members stemming from 36 different countries. The members are public authorities engaged in enforcing environmental legislation. Dependent on how environmental policy is arranged for in a member state, the members are typically inspectorates, ministries or permitting agencies (IMPEL d, n.d.). Membership of IMPEL is open to organisations or authorities working in the public sector who implement and enforce environmental legislation. It is not open to individuals. IMPEL derives a part of its income from membership fees and the rest from LIFE+ income from the European Commission.

Although the members are mostly based in the European Union, third countries are increasingly participating in the activities of the network.[5]

IMPEL deploys its activities in a project structure. This means that activities often have a set time frame. Activities are proposed by one of the five different clusters within the network.

Currently, the five clusters are: Industry & Air, Waste & TFS, Water and Land, Nature Protection, Cross Cutting Approaches. Each of these clusters is headed by a team leader and a deputy team leader. The leaders can come from any of the member authorities. Most often they team and deputy leader hail from different member states. However, in the cluster: Nature Protection, both the team leader and the deputy leader are from the same member state.

IMPEL is a network that is highly reliant on its participants. The governance style of the network is participant governed. This means that the participants themselves are solely responsible for the success and progress of the network. IMPEL has a secretariat. It is quite small with currently only 1, 5 FTE (Respondent IMPEL I). They offer a coordinating role to assess the advancement of project for the general meeting. Also, they prepare for the general meeting and facilitate a central point of contact for the network. A side note needs to be made here as the day-to-day management is in the hands of the board which does not include a member of the secretariat (Respondent IMPEL I). In addition, the role of assisting the projects or activities is also limited (Observation IMPEL I, Observation IMPEL II, Respondent IMPEL II, Respondent IMPEL VI). The assisting in travel options concerning project meetings abroad for both observations was conducted by the project leader. The project leader informed participants and set out travel details. The costs for attending the project meetings were on the account of the home organisations rather than the network. According to Respondent IMPEL VI, this is most often the case.

Although a secretariat is used to support the actions of the network there is no indication that it takes on a role that is instructive in the formulation of the strategy of said network (Respondent IMPEL II, Respondent IMPEL VI, Observation IMPEL I). Rather it operates as a facilitator and support staff with the decision-making capacity laying firmly in the hands of the members. In addition, the secretariat is not present at all project meetings or activities, prevalence is given to experts. Minute taking and reporting is in the hands of the participants of such meetings (Observation IMPEL I, Observation IMPEL II). Making the secretariat dependent of the input of the members, and as such reliant on them rather than the other way around. This puts the work of the secretariat into perspective. Although it is facilitating on some aspects, the advancement of the network is made possible by the involvement of the members mostly. This being said, in recent years the number of FTE's seems to be increasing. This suggests the moving towards the establishment of a more formalized governance style.

5    The third countries participating in the network are The Former Yugoslav Republic of Macedonia, Albania, Kosovo, Serbia, Turkey, Iceland, Switzerland, Norway and the United Kingdom.

Nevertheless, based on our observations and the responses of our respondents, we conclude that the network is participant governed still. This shall be explained in more detail below.

The governance style of a participant governed network is highly decentralized. We can see this style within the organisational composition of IMPEL. The project structure of the network combined with leadership role of the members in projects is exemplary for this governance style. We will address the organisational composition first and assess the level of participant governed governance style further.

The organisation of IMPEL as mentioned before consists of 53 environmental authorities of 36 countries. In addition to the members the IMPEL General Assembly can admit observers to the association which then can participate in the meetings of the General Assembly with a consultative voice. An observer can be an international organisation or network which has a close link to IMPEL's activities. Two other networks have the status of observers: Themis network and the European Federation of Environmental Health (EFEH). Experts who are nominated by a representative of an observer can also attend IMPEL projects and activities. The organisational structure is visible in the organogram of the IMPEL.

**Figure 5.1: Organisational chart IMPEL**
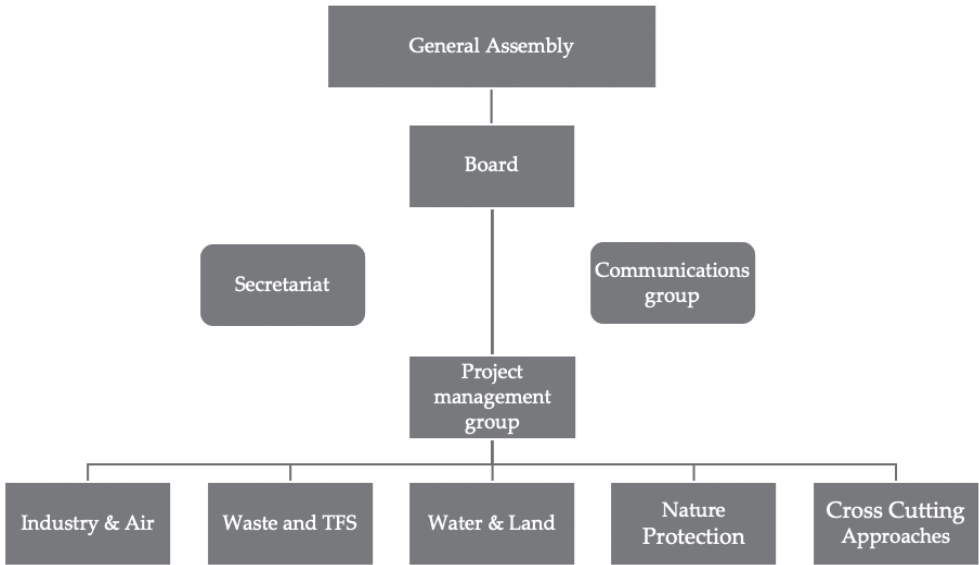


The General Assembly is the main decision-making body. In the general assembly representatives of all the member authorities convene. The representation of the member authority is oftentimes the national coordinator of each member state. In cases where a country has multiple authorities, the representation in IMPEL is often divided over these authorities.

In addition, some member states also include a representative on the management level in the General assembly. This representative is someone in a decision and policy making capacity in the home authority, who is not an active participant in IMPEL projects (Respondent IMPEL I). In the Assembly, observers may also attend. In the General Assembly all decisions regarding the obtainment of the general objective of the network are made. The general assembly is held at least once a year and presided over by the national coordinator or national representative of the host country to the Assembly, and by the president of the board (Statutes IMPEL, May 26th, 2008). An extraordinary meeting of the General Assembly can be invoked if the Board requests it or two thirds of the national coordinators/representatives are in agreeance on this. Member states have one vote, even if multiple authorities attend. Observers to the General Assembly have only a consultative vote.

The advisory board of IMPEL is instructed with taking the decisions in between General Assemblies. They in essence run the day-to-day operations. The board consists of a president, a vice president, national coordinators/representatives of the previous, current and future member states to hold the European presidency, and the presidents of the five clusters. The advisory board has six distinct tasks:

1. Preparing the internal rules.
2. Preparing the formation of dissolution of clusters.
3. Preparing the annual budget.
4. Preparing the annual work program and the strategic multiannual work program.
5. Submission of proposals regarding the position of the network before the General Assembly.
6. Submission of general report regarding the annual activities to be presented to the General Assembly. (Statutes IMPEL, 26 May 2008).

The advisory board also represents IMPEL when it comes to external contacts. In addition, it supervises the activities of the secretariat, whose job it is to support both the board and the network as a whole. The board in essence operates as an executive board (Respondent IMPEL I). The secretariat takes on the role of facilitator. It has four main tasks:

1. Drawing up of the agenda's and minutes of the General Assembly, meetings of the Board and the clusters.
2. Drawing up the report on annual activities of the network.
3. Assisting in the preparation of internal rules, annual budget, annual work program, strategic multiannual work program and submission of the documents to the General Assembly.
4. Assisting of the head of projects regarding financial, organisational and technical questions. (Statutes IMPEL, 26 May 2008).

These tasks are there to assist in the work of IMPEL. The role of determining positions is left to the general assembly by proposal of the board. As mentioned, the secretariat is supporting the network. Next to the secretariat there is another supporting group, i.e. the communication

group. This group is made up out of several representatives of members authorities. The task that the communication group is tasked with revolves around promoting and dissemination information on the network and its projects (IMPEL b, n.d.). The selection of key stakeholders and providing them information is the core of their work.

IMPEL's main activity is carrying out projects involving implementation and enforcement. These are proposed by the five different clusters within the network. These clusters consist of experts of the different member countries that set out strategies in particular fields of interest such as waste management or nature protection. To reiterate these five clusters are: Industry & Air, Waste & TFS, Water and Land, Nature Protection, Cross Cutting Approaches.

By means of the clusters experts on specific topics come together to discuss the gaps in implementation they perceive. They provide know-how and technical assistance to the process of enforcement. Those joining the topic groups are considered experts in their field. During the observations of two different topic group meetings, the level of technical knowledge was clearly shown (Observation IMPEL I, Observation IMPEL II). To illustrate this, at one of the meetings the participants were discussing birds that were frequently illegally hunted. As the command of English with regards to bird species was not always readily available, the lingua franca changed to Latin, when referencing the species. This showed the familiarity of the convening participants in the topic group with the particularities of the policy field (Observation IMPEL I).

Another example is that clarification when speaking in acronyms, abbreviations or references to EU jurisprudence was not asked. The knowledge of these were understood (Observation IMPEL II). The topic groups are often referred to as expert teams (Respondent IMPEL I, Respondent IMPEL II, Respondent IMPEL III, Respondent IMPEL VI). As such they also take on a central role in devising the work program for the coming year(s) (Respondent IMPEL I, Observation IMPEL I, Respondent IMPEL II). A respondent referred to the process of devising the work group as the board basically allowing through the suggestions stemming from the expert teams on the nod (Respondent IMPEL I). These suggestions from the expert teams are uploaded from the different clusters to the project management group.

The project management group consists of the expert teams' presidents and deputy presidents. In their meetings they discuss their plans. Together they devise a proposal for the working program to be put to the board. The clear involvement of the members, their pivotal role in the governing of the network is evident. IMPEL is thus an example of a participant governed network. The network hinges on the participation of the members. Responsibility is shared amongst members with an executive board of interchanging combinations of participants. The governance is in the hands of the members. Given the reference to the informal character of the network (Minutes annual meeting 2017) this is not unexpected. In addition, the respondents have indicated this as a prime feature of the network (Respondent IMPEL II, Respondent IMPEL VI, Respondent IMPEL XII).

The structure of IMPEL falls comfortably within the definition of a participant governed network. The importance of cooperation of the members is stressed throughout. They are in the lead with regards to the activities and projects (Respondent IMPEL I, Respondent IMPEL II, Respondent IMPEL IV, Respondent IMPEL VI, Respondent IMPEL XII). They are paramount of the success of the network. Which makes participation to the network such a necessity. However, the difference in participation due to differing circumstances in the countries is visible is in the majority of the interviews and in both observations. This is seen as somewhat of a challenge to the quality and effectiveness of the network (Respondent IMPEL I, Respondent IMPEL V, Respondent IMPEL XII). The level and command of English varies, as does the ability to send employees away from the home organisation to work for a project. This leads to some countries being overrepresented and often taking a more leading role (Respondent IMPEL VI). The participants of these countries purely by being there can advance the network based on their own organisations preferences. They have the opportunity to give be a lead on projects more than the other countries might. We will address which objectives the network wants to attain and what the strategy is of IMPEL in the following section.

**5**

## 5.4 Function of IMPEL

The main function of IMPEL is that of an information network. This means that the focus of their work revolves around the dissemination of information, both to their peers but also to a broader range of stakeholders. In an information network, members come together and discuss their experiences and problems. They formulate best practices, raise awareness on topics of interest and exchange information. This exchange of information does not just take place in meetings of the networks but also in "technical assistance or training programs provided by one country's official to another" (Slaughter and Hale in: Bevir, 2010: 344). An information network is one of three types of networks. The other two are: enforcement and harmonisation. These two types have a different function than an information network. Enforcement networks have a broader scope to their activities than information networks. They aim to enhance the effectiveness of enforcement for domestic regulators. It generally concerns the improvement of enforcing rules by members to the network. Although still not obligatory the scope of the network goes beyond exchanging best practices and is seen as a first attempt in uniting the advancement of enforcement. Harmonisation networks are the most far reaching in scope. Their aim is to harmonise regulations. This type of network often springs up as a result of a treaty or executive agreement (Slaugther and Hale in Bevir edt., 2011: 344). Within the network of IMPEL most of the activities apply to the definition of an information network, however some aspects of the work of IMPEL fall within the category of an enforcement or even harmonisation network.

Upon inception the core task was to "provide a mechanism for the exchange of information and experience between environmental agencies in the EU in order to address issues of mutual concern and to enhance the quality of the environment." (Hedemann-Robinson, 2015). This already hints to the fact that IMPEL does not strictly adhere to the definition of

an information network. The core task is information gathering and disseminating on the one hand, whereas it also seems to have a focus on enforcing. This latter part is reflected as enhancement of quality of environment is mentioned. It is however not been made explicit if enforcement enhancement is meant, but this seems to follow logically. In 2002 the objective of the network was revised. It was changed to:

> "IMPEL's objective is to create the necessary impetus in the European Community (including the candidate countries and other countries applying EU environmental law) to make progress on ensuring a more effective application of environmental legislation. The Network promotes the exchange of information and experience and the development of a greater consistency of approach in the implementation, application and enforcement of environmental legislation, with a special emphasis on Community environmental legislation." (DHV Environment and Infrastructure BV., 2015).

In this objective the enforcement of policies is giving more prominence. However, IMPEL lists its core activities as:

> "awareness raising, capacity building, peer review, exchange of information and experiences on implementation, international enforcement collaboration as well as promoting and supporting the practicability and enforceability of European environmental legislation" (IMPEL c, n.d.).

The emphasis given to an information function is quite clear in this. The focus on information sharing and the ensuring of best practices is given prevalence over for instance the creation of harmonised policies. This is for instance noticeable in the mentioning of 'promoting and supporting' role the network sees for itself. IMPEL does not portray itself as a driver for enforcement of policies rather sees itself as a facilitator as an information hub for experts. This is also exemplified in the strategic objectives they have set out:

- helping countries get to compliance more quickly, for example, by sharing knowledge, skills and good practices, and carrying out peer reviews (IRIs);
- helping implementing organisations use their limited resources more effectively, for example, by producing technical guidance and promoting the use of risk-based approaches to target effort;
- coordinating action between countries, for example, in the enforcement of regulations to tackle illegal trans-frontier movements of waste;
- facilitating communication between different actors and networks, for example, prosecutors, judges and ombudsmen;
- informing policy with practical experience and expertise (IMPEL, 2021)

Expect for the third objective, all other objectives are in line with an information function. The third objective can be seen more of an enforcement function. However, this enforcement function is only visible in one of the five clusters. This is exemplified by the fact that in the objective a reference is made to the project of tackling illegal movements of waste. The other objective highlight the knowledge sharing aspect of the network more. This information function can also be seen in the projects that are undertaken by the network.

The duality of functions in the objectives signifies a functional overlap. Which is often the case in transgovernmental networks (Lin, 2018: 34). The description of the mission of IMPEL as stated in their Multi Annual Strategic Program 2016-2020, reads:

> "to contribute to protecting the environment by promoting the effective implementation and enforcement of EU environmental law." (IMPEL, 2016: 2)

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This does not clarify the duality of the tasks of the network. But we do see clear that the network understands EU environmental law as a given that needs to be effectively implemented. It does not address the possibility of creating or advising on legislation itself which would be a prerequisite for a harmonisation network. Regardless, the networks' mission stresses "effective implementation and enforcement of EU environmental law" (IMPEL, 2016:2). This point is crucial. As we understand enforcement networks to "spring up due to the inability of government officials in one country to enforce that country's laws" (Slaughter and Hale in Bevir, 2011: 344) we need to see a clear focus on this if we are to consider IMPEL an example of an enforcement network. The network in this case would perceive their function to increase the ability of national enforcers. Interventions by the network to ensure this need to be part of the function in case of an enforcement network. As we understand the function of the enforcement network to go beyond the dissemination and gathering of information, that would be prolific in information networks. In the case of IMPEL it is apparent that the function of the network overall falls within the information network rather than an enforcement or harmonisation function. In the section below support for this shall be presented.

Understanding how the objectives are translated by the members provide a better insight into the function of the network. In the minutes of the general assemblies that are available for 2013-2017 the interpretation of what the network should operate on and about, is revealed. During the 2015 and the 2017 general assembly of IMPEL discussion points have been raised regarding the interpretation of the mission of IMPEL. The discussion focused around increases of interest by the European Commission and subsequent demands for revision of future planning, regarding the increase in interest. In the minutes consensus seems apparent among participants regarding the function of the network.

This is reflected statements during general assemblies below:

"Waltraud said that IMPEL should focus on, and not lose sight of, IMPEL's core aims and objectives to help improve working methods, tools and approaches at the working level. (representative DE in the minutes of the general assembly 2015).

"IMPEL should maintain focus on its informal role and soft information sharing and refrain from creating new policies" (representative SE in the minutes of the general conference 2017).

"If no further (financial) support will be provided by the COM to IMPEL, how does the Board see going forward with the ambitions?" (representative NL in the minute of the general conference 2017).

"German view on IMPEL, as a network being the voice of practitioners involved in the field of implementation and enforcement of environmental law. IMPEL should preserve this role and to abstain from more political work." (representative Ge in the minutes of the general conference 2017)

As the statements of the delegates of the general assembly's show, the focus of the network is on ground level work. It is really meant for those workers implementing environmental policies and help with improving the conditions for this work. This does not exclude enhancing enforcement, but the representatives are clear to not stretch beyond information sharing and improving working methods. The more policy-making role should not be aspired. We see this interpretation of the function of the network translated in the projects IMPEL ensues. IMPEL's main activity is carrying out projects. For each project a project plan is drafted, the so-called Terms of Reference (ToR). The ToR describe the project both in terms of objectives and outputs. It includes provisions for the quality review of the project and a dissemination strategy of the project results. A joint management of projects by environmental authorities from different IMPEL member countries is encouraged as well as a broad participation to project workshops from all IMPEL members. A project team comes together at least once. This is often linked to topic groups. These groups also come together. As the duration of a topic groups is often longer than most projects, they meet more often. During meetings of topic groups the emphasis on sharing of best practices is clearly noticeable (Observation IMPEL I, Observation IMPEL II). There is no indication that a follow up or a mandatory take up of these best practices is on the cards.

Over the course of multiple days, the topic group convenes in one of the member states to discuss how enforcement work is conducted in the different national contexts. The emphasis on learning from each other's experiences is key in the sessions of the topic groups. During the

observations, the number of presentations that describe modus operandi of the participating members were abundant. Site visits on actual inspectorates work in action, were included in the itinerary for both topic groups. The decisions on how IMPEL could help with the work of the delegates were left for the concluding remarks (Observation IMPEL I, Observation IMPEL II). What was exemplary for the interactions during topic group sessions was the interest into how things worked or how they were conducted. Instances of this are provided below.

**Sharing of information during topic group sessions**

*Observation IMPEL I:*

Delegate 1: This is about infraction not conservation how do you really proof in court that this infraction has occurred?

Delegate 2: Jurisprudence of European court is very important to take into account.

*Observation IMPEL II:*

Delegate 1: How do you assess damages such as crop?

Delegate 2: We evaluate and transfer to ministry of Agriculture who pays the damages in case of crops; if it is environmental damage this is done by ministry of Environment and so on.

Delegates were vastly interested in best practices and differences to their own practices. In the 'Key achievements 2013-2015' brochure, projects that gather and disseminate information are also highlighted. There is however one project that sets out to coordinate cross-border actions to "prevent, deter and enforce illegal shipments of waste" (IMPEL, January 4th 2015). Of the key achievements that one, is the only one which delves into the roam of an enforcement network. Looking at the current running projects, we see one that has a similar potential: DTRT[6]-Permitting and IED[7] guidance. This project has the objective to create a level playing field (IMPEL, April 11th 2018) and would as such enable enhancing enforcers work in national settings.

The bulk of the actions undertaken by IMPEL however, focus on information gathering, sharing of data, the creation of applicable tools for enforcers and assistance programmes in the form of IRI's (IMPEL Review Initiative). These IRI's are voluntary peer reviews where a delegation of IMPEL representatives visit a member organisation of IMPEL and be given free advice on best practices. The information that comes out of these IRI's is however, only available if the member state that hosts the IRI wants this to be disclosed. IRI's as a tool, have been evaluated in 2013 in which it was mentioned that not all recommendations of the reviews conducted were implemented. It was hypothesized that this was due to the lack of involvement of senior staff in the process of conducting the IRI. In the evaluation it is mentioned that:

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6    DTRT stands for Doing The Right Things.
7    IED stands for Industrial Emissions Directive.

"Concrete improvements to the practices, procedures and methodologies have taken place but many recommendations have not been implemented. Greater emphasis needs to be placed on building in high level support for the IRI process as a whole from an early stage. Building in high level support early would help with dissemination and implementation of findings later on in the process. "(IMPEL, October 10th 2013)

This indicates the potential of the IRI as a tool to get technical advice but also showcased the challenge of becoming a true enforcement network. The ability to enhance enforcement at the national level is hindered by a lack of commitment by senior staff of the different member states.

Other types of activities by IMPEL are for instance a mapping exercise of agencies at the member state level who are involved in the implementation of the European Union's environmental acquis. On the website of the project, it states that there are gaps in the current memberships especially concerning certain clusters.[8] This means that not all agencies involved with managing and carrying out implementation and enforcement activities in the different member states are part of the different clusters, this is for instance the case in the Nature protection cluster. The mapping exercise is meant to create a way to ensure more effective implementation. Partly these gaps exist as environmental law is managed at the sub-national and local level as well. The idea with the mapping exercise is to help with capacity building of the network. As the project website states:

"Up to now, IMPEL's membership from sub-national authorities is rather limited and this needs to change if we are to improve implementation more broadly in Europe." (IMPEL, 2017).

A different example of a project by IMPEL is that of the use of technology in regulation. This project started in 2015. It is designed to look into how the different agencies involved in environmental regulation across Europe make use of technology. The projects structure is divided into two phases in particular:
- The design and use of apps in regulation as well as back office technology.
- Cutting edge technology such as drones and mobile technology (IMPEL, 2015).

By hosting mini conferences on the topics, the developments of the different agencies can be discussed. The purpose of these conferences is to share knowledge and learn of and from pitfalls and increase the capacity of individual agencies (IMPEL, 2015). This project is part of the Cross cutting approaches -cluster and is led by the United Kingdom currently.

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8    On the project website the clusters Land & Water and Nature protection are mentioned as where the gaps have become particularly clear due to a restructuring of these clusters. (IMPEL, 2017).

In addition to projects, IMPEL organises three-day conferences on implementation and enforcement of EU Environmental Law. The conferences provide a forum to discuss with the environmental authorities of Europe opportunities for improving the implementation and enforcement of EU environmental law. It offers an opportunity to pinpoint areas of interest for the work of IMPEL (IMPEL a, no date). Similar to the other tools the emphasis here is on the information gathering and sharing of the network.

The key work of IMPEL is fostering for the needs of the technical experts in the member states. The examples show the effect of the principle of subsidiarity in the policy field of environment clearly. As the emphasis placed on supporting the individual member states in their work is mentioned throughout. We can see this both in the formulation of the objectives as well as the structure and objectives of the projects. What the examples also show is the secondary aim of IMPEL which is, next to an information function, creating more effective implementation. By mapping the agencies involved, stakeholders can be addressed to (in future) work towards more effective implementation for instance. IMPEL is however not (yet) at the stage of functioning in terms of an enforcement network, as the focus is still very much on information gathering and disseminating.

As mentioned, there are components of activities that do fall in the definition of an enforcement network. For instance, the network is currently running a project to help environmental authorities with the implementation of the Industrial Emissions Directive[9] . The current project is a follow-up from a previous project dealing with the same directive. The first project had an aim of disseminating best practices of the implementation of the directive whereas the second project aimed at guidance on the implementation and the creation of a level playing field (Büther, January 20th, 2015). In the example we clearly see the information function of the network. The follow-up to the first project does allude to IMPEL being an enforcement network. This has to do with the creation of a guidance document that basically offers a how-to for public authorities. Guidance documents are often made by IMPEL projects. However, a respondent critiqued the response to the guidance documents as the respondent recounted after working on a guidance document for 2 and a half years:

> "It is just what happens next? I consider it a loss. We have delivered something, and that is that. It is dependent on the countries themselves if they make use of it or not. You see this often. When something is delivered only briefly the question arises "should we do something with it?" So, during a general assembly the report is briefly addressed like please countries do something with this. But there is no structure to it. It hinges on if someone who is attending on behalf of a country to bring it to the right level for implementation" (Respondent IMPEL IV).

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9    Directive 2010/75/EU was devised to regulate pollutant emissions from industrial installations. Regulation of this takes place via the issuing of permits and controlling for the conditions specified in the permit.

The dependence of the take up of information from the network in the individual member states is clear in this statement. Commitment to the work of IMPEL is in this sense permissive. As said, we see components of the other two functions of the network as well in IMPEL. Having discussed the enforcement function aspect, that leaves us with the harmonisation function. This function is seen in the fact that work by IMPEL has become part of legislation. IMPEL is mentioned in legislation as a partner for further cooperation regarding environmental law implementation but IMPEL has also given impetus to the legislative procedure. For example, the European Parliament and the European Council have adopted a decision in 2013 called: Decision of the European Parliament and of the Council on a General Union Environment Action Programme to 2020 "Living Well, Within the Limits of Our Planet". This decision was the formalisation of an EU environmental action plan. The decision sets out the EU policy and strategic initiatives in the environmental field. In it they also see a role for IMPEL as it lists one of the criteria to improve environmental implementation:

> "extending binding criteria for effective Member State inspections and surveillance to the wider body of Union environment law, and further developing inspection support capacity at Union level, drawing on existing structures, backed up by support for networks of professionals such as IMPEL, and by the reinforcement of peer reviews and best practice sharing, with a view to increasing the efficiency and effectiveness of inspections" (European Parliament and Council, November 20th, 2013).

This addition in the legislation, offers the opportunity for IMPEL to introduce binding criteria for all EU member states. Which is considered a step to harmonisation. According to Respondent IMPEL XII, harmonisation could become a goal, but at the moment it cannot be obtained as the respondent states that:

> "In order to do so we would need to maybe make guidance inspectors. You could do that with a specific centre. But do you do so with permanent employees or do you again ask your members for participants?" (Respondent IMPEL IV)

About the second option the respondent already addressed the difficulty of ensuring participation from all the members of IMPEL:

> "We have a very rich organisation in terms of expertise, but the organisations are somewhat reluctant providing their employees. Because, well, the capacity is scarce and expensive and organisations need their own people, they cannot outsource employees for two to three weeks."(Respondent IMPEL XII).

This sentiment is shared by other respondents as well. In addition, Respondent IMPEL VI mentioned that the political situation of a country might also be a hindrance to participation.

Priorities are determined by politicians, and they decide whether or not a member state can send people to IMPEL meetings (Respondent IMPEL VI). These references to the importance of input from all members is shared throughout and showcases the participant governed aspect of the network. In the section below we shall discuss how the structure of IMPEL fosters this governance style.

Based on the previous we can conclude that IMPEL falls in the variety of a participant governed network with the primary function of an information network. We do see that some tasks that IMPEL takes on do not fall under the umbrella of an information network. Yet, given the predominance of their objectives and tasks we see a majority of the tasks within the domain of an information network. We expect that this type of network variety would lead to a professional accountability type to be deployed. In order to test this we will delve into the modus operandi of the network. We will do so by going through the three questions that underline table 4.3, accountability to whom, on what and how?

## 5.5 Account giving

Participants of IMPEL are expected to circulate their national practices and positions in the topic groups and at the general assembly. The other units that make up the organisation (project management group, board etc.) are instructed to voice the practices and positions of the network. Within both the topic groups and the general assembly this common position is reached based on the exchanging of positions, ideas and so on. As we concern ourselves with the accountability of participants back to their home country these are the venues where behaviour for which account should be given, occurs.

We will first assess how IMPEL structures its accountability relationship within the network before we will address how account giving is structured in the setting of the Dutch members. Secondly, we will discuss the accountability relationship back to the national organisation. The assessment of the accountability relationships regarding IMPEL is based on both participant observations as well as interviews with Dutch participants.

### 5.5.1 Account giving structure of the network IMPEL

Most activities by IMPEL are undertaking by topic groups. At the level of topic groups, experts convene to discuss best practices on a highly technical level. As an example, a delegate for Portugal mentions that legislation uses terminology that leaves much to the interpretation of the organisation. Providing proof for a crime is difficult according to the delegate as the law stipulates that the crime needs to be "significant", and the effect of the crime needs to be "serious". At this point a short discussion ensues in which other delegates weigh in that it is made increasingly difficult as prosecutors are often not nature experts (Observation IMPEL I). This example shows the level of connectedness with fellow experts as well as the technical level of the discussions. Taking notes during these sessions is not taken up by any

of the participants in terms of disseminating what has been discussed and how. One of the respondents indicates that it is difficult to find volunteers amongst those attending projects or activities to take on this duty. As the respondent recalls:

"A report will be made, oftentimes it is rather difficult to find someone who will make a report afterwards voluntarily. What I have learned from that is that from the start of the project or meeting I immediately ask people who would take care of the report of the inspection and of the entire report. (..) By doing so we have two persons with one working on site during the inspection and the other overseeing the process of report writing. It is best to divide it as such so people can focus on one thing at a time." (Respondent IMPEL V).

During the observations, no notes were taken to be shared beyond oneself. The responsibility to do so lay solely with the project leader. Because of this reliance on the work of the project leader one project leader confided that this means that reports often come with somewhat of a delay. As returning from a network meeting does not mean that the work for the home organisation has evaporated (Respondent IMPEL II). In case of an inspection or an IRI, there seems to be more interest when reports are made public to ask questions or request changes (Respondent IMPEL V). These seems to be highly valued. With regards to minutes of meetings there was no interest shown throughout the observations for these to be made available. The project leader did have a discussion with a member of the topic group on how to proceed.

Over breakfast the project leader and the member of the topic group discuss dissemination of information to the IMPEL network as well as the Commission. They speak of their contact with the Commission who was present at a previous workgroup session in Croatia. They decide to write a short letter in which they asses the best practices of the hosting delegation. This is sent to both the host delegation of this meeting and the Commission. The rest of IMPEL will get a full report on a later date as well. They agree that the focus on best practices initially is intentionally done. To ensure cooperation, and a way to say thanks. (Observation IMPEL II).

The draft of this letter was sent to the participants who were asked for comments before it would be send to both the host delegation organisation as well as the European Commission. No comments were made in the email thread that occurred. According to respondents it is mostly the key results that are given most priority (Respondent IMPEL XII). As these are send to the General Assembly. They give a clear overview of how the network is doing in each of the topic groups. During the General assembly most reports by the different clusters or topic groups are rather rubber-stamped than discussed (Respondent IMPEL I). Regarding the General assembly the respondent recalls:

"In the past it has occurred that during a general assembly's priorities were determined. We have deviated from that now. We currently, as executive board, accept what comes out of a expertise group and the board proposes the end-proposal to the General Assembly. Ideally these proposals are rubber stamped. The real discussions have already taken place. This means that the General Assembly usually takes two days, a lot passes the table but the work program for the coming year is just part of this and is only discussed during half a day, and only marginally. Sometimes it is giving and taking and sometimes venting that a project is maybe too costly but in the end, *de facto* most proposals by the board are accepted unanimously. Sometimes with a side note of a particular country. The real work is done in the fall. All expertise groups determine the priorities themselves and make sure it fits in with the overall strategic plan for the upcoming four years. Well, that is how it works in general terms. We do however need to pay attention that it does not become hobbyist. That can happen quickly in a network. But we really need to keep an eye out for the problems in our member countries." (Respondent IMPEL I).

This recollection speaks of the real bottom up approach of the network and letting those with the expertise guide the network. However, the respondent indicated the potential for hobbyist tendencies. With this the respondent showed the ability of a well-positioned participant to steer part of the network into subjects of their liking. Another respondent in the position of team leader however noticed that hobbyist tendencies are difficult to achieve. The respondent states:

"As a team leader you are part of the board. Before you start with a project you make sure to link up with the current strategy. A broad base for a project plan is vital. You will not write a project plan if there is no support for it. Which makes this an important job" (Respondent IMPEL III).

This reiterates the point of participant governed style of the network as it highlights the importance of cooperation. The reports send by the expert groups to the other members of the network end up in the reports to the general assembly. How this works is described by Respondent IMPEL XII as follows:

The board does operate as a watchdog of these expertise groups. The leaders of the expert teams are also part of the project management team who are also board members. In this project management team the expert team leaders come together to coordinate their activities and discuss progress. The individual activities of the expert group remains the responsibility of the expert team leader. Sometimes board member ask for extra information of an expert team leader throughout the year, so the strategy is safeguarded. But this is sometimes the case. (Respondent IMPEL XII)

This free reign system showcases yet again the reliance on the bottom up approach of this network. Letting the expert work how they see fit. The strictness of reporting or answering is not as visible in the accountability line within the network. The general assembly is the highest decision making body, but it operates based on input that has been pre-discussed in the expert setting of the expert teams and at the project management leaders team. The discussions at these levels determine the strategy most. The involvement of the European Commission in the network is limited. However, there seems to be a difference between the clusters in the amount of participation and involvement of the European Commission. In the cluster which discusses waste management the involvement is higher than in the cluster of nature protection (Respondent IMPEL II, Respondent IMPEL V). As we have seen in the statements of the general assemblies the involvement of the European Commission to increase its status from observer to steering member is unlikely. This view is also shared among the respondents (Respondent IMPEL II, Respondent IMPEL XII, Respondent IMPEL VII).

The account giving in the organisation of IMPEL relies heavily on how the expert team leader decides to communicate reports. There is no structure to this for the meetings of the topic groups or clusters. There is a system of reporting regarding strategy as the expert team leaders meet to discuss their progress in relation to IMPEL's organisation strategy. This is a way to hold preliminary discussions before the General assembly. The discussions at the level of the expert team leaders essentially determine the way forward. The board depends on the expertise of the team leaders who themselves are also part of the board. The account giving hinges on these team leaders. Regarding third parties, in particular the European Commission, we do not see clear evidence that there is a structure or system to their involvement other than there is a difference in terms of involvement regarding clusters. The sharing of results of the network are mostly done in the expert team leader meeting and are shared on a general strategic level with the General Assembly. The outcomes of the meetings, activities of the topic groups are left to the participants mostly. Which is why we shall turn to how results of the network are shared beyond the network.

## 5.5.2 Account giving by the participants of IMPEL to the home organisation

The ability to join and be active within the network depends on the resources a home organisation has. For some organisations it is too difficult to arrange for these resources; in terms of time, money and work force. In order to join the network the respondents share that they need to have permission from their supervisor to join. The supervisor in turn ensures time is allocated for the work to the network, if they see the benefit for the home organisation. As one respondent mentions:

> "You just see a clear difference in terms of capacity. With north-west Europe being overrepresented."(Respondent IMPEL III).

This difference in capacity can also be seen in the introduction of new activities for the network. As activities and possible subjects for IMPEL are first discussed at the home organisation. This is especially so when the subject matter befalls a broader team's tasks in the home organisation (Respondent III, VI), however if the policy subject befalls a single civil servant that person will unilaterally introduce a subject to the network (Observation IMPEL I). After initial coordination at the home organisation the subject will then be referred to the national contact point (Respondent IMPEL I). Within IMPEL the participation governed aspect is also noticeable in the fact that before an activity will be taken on, more than one country needs to acknowledge that this is of interest to them. This is noticed by most respondents. The national coordinator is in that case instructed to seek others out other delegations to collaborate and introduce it. One respondent recounts how that works:

"When the documents of the general assembly are not send out, that is the time to influence. Influence the direction of the meeting but also the process before the meeting. Participants in the network working for the same member state are asked if they have specific wishes with regards to projects in terms of what should continue, what would logically follow from a project, what could end and where would be room to start new projects. Also, they are asked what the pressing issues with regards to implementation are. I assume this is done in all member states participating in IMPEL. Although I am not sure. I would not exclude the possibility that they do not. Or that they do not find this necessary as it is just their own organisation who is involved with the implementation of environmental policy. For the Netherlands this is by definition not the case." (Respondent IMPEL I).

The output and discussions of a network meeting are asked for and discussed with the national coordinator. The coordinator devises an overview of all activities of IMPEL and discusses them with the different participating organisations within the country at least three times a year (Respondent IMPEL I). These discussions are with the support group. This group has several members that hold a specific role within the network, such as an expert team leader for instance. In the support group the activities of the network are discussed as well as which Dutch participants are best suited to be send to the activities. Even if positions in the network open, these are discussed (Respondent IMPEL IX). But most interactions in the support group are done via e-mail not face-to-face. In case a situation pops up that has some urgency the support group is contacted. Together they provide the input for the national coordinator. They in essence devise the national position regarding IMPEL (Respondent IMPEL I, Respondent IMPEL IX, Respondent IMPEL XII).

Gathering information or becoming informed of the work in the different topic groups is also seen as the job of a national contact point. As one respondent who does not hold the position of national contact point, stated:

"There is much more coordination that could be possible. But for me I just miss the time available to do so. I focus on giving back the results and outcomes to my own team rather than a national contact point" (Respondent IMPEL II).

Regarding conduct within the network most of the respondents indicate that they disseminate the information from the network meetings they attend to their colleagues at the home network (Respondent IMPEL III) with one respondent actively making newsletters regarding interesting articles but also summaries of meetings from IMPEL which are disseminated on a weekly basis (Respondent IMPEL VIII).

The diffusion of information from the network is dependent on the individual partaking in the network. When pressed if information on conduct within the network is shared with other organisations or entities, the response is predominantly that this depends on the subject matter. If a subject is or has the potential to become politically salient, a politician to whom the respondent is accountable is contacted but this is deemed rare (Observation IMPEL I). The lack of interest was raised as a cause of concern during a topic group. The exchange in which this was addressed can be seen below:

One of the group members spoke of "the biggest issue" facing hunting and environmental implementation officers is the implementation of the Habitat directive. The implementation is far from ready and the deadline of January 1st 2017 is impossible to uphold. According to him; state government is procrastinating and the municipalities have no idea that this piece of legislation is in existence since 2010-2012. The group seems to agree on this point. As they mention an absence of direction and control by the state government as well as both Parliament and Senate on the matter. They criticize the level of ignorance and level of ecological knowledge at other levels. According to the member that raised the issue, in his home region there are only two municipalities that actually have ecological knowledge. (Observation IMPEL I).

In a conversation with a Dutch participant during a topic group, the issue of coordination on complex issues comes up. The representative says that he coordinates with his counterparts from other Dutch provinces first. The representative looks for provinces with similar problems if extra coordination between them is necessary. Moreover, coordination with the provinces with which their province shares a border are also consulted for the purposes of coordination but only if their executive tells him to. Or in case the 'Gedeputeerde' (politically appointed) instructs him to do so. At the 'Inter Provinciaal Overleg' (IPO), a meeting of representatives of all the Dutch provinces, difficult and complex issues are sometimes also raised in light of coordination. However, the representative tells me, this is always preceded by consultation at a lower level. Across the board the difference in structure on how information is shared within member states is noticed. For the Dutch participants, IMPEL is not a salient network meaning that higher level officials do not need to be involved to share their positions on an issue. The

structure within the Dutch system is such that a lower-level civil servant can and should offer insight based on the expertise of that person (Respondent IMPEL IX).

Members attending a network meeting take the results back to their home organisation (Respondent IMPEL II, Respondent IMPEL III, Respondent IMPEL IV). The importance of which is emphasised by two respondents who state that they know the people who work on the subject in their home organisation. Keeping them informed by holding presentations to showcase what we do in IMPEL but also getting them involved in the network is important, they state. This is because the work of IMPEL is valuable to the organisation as a whole (Respondent IMPEL II, Respondent IMPEL VI). Respondent IMPEL II discusses this also when they state:

> "It is all valuable work, and it is great if you can make the connection to your own work. And that is what I mean by reporting back the findings. The reporting back of projects. I think there are about 30 to 35 projects per year. To make the translation to your own situation and say this is the result and to share this with other provinces and municipalities just takes up much time. But it is such an important issue. Which is why it is so important to know your people." (Respondent IMPEL II).

With this last point of knowing the people the respondent referred to the fact that members of IMPEL need to know the people in the environmental field in their own country. It makes connection and discussion of results much easier.

Another respondent agrees with this importance but states that they have team members that are still unaware of the work of IMPEL. The respondent states that the revenue of an IMPEL meeting is shared by him by means of a presentation to his direct colleagues, so the results are clear to his team (Respondent IMPEL VIII). Information sharing regarding the work of IMPEL is often done to the direct team in the home organisation. This is mentioned most by the respondents. Asked about the level of discussion or questions regarding the sharing of conduct there is a mixed response on the level of this. With some respondents stating that there are enough questions regarding content whereas others state that these occurrences of asking for more information are rare. Even though all respondents agree that sharing the experiences of IMPEL is valuable to indicate the added value of IMPEL. As one respondents remarks that it is the challenge of participants to explain this added value to the home organisation (Respondent IMPEL XII). The minimal effort on behalf of the home organisation and the revenue can be gained for the organisation is vast. With another respondent stating that this challenge is also a weakness of IMPEL in the sense that it currently is unable to disseminate its activities so that it can be implemented by the designated authorities (Respondent IMPEL IV). This might be due to the fact that the individual member simply do not have enough time to diffuse all the information (Respondent IMPEL II). The diffusion of information is dependent on the individual partaking in the network.

Account giving is mostly done in a collegial manner. Together with a team, the priorities of the Netherlands are discussed and put forward. There is no indication that a single organisation in the Dutch system of environmental policy has the upper hand in this. But the position an individual in the IMPEL network holds is an indication in how influential one can be in this process. When asked about the hierarchy in the environmental policy field we automatically discussed the Ministry's involvement. But although they do come across the work of IMPEL and ask questions or clarifications this is rare with just one respondent referencing and simultaneously stating that this happens "not a lot" (Respondent IMPEL III). This might also have to do with the lack of awareness mentioned by some respondents (Respondent IMPEL IV, Respondent IMPEL VIII, Respondent IMPEL XII). Respondent IMPEL I stated that the position of the ministry in this particular field is somewhat different than perhaps in other policy fields. He described their involvement as follows:

> "There is no one of the ministry that tells you; "you need to do this or that". The Ministry, or shall we say the policy directorate, which is most relevant here, is part of our national coordination structure. We call this the support group. So they are part of the support group for IMPEL. And sometimes the Ministry also sends out one of their own to participate in projects. For instance, when the project is about legislation or permitting. Then it is relevant for them. But they do not offer a frame of reference or anything. (..) I tell them and the others what the Dutch approach will be in the support group. I tell them that if I do not hear back from them, I can assume that this is the way we will address all the issues. In all those years I have seldomly heard that it should be done differently. I do discuss with my own bosses, but they all think it is great. They have long been okay with it and they just appreciate that people take time to work for IMPEL and read all those lengthy documents." (Respondent IMPEL I).

This example again shows the level of collegial coordination taking centre stage in the account giving in the Dutch context. In the statement their seems to be a permissive agreement that those participating in IMPEL are in the lead. This might be the result because the Ministry is of the understanding that everything is running the way it should. If that understanding changes, the fact that the Ministry is represented in the support group could lead to a change in collegial coordination. However, given the persistent acknowledgements of lack of interest by the Ministry this is not expected by the respondents. An overarching hierarchical approach is lacking. With no specific entity providing a fixed mandate. The key role of individuals and how they relate back to their own teams is key in this account giving relationship. Determining the priorities as well as giving back of results is heavily reliant on the individuals taking part.

## 5.6 IMPEL: Professional Accountability

Having described both the accountability structure within the network as well as towards the home organisation, four lines can be distinguished that all point to professional accountability

in case of IMPEL. Within the network there is no strict structure regarding accountability. With regards to topic groups the accountability lines were heavily reliant on the work of the project leader. The project leader devised reports that were directed to first the participants of the network and second relayed back to the other organisational components of the network. This latter line is seen in the existence of the management group where all reports are sent to, in order to be uploaded to the general assembly. The dependence on the input of the topic groups is clear also from the structure of the network. The participants set the pace for the development of the network. With regards to the reports which are sent around after the conclusion of an activity, oftentimes there were no reactions or requests for changes to the report. It is noteworthy to highlight that in the case of IRI's there is more interest with regards to asking for adjustments or keeping the review itself confidential. Even in the case of IRI's however, these are sent to the delegation under review. In a team capacity their response is decided. As we have seen in the discussion on the function of the network that senior staff involvement is rare. Although in the observations we have seen reports being sent to the European Commission or to be more precise to individuals working for the European Commission, this is not done regularly. To constitute this as a distinguished accountability line would be stretching it. Nevertheless, that voluntary report giving is directed to a diagonal forum. As said, its informal nature and irregularity makes this line of accountability of less importance than the other lines.

The third line of accountability can be seen in the accountability relationship with the home organisation. In this setting those participating in the network of IMPEL first disseminate information on their work at IMPEL to those colleagues they believe relevant. This is done in an informal manner, meaning that there is no structure or specific manner in ways of reporting. Moreover, it is conducted in a collegial and horizontal manner and based on the outcomes of meetings. The focus in their reports highlights the output of the network rather than a process-oriented approach. The fourth and final line of accountability echoes this output-oriented approach as well.

The fourth line is internal in the sense that within the Dutch context a structure is set up to coordinate the work of participants in IMPEL. This support group is headed by a national coordinator but the input of the work of the support group is heavily reliant on the Dutch participants of the topic groups. Although there are elements to the structure of this support group that could count as hierarchical the *modus operandi* of this group shows a high level of horizontal coordination which is mentioned by respondents. In addition, like with the other lines of accountability in IMPEL we perceive a deference to the expertise here as well. Results and the judgements of individual participants is used in reporting on activities.

Where the observations showed us how the interactions in the network occurred. It gave us most insight in what was not seen in the network. There were no references on how each delegations would go home and discuss the activities of the network. There was no coordination observed between participants of the same country in discussing how to diffuse

the information from the network. What was observed is the awareness of the project leader on the need for support from within the network to proceed with activities. The reference to both the board and general assembly were clear indications of the participant governed nature of the network. It also made clear that accountability in a network is layered. The civil servants partaking work for two bosses; one being the network and the other the home organisation.

The latter was most noticeable in the references to the procedures in the home organisation. If we look at the interviews our observation remains intact. In the Dutch system there is an accountability line set up regarding the general direction of the network, in terms of the support group. And there is an accountability relationship devised regarding the direct peers in the home network. In the below section we shall go through the elements that we understand to be in existence in professional accountability. This is the type of accountability which is prevalent in IMPEL. We make use of the operationalization of professional accountability as presented in table 4.7.

We confidently reiterate that predominantly this is a case of professional accountability as most subjects do not seem to validate other types of accountability. Although the reporting to the European Commission does at times take place this is not done regurlay or given prevalence over other types. Monitoring as a technique is deployed in the context of IMPEL. Monitoring is done by means of IRI's, this type of techniques is mostly associated with bureaucratic and legal accountability. However, this type of review currently seems to fall short of a true accountability line as the discussion phase and sanctioning phase do not seem to exist. Moreover, a clear forum seems to be absent given the difficulties of follow up. Both the interviews and observations highlight the prevalence of elements of professional accountability over the other types.

## 5.7 Reflection and considerations

Having assessed whether a participant governed information network would yield towards a professional accountability type, we also need to be aware about the implications this holds. Although we have found indications that prove the expectation we have also seen that the distinction between functions: information, enforcement and harmonisation is not clear cut. Activities deployed can range between the different dimensions. We have chosen to focus on the predominance of one function over the others. Regardless we have to assess if this distinction is precise enough or accept that it is a range.

**Table 5.1: IMPEL and professional accountability**

| Professional accountability | | |
|---|---|---|
| Definition | Horizontal relationship between an actor answering to a forum in which the source of the control is internal and the level of discretion of the individual actor is high. | |
| Components | According to framework | IMPEL |
| Forum | Professional peers | Information of what has happened in IMPEL meetings attended is shared with direct colleagues. Especially colleagues of which the participants know to be involved in similar subjects. Respondents mentioned the importance of keeping direct colleagues informed as key. The reliance on the work of the project leader is clear. |
| Relationship | Horizontal | The emphasis of collaboration illustrates a horizontal direction in the relationship. This can be seen in the accountability lines within the network as those towards the home organisation. Even in the case of the support group the dependence on a horizontal relationship is key. |
| Source of control | Internal | Respondents focus on the very horizontal line they share with their home organisation. Whether this is their own team or the national coordination structure. However, the national coordination structure could be perceived as external as involvement of experts outside the home organisation is evident. Nevertheless, the reliance on the teams supporting each expert is clear. There is a line towards the European Commission, but this is irregular and informal. It is not perceived as the prevalent line by any standard. |
| Information on what conduct? | Deference to individual judgment and expertise | The reliance on the individuals and the lack of clear-cut accountability, is reflective of the informal character. But it also shows the deferral to expertise of those partaking in the network. |
| Emphasis | Expertise | They are peers and based on their expertise their input is pitted. The peers in this structure are professional peers. Each, on the basis of their expertise chosen to participate on behalf of the home network of peers. |
| Techniques of review | Codes of ethics Licensure Outcomes-based assessments Whistle-blowing Registries | Results are the prime focus in the presentations according to the interviews. It should be noted that IRI's are a type of monitoring which is conducted by the network however its potential to act as a proper line of accountability is hindered. |
| Discussion on what | Results of professional performance Professional rules followed | The deference to professional knowledge is evident. Discussion, if it occurs, is content based and revolves around IRI's. |
| Control over actions | Low | When asked and pressed if their colleagues or others pose and ask questions a varied reaction is given. Some respondents indicate that on content questions are asked where others mention that there are few to no questions pertaining to conduct of the network. |
| Sanctions | Sanction or recognition for professional involved | The last element, sanctions, did not follow from the responses. As there is a clear dependence on the expertise of the individual it would logically follow that if sanctions were to be raised by peers in this type of setting it would befall to the recognition of that expertise. |

Similarly, a governance style that is centred around the members of the network also hinges on the interpretation of a governance style by those same members. In the case of IMPEL we see that a secretariat is set up. In the strict interpretation of a participant governed network this would not be possible. However, the secretariat functions in a more supporting role to the work of the participants. It does not function in terms of a hub or broker which would be the case in a lead organisation or network administrative governed network. We contend that know how on how entities within the network are operating gives the ultimate proof on which governance style is used. We therefore argue that IMPEL is a participant governed network. In addition, the information function is strong in this network. Even though we also know of instances that yield to an enforcement or harmonisation function, the information function is most predominant in its activities.

With confidence we state that IMPEL yields to professional accountability. All the different components are visible in the network. Respondents are in agreeance. However, what has struck us is the fact that the policy field structure in a country is mentioned as an explanation for the coordination of priorities at times. References to bringing people or organisations on board that work on the same subject matter are plentiful. This is also what one would expect in case of a professional accountability relationship. The structural component of the policy field itself we have not yet considered and would be interesting to explore further.

In addition, we have heard of the importance of the individual partaking in the network in the account giving process. They are key players in reporting back, but also in influencing the priorities given in the national coordination structure. A remark that was reiterated by others came from one respondent who stated that there is a real difference in capacities of countries to send people to IMPEL. The North-Western part of Europe is even considered to be overrepresented in the network. This could in turn have a negative effect on the ability of IMPEL to reach its objectives. IMPEL really hinges on the amount of input of its members. Its informal character and the willingness and involvement of the members is crucial to its success. The difference in participation creates a negative influence to speed up the effectiveness of some more than others. This does not have a clear link to account giving but it is something to consider when studying transgovernmental networks.

5

# CHAPTER VI

EReg: A case of a network administrative governed information network

## 6.1 Introduction

In this chapter we will address the accountability type of a network administrative governed information network. In accordance with our expectation, we will need to find a predominance of the bureaucratic accountability type. Bureaucratic accountability is a type of accountability that is based on close supervision with a subordinate-supervisor role stressed. The emphasis on obedience is high. This type of accountability has a strong vertical dimension with codification of rules and directives being particularly visible here. We expect to find this type prevalent over the others as the impact of an information network is not considered too great. Which would not necessitate a stringent accountability relationship with oversight from third parties but rather keeping accountability within the organisation attending. However, due to the network administrative part, the network has a formalised component to it which would make supervisors involvement more likely than if the network was participant governed. To assess the credibility of our expectations we will make use of the transgovernmental network EReg (Association for European Vehicle and Driver Registration Authorities) as a case. In the policy domain of transport, they deal with technical issues regarding vehicle and driver registration. Due to the opening up of the European market, problems with tracking vehicles and driver across borders ensued. As the technicality of the matters do not permit a general foreign affairs approach, the registries themselves form a network. The registries are the members of the network. They have taken steps to formalize the network.

The network itself is structured along the lines of a network administrative governed network. This means that an administrative component is created to coordinate and partly steer the network. The administrative component of EReg is made up of a fixed secretariat. They together with the chairman, operate as a facilitator to the network. They hold a key or hub position in the network. The acceptance of this position by the other members is crucial for the progress of the network. After we address the history of the network we will outline how this governance style is reflected in the organisational structure of EReg.

The function of the network is an information network. This means that the majority of the work of the network is directed at the sharing of knowledge and experiences. Best practices are shared between the members to be able to enhance the capacity of their own national organisations. For instance, the network organises one-day conferences called: EReg Academy. These are sessions in which policy makers and/or academic professionals come together to discuss a subject more in depth (EReg a, n.d.). The last session that the EReg website refers to was in 2018 and dealt with the General Data Protection Regulation (GDPR). This piece of European Union legislation concerns rules for the protection of personal data both inside and outside of the European Union. As vehicle and driver registration authorities deal with personal data, the GDPR had consequences for their work. During the Academy, the members of EReg could discuss with each other how the legislation would affect their work.

The Academy is not the only activity of EReg. The network also has activities that deal with for instance; the enhancement of registration and licensing by means of digital service channels, how to deal with self-driving vehicles, as well as the exchange of mileage information. Which are mentioned in the current work programme of the network. We will discuss why the activities of EReg would fall in the category of an information network rather than an enforcement or harmonisation network.

We will outline the background of the network. After which the organisational structure of the network and its function will be discussed. Given our expectations we would need to find that this type of network would yield towards a bureaucratic accountability prevalence. By making use of the table 4.7 of distinguishing features for this type of accountability we will go through the different aspects of the relationship. We will assess this by means of the distinguishing features for each type, as presented in the methodological chapter. To simplify this, we will focus on three questions: To whom? On what? And how is account given. These three questions will form the systematic structure to our assessment of the accountability type present in this network. Moreover, they are the basic structure as presented in the table.

6

## 6.2 Background of EReg

EReg is an association of vehicle and driver registration authorities. The reason for EReg existence was born out of a different transgovernmental network, which members are also national vehicle and driver registration authorities, called EUCARIS (European Car and Driving License Information System). A respondent said that the reason for EReg is basically a problem that arose due to the fall of the Berlin Wall. This created a surge in vehicles being moved across borders. This meant that it became easier to move illegally exported or stolen cars in Europe as well (Eucaris, n.d.). Essentially the registration authorities could no longer keep track of the vehicles. Vehicle registration is a way to track if taxes are paid and if the vehicle is eligible to be driven on public roads. Not being able to track vehicles thus created a problem. In order to solve this registration authorities of The Netherlands, Belgium, Germany, Luxembourg and the United Kingdom came together to address this issue. The authorities of these countries already had links because of cooperation which made the start on this subject easier. They started with exchanging data in 1994. This was the start of EUCARIS.

EUCARIS is a network that revolves around a data exchange system. This system is explained on the website of EUCARIS as:

"(it) is a system that connects countries so they can share vehicle and driving licence information and other transport related data. EUCARIS is not a database nor a central repository but an exchange mechanism that connects the Vehicle and Driving Licence Registration Authorities in Europe. EUCARIS is developed by and for governmental authorities and supports a.o. the fight against car theft and registration fraud." (Eucaris, n.d.)

This system together with the bond it forged between authorities also identified other common problems. Difficulties and developments that stretched beyond the exchange of information on licenses and vehicle registries. The cooperation grew with the inclusion of more and more countries. With the growing of the network the realisation also grew that cooperation beyond data exchange could also be beneficial to the registration authorities. Where EUCARIS really deals with the technical issues regarding a registration system, EReg is more involved in general policies that ties the work of the different authorities together (Respondent EReg II). The foundation for the association was laid after European Vehicle and Driver Registration authorities first came together in 1998, in Stockholm (Respondent EReg I).

On EReg's website it is suggested that the initial meeting was a formal affair that was followed up "on a less formal basis with an annual meeting attended by European Vehicle and Driver Registration authorities" (EReg b, n.d.). The actual inception of the organisation called EReg, however was rather a process than a moment. A meeting in 2002 is highlighted on the website of EReg. At that meeting, the decision was made to hold annual meetings with the authorities to discuss developments in the field of driver and vehicle registration. In the coming years the number of attendees to these meetings rose, culminating in 2006 to 20 participating authorities. At the annual meeting held in Cyprus it was decided that an association of European Vehicle and Driver Registration authorities should be established. This led to the establishment of EReg. On April 25th 2013, EReg was registered as an Association under Belgian Law. A presentation was held in Bucharest to discuss the establishment of EReg as a legal entity. In the words of the chair the establishment of EReg as an association was necessary because of:

> "Growing professionalization, better accountability, stronger international position and legal ability" (Van der Bruggen, 21 November 2013).

The same presentation also stated that the statutes did not change the current agreements but that in order to become an Association, EReg needed a formal office in Belgium, that the advisory group's role would be turned into a formal board position and including the creation of an EReg Chairman who was also the Advisory group chairman (Van der Bruggen, 21 November 2013). EReg currently has 29 member authorities from both in and outside the European Union.[10] Next to that EReg has forged alliances with partner organisations: AAMVA (American Association of Motor Vehicle Administrators) and Austroads (the peak organisation of Australasian road transport and traffic agencies). Both alliances were formalised through the signing of an agreement. On the website of EReg the aim of the alliances is clarified as promoting cooperation and communication to the benefit of both partners in the agreement (EReg c, n.d.). The exchanging of information and best practices is highlighted as a way to ensure this. The signing of the agreements and the increase in

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10    Belgium, Denmark, Estonia, Finland, France, Germany, Gibraltar, Greece, Guernsey, Hungary, Iceland, Ireland, Isle of Man, Jersey, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Northern Ireland, Norway, Poland, Portugal, Romania, Slovak Republic, Spain, Sweden, Switzerland and the United Kingdom.

members signals the success of the network. The expansion by adding new member and cooperating partners shows the value of this network.

## 6.3 Governance structure of EReg

EReg is an association under Belgian Law with members who are public authorities on vehicle and driver registration. They should hold a central legal status in their home country in order to join EReg as a member. EReg is registered as a non-profit association. The organisation of EReg currently consists of 29 members. These members are authorities in the field of vehicle registration and/or driver licenses. Ireland is currently the only country represented by two different institutions, as the tasks of vehicle registration and driving licenses are divided over these. There are two types of membership. An authority can either be a full or an associate member. Unlike the full members, associate members do not have a right to vote but they can partake in the activities of the network. The network is organised in four different components: topic groups, secretariat and chair, general assembly and advisory board. First, the technical discussions and technical transfer of knowledge is done in specialized work groups. These work groups are named topic groups. They are established when a particular topic gains enough impetus for members to address the topic together. A new directive from Brussels is an example that would merit the establishment of a topic group. Topic groups can either be long standing or have a definitive end time. They are set up by formulating the objectives first. This will indicate the amount of time that needs to be allocated to the existence of a topic group. In the topic group delegates of the different member authorities designated to the specific topic meet up. They discuss interpretations of guidelines, exchange their practices and anecdotes on how to deal with particular issues. In addition, they discuss ways forward for their respective authorities in terms of regulation and practice. Depending on the topic, the delegate might have a legal background when discussing interpretation of legislation or a more executive background in licensing if virtual drivers licences are discussed. This is highly dependent on the status of the topic as well as the nature of the topic. The topic group is chaired by a delegate of one of the member authorities and there is always a secretary in the topic group. This can either be another member but more often it is a member of the secretariat of the network (Respondent EReg III).

The secretariat operates from the headquarters of one of the member organisations the RDW (Rijksdienst voor het Wegverkeer) in Zoetermeer, the Netherlands. EReg formally holds a seat in Brussels. The address in Brussels functions more or less as a postal address. The secretariat is currently staffed by personnel of the RDW however they are outsourced to the secretariat. They operate externally from the operations of the RDW (Respondent EReg III, Respondent EReg IV). The secretariat is partly financed by the RDW. EReg has a small loan at RDW. Respondents however remark that it is essential to keep their independence. As one respondent mentions that together with the current chair, the network is taking steps professionalising its activities and this includes financial independence to be reached within the next two years

(Respondent EReg IV). The chair and the secretariat work in close cooperation with each other and both are currently from the same country i.e the Netherlands. The position of the chairperson is not necessarily from the Netherlands, as the previous chairperson was from Luxembourg. Several respondents have however mentioned that a balanced involvement from other countries is desirable in order to maintain credibility as the position of both the secretariat and the chair are seen as initiator and facilitator (Respondent EReg I, Respondent EReg IV, Respondent EReg VI). The secretariat's independent position was however also emphasised when the organisation established itself as an association under Belgian Law (Statutes 2012). The statutes were presented by four delegates from four countries. Moreover, it proved another step in professionalising the network (Respondent EReg IV).

The pivotal role in brokering the network by the chair and secretariat, which is key for a network administrative governed style, is seen in the observations conducted within the network. During the annual meeting the chair and the secretariat were the ones presenting documents most often, and also provided additional explanation for them. In addition, the balancing of the power in the network is also addressed here. The setup of the network is such that the chair is supported by an advisory board. During the annual meeting the chair informed the audience that the board was understaffed but underlined their helpfulness to the execution of the tasks of the chairman (Observation EReg II). The advisory board advises both the chair as well as the secretariat. Including the chair, it needs to have six members stemming from different countries for a maximum term of five years. It is within the competences of the advisory board to advise on everything related to the organisation of the network. Unless it is strictly the responsibility of the annual meeting of the general assembly or the chair (Statutes EReg).

The advisory board works with the chair and the secretariat to devise the working program. Most often, the input for the working program is provided by the topic groups (Respondent EReg IV). The topics for the topic groups are filtered out by means of surveys conducted by the secretariat of the network. A proposal for a specific subject to be tackled by the network is at times put forward by a member authority to the secretariat or the chair of the network as well as by the advisory board (Respondent EReg III, Respondent EReg IV). They translate the mission of the network to a working programme (Respondent EReg III). The actual working programme is prepared for and written by the secretariat in cooperation with the chair of the network (Respondent EReg I, Respondent EReg IV). The input of the members thus gives a sense of direction to the network. Nevertheless, the secretariat of the network; headed by the chair is very much in control of the final product. As one respondent formulated it, the secretariat always makes sure to have some room to influence the agenda of the network as it is important to be able to address changes in the legislation (Respondent EReg IV). The secretariat acts as a key player within the network. It is also responsible for the day-to-day operations of the network. They key role played by the chair is also indicated in the current Work Programme 2019 -2022. Regarding the safeguarding of both continuity and professionalization of the network the following paragraph is added in the document:

"In the future, the Chairman's responsibilities would preferably be divided between the Chairman, the Deputy Chairman and the other Advisory Board members, where possible. To ensure continuity and efficient handover, and with the elected support of the General Meeting, teamwork between the Chairman and Deputy Chairman could make the Deputy Chairman a logical successor to the Chairman. Also, members of the Advisory Board have a good understanding of what the Chairman position is all about and could therefore be a strong pool of candidates for this position. It will be examined what kind of structures and mechanisms can work to divide the responsibilities and ensure continuity. (…) The EReg Secretariat takes care of the daily operations and is a valuable sparring partner for the Chairman, Deputy Chairman and Members of the Advisory Board. Next to this the Secretariat takes care of the preparations of meetings and events and can act as a representative of EReg upon request." (EReg, 2019a).

This paragraph signals that the chair currently holds a lot of responsibilities, as it is mentioned that responsibilities should be shared in future. In addition, the key role of the secretariat is mentioned. This is further proof that the network currently operates as a network administrative governed network. The strong position of the chair might, given the content of the paragraph, change in the future but currently its role is not to be dismissed. Nor is the work of the secretariat given the emphasis paid as "valuable sparring partner".

The role of the secretariat is also to monitor the progress of topic group, and this progress is subsequently reported to the general assembly. The general assembly convenes annually. During which the financial and operational reports are discussed. Moreover, changes in the composition of the administration chair and or advisory board are voted for in this setting. The general assembly is the highest deciding unit of the network. In day-to-day operations it is however the chairman together with the secretariat, with the consent of the advisory board that is in charge. The secretariat offers more than just a facilitating role and thus surpasses the participant governed style proclaimed by Provan and Kenis (2007). With the network not simply linked to a single member, and the aspirations to be and remain independent we also see that the secretariat is external to the member organisation. In other words, the secretariat operates as an independent entity within the network. Hence, it goes beyond the lead organisation governance structure. Moreover, given the position as a broker for the network the particular role of the secretariat offers proof for EReg being a network administrative governed network. Even though the fact that the employees of the secretariat do stem from one member organisation and part of the secretariat function is paid for by the same member organisation offers a bit of a grey area. The provisions in place to counter dependence on one member organisation over the others validates that EReg is indeed a form of network administrative governance. If we take all the different sections together, we see a secretariat that exerts itself as a broker. It is visible in all the different units of the network. The secretariat works as an agent to initiate and facilitate. Yet, it does so in a format in which it places itself external, or independent from the member authorities. The organigram below exemplifies the relations between the different units of the network.

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**Figure 6.1: Organisational chart EReg**
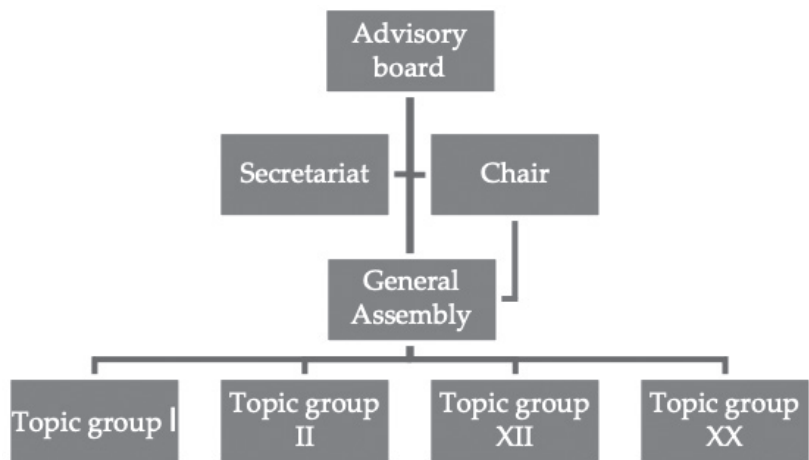


The empirical findings clearly indicate that EReg is a network administrative governed network, with an external administrative entity steering and coordinating the network. It facilitates and governs the activities of the network. This form of network is highly centralized. As the entity is external, the members are no longer in the lead regarding the governance structure of the network. The secretariat and chair are effectively the network broker in the case of EReg

## 6.4 Function of EReg

EReg is an information network. This can be seen in the objectives of the network, the activities deployed by the network as well as the impact of the network. We will go through these three subjects in more detail below.

Information networks are one out of three types of transgovernmental networks based on their functions. If we take a look at the division of networks along the lines of function we can distinguish three: information, enforcement, and harmonisation. Information networks concerns the dissemination of data and knowledge helpful in relation to technical assistance of the members. Although transgovernmental networks do not need to fall completely within one type or the other, we can genuinely distinguish a predominance for one over the other within them. This means that even though some activities could be considered to belong to one of the types, the bulk of the activities may lie within the scope of a different one.

When looking at the objectives of EReg we can clearly see a prevalence for an information network type. The objectives of the EReg network are listed below:

The main objective of EReg is to bring together the European Registration Authorities to be able to:

1. Share knowledge, experience and good practices
2. Identify, follow and influence European developments and regulations
3. Take initiatives aimed at improving the performance of tasks by the members as European partners
4. Establish exchange and cooperation arrangements with relevant other parties
5. Promote effective and efficient data exchange (EReg b, n.d.)

Looking at the objectives listed, the definition of the information network seems to fit all of the objectives however, we must take note of objective 2. In that objective the word "influence" is included. When this influence includes the capacity to have an effect on regulations this would stretch beyond an information network and would fit better with a harmonisation network. In addition, objective 3 makes clear that it aims to improve performance of tasks. If this includes regulatory performance, that hint at an enforcement network. According to a respondent this is not the case. The respondent testified that the two main goals of the network are: 1. sharing knowledge to ensure we can better execute policy and 2. making sure the knowledge we already have is extended to policy makers for them to improve policy. The respondent went on to clarify that they limit themselves to the sharing of knowledge so as not to intervene in the political process of policy making (Respondent EReg 1). Noteworthy to mention is a conversation during the observation of the Annual meeting. On the participant list a delegate of the European Commission was included. Upon asking a delegate what the role of the European Commission delegate was, the EReg delegate discussed the inception of EReg:

> EReg was founded because the national authorities wanted to show the Commission that it can't just move forward. The EC thus was rather defensive about EReg it was on the fence about what to make of it as they were scared that some of their powers would be taken away. The delegate said in recent years this has changed. EReg really tries to portray itself as an adviser to the Commission and show that when they work together, they can make policies that are easier in implementation. According to the delegate this change really comes down to the role played by the chairman of EReg. Commission is now actively seeking cooperation regarding policy making. (Observation EReg I).

During the annual meeting the level of cooperation with the European Commission was discussed. A topic group that had already rounded up its work had gained prominence, and reconvened.

> The information that is now coming in, and contacts with the EC on this issue, is being transferred to the delegates. (Member of secretariat) mentions that a cooperation with the EC on this topic is now in place. The chairman says he wants to give the delegates the

6

opportunity to discuss this or give remarks. There are none. The chairman then goes on to discuss things he thinks are worth noting for instance getting other stakeholders on board and also being a partner in policy making. (Observation EReg I).

The stressing of being a partner in policy making, rather than showing a focus on how the organisation could itself steer policy is key as this would not indicate a harmonisation network function. It does show that parts of the work of the EReg is moving beyond an information network function. Although this is not its main focus.

Moving to what the network mainly does we understand four active topic groups to be in existence. These groups are an important part of the activities of EReg. They are aimed at sharing knowledge (EReg b, nd.) but also are the vehicles for progress of the objectives of EReg. Members discuss technical subjects during the meetings of these topic groups in detail, so it is there where we can see the actual translation of the function of the network. During a full-day observation of a meeting of a topic group on the GDPR[11] in International Data Exchange (topic group XX) we encountered an exchange between the chair of the meeting and several of the members present. The exchange was on creating agreement on a to be newly formed document on conduct regarding data. Members discussed problems that they would encounter in their home country and asked for changes, to which the chair of the meeting kept reiterating that "We only deal with overarching issues", other things should be dealt with at the local level (Observation EReg I). This statement, which was repeated over and over, indicates that EReg focuses more on general issues relating to the information function rather than an enforcement or harmonisation network. EReg is not aiming to level the playing field which we would expect in a harmonisation or enforcement network. In those type of networks ensuring similar enforcement and alleviating differences between member states is the actual aim.

In addition, when members were asked by the secretariat of EReg to fill out a questionnaire which asked which activities of EReg are considered most useful, the members ranked the "Sharing of knowledge, experience and good practices" highest. The more enforcement function answer categories such as: "Take initiatives aimed at improving the performance of tasks by members as European partners" were ranked lowest.

In the results of the questionnaires of 2016 and 2019 we can see that the information function are considered more important than enforcement or even harmonisation function of the other activities mentioned. Even so, we should take note that the first activity "Share knowledge, experience and good practices" was listed as least important by seven out of twenty delegates that filled out this part of the questionnaire in 2019 (EReg, 2019a). In the Work Programme of 2016-2019 the first activity was considered the most important with 18/22 stating so, while the other categories of importance scoring 1/22 (EReg, December 2016).

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11    GDPR: General Data Protection Regulation: Regulation by the European Union that entered into force in May 2018, that addresses issues of privacy and data protection.

The subject matter of the topic groups provides another indication that the work of the network is mostly concerned with an information function. We have already addressed the topic group concerning the GDPR which showed to fall within the information function category. We will now go over the other current topic groups. Although the information on the content of the topic groups remains limited we see that the work of Topic group I: International Data Exchange is described as:

> "Currently the Topic Group is focusing on the following two subjects:
> - The exchange of information supporting technical vehicle inspections (PTI and RSI) in cooperation with CITA;
> - Issues related to the exchange of vehicle owner/holder information within the framework of enforcement on traffic offences, parking and toll, including cooperation with and outsourcing to private companies for the collection of data and all kind of traffic fines." (EReg d, n.d.).

The objectives of the topic group show the emphasis given to the information function. The same can be said of topic group XXI: On Harmonization of Registration Procedures and Data Quality. Although harmonisation is in the title of the topic group the work of this topic group, based on the objectives do not by themselves lead to harmonisation. It seems the topic group is still very much exploring. Although the topic group could develop into a harmonisation function it is not there yet. As each case would inevitably be in transition based on one aspect or another, one cannot avoid this. Nevertheless, at this point we argue that EReg is an example of a network administrative information network. When we redirect our attention to topic group XXI, we find that these are the objectives for the group:

> "Topics to be discussed in this Topic Group are:
> What data is stored and for what goals?
> How do we guarantee the quality and actuality of the data?
> What vehicle modifications are registered and what procedures are used for that?
> What events in the life cycle of a vehicle have to be registered?
> What procedures are used to register changes in the holdership or ownership of a vehicle?" (EReg, e, n.d.)

This topic group is still very much focused on the collection of information even though this might be a first step towards harmonisation. As it stands now, this activity is not considered a harmonisation function. The same holds for Topic group II. During the annual meeting the progress of this topic group has scored an orange smiley. This indicates that progress seems to be stalled. During the meeting in 2018 it was noted that the topic group had not convened that

6

year but that a meeting was scheduled (Observation EReg I). On the online agenda of EReg nor on the site of the topic group itself or in the newsletters of EReg can such a meeting be found. We therefore conclude it did not take place. Topic Group XII: CoC Data Exchange has convened regularly. This group's function is more in line with a harmonisation function than the other topic groups. The topic group deals with Certificates of Conformity (CoC). These certificates list the technical points of a vehicle built after 1996. It is a measure that has eased the burden of importing or exporting a vehicle as CoC has replaced the previous type approval. Where the type approval documents needed to be send to different countries by the manufacturer, CoC only needs to be supplied once. It will then be registered digitally by one of the member states participating in it. Data exchange will happen from there. The process of setting up CoC was instigated as countries like Germany and the Netherlands were already trying to migrate from type approval systems to CoC systems(EReg f, n.d.). In 2011 the topic group was then created within the context of EReg. The process is described on the Topic group page as:

> "Since the installation of the Topic Group a lot has happened. First of all the group started the definition of a structured electronic CoC XML-format. Via this standard format the information can be easily electronically exchanged. In addition, a preferred exchange model has been selected by the Topic Group. This model describes the way the CoC information can be distributed by the manufacturers via the Type Approval Authorities to the Registration Authorities. Also checks have been defined by the Topic Group to check the CoC information, among others against the respective Type Approval information.

> Already in an early stage the ideas have been discussed with the European Commission. The provision for a CoC in electronic format can be found in article 37 of the new Framework Regulation on approval and market surveillance of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles which will replace directive 2007/46/EC. ACEA[12] and ACEM[13] are involved in the Topic Group meetings as well." (EReg f, n.d.).

The description of the process shows that the work of EReg has led to CoC to be included in legislation. In addition, the blanket approach for authorities on vehicle and driver registration shows the intent of the topic group to create a harmonised approach. This topic group is more in line with a harmonisation function of a network than the information function. However, it should be noted that the project is still in the trial stages. As the newsletter of April 2019 mentions:

> "Topic Group XII on CoC Data Exchange will meet in April to discuss the electronic exchange of Certificates of Conformity (CoC) and in the future possibly type approval data" (EReg, April 2019).

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12    The European Automoblile Manufacturers' Association.
13    The European Association of Motorcycle Manufacturers.

In addition, the topic group released a document on the progress and participants of CoC exchange. It emphasises the pilot phase the project is still in, but it also showed that, although in different stages most participating members are implementing the new system (Topic Group XII, n.d.: full table in Annex I).

This is the only topic group currently operating which we can link more to a harmonisation function over the other functions. Which is why we can conclude that currently the network needs to be considered as an information network. Although elements, or better some activities deployed by the network have the potential to lead to a harmonisation function, the main activities remain within the information function realm. This is supported by the members and the objectives of most of the topic groups. In future, there is a possibility that this might change.

## 6.5 Account giving

The work of EReg is in effect comprised of smoothening the process of vehicle and driver registration. This pertains to discussions on how different authorities deal with registration process issues, for instance with regards to the possibility for digital drivers' licenses in the future. A way EReg is fulfilling this objective is through the Vehicle Chain. This is a survey which is published every four years. It provides an overview of how the different members of EReg are structured and how they perform their tasks. The idea of the survey has originated from the Dutch member of EReg but is now a tool produced by EReg. It offers the partipants insight in the state of affairs and helps with seeking out the right partners to collaborate with (EReg, 2019b). This is one way in which EReg performs its information function. EReg is a network administrative governed information network. Although we have seen some aspects of other functions (such as harmonisation) and have discussed the possibility that the network could be moving in another direction we still, in this time, argue that it is predominantly an information network. The structural aspect in the way that it is organised within EReg leads to the conclusion that this is a network administrative governed network. Even though, the secretariat is operating in a grey area in the sense that it is composed out of employees from one participant but they functionally operate at quite a distance from it. Networks, like any social construct, are not static. They evolve and change over time. In the section below we will go into how the work of EReg is disseminated and to whom. We have divided this into two sections. First, we shall address how the network itself has structured its accountability relationships after which we shall go into how account is given to the national line of the Dutch participants.

### 6.5.1 Account giving structure of the network EReg

Account giving in the structure of EReg is focused on two tiers of the organisation; the annual meeting and the topic groups. Because of this we need to take a close look at the process of reporting by topic groups and in the general assembly. In the topic groups the operational

level comes together. The preparatory work, the technical work is done in the topic groups. A clear instance of what the level of technicality is in topic groups can be seen in the example below. It describes a scene during the observation of one of the topic groups and shows the level of technical detail with which the participants convers with one another:

> When discussing a policy document, a discussion ensues about the meaning of one word in the article: non- compliance. How to look out for a breach? What is meant? What do we want it to be? These are questions of 'what if'-nature. The chairman says we need to have it in there. He is not challenged. The Chairman, the Belgian representative and the English participant are most involved. Eucaris representative tries to offer a clarification. One of the Dutch participants is raising the question again on what is non-compliance in order to stay on track and on point with the meeting. The chairman takes a consensus strategy. (Observation EReg I).

The above example shows the level of detail in which discussion ensue. In this case the meaning of the wording in a document. In addition, the discussion went into quite far-out hypotheticals; what ifs? This discussion went on for quite some time before the chairman brought it back.

Before a topic group can actually start it needs to have approval of the annual meeting/general assembly. It is essentially organised in such a way that the work of the topic groups needs to have had a go ahead from the general assembly. However, at times issues pop up in a topic group that come with a sense of urgency. Waiting for approval of the general assembly might take too long, which could lead a topic group to move forward with an issue. If this occurs the report clearly mentions that it is the position of the topic group rather than EReg (Respondent EReg V). The level of participation within the topic group thus becomes of special interest in the speed of progress of the network. Next to that, the position of the chairman is crucial regarding both discussions and progress. This is shown by the example given, but also by the fact that the chair holds many responsibilities as we have seen previously.

During the observation of a topic group session it became apparent that the chair of the network is keen to stay on the international level of discussions. What should be done on a local level should be discussed at the national level, information that can be shared or agreed upon by all members should have the focus (Observation EReg I). However, it becomes clear that for moving forward some of the participants are of the opinion to lack the authority to discuss a matter or propose a direction. In one instance a participant of the topic group tells the other members that part of the discussion is not in her dossier but befalls a different department (Observation EReg I). As the network is really focused on involving operational level delegates, this also comes with its own set of difficulties. Being low in the food chain also means a lack of mandate (Respondent EReg I). In addition, in order to move forward you need to have the right level of people at the table (Respondent EReg V). Professionalization in

the sense of incorporating those more higher up in the food chain is however well underway (Respondent EReg I, Respondent EReg V). This alludes to the fact that accountability towards a vertical line of command is necessary for those operational level delegates before than can sign off or approve of EReg activities. The incorporation of more senior level staff can be seen for instance in the setting up of the CEO meeting that precedes the general assembly. Which we shall discuss later. As we will finish our discussion on the topic groups first.

The preparatory work for the topic groups is often done by the participant of the topic group itself. Meaning that the expert on the topic is asked to attend the meeting of the topic group that is mostly suited to their own expertise. For the Dutch participants there is a general consensus on the fact that they are ultimately responsible for a specific topic for which they are in a topic group (Respondent EReg II, Respondent EReg V, Respondent EReg VII). However, it depends if the topic is clearly defined or not (Respondent EReg VII). In essence the Dutch line of accountability seems dependent on the member attending. Meaning that there is no structure available to discuss the progress or work of EReg as a team. Rather each participant to the network informs their own manager (Respondent EReg VII) on their progress. In addition it is mentioned that the subject matter gives the instruction to whom account is given. Currently there is a discussion in the network to categorize what would be necessary if authorities are to move towards a mobile digital driving license. That discussion is not very tangible yet, as it is still in the preliminary stages. However, the subject matter is put forth to the Ministry of Infrastructure and Environment. This is done on an informative basis but as it is not a real policy issue yet, the ministry is just kept in the know (Respondent EReg VII). When a topic group moves in the direction of devising a statement, members do need to go back to their national experts and policy makers. Depending on the topic this could mean involvement of several ministries (Respondent EReg II, Respondent EReg V).

Regarding the reporting of meetings of the topic groups it is mentioned that for each session a report is made by the chair and/or secretary (Respondent EReg II). A format on how to devise such a report is being brought under the attention of the annual meeting of EReg at the moment. This is done to professionalise the organisation (Respondent EReg V). The format itself as well as the communication in terms of reports is set up by the secretariat of the network. The secretariat has highlighted the importance of this during the annual meeting as well (Observation EReg I).

The reports of the topic groups are sent to the secretariat and to the annual meeting of the general meeting. Although on most topics, the decisions are reached within the topic group. Especially on clearly defined topics. When a topic does not have consequences for policy, the amount of account giving is limited (Respondent Ereg VII). This is the case for most topic groups, as they do not deviate from standing policy but rather focus on information dissemination. As already addressed, the topic is key, meaning that topics that touch upon different policy areas or the mandates of different institutions need to be dealt with more

broadly. There are more stakeholders involved, so when consensus cannot be reached beforehand, voting by senior level staff in the general assembly becomes necessary. As such the network is mostly based on the input of the members in the topic groups. Instances in which the topic proved difficult to come to an agreement have occurred during the observation. For instance, during a topic group session a referral to the mandate designated to a member was discussed. As one participant mentioned that it was not in her portfolio to discuss the matter at hand (Observation EReg I). During the same observation when discussing a policy document for the network, another referral to standing legislation was made. When the chair of the meeting asked if consensus could be reached a representative of a Nordic country said: "we cannot agree due to national law". This had to do with privacy issues on the login and access data requested by the document. This led the chair of the meeting to defer the final discussion to the general assembly later that year (Observation EReg I).

The referral to the general assembly is not surprising as the reports of the topic groups are sent to the general assembly to inform and to get approval. Furthermore, it is here that the progress of the different topic groups is presented by the secretariat as they provide an overview complete with traffic light indicators. The reporting within the topic groups used to be based just on simple final reports of the work of the topic group at the closing of the topic group. This has changed as the secretariat of the network became more involved in the monitoring. They have set up a format which includes an executive summary that highlights the recommendations. Next to that, a monitoring sheet was created. In this sheet the progress of the different subjects has been included. The date of finalising activities and the most important conclusions and recommendations can be directly assessed on the sheet. In addition, follow up activities are also mentioned in the sheet (Respondent EReg IV).

This highest decision-making body, the general assembly, provides the actual approval and support to proceed. During the general assembly, the members attending are not necessarily the same as those attending the topic groups. The members of the topic groups being of the operational level, the attendees to the general assembly are more on the executive level (Respondent EReg I, Respondent EReg VII). During the observation it was apparent that the 'top brass', the highest ranking executives of the member authorities, were in attendance. This can be seen by both the attendance list, the fact that some of the executives come to the meeting with their own translator (often an operational level functionary who has participated in a topic group) (Observation EReg I). These executives are the ones to vote and give approval to the projects and activities of the network.

The referral of final decisions to the general assembly occurred multiple times during the topic group observation. When discussing a possible template for possible peer reviews this is for instance also referred to the general assembly. During the topic group the point is raised that it should be presented there for approval (Observation EReg I). This is a clear submission to another's authority in the matter. Considering the general assembly's voting members are not

the same as those attending the topic groups, and that these voting members are of a higher level of the internal structure of the member authorities, obedience is a clear indicator here. During the annual meeting of the general assembly it was striking that very few questions were raised, remarks were few and seldom. Explanations on votes have not occurred during the general assembly attended. The lack of contention in voting is striking. When asked if this was normal the chair of the session said it was, but also because the agenda was made in such a way that most difficult dossiers had already been discussed and decided upon. One difficult dossier was pulled from the agenda as the chair felt it needs more discussion in the topic group and this was not the venue to start a discussion about it (Observation EReg I). However, an alternative explanation could be the differences between the attendees in proficiency of the English language. For example, one of the CEO's for instance does not speak English and has a staff member translating everything. When remarks are asked for, the chairman does not wait for a response before moving on, resulting that the translation was not yet completed before a new subject was presented by the chair (Observation EReg I). In addition, the position a delegate in the room determined the ability to hear the speakers clearly. For instance, during the annual meeting a delegate seated in the front of the room stood up, did not make use of a microphone and was inaudible in the back of the room. Even though whispers ensued in the back rows there was no one who made a point of the delegate being inaudible (Observation EReg I). This makes it difficult for delegates to both assess and take part in the discussions which is key to an accountability relationship (Bovens, 2007).

With regards to discussions that took place we can see a clear distinction in the set-up of the agenda. During the general assembly the first day is spent on approving the annual budget and more general administrative issues. Whereas day two is really focused on "our own work" in the words of the chair (Observation EReg I). This referenced work, is the activities and progress of the different topic groups. Each chair or secretary of a topic group presents the work of the group to the general assembly. Which is then met with no questions. For instance, a long standing topic group presented its work. They have been involved in devising an informative report on roadworthiness of vehicles for the European Commission (EC). On what the chair of the topic group gives account is discussed below:

> The roadworthiness package is discussed with the EC and now we see that in the new directive (Mobility package) our points are put in. They take our advice into account pretty fast. And make use of it. However, there are some difficulties, and we need to take count for who is having these difficulties so we can be involved in the review process as well. We also had a request from CITA (umbrella organisation of PTI) they wanted us to cooperate more with US, Australia an Africa on the vehicle import dossier. Which is why we now set up a questionnaire in which we take stock of the current legislation on this in each countries and what the possibilities are. She ends her speech by inviting members to join the topic group. As joining and being active is key in the success of the topic group. The chair of the network asks if there are questions. There are none. (Observation EReg I).

In this example the chair of the topic group highlights the success of the topic group. The secretariat in their presentation of the annual report gave a more general overview of the progress made by offering smileys. A green smiley with a broad smile signifying good progress and a yellow or orange smiley with a sad face a lack of progress (Observation EReg II). The presentation of that section is observed by the researcher as follows:

> Next point is the State of Affairs, a member of the secretariat gives a brief overview; she goes through each topic group and includes a progress indicator. The first topic group headed by a Dutch representative is given a green smiley. Topic group II is chaired by Germany and the progress indicator is an orange smiley with a sad face. The topic group has not been in contact last year, but an event is scheduled this summer. The Topic group xii is chaired by Finland and is given a green smiley. The group is really busy. They already met twice this year and a next event is this summer. Topic group XVIII is also chaired by Finland they have drafted guidelines for public private partnerships that was based on questionnaires. The progress indicator is also a green smiley. Topic group XIX, also chaired by Finland also had several meetings, the cooperation with researchers' study on the implementation of the 3rd driving licence directive which is a very active group and is given a green smiley. (Observation EReg I).

What has become clear, is that the actual discussions on activities of the network occur in the topic groups and are relayed back to the general assembly and the home organisation of the members, which we shall discuss later. The submission of authority to another is evident in the referral of decisions to the general assembly. The awareness of procedures and directives have been showcased by the participants. Nevertheless, we need to bear in mind that this could be related to the type of topic discussed. We know that there is a standardized format in which reporting takes place. However, we have not uncovered any definitive proof that discussion on the forms and procedures are followed by administrative actions. This latter point is one of the requirements of bureaucratic accountability. We can however confirm that obedience, by means of submission to another's' authority is very much in existence.

## 6.5.2 Account giving by participants to the home organisation

As mentioned already the reports of the topic groups are sent to the member authorities. These reports are made by the chair of the topic group together with the secretary of the topic group. This structure signifies how account giving is done in theory, but a member of a topic group who has been in the position of secretary of a topic group has provided more insight into this type of account giving. The respondent spoke of the fact that most topic group sessions are single day meet ups. The respondent states that because of that it is paramount that you get the most out of the meeting. This means that a document is prepared to be discussed together with the chair and sometimes the general secretariat beforehand. During the topic group session, the participants will discuss the prepared document and will make an outline

regarding a revised document. In the course of the meeting participants will be asked to join in the writing of the document as they are asked to write particular sections. This means that the document is a product of collaboration (Respondent EReg VII). This process of sending documents ahead of meetings of topic groups was labelled by one of the respondents as:

"Getting your homework up front" (Respondent EReg VI).

Reports of topic groups are, in first instance, shared amongst the participants of the topic group. When a report becomes final, it is sent to the annual meeting of the general assembly. As we have seen, in the annual meeting those higher up in the national authorities attend these voting sessions. According to the respondent the voting members in the room of the General Assembly are mostly head of business operations or the director of an authority (Respondent EReg VII).

The attendance of participants whom are higher up in the internal hierarchy of the national authority is of interest to the type of accountability relationship. The vertical line of the internal organisation of an authority is included in the account giving structure of EReg participants. In addition, when asked about the dissemination of topic group reports to their own authority the respondent replied that how this is done depends on the topic. In some cases the subject matter discussed in the topic group is on the theme as the participant's final responsibility. According to a respondent the delegates are often chosen based on the fact that they are the experts or have a final responsibility over the subject matter in their home organisation. This is done to ensure that "you can actually get something out of meeting" (Respondent EReg VI). Feedback on the topic group will then be given to those working on the same team in the internal structure of the authority. The feedback will mostly be on general lines rather than the specific minutes or reports of the meeting (Respondent EReg VII). When a subject has potential effect on the policies or working procedures of the authority, the manager will be kept in the loop. Regarding preparatory work, meaning before a report becomes final, advisers from within the national authority will also be questioned on the legal implications of a specific process (Respondent EReg VII). However, respondents mention that what is discussed, essentially what is brought to the agenda is pre-discussed in the national authority, in case of the Netherlands this is the RDW (Respondent EReg V, EReg VI). Simultaneously, it is also mentioned that most of the preparatory work of the network takes place in the topic groups.

The reporting within the topic groups used to be based just on simple final reports of the work of the topic group at the closing of the topic group. This has changed as the secretariat of the network became more involved in the monitoring. They have set up a format which includes an executive summary that highlights the recommendations. Next to that, a monitoring sheet was created. In this sheet the progress of the different subjects has been included. The date of finalising activities and the most important conclusions and recommendations can be directly assessed on the sheet. In addition, follow up activities are also mentioned in the sheet

(Respondent EReg IV). The reports as well as the monitoring documents are accessible on the shield-of section of the EReg website. Only members of EReg have access to them. This is to ensure that discussions in the topic groups can be as open as possible (Respondent EReg III). The monitoring of the activities is of particular interest to those attending the annual meeting. These participants, as mentioned, are mostly on a higher hierarchical level. When going over the participants list it becomes clear that the directors of the public authorities together with national contacts join these meetings. The national contacts are participants stemming from the national authority that are given the specific task to coordinate the activities of the member state. The role of this contact point is described by a respondent as follows:

> "[it is the role of the contact point to] participate in the general assembly. In between these meetings the first point of contact for questionnaires that EReg sends out. Next to that if a new topic group is introduced making sure the right person is sent to that topic group. In addition, you need to make sure that this will subsequently run smoothly. In case a national position is asked the participants need to check with the national authority that you know the position of the national authority. You are not in a topic group based on a personal capacity." (Respondent EReg VIII).

The check with the national authority does not necessarily run via the national contact. This depends on the topic as well as the function and responsibilities of the participant (Respondent EReg VII, Respondent EReg VIII). When a national position needs to be determined and the national contact is involved, the management team of the national authority will be asked for a position. It will be discussed in that setting. However, participants of topic groups do not always offer feedback after a topic group session voluntarily. The contact point monitors what occurs and when necessary start the conversation with the participants (Respondent EReg VIII). A way to monitor is the discussion of a progress report which is discussed in the management team of the national authority. As the current chair of EReg is also part of the management team of the national authority, reports of EReg or news articles concerning EReg in the internal newsletter are shared often (Respondent EReg VIII). The structure with the national contacts is however perceived as imperfect at the moment. As one respondent observed:

> "Sometimes I am just curious to what extent the national authority is aware of what their participants are doing. With a contact point you think you are dealing with the position of a country, but sometimes it feels that it is just one person's opinion." (Respondent EReg I).

The imperfections of this current structure, or at the least the differences in execution by the national authorities can also be seen in the current work programme that specifies the necessity to include national contacts and strengthen their position in the network. In the work programme in the text the importance of national contacts are highlighted as well as activities regarding this position are outlined see below:

Assisting the EReg contactpersons in their responsibilities:

- Have regular contacts with the national contact persons.
- Help new EReg representatives understand their roles and the EReg organisation.
- Draft function profiles to inform EReg Members what it entails to function as a national contact person.
- Record video material / have interviews with contact persons about their work. (EReg, 2019a: p. 20)

The monitoring tasks are restricted to those with access to the restricted access section of the website. But the results of activities are shared with other stakeholders. This ensures that EReg and its activities are becoming increasingly visible to others (Respondent EReg IV). The added value of EReg are seen by other stakeholders (Respondent EReg I). This added value should also be in the foreground of EReg as it is of importance to ensure interest and relevance. This is particularly visible in the response of one of the respondents:

> "We try to include them and keep them posted. I think this is also very important. An organisation such as EReg can only work properly if you show what you do. Is this still ok? Am I not overstepping and or should I seek coordination with others? It demands managerial sensitivity." (Respondent EReg I).

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The relationship with other stakeholders is also emphasised as a means to further their own position. When referencing an occasion in which the European Commission had acted counter to efforts of EReg, EReg has benefitted from the connections it shares with others such as Permanent Representatives to convey to the European Commission that the direction they were heading in was not in accordance with EReg, and that the Permanent Representatives wanted to back the network. This was set up due to contacts with the ministries in the Netherlands that made their opinion clear to the permanent representatives. The respondent mentioned that he beliefs that, in the future, the European Commission will first come to talk to EReg (Respondent EReg I).

The focus on internal networks of the authorities in the relationship is clear from this. What is also clear is that the techniques of review are focused on monitoring. Account giving is done based on regular reports and the use of monitoring sheets. Next to that, verbal communication to supervisors (Respondent EReg V, Respondent EReg VI) is also mentioned as a method. However, this method is also focused a monitoring review technique. Regardless, the actual approval for work of the topic groups takes place in the annual meeting of the general assembly. One respondent outlined the procedure of the network as follows:

> "In principle, nothing happens without the approval of the annual meeting of the general assembly. However, sometimes it takes too long for it to take place and steps should be

taken on a certain subject. In such instances the decision-making in the topic group takes prevalence. Although in such cases it will be made clear that this then does not resemble a general position of the network, rather it is the position of the topic group." (Respondent EReg V).

Being part of topic groups that are salient is a must, being at the table is key for both input in the network as for the relevance of the network to the authority one is part of (Respondent EReg V, Respondent EReg VI, Respondent EReg VII). In case a subject is discussed that is in need of a rapid response, the participant often coordinates with others at the home authority to discuss how to proceed. In a next session of the topic group the participant can give input that represent the national perspective on the issue. Sometimes the coordination is done simply by sending an e-mail, other times the participant seeks out experts for the authority and if a subject is also part of the responsibility of a ministry they will also be included (Respondent EReg V). When asked about the contacts with the ministry, and whether coordination occurs with the same individual or group a respondent remarked:

> "I wish, the ministry has a lot of policy officers. We are in contact with the people of the ministry and relationship management of our authority knows to connect with the right people" (Respondent EReg VII).

If the case arises that EReg moves in a more managerial or even political direction, then coordination with different departments is necessary, nevertheless one respondent mentioned that a national position within the context of EReg is often taken based on coordination with the management of the home authority rather than with the ministry (Respondent EReg VIII). In addition, the ministry is only involved in cases that touch upon their specific responsibilities (Respondent EReg VII). Support for a national position is sometimes also sought by asking authorities from other countries (Respondent EReg VIII). In that case the level of account giving increases. Regarding the annual report of EReg, there is coordination beforehand between participants of the network and the directors of the authorities participating in EReg. In most cases there is a rather passive attitude stemming from directors towards EReg activities (Respondent EReg I). They do not seek out or ask for the monitoring of activities. Their involvement is seen as limited (Respondent EReg VIII). This is, arguably, further exemplified by the lack of contention in the general assembly.

The account giving structure in the internal structure of the authority is understandably context dependent. In this section we have a particular focus on how the Dutch authority structures its accountability relationship. What has become clear is that there is a vertical hierarchical line discernible, as respondents mention the need for approval by senior staff. This vertical line is also exemplified in the sending of executives to the general assembly. Simultaneously there are reports that the individual participants, based on their own responsibilities within the network do not always provide feedback. Monitoring by the national contact as well as

the management team can however be done and is reportedly done via the readily available structured reports of the network. The professional structure of reporting, which is led by the secretariat, is mentioned throughout. What also is interesting is the level of voluntary reporting on activities by the network. In particular the inclusion of CEO meetings and the sending of reports to stakeholders. This is seen as a way to ensure relevance of the network, which in turn would allude to a form of reputational accountability. Nevertheless, the bulk of the accountability line remains in the internal management structure, the representatives participating in the activities of EReg give account to their home organisation by sending their reports to their executives.

## 6.6 EReg: Bureaucratic accountability

The empirical findings presented in this chapter confirm the dominance of bureaucratic accountability in EReg – an example of a network administrative governed information network. The vertical line between a subordinate and a supervisor is present. The subordinate is very focused on its activities on the submission of authority to a supervisor. In addition, there is an awareness of the boundaries of the own mandate. The incorporation of different stakeholders and departments is seen in the empirical evidence. However, it is mentioned that the accountability line lies mostly with the own home organisation, the ministry is sometimes involved but the manner in which is considered limited by the respondents.

The manner of monitoring the progress and activities is increasingly embedded in the network, as is the pivotal role of the secretariat in professionalising the network further. The emphasis on obedience with regards to account giving can be seen in the sensitivity on disseminating statements as either reflecting an EReg or a topic group position. In addition, a referral to seeking feedback from team members of the national authority and input from the managerial team of said authority is also indicative of this.

Although we have not been able to find proof for the sanctions: resignation or dismissal, which would be expected in case of a bureaucratic accountability line we did find evidence for the fact that control over actions could be considered high. Respondents have mentioned that they do not consider the control over actions by their supervisors as high, nevertheless the fact that monitoring is used as a technique does suggest otherwise. In addition, we have found that when discussions ensue over account giving this is predominantly over procedures followed by administrative action. The inability to find direct proof of sanctioning examples should as such not be presumed as indicative for the absence of this form of accountability. It could simply be that transgressions are picked up early due to high level of control or that there are no transgressions that would allude to dismissal.

On several occasions the empirical evidence showed us that the topic discussed is key to the accountability structure. To provide a bit more background to how EReg scores based on the components we will go through these one by one.

**Table 6.2: Results EReg and bureaucratic accountability**

| | Bureaucratic Accountability | |
|---|---|---|
| Definition | Vertical relationship between an actor answering to a forum in which the source of control is internal and the degree of autonomy is low. | |
| Components | According to framework | EReg |
| Forum | Supervisor role to actor within bureaucracy | When the national contact functions as it should there is a definite supervisor role to the forum. In addition, the fact that the highest decision-making body of the network is attended by more senior staff is an indication as well. Nevertheless, forums of peers in case a participant of a topic groups needs expert input can be seen as well. Moreover, the reporting to third parties such as stakeholders is also found in this networks' accountability relationship. |
| Relationship | Vertical | Yes, mostly vertical. |
| Source of control | Internal | The vertical line displayed in the accountability relationship is of employees within the same public authority. The inclusion of outside sources such as a ministry are considered limited and only on specific topics. |
| Information on what conduct? | Obedience to organisational directives | Yes, we have seen several references that indicate this. A referral to national context as well as needing feedback and input from managerial teams. |
| Emphasis | Obedience | Yes, although it should be noted that depending on the function of a participant in the national authority, a participant can work rather independent. However, the monitoring structure set up is used to keep an eye out on progress. |
| Techniques of review | Auditing Licensure Monitoring | Monitoring is the technique most used. Reports on outcomes of activities are also often used which is a technique associated with both professional and political accountability. |
| Discussion on what | Forms and procedures followed by administrative action | During the observation of a topic group we could clearly see this. In addition, the monitoring by a national contact and the internal management team of an authority would also testify to this. |
| Control over actions | High | By participants of topic groups this is not perceived as high. Though the monitoring of activities, even if not aware, could be perceived as such. |
| Sanctions | Resignation or dismissal | Discussions on sanctions are not found in the data. Yet, the instance that a participant within EReg represents the national authority and is not there in a personal capacity does support this level of sanction in case of transgressions. |

# 6.7 Reflection and considerations

This assessment of a network administrative governed information network showed us that a brokering role of the secretariat is also key in devising methods for accountability. The EReg

secretariat showcase that professionalization is to be reached with an active secretariat. Their influencet combined with an activating and ambitious chair is a strength to the potential to the network. This belief is also attested by our respondents (Respondent EReg I, Respondent EReg, IV, Respondent EReg V, Respondent EReg VII). It is also a reason as to why more senior level staff are involved. The active board of this network ensures regular reports in a systematic manner. Disseminating information regularly is a way to update but also show the strength of a network.

The function of this network seems to move from information network to a harmonisation network. The indications for this are seen in participants mentioning they cannot agree to EReg policies before speaking with their supervisor or even because of standing legislation (Observation EReg I). The referral to the need to involve executive level officials seems to be increasing. This could be because the work of EReg is developing in such a manner that it will have policy consequences. Nevertheless, currently EReg still seems to focus on reaching consensus on general issues rather than the creation of a level playing field as there is no emphasis on addressing the contextual differences of the participating member states. Moreover, when a discussion ensued that highlighted the differences it was made clear that this discussion cannot be had at the EReg level (Observation EReg I). This signifies that EReg should still be considered an information network.

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The activating role of the chair as the prime source of connections should not be underestimated. The level of progress in the topic groups is dependent on the chair as well as the active input of participants. There is also a side note to make in that respect. Even though the amount of membership fee is kept as low as possible, the actual costs of the network are in working hours of the participants. Attending meetings can be costly because of traveling, accommodation, but also being away from day-to-day operations. Having the position to be able to send participants to meetings is not always an option for all member authorities. Especially those on tight budgets or those suffering from budget cuts in personnel.

In addition to that, when you have the ability to join, the language barrier should not be underestimated. Being active in this case also means being able to express yourself on a technical level in English. The translator of one of the CEO's showed that it is not always commonplace to be able or even be confident enough to address your peers in a different language. Together with the inability to attend this could lead to a two-speed network. Those attending can set the agenda, and those attending will set the agenda in accordance with their wishes. We have seen, but also heard from respondents (Respondent EReg I) that Western and Nordic European countries have the ability to attend more often than authorities from Eastern or southern countries. For instance, Portugal that was a member needed to step out of the network due to budget cuts and could only recently re-join. A delegate of Portugal said re-joining has allowed him to do his job properly (Observation EReg II). Not being present can have consequences. For instance, a delegate from a non-Western European country mentioned

that some of the issues highlighted now (digital driving license, automatic driving) are a bit too out of a "Jules Verne book" (meaning too out there) according to the delegate. Moreover, in some non-Western European countries it is too far from the more pressing problems they are dealing with. It could mean that the authority would leave EReg (Observation EReg II).

Being unaware of the position of countries that do not have the same opportunities or abilities, is a real threat to transgovernmental networks. These networks are very much based on the input of their members. Moreover, the added value of the networks is the connections between authorities across borders. The ability to present a consensus on technical topics could prove instrumental to policy makers. When that ability is put under strain as not all authorities can be present, or the network is moving in a direction not suited to all, this is a problem.

Is it also a problem for accountability? Perhaps. Monitoring even if it is made easy would still cost time. It still poses a strain on the organisation. Moreover, monitoring is done and conducted digitally. This could be a barrier for member authorities that share computers for instance. Monitoring is also done in English. This barrier keeps popping up. Although the insert of smileys is a smart addition. Time needs to be allotted to inform superiors, and perhaps even translate. Showing added value to those same superiors may prove to be increasingly difficult if it is moving away from the reality of the home country. This is something transgovernmental networks should be mindful of, especially in cases where they want to show their added value and relevance. With the setting up of CEO meetings the ambition to do so by EReg is clear. It is not inevitable to avoid a two-speed network. Incorporation of and connections with as many member authorities is vital to both the survival and success of a transgovernmental network.

For further research, one needs to be made aware that networks are continuously developing and transitioning. EReg being an information network now does not mean it will continue to be so in future. Efforts are deployed that belong to a harmonisation function of a network. This is something scholars studying transgovernmental networks need to be mindful of. The aspect of time is essential in research on this topic. Nevertheless, the expectation to find bureaucratic accountability in this context of an information network administrative network holds.

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# CHAPTER VII

WENRA; a case of a participant governed
harmonisation network

## 7.1 Introduction

In this chapter we will address the accountability type of a participant governed harmonisation network. The function of the network combined with the governance structure we expect will lead to a predominance of political accountability. Political accountability is defined as a vertical relationship between an actor answering to a forum in which the source of control is external and the degree of control over actions is low. This type of accountability has a strong emphasis on responsiveness. This is assessed based on results of administrative performance. We will assess the credibility of our expectation by analysing the network Western European Nuclear Regulators Association (WENRA). This network operates within the domain of nuclear safety. This involves protecting people and the environment from nuclear waste, and radiation levels. The network's objective is to establish a harmonised and implemented SRLs among all participating organisations. The necessity to create a network regarding these subjects arose partly because of the inclusion of nuclear safety in the enlargement criteria for the European Union[14].

The network itself is structured as a participant governed network. This means that the networks' activities are prepared for and carried out by the participants of the network. It relies heavily on the input of participants and has no full-time positions that perform administrative or support staff tasks. Regulatory bodies of European Union member states, and third countries partake in the work of the network. The heads of the regulatory bodies convene twice a year for the general assemblies, but the day-to-day operations occur in the smaller working group or even sub working group settings. The work of the participants thus determines the advancement of the network. After we have directed our attention to the history of the network, we will discuss the organisational structure of the network in further detail.

The function of the WENRA network is harmonisation. This means that the majority of the tasks performed by the network are directed at the creation of benchmarks or standards within a specific policy area. Both the setting of new standards and the implementation of these are emphasised in the work of WENRA. Although the network cannot force regulatory bodies to comply, the harmonisation aspect is very much emphasised as the goal. This is particularly visible in the working groups operating within the network structure. For example, as mentioned the network is involved in the creation of safety reference levels (SRLs). The working group Reactor Harmonization Working Group (RHWG) reviewed the SRLs as a result of the Fukushima accident. It produced revised standards in 2014 and has since conducted a pilot study to see whether two specific SRLs worked as designed. This refers to whether they were implemented as intended. In addition, the experience regarding implementing these SRLs concerning safety improvements were assessed (WENRA RHWG,

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14    In 1997 the European Union published the Agenda 2000. This outlined the importance of nuclear safety as well as a timetable when action should be taken to upgrade or decommission nuclear reactors. This had direct consequences for the accession of new member states in particular Bulgaria, the Czech Republic, Hungary, Lithuania, Romania, Slovakia and Slovenia.

November 6th 2019). As such it is developed as part of an operation to create a harmonised approach to nuclear safety. This activity is tied in with the main objective of WENRA to develop safety standards (WENRA a, n.d.), but it is far from the only activity. The reason for considering WENRA an example of a harmonisation network will be explained further.

We will discuss the function of the network after we have addressed both the history of the network and the governing structure of the network first. Given our expectations we would need to find that this type of network would yield towards political accountability. This is because we expect this type of network to has a potential of a larger policy boundary shift resulting in an external type of control. In addition, due to the fact that the organisation is less formalised than for instance a lead organisation or network administrative governed network would be, the control over actions of the network will likely be low. By making use of the table 4.7 of distinguishing features for this type of accountability we will go through the different aspects of the relationship.

We will assess this by means of the distinguishing features for each accountability type, as presented in the methodological chapter. To simplify this, we will focus on three questions: To whom is accountability given? On what is accountability given? And how is account given. These three questions will form the systematic structure to our assessment of the accountability type present in this network. Moreover, they form the basic structure to the table 4.7 which specifies the distinguishing features of each of the four accountability types.

## 7.2 Background of WENRA

The organisation was established in 1999. It emanated from already ongoing informal meetings of the heads of regulatory bodies on nuclear safety. The founding members were Belgium, Finland, France, Germany, Italy, the Netherlands, Spain, Sweden, Switzerland and the United Kingdom. The second reason for the inception of the organisation, the inclusion of nuclear safety in the enlargement criteria, offers the organisation its right to exist. The enlargement of the European Union with members stemming from the former Soviet Union[15] increased the attention to nuclear energy, as nuclear plants in the new member states were Soviet designed (Axelrod, 2006). In preliminary talks discussing enlargement criteria the dossier of nuclear energy was also discussed. At that time there were no European wide safety levels. As the enlargement with 10 new members predominantly from the former Soviet Union was considered, the safety of the nuclear reactors there was a point of discussion. The process that followed was explained by one respondent:

"Every country had its own safety requirements. But at that time the regulatory bodies of Europe were asked to come together. This in order to come to a list of requirements where the nuclear reactors could be tested on, in light of entry to the European Union.

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15    Or from the sphere of influence of the Soviet Union.

They [regulatory bodies] made that list and presented it to Europe. I later looked up that this was presented in the Working Party Nuclear Safety. This workgroup was part of the Atomic Questions Group, an institute of the European Council. (..) What is important is that due to this process the regulatory bodies of Western Europe came together. When the initial list was made the question arose regarding not having harmonised rules and requirements across Europe. At which point we thought, well we already have sort of a group. We should continue on this path." (Respondent WENRA I).

The respondent reflects on the establishment of the network as an almost natural development. However, what is also clear is that in the early years, before WENRA essentially was WENRA as a formalized organisation, is the European Union's involvement. The particular position of the European Union regarding nuclear energy should be considered when discussing the existence of WENRA. As stated, the right to exist is derived from this position. Although included in enlargement criteria and court ruling confirming the European Commissions' responsibility, the expansion of European Commission's capacities in the field of nuclear safety did not occur. This is due to consistent reluctance of member states of Commission intervention (Heidbreder, 2011: 127). This in turn can be traced back to the foundation of the Euratom Treaty. This treaty signed in 1957 made a distinction between 'radiation protection' and 'safety of radiation sources'. This distinction laid responsibility for the former with the European Commission whilst the latter remained the exclusive responsibility of the member states (Alvarez-Verdugo, 2015). This meant that the environmental and health issues for European citizens stemming from nuclear radiation were considered part of the Commissions' competence, whereas the safety of plants with regards to radiation, remained a prerogative of member states. The Chernobyl disaster of 1986[16] seemed to usher in a review of the competences. This disaster formed the backdrop of the court rulings (most notably C 29/99 Commission vs Council and C 115/08 Land Oberöstereich vs Czech Republic) that deemed it inappropriate to create such an artificial distinction regarding radiation protection based on non-discrimination on grounds of nationality (Álvarez-Verdugo, 2005).

Although this created the opportunity for the Commission to take on responsibility for the safety of nuclear plants in themselves, a shared competence in this field remains in existence. In the realm of nuclear safety, we do see an attempt to seek uniformity in safety standards (Axelrod, 2006). The reluctance to grant the Commission competence in the field of nuclear safety is visible in the Directive 2009/71. In the 2009 directive the focus on the responsibility of nuclear safety held by the European Commission was clear nevertheless the subsidiarity principle was also emphasized. This is particularly revealed in the fact that member states were made responsible for establishing and defining safety standards. The national competence in nuclear safety is further emphasized in chapter 5 of the directive. In this chapter the national regulatory authorities are given the task of verifying compliance with the standards. This

16    During a routine test an accident occurred at the Chernobyl nuclear plant in Ukraine. The accident has occurred due to a combination of faulty design and human error. According to the World Nuclear Association: "It was a direct consequence of Cold War isolation and the resulting lack of any safety culture" (World Nuclear Association, April 2020).

chapter, in effect, is attenuating the potential for the Commission provided by the Court rulings. The provisions in the directive did hint at a more soft governance approach. This type of approach means that non-binding rules are sought after to produce effects in practice rather than rules through binding treaties or other types of legislation (Trubek et al. 2005). The responsibilities listed for the member states combined with the competences of national provide the backbone for nuclear legislation in the EU. As harmonisation was stressed, it followed quite naturally that a transgovernmental network would become invaluable. WENRA's establishment actually fulfilled the need for the harmonisation of policies without the expansion of competence of the European Commission. The policy field of nuclear safety thus remaining a regulatory policy.

With regards to nuclear safety, especially the creation of safety standards WENRA was and is most equipped. WENRA was effectively given the job of monitoring the new European Union candidates' nuclear plants and installations. They wrote a report on their findings in both 1999 and 2000 that were used as recommendations by the European Commissions' Working Party on Nuclear Safety (Heidbreder, 2011: 131). This also shows that even though WENRA operates independently, it does go through the European Commission, as well as the Council to be able to effectively force candidate countries to implement safety standards. In the following years, the reputation of WENRA, and its ability to ensure compliance has increased. Again, a nuclear disaster proved instrumental in the progress of the formation of activities regarding nuclear safety, albeit considerably sooner. The Fukushima disaster of March 11th 2011[17] led the Council to decide on stress tests to be carried out in all member states and to determine a uniform assessment (Álvarez-Verdugo, 2015). The Council also gave the Commission the mandate to review the existing legal and regulatory framework (Södersten, 2012).

WENRA, together with ENSREG[18] (European Nuclear Safety Regulators Group), took the lead in organising the stress tests. It devised the standard and the content of such tests (Ylönen and Litmanen, 2015). It is necessary to explain the interplay between both WENRA and ENSREG, before moving on. The interaction between both ENSREG and WENRA is evident in the amount of interaction between the two. Their roles are at times an extension of one another. Nevertheless, they do have distinct roles. The technical aspects and voluntary involvement of members in WENRA is what makes sets it apart as a transgovernmental network. Which is why will shall focus on this network.

ENSREG is an advisory group to the European Commission which was founded in 2007 by means of decision 2007/530/Euratom. Its work follows on the work of WENRA. ENSREG's main task is to advise the European Commission on issues related to nuclear safety. ENSREG has a more political role than WENRA (respondent WENRA I), they have been involved

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17   Following a seaquake and a subsequent tsunami power supply and cooling of three nuclear reactors on the site of Fukushima Daiichi in Japan, all three cores of the reactors melted resulting in a nuclear accident.
18   ENSREG (European Nuclear Safety Regulators Group) is an independent advisory group to the European Commission created in 2007.

in the creation of European directives on nuclear safety[19]. The members of this group are high-ranking representatives of the regulatory bodies on nuclear safety of the different EU member states[20]. As ENSREG takes up a more political role than WENRA we see a difference in tasks division with for instance, the organising of the stress tests. As said WENRA devised the technical elements to the tests. These are subsequently proposed by WENRA to ENSREG and were eventually reproduced in a document of the European Commission that established the content of stress tests for nuclear plants (Álvarez-Verdugo, 2015). It is clear that WENRA played a major role in devising the actual content of the stress tests (Södersten, 2012). A first proposal was sent to be discussed at ENSREG level by WENRA at the beginning of April 2011. The then-chairman of the French nuclear regulator was quoted as saying that all European regulators committed themselves nominally to the voluntary test (Maclachlan and Stellfox, 2011, April 8). The content of the stress tests was a point of debate with industry representatives not wanting regulators (i.e. WENRA) to push for an analysis beyond "realistic" assumptions (Maclachlan, 2011, May 5). In addition, WENRA failed to include man-made disasters in their first proposal, which was a wish of Commissioner Oetinger and Commission President Barroso, but after an agreement between the Commission and ENSREG this was amended (European Daily Electricy Markets, 2011, May 25). The position of Barroso and Energy Commissioner Oettinger met with pushback from WENRA as they held the position that including man-made disasters, for instance terrorism, would result in stress tests not being credible (European Daily Electricy Markets, 2011, May 25). The French minister of Energy went as far as to state:

> "The heads of state and government gave a mandate to the safety authorities of all member states. Now this mandate has to be put into operation… Nuclear safety is much too important to be used for politicking, as is happening at the moment." (Agence Europe, 2011, May 21).

With this statement the minister is essentially accusing the Commissioners of exceeding their own mandate. On the 25th of May 2011 the member states regulators (ENSREG and WENRA) together with the Commission decided upon the criteria for the stress tests. They agreed upon a three-step approach:

- First, a pre-assessment by the nuclear power plant operators which answer the stress tests questionnaire, submitting supporting documents, studies and plans.
- Secondly, a national report will be drawn up by the national regulator checking whether answers of nuclear power plant operators are credible.
- Thirdly, peer reviews are conducted. Multinational teams will review the national reports. These teams will consist of seven people - one European Commission representative and six Members of the 27 national regulators. (News Press, 2011, May 25).

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19    These are directives: Directive 2009/71/EURATOM and its amendment Directive 2014/87/Euratom.
20    The European Commission itself is also a member of ENSREG. Making it both a member as the recipient of advice. (ENSREG, November 14th, 2019)

The entire process of the stress test was concluded in the first months of 2012. In April 2012 ENSREG devised recommendations based on the outcomes of the stress tests (WENRA, September 2014). In the final report on the stress tests ENSREG posed recommendations regarding the approach of reviews to be conducted by WENRA:

> "As mentioned above, it is recommended that WENRA, involving the best available expertise from Europe, should consider how to determine a consistent approach to margin assessments for external events – probably best done through the provision of more advice regarding the scope of periodic reviews and/or in conjunction with the work of agencies such as IAEA. It would, in particular, be appropriate to encourage further development of consistent approaches to extreme weather." (ENSREG, 2012).

In addition, they emphasised the usefulness of the reference levels WENRA devised and mentioned that these levels should be included in all national legal frameworks.

> "In response to their previous commitments, regulators should incorporate the WENRA reference levels related to SAM[21] into their national legal frameworks, and ensure their implementation as soon as possible." (ENSREG, 2012).

These statements underscore the significance given to both the establishment of SRLs by WENRA, as well as the importance of a consistent review approach conducted by WENRA. The Fukushima Daichi incident opened a window of opportunity to push for more harmonisation. In addition to the stress tests, there was the revision of the European legislative framework. The Fukushima Daichi incident served as a catalyst for the revised version of a 2009 directive[22] in 2014 (Borovas, 2014, August 28). The latter was created in close cooperation between ENSREG and the European Commission, which signifies how WENRA's efforts feed into ENSREG tasks.

The revision in 2014 of this directive strengthened the position of the WENRA network in the European nuclear safety policy field even more. Article 8 on transparency was significantly expanded upon to include assessment, reporting, on-site preparedness and response, peer reviews in a detailed fashion. It also stated that WENRA would provide the methodology for the control mechanisms. Safety standards are again were decided by consensus in WENRA. With the bolstering of this position the subsidiarity principle was reiterated. The lack of exclusive Commission competence, and the zealous nature of (some) member states to retain their competence proves the relevance of existence for WENRA yet again. In addition, the trade association for nuclear industry welcomed the revision:

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21  Severe Accident Management
22  It is the revision of the following directive COUNCIL DIRECTIVE 2009/71/EURATOM.

"(..) in particular how it strengthens the role and independence of Europe's regulators and endorses agreed safety objectives for nuclear power plants, in accordance with the recommendations of the Western European Nuclear Regulators' Association (WENRA)" (Borovas, 2014, August 28).

This overview of how different steps in the organisation's history, show its increased significance to the European Union institutions and the countries WENRA has as members. How these developments are tied in with the governance structure is still unclear which is why we shall turn to these aspects now.

## 7.3 Governance structure of WENRA

The organisational structure of WENRA is not formalized, meaning that the governance structure does not outline specific components or administrative units to the network. Nor are there specific outlined procedures to the operation of the network. The organisation was established by the signing of a document labelled 'Terms of Reference' on February 4th 1999. This document was and, after three revisions (2003, 2010 and 2015), still is a single page. It lists the objectives of the organisation, it states that the organisation will inform stakeholders if appropriate and will take decisions by means of consensus. This last point is the only one that cannot be subject to interpretation. Point three of the terms of reference uses the phrase:

"Decisions in the name of WENRA are taken by consensus" (WENRA, March 25th, 2015).

The other points which are formulated to maintain maximum amount of control by the members. An example is point 6:

"WENRA will develop and maintain, when appropriate, suitable relations with regulatory authorities from other countries as well as with international organisations." (WENRA, March 25th, 2015).

This combined with the other points leaves plenty of room for the members of the organisation to assess what they deem appropriate. According to one of the founders of WENRA and its first chair Mr. Lacoste this leaves the members in charge and highlights the nature of the organisation. In an interview in 2014 he states:

"It is important to note that WENRA is not an association of countries but a club of the heads of nuclear authorities of the European countries. This is an important distinction. WENRA was created on a voluntary basis and is not formalized in the same way as the other mentioned organisations[23]. The Terms of Reference of WENRA consist of one page,

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23    The interviewer referenced EURATOM, ENSREG, INSAG and a vast number of working groups and committees

signed by all members, and can be changed at any time. I think experience has shown that sort of light organisation has the ability to face challenges, take decisions, and produce concrete results, also under pressure and in a hurry, if necessary. WENRA was created from a bottom-up basis, from a real will of the members to work together." (WENRA, March 19th, 2014).

The reigns of this organisation very much lie with the members. Which is also seconded in one of the interviews:

"In WENRA it is just regulators among themselves. They join on their own accord as a regulator and make agreements on a voluntary basis" (Respondent WENRA I).

Although the terms of reference offer not much of a procedural or organisational structure, we do see a horizontal organisation structure in the different components that make up the organisation. The organisation can be divided in day-to-day work which is done in working groups and sub working groups. These latter groups are set up if a subject matter is very technical and needs to be hashed out in smaller groups of members of the working group. After conclusion of the work of sub working groups, the work is presented to the working group to see if consensus on the matter can be reached (Respondent WENRA II). If consensus on a subject is reached in a working group it will then be put forward to the plenary meetings. There are two working groups currently in operation these are, the Reactor Harmonization Work Group (RHWG) and the Working Group on Waste and Decommissioning (WGWD). There was a third working group which started in 2010 and concluded its work in 2012. The name of this working group was WENRA Inspection Working Group (WIG). The work and activities of these working groups will be discussed in the paragraph detailing the function of the WENRA network.

The work in the working groups informs the speed of progress of the network. Moreover, the structure of the working groups signals the participant governed aspect of WENRA best. This is exemplified in the final report of the WIG. In it the structure of the working group is detailed and the focus in the description is placed on the individual members partaking in the working group. Below part of this description is provided:

"The WIG had its second meeting in Bootle, UK in February 2011. In the meeting the group discussed the summary of tables completed by the participating countries and made initial conclusions concerning different national practices. Also the basic regulatory approaches and good practices were further discussed. The content of the final report of the work was agreed and a sub-group was established to write chapter 2 "Basic regulatory approaches for inspection of components and structures" and chapter 4 "Good practices

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within the NEA and IAEA as the other organisations.

for inspection of components and structures" of this final report of the group. Sweden accepted leadership of the sub-group. The sub-group had a meeting in Stockholm in early June. The other participating countries of the sub-group were Finland, France and UK. For the final report the participating countries agreed to write short (some pages) national summaries of their inspection practices. The content of these summaries was agreed." (WIG, March 2nd 2012).

In this description the collaborative nature of the working group is made explicit. The entire description makes clear that different participating countries were involved in different stages of the project. The discussion amongst members exemplifies this, as does the fact that the input stems from members themselves.

When a working group comes to a conclusion the work will be presented to a second platform. These are the plenary meetings. These plenary meetings occur twice a year. In the plenary meetings the heads of the different national nuclear safety authorities come together. The meetings are presided over by the chair of WENRA, and/or the vice chair of WENRA. This is different from the working group and sub working group sessions, in which experts or management level personnel take part.

The combination of the different components results in the organisational structure depicted in the figure below.

**Figure 7.1: Organisational structure WENRA**
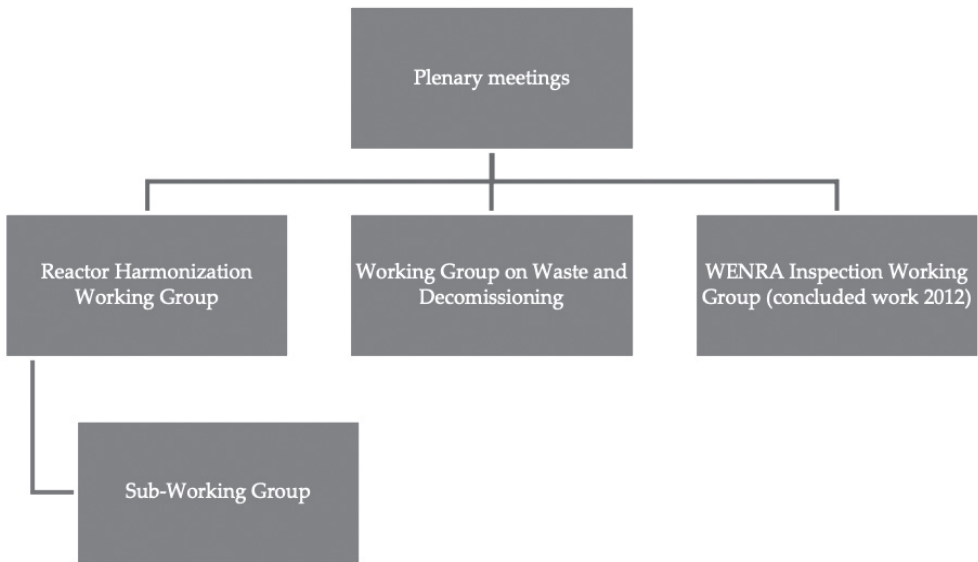
Our respondents did mention a secretariat, but this organisational component is only tasked with helping plan the plenary meetings and support the communications of the network. Also, the secretariat is more of a function than an organisational component. As respondents explained:

> There is no secretariat for the sub working groups. The general working group does have a secretary role. This role is taken up by one of the members. It is sort of a contribution a member provides to WENRA. It is a role that is important for the work of WENRA. It is not a full-time job, it is a role or function. They help organise the plenary for instance as well. (Respondent WENRA I, Respondent WENRA II)

Sometimes the chairs of work groups make use of a colleague from their own national regulatory body to support them. As one respondent noted that an employee was paid by the Dutch ANVS (*Autoriteit Nucleaire Veiligheid en Stralingsbescherming*)[24] to take on a secretary role for a WENRA working to help a chairperson for a working group (Respondent WENRA I). With a member financing a secretariat position in the network they essentially show their commitment. As the same respondent noted this is seen as simply a contribution of one of the members to WENRA as an organisation (respondent WENRA I). In general, the secretariat of WENRA plays a marginal role in the operations of the network.

This description of the structure leads us to assess WENRA as a participant governed network. The emphasis of the WENRA structure is clearly placed on the input of its members and lacks formalizing procedures or the creation of supporting units within the network that would be indicative of a network administrative governed network. In addition, we have found no proof of a single member authority being in the lead of the network. There is no indication that a particular member authority is positioning itself as a broker to the network which would suggest a lead organisation governed network. All of this combined we conclude that the network WENRA is a type of a participant governed network. How they operate based on the governance style and what objectives they serve will be addressed in the section below.

## 7.4 Function of WENRA

In the strategy document of WENRA published in 2019 the vision and mission of the network is set out. The emphasis given to harmonisation is distinctly visible in the document. They even go as far to use harmonisation in their statements. The vision of the organisation reads:

> "WENRA is the independent association of European national nuclear regulators recognised for establishing, implementing, and disseminating harmonized model levels of nuclear safety." (WENRA, April 2019).

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24    The Dutch member authority to WENRA. Tasked in the Netherlands with issues pertaining to nuclear safety and protection from nuclear radiation.

The mission statement included in the document reads:

> "Working together as national nuclear regulators to continuously improve and harmonize nuclear safety to as high as reasonably practicable, taking into account security aspects, and so protect people and the environment." (WENRA, April 2019).

These statements mention harmonisation as the intent of the organisation. Setting up levels of nuclear safety is considered core business for the work of the network. This is also reflected in the strategic objective. In table 7.1 we highlight four objectives out of ten that outline the intent of harmonisation best.

**Table 7.1 : Strategic Objectives WENRA with harmonisation at its core**

| | |
|---|---|
| **Strategic Objective 1** | To maintain a common set of up to date Safety Reference Levels (SRL), covering all relevant topics and benchmark their implementation on a regular basis. The WENRA SRLs are a key driver for developing nuclear safety by a continuous improvement and harmonization of regulatory approaches in Europe. |
| **Strategic Objective 3** | To further harmonize regulatory approaches and practices and to tackle emerging significant issues, establishing common position statements and influencing their adoption. |
| **Strategic Objective 6** | To establish a framework allowing national regulators to consider the relevant experience and knowledge of other WENRA Members in national regulatory processes and promote practical cooperation and support. |
| **Strategic Objective 7** | To reinforce WENRA's role as the strategic partner for nuclear safety to ENSREG, providing a consistent independent view on European nuclear regulatory issues and working together to continuously improve nuclear safety in Europe. |

(WENRA, April 2019).

The objectives shown in the table 7.1 mention safety reference level (SRL) as "a key driver for developing nuclear safety". This is the policy tool devised by members of WENRA to be implemented in all nuclear safety systems, as we already briefly addressed in the history section of this chapter. This tool is called reference levels because "they stipulate the level in the regulatory pyramid at which member countries are expected to have basically the same approach" (Inside NRC, 26 December 2005). The nature of the work is technical as reference levels refer to norms. The setting of these reference levels is oftentimes if not always based on scientific research that informs the members of the network of the choices they make (Respondent WENRA III). The SRLs are based on the safety requirements and guides of the IAEA but there is a difference that WENRA uses the word 'shall' instead of should because they are to become legally binding in the different participating states (Inside NRC,

26 December 2005). The WENRA reference levels require legal changes to bring countries into conformance, which is the aim of the requirements set by WENRA (Inside NRC, 26 December 2005).

As said, the SRLs are technical, but a side note needs to be placed here as well. In the presentation of new SRLs by the Working Group on Waste and Decommissioning an understanding of the reference levels was explained:

> "The SRLs cannot be considered as independent European safety requirements because current legislation in WENRA member states would not allow that due to fundamental differences reflecting the historical development in European countries. The SRLs are a set of requirements against which the situation of each country is assessed and it is each country's responsibility to implement actions to ensure that these levels are reached." (WENRA, December 22nd, 2014)

This explanation showcases the struggle for rigorous implementation of harmonised rules in the context of nuclear safety. It does say that reference levels are to be seen as requirements, but it is up to the member states to implement these. Concerning the responsibility of the member states in this, during one of the interviews a respondent reflected on this:

> "Agreements made within and by the organisation of WENRA are made with the understanding amongst members that you commit yourself to the implementation of WENRA agreements in your own national legislative system" (respondent WENRA I).

A different respondent reflected similarly as the respondent said:

> When something is decided in the plenary you go home with the understanding that you make sure that decision is implemented in the permits, legislation, regulations and so on (respondent WENRA IV).

In addition, we see this mirrored in instances in which members and observers of WENRA were called upon with regard to failing benchmarking exercises based on the safety reference levels. A first example is from Belgium. In 2016 an extension of the operations at nuclear plants Doel 1 and Doel 2 were discussed in a parliamentary committee. There it transpired that both facilities did not meet requirements of the SRLs that were adjusted in 2014. The Belgian authority on nuclear safety FANC (*Federaal Agentschap voor Nucleaire Controle*) was accused of not integrating the new requirements in her policy conditions (Agentschap Belga, 8 March 2016). The FANC responded to this by stating that at the time of the establishment of both facilities the new requirements were not in place. Even though it is the responsibility of the country there does seems to be a push to ensure that WENRA safety references are

7

met. The 2014 requirement made by WENRA are currently not part of Belgian legislation, but they are taken appropriate steps by informing the facility holder of the new requirements and ensuring that the new requirements can be met, as well as to include them into Belgian legislation. This shows the function of harmonisation by WENRA.

As a second example, Belarus as an observer status member of WENRA has also been urged to adjust its decisions due to raised issues by WENRA. The Council of Europe's Parliamentary Assembly urged Belarus to suspend N-plant construction in 2017. It noted that:

> "concerns have been raised since 2009 in all competent organizations including (..) European Nuclear Safety Organization (WENRA)" (Baltic Daily, 28 June 2017).

The Baltic Times reported however that Belarus so far has not removed the deficiencies detected (29 August 2019).

Both examples show a push for harmonisation. Which confirms the explanation of the respondents indicating that there is a commitment to ensure implementation of the policies of WENRA in national legislation. And that this commitment is also understood beyond the members of WENRA.

SRLs do not cover legal and technically specific details, they reflect practices WENRA countries are expected to implement in their national legislation. The documents of SRLs are formulated to be brief, high-level and significant (WENRA, May 17th 2019). However, according to one respondent the level of technical specifities has increased in the SRLs. As the respondent remarked:

> "There are instances in which a colleague comes back from a working group session saying: 'we need a new screw, new technique or a different pipe'. Oftentimes this need not be implemented into law but can be included in a permit or regulation. This does drive companies of nuclear installations bonkers. It just becomes too unclear. Which is also why we now have instigated a project regarding feasibility which also takes stock regarding which norms are currently in place." (Respondent WENRA IV).

The SRLs are developed in the working groups as we have seen in the governance structure paragraph of this chapter. We will now go into the specifics of the work of these working groups and focus on the function that the work serves most.

The first workgroup is the Reactor Harmonization Working Group (RHWG). This work group primarily develop SRLs. In addition, they are tasked with the periodic safety reviews of nuclear plants. The objective of these reviews is stated as:

"The review shall confirm the compliance of the plant with its licensing basis and any deviations shall be resolved. In addition, the review must consider any issues that might limit the future life of the facility or its components and explain how they will be managed." ( WENRA b, n.d.)

This highlights the function and intent of harmonisation by the network. We see a similar harmonisation function in the objective of the second work group of WENRA: Working Group on Waste and Decommissioning (WGWD). The working groups states its objective as follows:

"The working group on waste and decommissioning (WGWD) is mandated to analyse the current situation and the different safety approaches, compare individual national regulatory approaches with the IAEA Safety Standards, identify any differences and propose a way forward to possibly eliminate the differences. " (WENRA c, n.d.).

The objective clearly sets out to eliminate differences which is key to a harmonisation function, especially when combined with the setting of their own standards. As the working group specifically refers to the safety standards of another organisation this could also point to an enforcement function. However, on closer inspection of the reports published by the working group the referenced safety levels are developed by the working group themselves. These SRLs combined with the safety standards of IAEA together form the basis for the reviews (see f.i. WENRA WGWD, April 2018).

Next to these two working groups, WENRA also had a working group which has concluded its work in 2012. The group was named WENRA Inspection Working Group (WIG). The goals of this working group were addressed in the final report of the working group. The tasks of the working group were divided into two phases. The first phase was to benchmark the different national inspection practices. This phase is symptomatic for an information function. However, the information gained in this phase was needed as input for the rest of the project. The working group outlined their work in the second phase of the project as follows:

"In the second phase, harmonization needs and possibilities in the area of inspection practices should be studied."(WENRA WIG, March 2nd 2012).

Although the report mentions how good practices could be adopted as European harmonised practices, it is unclear if this result is fulfilled. The report itself mention a list of good practices and states:

"The good practices are generic in nature. They were developed especially for safety-related pressurized equipment but can be applied to all types of components and structures. These good practices should be adopted by all WENRA countries when they are developing

their inspection practices either by introducing them in the national regulations or by applying them into individual safety cases." (WENRA WIG, March 2ⁿᵈ 2012).

With WENRA not having the mandate to enforce regulations upon its members, the reference that "good practices should be adopted" is only that. Nevertheless, with the SRLs we also see a clear follow up by the WENRA members. This combined with the experiences of our respondents we would label this as a harmonisation function with the caution that clear proof of actual harmonisation in this particular instance is not found. However, as we have addressed before there are clear indications that a responsibility regarding the implementation of standards proposed by WENRA is felt. In practice, even without the power to impose harmonisation the work of WENRA does have clear effect on policy and legislation in countries. WENRA without the formal power, does have the ability to change legislation and as such is in function operating as a harmonisation network.

Regardless, the need for furthering harmonisation is also emphasized as peer reviews on the implementation of SRLs are currently deployed. However, although labelled a peer review its methodology summons a further explanation. The peer reviews on SRLs for existing reactors was done by means of self-assessment by the regulatory bodies. The peer review was then conducted based on the information of the self-assessment by desk research by members of the Reactor Harmonization Work Group, written questions and answers, discussion in the review group of the work group as well as discussions in the plenary meeting of the working group (WENRA, March 23ʳᵈ 2018). It does not include questions regarding security issues of nuclear plants (Respondent WENRA I). The scope of the work limits itself to preparing for unintended threats such as technical malfunctions or natural disasters. This means that the scope of the peer review is solely on nuclear safety and not nuclear security. The latter would also mean a focus on intended threats such as man-made threats as would be exemplified by terrorist attacks for instance. The inclusion of nuclear security in the scope of stress tests however, was up for discussion between European Union member states and the European Commission as we have addressed with regards to the response to the disaster at Fukushima. The European Commission wanted to push forward to have a bigger say in nuclear security and member states resisting this push. Peer reviews are a method of account giving as well and will be addressed further in the section pertaining to this in more detail.

Next to the activities by WENRA we need to also be aware of how WENRA interacts with other stakeholders in the nuclear safety domain. We understand that WENRA is part of chain structure. This means that organisations with a similar subject matter but differing scope or mandate work in congruence with WENRA. An example of which is the organisation ENSREG. This organisation is a network of senior representatives of national regulators regarding nuclear safety. Where WENRA has a clear focus on the technical aspect of ensuring nuclear safety, ENSREG involves itself with strategic objectives of nuclear safety. The chain structure is exemplified in Strategic Objective 7. Yet respondents clarify that WENRA operates

independently (Respondent WENRA I, Respondent WENRA II, Respondent WENRA III). It is not part of political deliberations, but its decisions and publications do have a way to seep into the political domain that is ENSREG and the European Commission as shown in the example concerning the stress tests following the Fukushima Daiichi accident.

The independence of WENRA, and the fact that its members do not all stem from the EU or any other regional governmental body, means that independence is guaranteed (Respondent WENRA III). Although a struggle of the European Commission to gain access to the work of WENRA is ongoing it is highly unlikely that this will result in WENRA becoming part of a European Nuclear Safety infrastructure as a politically operating body (Respondent WENRA I, Respondent WENRA III). This position of independence as opposed to a more political organisation is however highly desirable given the nature of the work. Nuclear safety, as already discussed, is still very much a national matter. We can observe WENRA offering a functional solution for the European Commission, whilst bypassing supranationalisation (Heidbreder, 2011:137).

In the objectives, but also in the work of WENRA we see a clear attention on harmonisation activities more so, than other activities. The work of WENRA centers around the creation of a common approach to nuclear safety. They make use of two distinct efforts to reach the goal of a harmonised nuclear safety approach by means of activities. The first is the development of SRLs and the second is the peer review assessment. The seeking of alliances by means of the chain structure to work together on subjects and feeding their own policies into policy making at the strategic levels of other organisations backs this assertion as well. WENRA moves beyond the sharing of information and thus surpassing the information function a network may have. In addition, it moves passed the definition of an enforcement network as it actively sets standards and is involved in ensuring a harmonised approach in all member authorities. This leads to the conclusion that WENRA should be described as having a harmonisation function.

Having assessed WENRA to be a participant governed harmonisation network, we need to turn our attention to how they structure their account giving relationships. In the following section we shall discuss this based on what we have seen in documents of the organisation and what respondents shared. If our expectation is correct, we would find a predominance of political accountability in this type of network.

## 7.5 Accountability relationships of WENRA

In the section below we will address the way in which WENRA operates and how this is translated in terms of (national) accountability relationship(s). We shall focus our attention on the establishment of SRLs as they are key to the network, and we will address the peer review system. This is an account giving system directed towards the member organisations of

the WENRA network. It is the way account giving on SRLs within the internal structure of the WENRA network takes place and as such we will focus most attention on this. We will first assess how WENRA structures its accountability relationship within the network before we will address how account giving is structured in the setting of the Dutch member authority, ANVS. We will do so by assessing what modus operandi is adopted by the ANVS organisation in terms of attending working groups as well as how information on WENRA activities is addressed within the context of the member authority.

## 7.5.1 Account giving structure of the network WENRA

The work of WENRA is done in working groups. Out of all the activities that are conducted in these working groups, the creation of SRLs is deemed most important to the network. In fact, respondents mentioned these as the key drivers of the WENRA organisation. This activity will therefore be addressed first in terms of account giving. We will discuss the process of formulating SRLs from start to finish.

The process of creating SRLs could take years to finalize. The working group sets out research on the adequacy of current SRLS. Based on scientific articles and work at other international organisations such as IAEA they devise a draft version of the SRLs. At the WENRA level a draft version of reference levels is consulted with the representative body of nuclear operators (Respondent WENRA I). If the work group agrees on a final version after feedback and revisions, the final document is sent to the plenary meeting of WENRA. The discussions are done, and the decisions are already reached in the work group meetings (Respondent WENRA I, Respondent WENRA II). Each plenary is a two-day event. The first day mostly concerns organisational matters. Whereas the second day focuses on the actual work of the working groups (respondent WENRA IV). The informal character of the network and the plenary meetings in particular are heralded. As one respondent stated:

> "The work field of WENRA is sometimes quite contentious. For instance, as often nuclear installations are built near the borders of countries. Officially this is because these installations need cooling capacity such as a river, which are also oftentimes located near borders. Keeping tabs on making sure your neighbour is ensuring nuclear safety can thus be discussed in an open setting with experts. It can get really contentious, but it is the strength of WENRA that this can occur but also how we move forward." (Respondent WENRA IV).

The outcomes of the plenary meeting are shared on the website of WENRA. A short summary of the overall meeting is posted as well as the policy outcomes, i.e. new SRLs, or changes in the terms of reference or the strategy of WENRA. After adoption of the new SRLs, these are published on the WENRA website. After publication of the SRLs the process of peer review of all members by WENRA starts. The procedure is outlined in a report on the peer review

of the 2014 SRLs. These were implemented after the Fukushima Daiichi disaster. This disaster ushered in a new line of accountability altogether. After this major incident, the European Energy Council of ministers agreed on developing stress tests of nuclear facilities in the EU (BBC, March 21st, 2011). It gave impetus to the creation of a new and more formalized peer review system, which we will outline now.

The recommendations of ENSREG that followed the stress tests, focused on the use of reference levels as devised by WENRA. ENSREG felt that the Fukushima Daichi incident proved that WENRA should update its reference levels and seek harmonisation. The stress tests results showed that there were "significant differences between Member States, but also gaps in ensuring comprehensive and transparent identification and management of key safety issues" (European Commission, 2012, October 4).

In 2014 WENRA released a statement following a revision of their SRLs in which they also expressed "commitment to improve and harmonize their national regulatory systems, by implementing the new SRLs until 2017 as a target date. "(WENRA, 2014, October 27). They decided to initiate a peer review process to benchmark whether national regulator had implemented the revised SRLs in their legal framework. This review method concerns the work of the regulators themselves. The questions that are asked in the review method centre around if the regulator is up to date with the safety reference level in their own legal frameworks. With regards to the checks on SRLs being implemented at actual nuclear plants, WENRA has decided to conduct periodic safety reviews, at least once every ten years.

The peer review of national regulators themselves is a clear indication of conduct by national regulators. The implementation of internationally agreed upon standards are assessed in these. In a report regarding the peer review of the revised 2014 SRLs the approach of this peer review was described as follows:

> "Every WENRA country performed a self-assessment of the implementation, as of the end of October 2015, to conclude on the degree of implementation of each RL. The peer review was therefore based on a snapshot of implementation in the member countries at that time. In addition, members developed action plans for those RLs which were not implemented yet. In 2016, the self-assessments were peer-reviewed by RHWG members by desktop review and submission of written questions and answers, and by discussions in review groups and in the RHWG plenary. "(WENRA, March 23rd, 2018).

According to respondents this process is really used as a means to gauge the implementation of the SRLs in the different countries. As one respondent explained:

> "It is insufficient to say we have translated this reference level in national legislation. You have to say how." (Respondent WENRA II)

Respondent WENRA I added that multiple members were asked for additional information. It also occurred that a member said it had implemented a SRL, when after the peer review it was concluded it had not (Respondent WENRA I). Feedback on implementation is, in the words of Respondent WENRA III about "comply or explain". This position was also confirmed by respondents WENRA I and IV. It is really the intention of regulators to implement the latest safety norms in the national context. It is not about reputation, there is both a drive and a push for this, which can only be reached because of the safe and informal environment WENRA offers (respondent WENRA IV). So far, the peer review process has resulted in one peer review report which was published in 2018, but a follow up to this method was emphasized by WENRA as it stated on its website:

> "WENRA will publish further annual reports on the status of implementation to demonstrate continued progress." (WENRA, September 2018).

It is more than likely that this review method will be used more in the future due to its positive reception (Respondent WENRA III). The benchmarking exercise that is already conducted internally by the ANVS, will be complemented with the peer review structure of WENRA. Under the scope of ENSREG, national regulators are also subject to peer reviews. Although this is a separate organisation, we do need to discuss this peer review structure here as well because although ENSREG coordinates the review; the specifications and the content of the assessment is prepared by WENRA (ANVS, 2016, October 31). Therefore, we would argue that the peer review of ENSREG is also part of the accountability line of WENRA member organisations. The peer review system of ENSREG was codified in the Directive 2014/87/EURATOM. It states:

> "Member States, through their competent regulatory authorities making relevant use of ENSREG, and building on the expertise of the WENRA, should every six years define a methodology, Terms of Reference and a time frame for Peer Reviews on a common specific technical topic related to the nuclear safety of their nuclear installations. The common specific technical topic to be considered should be identified among the WENRA safety reference levels or on the basis of operating experience feed-back, incidents and accidents and technological and scientific developments." (Council Directive 2014/87/EURATOM).

The reference to the use of WENRA expertise, places its policy content at the heart of the topical review. The first topical review was completed in October 2018. Its result has been disseminated by both ENSREG as well as individual member authorities on their respective websites. With the creation of the topic review structure the council directive did explicitly mention that the summary reports from these reviews were not a ranking exercise stating:

"The summary report should not aim to rank the safety of nuclear installations but rather focus on the process and technical findings of the topical peer review so that the knowledge gained from the exercise can be shared." (Council Directive 2014/87/EURATOM)

This reaffirms the precarious nature of nuclear safety as a policy field. Harmonisation is the aspiration, but the ambiguous integration trajectory of nuclear safety seems to be at the forefront of any considerations regarding advancement in that area. Discussion regarding consequences that should follow cases of infringement do not occur, nor are there any formal consequences to infringements. Nevertheless, the mentioning of that reports on topical reviews should not aim to rank, combined with the fact that we have seen a push for conformity (Example Belgian nuclear plants Doel 1, 2) suggest that this actually is the possible consequence of infringement. Moreover, we understand from our respondents that feedback on implementation is crucial: "comply or explain" (Respondent WENRA III).

## 7.5.2 Account giving by the participants of WENRA to the home organisation

For the Dutch member of WENRA, ANVS, there are four employees engaged in the network of WENRA. The director of WENRA is signatory member meaning (s)he will attend all the general assemblies. Next to her/him are employees on the management and technical level. The management level makes up the other three in the on-going engagement of ANVS in WENRA whereas technical expertise of particular employees is asked irregularly and occasionally (Respondent WENRA I, Respondent WENRA II). The technical expertise is asked in-house and technical experts normally do not attend meetings of WENRA although this is not excluded as a rule (Respondent WENRA I, Respondent WENRA II).

The three management level delegates perform the bulk of the work for WENRA. They attend meetings, chair working groups and offer feedback to the director of the ANVS on the developments of the network (Respondent WENRA I, Respondent WENRA II, Respondent WENRA III). These three management level delegates prepare each meeting based on the agenda of the meeting which is send to the delegates of the working group or general assembly in advance. They prepare by means of annotation to the agenda. These notes to the agenda are communicated to and discussed by the board members at the executive level of ANVS (Respondent WENRA I, Respondent WENRA III). Ninety percent of all the work of WENRA is related to the work of one department within the ANVS, which is why two of the management level delegates stem from this department and one delegate from the other department (Respondent WENRA I). These two delegates are part of the harmonisation work group and the other delegate is part of the waste and decommissioning work group. Each work group has sub-work groups. These are installed to prepare documents on topics of the work groups. Between three and eight countries participate in these sub-work groups. After the preparatory work of the sub-work group, the results are conveyed to the general work group (Respondent WENRA II). The general work group then offers feedback on the document. This feedback is

based on filled out forms by the different delegates (Respondent WENRA II). The sub-work group will implement the feedback following the discussions. Because consensus needs to be reached, the process of finalizing can be swift if all agree but it could also mean that some topics will take years to finalize (Respondent WENRA II, Respondent WENRA III). Each meeting attended by the delegates is summarised in a report which is send to the team of said delegate but also to the management team of ANVS. The report is based on a given format in which the delegate highlights the possible implications on either policy, legislation and/or the supervisory task (Respondent WENRA I, Respondent WENRA II, Respondent WENRA III). The policy of reporting on international meetings such as those in WENRA context, are also formalised in a Structural Plan Documentary Information (Structuurplan Documentaire Informatie). In the Excel sheet that accompanies this document, the reports as well as the agendas and Dutch policy positions are listed as the product to be archived (ANVS, nd). According to Respondent WENRA II a report centres on the question if there is a direct impact on day-to-day operations of ANVS. This means that policy of the ANVS needs to be amended to accommodate changes. One respondent recalls that this method is used to ensure more coordination on what occurs in international settings and is relevant to WENRA. The respondent provided an overview of international coordination:

> "Every one of the ANVS seems to be abroad all the time. We had no true grasp of what was going on. Which is why we have recently strengthened international coordination. To determine why do you join that meeting? What is the added value? What will we [as ANVS] do there? What is our input and what can we feed back to our own organisation?" (respondent WENRA IV).

For the work of WENRA, this means that delegates of ANVS often have to tick the boxes to state it will have impact. The format is a bit of a bureaucratic exercise, but the discussion that follows, should increase and feed into the organisation (respondent WENRA IV). Currently, however, this does not lead to many, if any questions by the executive level (Respondent WENRA II, Respondent WENRA III). When a working group discusses the setting up of SRLs drafts, and revisions these are consulted with the in-house experts of ANVS but they are also discussed with stakeholders of nuclear installations (Respondent WENRA II). They are asked for feedback.

When the work of the working group is concluded and sent to the plenary the preparation for this meeting starts in the Dutch context. Each plenary meeting is prepared for by the most senior management level delegate who is also most involved in the network (Respondent WENRA I, Respondent WENRA II, Respondent WENRA III, Respondent WENRA IV). Next to the working group he attends the plenary as a second to the director of ANVS. The work of WENRA is not considered part of the strategic level, which means that the director is informed about the work, but discussions are rare (Respondent WENRA II). The preparatory work for a plenary is described by one respondent as followed:

"The most senior management level individual involved with the technical work of the WENRA working groups prepares the annotated agenda. Each point of the agenda is provided with context or background information in about a sentence or ten. Sometimes [senior management level individual] adds an attachment to the agenda. [The senior management level individual] also adds what the position of the ANVS is on the matter. A discussion between at least the director and [the senior management individual] regarding the annotated agenda ensues. The discussion is both in writing and in person." (Respondent WENRA III).

When a plenary meeting concludes with agreement on changes on for instance the SRLs, the ANVS then starts a process of benchmarking, this means ensuring that the new SRLs are implemented in the Dutch system. ANVS actively shares the new SRLs with the nuclear operators for which they are responsible. The process of implementation in national legislation is sometimes cumbersome and often takes a few years (Respondent WENRA II, Respondent WENRA III).

Other than the accountability lines discussed - i.e. to the technical staff members, to superiors in the home organisation, to external stakeholders and the peer review structure - the respondents did not perceive others to be in existence. Questions regarding third parties involved in the process such as the ministry were negatively answered (Respondent WENRA I, Respondent WENRA II, Respondent WENRA III). The ministry is not involved in the work of WENRA. ANVS has its own mandate to develop rules regarding nuclear safety. This could have to do with the governance structure of the ANVS as an independent governmental body. A side note needs to be made here. The independent organisation ANVS was founded in 2015. The Netherlands did not have an independent regulator before, which was a prerequisite pushed for by the international organisation IAEA (International Atomic Energy Agency).[25] In the beginning of 2019 an evaluation report was sent to the Dutch Parliament regarding the functioning of the ANVS. The state secretary for Infrastructure and Water Management included a response letter. The evaluation report concluded that although the ANVS has operated well since its inception, it acknowledged that the separation between the legislative and executive branches was hampered (ABDTOPconsult, July 2019). This lack of separation was also acknowledged in an interview:

"In essence, in WENRA for instance, there is a one-on-one translation from the technical expert to politics. What the expert decided happened. There was in that sense no difference. The ministry was not involved. Rather our expert advice was simply followed. Meaning that in parliamentary debates someone from ANVS sat directly next to the minister telling her what to do." (respondent WENRA IV).

7

25    The IAEA had made recommendations in 2014 to establish an independent regulator in order to strengthen the review and regulatory capacity. In a follow up report in 2018 it concluded that the Netherlands had fulfilled this role with the creation of the ANVS and was performing well.

According to the evaluation report this needs to change. In her response letter the state secretary agreed. She states:

> "The researchers make the recommendation to lay the responsibility for policy preparation regarding nuclear safety and radiation protection with my ministry rather than with the ANVS. This will strengthen the position of the ANVS as a regulator and licensing authority. The formulation of policies regarding how the ANVS can fulfil its task as an independent regulator will remain the responsibility of the ANVS. I will however, create a unit within my department, after conferring with the ANVS regarding its size and ensuring the expertise of the ANVS will not be dispersed." (Van Veldhoven – Van der Meer, January 17th 2020).

This change in structure will have due effect on the accountability structure. The unit itself has been in place since around the end of June 2020 (respondent WENRA IV). Although this is still work in progress we need to reflect on this as well. It would ensure the involvement of the ministry with the work of ANVS, including their work in WENRA, will increase. The separation of the two functions is a breach from the past structure and has implication for the type of accountability adopted.

## 7.6 Political accountability in WENRA

In this empirical case we expected to find a prevalence of political accountability, and although this line is prevalent, the findings revealed that elements of other accountability types were used as well. Two types of accountability do appear more than the others which are political accountability and legal accountability. We shall address all the lines we distinguished and show the dominance of each when doing so.

Having described accountability relationships of the ANVS regarding their work for WENRA we see four distinct lines and one under construction. The first is the line from the delegate to technical staff members. The delegates participating in WENRA are aware that they only know so much. Therefore, they seek out experts from within their home organisation to deliberate with on WENRA developments. The experts of the home organisation (ANVS) are asked what the impact of certain developments would be in the Dutch system. The feasibility of proposed developments is part of the deliberations. This line could therefore be seen as being based on an outcome-based assessment.

The second line is account giving to superiors by means of reports and annotations of agenda's to WENRA meetings. By highlighting the potential impact of WENRA decisions on the operations of the ANVs we can see a focus on monitoring.

The third line is account giving directed to external stakeholders such as the nuclear operators who are informed and actively asked for feedback on SRLs. Again, this is a type of outcome-based assessment. They are consulted after a first agreement of SRLs are already made in workgroup sessions of WENRA. Yet comments are asked before they are finalized in a plenary which indicates that changes in position can still be made.

The fourth and final accountability line that we can distinguish is the one directed to fellow WENRA members. This is done through the mechanism of peer review on implementation. This also is a form of monitoring as, unlike auditing, the review conducting organisation has no basis to sanction by means of stripping membership for instance. It is more about: "comply or explain" as mentioned by Respondent WENRA III, no sanctions were mentioned other than reputational damage in case a member fails to comply. This last accountability line is relatively new. As both the general peer review conducted by WENRA and a single first topical review have been completed in 2018. Nevertheless, this is to be considered a fixed feature moving forward. The relevance of this accountability mechanism is already indicated by the emphasis placed by the respondents on explaining the level of implementation to colleagues (Respondent WENRA II, Respondent WENRA III). In addition, we have seen two examples (the case of the nuclear reactor in Belgium and the case of observer status member Belarus) in which compliance with the reference levels set by WENRA has been valued to such a degree that a regulator and a country have been questioned about their conduct. Whereas the first three lines of accountability (to technical staff members, to superiors and to external stakeholders) are described as being part of day-to-day operations, the peer review structure seems to indicate a higher level of scrutiny given the amount of effort as well as attention this is given.

As said, there is one line of accountability very much in the developmental phase. This is the line with the ministry. Currently, a new unit in the ministry is set up. It is designed to take on a more policy making role. This role together with regulatory oversight were conducted by the ANVS. Following an evaluation report this will change. The unit in the ministry will drastically change the relationship between the ANVS and the ministry. Were previously both roles were conducted by the ANVS, the stepping in of the ministry will ensure an increase in oversight and supervision. The separation of powers and ensuring responsibility and accountability lie with the ministry is well, will usher in a new accountability relationship. As this is still under construction, we cannot definitively state what will be the outcome in terms of accountability type. Nevertheless, the justification for the structural and organisational changes do point to a more political accountability type. However, as said, this is a preliminary statement.

The distinguished accountability lines cover all the directions of accountability as disseminated in the conceptualization of accountability types. In addition, regarding the elements of accountability we see in this network that all types of forums are part of the accountability structure. The ANVS thus deploys all classical types of accountability we have operationalized. As we would expect multiple types of accountability can and oftentimes are available in a single organisation, but it is paramount to discover the prevalent one amongst them.

7

What is clear is that all respondents, as well as WENRA mention SRLs as the most important outcome of the network. This does not help our assessment as all types of accountability are deployed in that setting as well. When asked about the questioning of the forum to the actor we do see differences. For instances, the superior level is less likely to ask questions as SRLs are not part of the strategic level that instructs executive level employees. In addition, the work or contact with technical level staff occurs before the finalization of the SRLs.

The accountability towards external stakeholders - i.e. nuclear operators - does occur beforehand as well as after finalization. This type of forum would indicate legal accountability. Yet, the respondents mentioned this line of accountability only in passing whereas the final line exemplified by the peer review system was mentioned by all three respondents. They emphasized the thoroughness of the peer review. The expectation that you implement the rules of WENRA, was vented throughout our conversations. However, the sanctioning of an organisation that was in default of the harmonised rules, is not in line with the sanctioning in case of legal accountability. The emphasis on following rules would nevertheless indicate a legal accountability structure.

Legal accountability which is the fourth type of accountability distinguishes three types of sanctions: revision of the administrative act, sanction or recognition of the official involved, compensation for the citizen. The first and the third type of sanction is not applicable in this instance. In this empirical case reputational damage due to results from a peer review can be seen as the sanctioning type. This is an example of the sanctioning by recognizing an organisation, which is part of the types of sanctions that can be expected in legal accountability. "Comply or explain" is again key in understanding accountability here. However, depending on where the recognition of the failure of the organisation stems from, political accountability cannot be ruled out. The type of sanctioning one would expect in political accountability also accounts for recognition although it states that this should be political recognition of failure. What is mentioned by the respondents is the focus on 'comply or explain', which hints more at responsiveness rather than procedure. This emphasis is something we would expect in political accountability. This can be explained based on the fact that the SRLs are requirements that need to be specified before implementation can take place. It is not as rule bound as is necessary for legal accountability. Because of this, combined with the fact that a lack of clarity on the rules to be monitored has resulted in a lack of sanctioning options, political accountability is therefore also most predominant. Considering the changes in structure with the ministry, we would also confer that political accountability is most prevalent in this type of network. The structural change would strengthen the position of the ministry to perform oversight. This will allow for clearer political accountability.

**Table 7.2: WENRA and political accountability**

| | Political Accountability | |
|---|---|---|
| Definition | Vertical relationship between an actor answering to a forum in which the source of control is external and the degree of control over actions is low. | |
| Components | **According to framework** | **WENRA** |
| Forum | Voters, elected representatives | We have two examples in which we see questions being raised by representatives. It is unclear if this is anecdotal evidence as respondents do not mention influence by or from elected representatives as such. |
| Relationship | Vertical | One of the lines of accountability can definitely count as vertical yet in the case of WENRA multiple lines of accountability are discernible and not one over the other is more prevalent. |
| Source of control | External | Again, there are external elements to the accountability relationships but we also see a clear horizontal and diagonal source of control in other relationships. |
| Information on what conduct? | Responsiveness to external stakeholders (voters) | Information on technical elements and expertise seems to valued most, this can be seen in the peer review but also in the accountability relationships with the in-house experts. |
| Emphasis | Responsiveness | Expertise and procedure seem to be valued most which is more in line with professional accountability and legal accountability. |
| Techniques of review | Markets<br>Outcomes-based-assessments<br>Registries<br>Whistle-blowing | The format of accountability structure within the ANVS has a clear focus on showing the impact on the organisation. Which is a way to monitor what is going on. Simultaneously the peer review system is directed more in the lines of outcomes-based-assessments which is also seen in the benchmarking practices of the ANVS. Whilst the former is indicative of both bureaucratic and legal accountability the latter is in line with the political accountability. |
| Discussion on what | Results of administrative performance | This is seen in all accountability lines. |
| Control over actions | Low | The respondents stressed that there was a lack of questions from a forum and a referral to the technical expertise given the content of the work of WENRA. |
| Sanctions | Political criticism or recognition<br>Resignation or dismissal | There are no indications regarding possible consequences although the non-compliance of the example of the Doelen in Belgium do point to this type of sanction. |

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With regards to the question 'discussion on what?' the empirical findings indicate that it is about the administrative performance, which is indicative for political accountability. The ANVS has to indicate to WENRA how it has implemented the requirements of WENRA. There is a difficulty in assessing the direction of the accountability relationship with regards to the peer review structure. Because the peer review is conducted under the auspices of WENRA, we could say that this is a diagonal relationship, especially if we look at the topical peer reviews, in which ENSREG is involved. However, given the fact that WENRA actually provides the content of the review structure we could also argue that peers are assessing the work of peers which would mean that the direction of the relationship is horizontal. In addition, should we consider ENSREG to be a distinct organisation if we know that senior level staff of the same national regulators participate in the network? Furthermore, considering that the peer reviewers are conducting their assessment based on vertically established rules it is also partly vertical. With that we refer to the codifying of the peer review structure in the Council directive. In any case, there seems to be a slight prevalence of political accountability over legal accountability. The reason for these two accountability lines to be so clear in this example might have to do with the balancing act between harmonising rules on the one hand and not bypassing the member states in their competence.

Taking into account the current changes in the structure with the ministry, the prevalence of political accountability would more likely increase. This fits in with the expectation. This can only be determined in due course, when the structure is in place. Nevertheless, given the specifics and perhaps uniqueness of this case comparative research with other cases with similar characteristics; participant governed harmonisation network is required before anything definitive can be argued.

In the table 7.2 we highlight the different elements to the accountability relationship and why pointing to one prevalent accountability line over the others is particularly cumbersome in the case of WENRA.

## 7.7 Reflection and considerations

In this case we expected to find a political accountability to be the prevalent accountability line. Although we find that this is the case, we understand legal accountability is also dominant in this case. We can see this, for instance, in the peer review structure which is a key part in the work of WENRA. When we look at the actual structuring of the peer review accountability line, we see that it is too ambiguous to confidently state that this is the case. The peer review is set up in such a way that we cannot make the claim that a vertical relationship is set up. Let alone that it fulfils the other elements of political accountability perfectly.

What is also clear from this case is the influence of the supranational versus the national level is particularly strong. The subsidiarity principle, in stark contrast to the court rulings, proved

influential for the forming of policies in WENRA. It is instructive to its scope and the wording of its policies. This was apparent in the extra explanation provided in a document containing reference levels. Full attainment of harmonisation in nuclear safety will thus remain difficult. The fact that consensus is the only basis on which decisions in the network can be made, provide a platform for each opinion, values members equally but also hamper progress in relation to harmonisation. You can only move as far as the first line drawn by a member. The mentioning of the peer reviews and the "comply or explain" statement does indicate the interest of members to further plans of WENRA. Peers, or better yet the perception of those peers suggest a reason to comply with the standards of the network. Further research will need to take this issue on board.

The difficulty with this case in particular, is the level of transparency. Meeting reports including descriptions of discussions between members are not accessible to the general public. Nor was it possible to observe such meeting(s). To see if a delegate or the ANVS operates within the mandate set is thus difficult to assess. However, the work of WENRA, and by extension that of delegates operating within WENRA does not seem to infringe on the Dutch governmental policy position on nuclear safety. That position is ensuring adherence to international norms whilst simultaneously not discouraging or encouraging the building of new nuclear plants. As WENRA seems to focus most on setting safety standards a sidestepping of this mandate seems unlikely, especially when we consider the peer reviews that monitors the implementation of these references. Also, the empirical findings provided a clear and consistent picture of the accountability lines. By means of external sources such a media accounts, or public reports we were able to verify these. The ability to talk to all Dutch delegates regularly involved in WENRA, we are confident that our assessment is correct.

In addition, in this case we have found that the aspect of time and organisational development needs to be considered when assessing accountability relationships. Which type of accountability is deployed is both determined by the organisational structure vis-à-vis other organisations as well as the timeline of an organisation. In this case, the ANVS was operational for only 5 years. As such it was very much in its infancy. First evaluation reports provided recommendations on how the new organisation should be strengthened in its position. This has led to substantial changes in the organisational relationship. Organisations are prone to structural changes. In later research this is also something to bear in mind. Time as a factor is not often taken into consideration in social sciences, but it could benefit greatly by looking back, forward and expanding the time of data collection.

What all the respondents hinted at was the responsibility felt to discuss the international meetings with their technical experts. To cover all the bases but also to make sure that they had done their work correctly and will not be surprised by disparaging views after a decision of WENRA has become final. Feedback and input thus seems to be essential to the perception of others of their work. This instructs account giving behaviour. As we have looked

at the classical types of accountability there is something to be said of involving reputational accountability in discussions of accountability in networks. By this we refer to the work of Busuioc and Lodge (2016) in which they describe that the fact that a variety of audiences are in existence in accountability relationships matter. Furthermore, "sustaining one's own reputation vis-à-vis different audiences" is key to understanding accountability relationships (Busuioc and Lodge, 2016: 248). The mentioning of ranking in reports of topical peer reviews, the examples of questioning a regulator as well as a country regarding implementation does provide clues that reputational accountability might provide an explanation here that could be used alongside classical accountability types. In sum, there is a prevalence of political accountability which we assume will only increase in future due to structural changes, but other accountability lines are also discernible. What has become clear is that additional cases of a harmonisation network participant governed need to be included in further research.

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# CHAPTER VIII

EA: a case of a network administrative governed
harmonisation network

## 8.1 Introduction

This chapter will discuss the accountability type(s) of a network administrative governed harmonisation network. The function of the network combined with the governance structure we expect will lead to a predominance of legal accountability. Legal accountability is a type of accountability which is based on a diagonal relationship. The source of control is external and the level of discretion for the actor is high. The emphasis of account giving is placed on procedure, as the forum is a court or auditors from outside of the organisation. Accountability is given based on compliance with set rules and procedures. By making use of the network the European co-operation for Accreditation (EA) we will assess if this expectation holds. EA is a transgovernmental network that currently has 50 members. The members are national accreditation bodies, recognized by their respective governments to assess organisations that carry out conformity activities. These activities include the certification, verification and testing of standards. An example of this is a laboratory that needs to comply with certain rules and standards to get certified. This certification is needed so a consumer can trust the services of that laboratory. The assessment for the giving of certification is conducted via national accreditation bodies. The EA is an extension of the tasks of these bodies in the sense that they are instrumental in the creation of a harmonised accreditation infrastructure.

The network itself is structured as a network administrative governed network. This means that an external administrative entity is set up to steer and organise the network. This entity facilitates and governs the activities of the network. It is the most centralized structure a transgovernmental network can have. The network EA has a secretariat comprised of eight employees who work fulltime for EA. Their tasks include supporting other organisational components of the network and facilitate the work of the network. In addition, they liaise with other organisations. In effect, they operate as a broker in the network. As the entity is separate from the member organisations of EA, we conclude this is a network administrative network.

Most of the tasks performed in the context of EA are directed at harmonisation. This means that the goal of the network is to streamline the work of national accreditation assessment bodies. This is done by the creation of new rules and procedures which are subsequently implemented by the national accreditation bodies. Examples of these harmonisation activities are readily available in the annual reports of EA. The most recent report came out on July 6th, 2020 (EA, July 6th, 2020). It lists the work of one of the working groups Horizontal Harmonization Committee (HHC). They prescribe the creation of guidance documents. These are documents that help describe and explain how and which procedures should be followed by national accreditation assessment bodies. These guidance documents are often also directed at the assessment international standards such as ISO/IEC 17011. This standard concerns how an accreditation body should be organised for instance with regards to impartiality. In addition, EA also devises policies regarding accreditation for certification activities based on European Union regulations. An example of this is the policy on EU regulation110/2008[26]. Later in this

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26   This regulation concerns the definition, description, presentation, labelling and the protection of geographical indications of spirit drinks.

chapter a more in-depth assessment of EA as a harmonisation network will be provided.

To give a short overview of this chapter we will first describe the background of the network EA. Secondly, we will address the structure of the organisation of EA, after which we shall detail the function of the network. Following our expectation, we would need to find legal accountability prevalent in this network. To assess this, we will make use of the table 4.7 with the distinguishing features regarding the different types of accountability. A description of how accountability is organised in this network will be detailed. We will assess this by means of the distinguishing features for each type, as presented in the methodological chapter. To simplify this, we will focus on three questions: To whom? On what? And how is account given. These three questions will form the systematic structure to our assessment of the accountability type present in this network. Moreover, they form the basic structure to the table which specifies the distinguishing features of each of the four accountability types.

## 8.2 Background of EA

The European cooperation for Accreditation (EA) was established by the European Commission to manage the accreditation infrastructure. The EA was established in 1997 and was registered by an accountant in 2000 in the Netherlands (EA presentation, "Who we are", 2018).

EA was established to fulfil the promise of a European single market. A respondent explained this as follows:

> "Accreditation conducted by a different European Union member state would be acknowledged by all other European Union member states. This used to be based in private-law however, the European Union has established a public law agreement. This was especially strengthened by regulation 765/2008. The recognition of each others accreditation is one way to prove the quality of a product. With the realisation of an open market this is increasingly important" (Respondent EA I).

Accreditation basically means that products and services that need to be trustworthy are to be trusted. For example, for a blood test, you trust it will give you a reliable result that would be the same if conducted in another laboratory. Other fields in which conformity assessments and accreditation takes place is in the field of food safety, mechanical testing, fire safety, the railway system and so on. Often EU regulations have been set up for which the product or the service is tested. In addition, international standards such as those stemming from ISO (International Organization for Standards) are also assessed. These standards determine the specificities to which an accreditation body[27] should be held. These specificities are for instance legal personality requirements, management structure and documentation of procedures.

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27    These are organisations such as laboratories, inspection bodies, certification bodies and verification bodies which have been assessed by a national accreditation body to fulfil the standards specified for their respective tasks and activities.

To clarify further, accreditation bodies make sure that the procedures and measurements in conformity assessment bodies[28] (CABs) are reliable. In addition, a manufacturer may only place a product or service on the market if it meets certain standards. Accreditation bodies check if these standards are met. A national accreditation body checks the accreditation body's compliance with standards. By means of a European Union wide approach which is offered by the existence of EA, manufacturers can circumvent the cumbersome task of testing for conformity in each country they want their product or service to be sold.

It was decided by the EU that national accreditation authorities should be a member of the EA. This was based on the aforementioned regulation 765/2008. In this regulation the European Commission recognizes the EA as the accreditation infrastructure of the European Union. It is the structure that ensures the final level of public control of conformity assessment, in other words that laboratories, inspections and certification bodies have the technical competence to perform their tasks (EC, nd).

The accreditation infrastructure itself is based on five guiding conditions. The first is that within the EA there is only one national accreditation authority per country. Second, accreditation is a governmental activity, it is a not-for-profit task. Third, the different accreditation bodies of the countries do not compete with one another. Fourth, within the accreditation infrastructure stakeholders are represented. And finally, demonstrating technical capacity to perform conformity assessment tasks are preferably attested by means of accreditation.

These conditions set the frame for a harmonised accreditation infrastructure. A uniform approach across the EA members, and effectively the European Union, is sought. The EA is an organisation with members. These members are national accreditation bodies who are recognized and appointed by their respective national governments. There is one such body per country. These bodies are appointed to conduct testing and monitoring of international quality standards. Their tasks are validation of measurements, inspections, reviews, certification and calibration.

The EA is a not-for-profit association. With 36 full members and 14 associate members. Full members are part of the European Union or European Free Trade Association (EFTA). In comparison, associate members are countries that are potential members of the European Union or EFTA.

To become a member, compliance with the ISO 17011 rule needs to be demonstrated. This ISO standard contains the general requirements for accreditation bodies. In addition to the requirements set by the ISO rule, members must also incorporate specific "interpretations and additions summarize in EA-1/17 S1 Supplement 1 to EA-1/17 Rules of procedure – Criteria for membership"( EA, nd D).

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28    Organisations that make products or provide services in need of conformity testing.

The organisations they have accredited in accordance with ISO 17021, and prove that certified organisations comply with the relevant ISO rules are also part of the requirements. This will all be checked by the EA. In addition, once a national body becomes a member it will become part of the system of checks by the EA. Peer reviews and other types of monitoring are integral of membership to the EA (Gustafsson and Hallström, 2019: 155). Because of this compound structure, accreditation in a European system would be more stable and alleviate technical and administrative differences. It also helps the furthering of the European Single market, especially when the EA agreed upon a Multilateral Agreement (MLA). This meant that all members signed a document recognizing and accepting the equivalence of the accreditation systems of the signatories to that document. Results, products and services are thus recognized within the Union which eases export and import. Products and services do not require certification in each country where producers want to sell them. Rather it can rely on the multilateral agreement for this. The agreement forms the backbone of the accreditation infrastructure. It furthers the harmonisation process and strengthens the need for the uniform approach. We will discuss the activities of this harmonisation process further in paragraph 8.4. First, we shall address how EA is structured and how the organisation operates through its different components.

## 8.3 Governance structure of EA

EA is a network administrative governed network. This is because of the placement of the secretariat and the tasks awarded to it. Before we detail the work of the secretariat, we will first discuss all the different components of the network. We do so because the secretariat supports each of them.

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The organisational structure of the network is based on several components. The most important, the highest decision-making body is the General Assembly. In addition, you have an executive committee, a secretariat, technical committees, an advisory board and a financial oversight committee. In the figure below the structure of the network is provided:

Members convene in the General Assembly each year. The General Assembly is the highest decision-making body of the network. In it only full members have voting rights regarding policy decisions. Although associate members and other stakeholders can contribute to the proceedings, they are not eligible to vote. There is a maximum of two delegates per country to join. Yet, each member country has a single vote. During sessions of the General Assembly, issues pertaining to the Multilateral Agreement, Bilateral Agreements with associate members, and peer reviews of accreditation bodies are discussed. Resolutions in the General Assembly are passed if at least two thirds of the votes are in favour with at least three quarters of the full members represented at the General Assembly.

**Figure 8.1: Organisational chart EA**
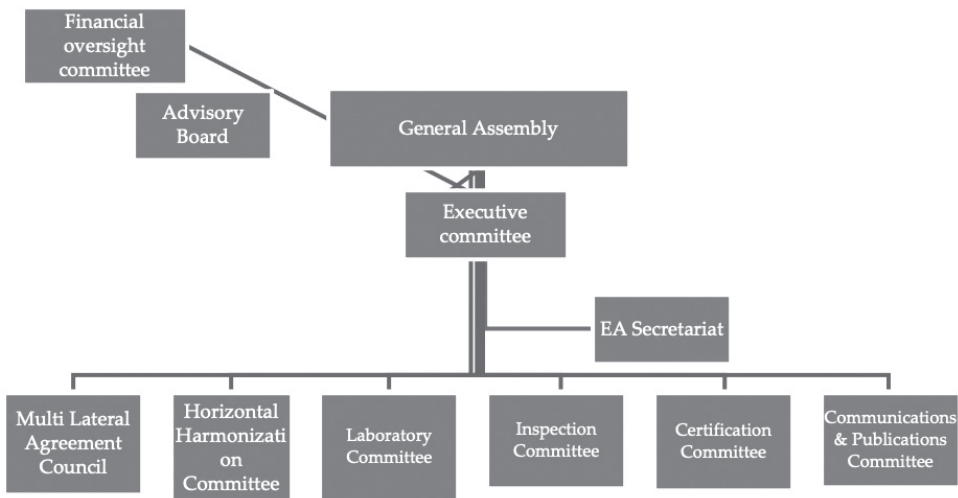


The Assembly is presided over by the chair of the executive committee. This executive committee is tasked with the implementation of the resolutions of the General Assembly and the general oversight of the network. In the executive committee a chair, vice chair, the chairmen of the technical committees and the chairman of the MLA council take place. They may also be supplemented by a maximum of four other members' delegates.

The executive committee convenes at least twice a year. For resolutions to be passed a quorum of at least half of the members of the executive committee should be met. Resolutions of the executive committee may only be passed based on unanimity. The minutes of each meeting of the executive committee need to be adopted at the following convening meeting. The executive committee is also tasked with the budget and the oversight of the budget. The budget is decided upon in the General Assembly. Before each General Assembly a Financial Oversight Committee is established that is tasked with the assessment of the budget.

In addition, an advisory board is also part of the organisational structure of the network. This board advises the EA as a whole. It comprises of stakeholders to the work of EA. For the composition see the list below.

"The composition of the Board is as follows:
- The European conformity assessment bodies, i.e. laboratories, certification bodies, inspection bodies, may appoint five Members.
- The European metrological organisations may appoint two Members.
- The European industry, services and trade, including small and medium sized enterprises, may appoint five Members.

- The National Authorities of the EU and EFTA Members States may appoint five Members.
- The European consumers may appoint one Member.
- The European standards organisations may appoint one Member.
- The Services of the European Commission may appoint one Member.
- The Secretariat of the European Free Trade Association may appoint one Member.
- The European private scheme owners that are EA Recognised Stakeholders may appoint one Member" (EA, May 14th 2019).

The advisory board is instructed to give general advise on the direction of EA. They also oversee the peer review evaluations. They convene biannually and are supported in their tasks and responsibilities by the secretariat of EA.

As said, the secretariat of EA operates as a network broker. It supports and facilitates the activities of EA. It can do so as the secretariat of EA is comprised of eight employees, who are employed fully by EA. Three of these employees have been employed since 2018. This expanded the secretariat significantly (EA, July 3rd, 2019). They support the work of EA on a daily basis and have specific tasks assigned to them. Listed on the EA website these tasks are the following:

"Administration of the association;
- Management of projects and contracts with the European Commission / EFTA;
- The focus point for EA stakeholders to develop proactive and efficient liaisons;
- Management of the peer-evaluation program, resources and training plan;
- Liaison with ILAC, IAF and regional co-operations for accreditation;
- Support the Executive and all of the other EA Committees, including the EA Advisory Board and the General Assembly;
- Implementation of the EA communications and marketing strategy " (EA, nd B).

The listed responsibilities demonstrate that the secretariat here is part of the governance structure. They are involved in the preparations of policy documents and are supporting multiple levels of the organisation. This includes the work of the technical committees. These technical committees, including the MLA (Multi-Lateral Agreement) council, operate in accordance with their own terms of reference. With differing scopes these technical committees contribute to the creation of a coherent harmonised accreditation network. They provide updates on their work and give feedback to the executive committee. They do so with the help of the EA secretariat. The members of the network are very much supported by the professional nature and structural set up with clearly defined responsibilities for each component of the network. The level of professionalisation has increased in recent years. As one respondent stated:

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"Recently the secretariat was expanded to also, among other things, include more communication experts. They are now really focused on ensuring organisational quality. They have improved professionally. Even though we would like this to increase even further, the advance in terms of professionalisation is clear." (Respondent EA II)

The position of the secretariat is clearly at the centre of the network. The secretariat is involved with all the different activities of the network. Next to that, the secretariat also supports all the organisational components of the network. This, in addition with the hierarchical layers and linkages within the organisational structure confirms the network administrative governed nature of the network. We will continue the discussion on how the organisation tries to fulfil its tasks by describing the activities of the network.

## 8.4 Function of EA

Harmonisation is the core of the work of EA. In their mission statement they relay this message clearly by stating: "EA Members commit to ensuring confidence in accredited conformity assessment results through the harmonised operation of accreditation activities in support of European and global economies." (EA, nd C).

An example of harmonisation and furthering of streamlining the work of accreditation bodies comes from guidance documents. Guidance documents give a more in-depth description of how a national accreditation body should interpret a standard set by EA. It provides explanation to enable a common understanding of the policies of EA. An example of the intention of these guidance documents can be seen in a report of an EA Horizontal Harmonization Committee (HCC) meeting in September 2018. It describes a general position of the committee that a common understanding for validation of conformity assessment schemes is necessary:

"Proposal of Guidance for validation of conformity assessment schemes: the document is intended to provide a common understanding of the principles and processes for validation of conformity assessment schemes (CAS) and thus to contribute to harmonising accreditation body's approach towards the evaluation of CAS. HHC confirmed that the document would be for HHC internal use only, published on the intranet HHC CA Schemes dedicated folder. It will contain guidance on the provisions set out in EA-1/22 about validation. The new draft will be reviewed to include a disclaimer to clarify the purpose and status and circulated for HHC comments for 2 months."(EA, 2018, October 19)

The report also affirms the importance of confidentiality in the work of EA. Another example of the focus on harmonisation is clear from a report of the General Assembly in November 2017. During the General Assembly a position was made clear regarding activities of consultancy by accreditation bodies to manufacturers regarding advice on how to pass conformity assessments. It explains the intention of rules of EA and as such can be seen as a

way to harmonise the understanding of the rules and application thereof. The position of the EA in the resolution was the following:

"Given that Article R17(4) of Decision 768/2008 refers to the activity for which a body is notified, this means that the notified body may not provide consultancy services (such as technical assistance or provide advice on how to pass conformity assessment procedures) to any manufacturers of the kind of products it assesses, as described in the accreditation scope. Otherwise, the independence provisions in relevant harmonised standards used to accredit NBs would be undermined or even contradicted." (EA General Assembly, November 2017).

This resolution was expanded upon in 2019 during the General Assembly in May. The position of the EA was deemed not enough as the executive committee has recommended the technical committee Horizontal Harmonization Committee, to add another work item to its list. A guidance document regarding consultancy and independence of and by accreditation bodies should be made to be able to address the concerns of stakeholders. This development from a general position to a more concise policy document is already a next step in furthering the harmonisation of accreditation. This is also addressed in a report of the European Commission on the implementation of regulation 765/2008:

"Furthermore the EA's horizontal harmonization committee as well as the laboratory, certification and inspection committees have been working on furthering a common understanding on how to perform accreditation and also on supporting accreditation in the relevant regulated sectors. This has resulted in a number of guidance documents." (European Commission, n.d.)

8

Of course, harmonisation is not the only function of the network. The important work of peer reviews is in one way a means of harmonisation, but they can also be construed as an information function. With the sharing of best practices, guidance documents are ultimately created. The enforcement function can also be seen as part of the work of EA. An example of this function is provided in the EA newsletter of July 2019. In it the implementation of a renewed bilateral agreement with Canada was pointed out.

"On June 6, 2019 in Bucharest (Romania), the European co-operation for Accreditation (EA) re-signed with the Standards Council of Canada (SCC) the Bilateral Cooperation Agreement in order to facilitate the implementation of the Canada-European Union Comprehensive Economic and Trade Agreement (CETA) and the related Protocol on the mutual acceptance of the results of conformity assessment. A first agreement was signed with SCC in 2016. Thanks to this mutual recognition of certificates and reports issued by recognized (accredited) Conformity Assessment Bodies, costs and time to market for European businesses can be reduced for products destined for Canada." (EA, July 2019)

In EA the primary task remains the harmonisation function. The scope of harmonisation does not end with the creation of common policies. The harmonised interpretation of the common policies as well as its execution is also part of this function.

Instances of this part of the function can be seen in the peer review documents of the Dutch accreditation body (i.e. the RvA). A team of peers assessed the working procedures of the Dutch member of EA and checked if its procedure incorporated EA policy. In 2014 they commented:

> "RvA has included in its procedure (usually SAP documents that are published on the web) the requirements foresee in EA documents. The application of these has been checked during the files evaluations, scheme by scheme." (EA, 2014).

Another example is to be found in the EA report re-evaluating the RvA in 2018 where it is stated that regarding testing:

> "In the area of testing i.a.w. ISO/IEC 17025 the corresponding EA-documents have been found to be implemented and complied with. Concerning the special aspects of the most current version of EA-2/17 there have been some minor shortcomings, see corresponding finding for details. Concerning implementation of flexible scopes a reference to a list of the covered scope was missing in the certificates/schedules, see corresponding finding in this case as well." (EA, 2018 B).

Consequences for not adhering to the accreditation infrastructure would mean expulsion of the national accreditation body from EA, which in turn would have grave consequences to the ability to trade efficiently. An expulsion as a consequence is however rather theoretical (Respondent EA II), expulsion for a short period of time have occurred though. Respondent EA II mentioned that they believed a short expulsion of a member has occurred three or four times. This meant that a national accreditation body needed to comply with the policies of EA, by ensuring the discrepancy between the policies of the national accreditation body and the policies of EA were corrected for. A full expulsion of a national accreditation body has not occurred according to Respondent EA I, Respondent EA II, Respondent EA III. The reason that expulsions are so rare is, that the peer reviews are conducted in a rigorous and timely manner, and that system is deemed efficient to mitigate any discrepancies. After a peer review is conducted the accreditation body under review is given time to respond and rectify any shortcomings. Adherence to common policies is checked in these reviews. The implementation and execution of harmonised policies is essential to the reviews.

To which standards an accreditation body is tested, becomes clear in the documentation of EA. Guidance documents and resolutions of the General Assembly provide ample information

on the procedure. For instance, in the General Assembly of November 2017, a resolution was formulated that recognized the responsibilities for conformity assessment bodies in relation to the IAF (International Accreditation Forum). It also was made clear how long the members of EA have, to complete implementation. Below the part of the resolution which describes the procedure is provided.

"The enforceable arrangements shall require full implementation within three years from 30 October 2017. Additionally, CABs for personnel certification shall transition certification documentation to include the accreditation symbol and/or shall make reference to the accreditation status of the CAB including the identification of the AB, at the time of recertification decision; no later than 30 October 2020. When granted initial accreditation (for ISO/IEC 17024), after 30 October 2017, a CAB shall transition (re-issue) previous unaccredited certification documents and/or make reference to the accreditation status including identification of the AB, within one year of the accreditation decision." (EA, November 2017*)*

The fact that EA acts as the European accreditation infrastructure, and is recognised as such by the European Commission reaffirms the harmonisation requirements of EA. The detailed documents of procedure for accreditation bodies, as well as procedures within EA context (f.i. documents on format on archiving, speaking with one voice, secretariat management system, member's procedural documents) show the scope of the work of EA. It also is testament to the central role the network takes in the policy environment of conformity testing. This is reflected in a report of the European Commission on EA's work regarding the European accreditation infrastructure. It reads:

"Cooperation with EA has been very fruitful on the whole. Considerable efforts have been made to meet the changed circumstances for accreditation with the entry into force of the Regulation and EA's new role as the European accreditation infrastructure within this context. The progress made so far should be further consolidated to continue enhancing accreditation's role as the last level of control in the European conformity assessment system. As accreditation is increasingly being used for the purposes of EU legislation, this may also entail a review of the resources and financial support available to EA." (EC, February 13, 2013).

In the statement the European Commission describes the principal position EA holds in the accreditation infrastructure. The benefits of EA's work that feeds into EU legislation even command a review of resources and financial support to EA from the Commission. The addition to accreditation harmonisation in a European context is however not where the ambition of EA ends. Its members stem from the European Union or are potential candidate member states. This means that EA policies already feed into territories outside of the current

European Union accreditation infrastructure. The purview of the network does not limit itself to this territory of participating members either. This is best seen in the definition of the vision of EA:

> "EA Members share the vision that EA shall be a reference in the world for accreditation, enabling an open and global market for competitive business and providing reassurance to consumers in a sustainable society.
>
> To achieve its vision, EA has defined three objectives:
>
> 1. Good governance to deliver consistent and sustainable results.
> 2. Close cooperation with regulators and stakeholders to strengthen accreditation at European and international level.
> 3. Continue to develop accreditation to support innovation and growth in existing and new areas." (EA, nd C)

The mentioning of becoming "a reference in the world" shows the ambition of this network. According to respondents within the network, this potential is already reached. International and other regional accreditation networks already look to the work of EA. As EA fulfils its role as a beacon due its detailed procedures (Respondent EA I, Respondent EA II, Respondent EA III). As one respondent mentioned EA currently tries:

> "To broker guidelines at the international level for accreditation network. As a regional organisation, EA is a member of these international network. It tries to negotiate a harmonised interpretation at that level increasingly." (Respondent EA III).

This is exemplified by Respondent EA II as well:

> "Regarding the coming into being of a singular handbook to be used by all accreditation bodies is however difficult to achieve in full in the coming ten years or maybe even 30 years. As each accreditation body has its own specific historical development. (..) EA could create rules but it cannot go to the extreme that it would be impossible for members to retain their membership." (Respondent EA II)

The influence that could flow from this gives reason to study the network further. Especially considering its impact on rules, procedures within national accreditation bodies. Working together, warranted by the creation of the free market, in this instance means a change in policies. In the section below we will address how a national accreditation body gives account for policy and decision making in EA. The questions: To whom is accountability directed? On what is accountability given? And how is account given? will together form the backbone to this section.

## 8.5 Accountability relationships of EA

The work of EA, conformity assessment, is in essence, a trade in trust. One respondent explained the tasks as providing a manufacturer or laboratory with a driving license.

> "A manufacturer is checked to see if it has the capabilities to drive, and if the testing body is satisfied that the manufacturer is competent you are provided with a driving license. The driving license basically is a testament of trust that you can drive competently." (Respondent EA I).

This also means that testing of competence of organisations in need of accreditation or certification is vital. In the section below we will first go into to the work produced by EA, and how these policies are shared within the EA organisation. After which we will go into how the participants of EA disseminate their own work in EA to their own home environment. Finally, we will discuss how the work of EA is implemented in the home organisation. We will divide the account giving on implementation by first addressing the structure of the home organisation. Thereafter we will go into the peer review that has been set up by EA. This means we make the distinction based on where the bulk of the work takes place focussing on account giving.

### 8.5.1 Account giving structure of the network

In the work procedures of EA the sensitive nature of its subject matter is quite visible. Transparency of work procedures is limited. For example, the internal documents of EA are disseminated via intranet, a closed-off section of the website of EA (Respondent EA I) it is only visible to members. Documents pertaining to interpretation of guidelines are for instance shared on this intranet (Respondent EA III). Regarding the number of documents by EA, Respondent EA III remarked:

> "EA has a specific structure regarding the publishing of documents. In case the letter M is placed next to a document it is a mandatory document, as we would say. The number of documents produced by EA is not as large as it used to be. This has to do with the fact that we as a region (i.e. EA) participate in global networks, for instance, IAF[29] or ILAC[30]. Our starting point is that we will try not to make guidance rules regarding a subject matter. Nor will we make interpretation documents. We will try to create these via the global networks. And if these networks have published something, we will adopt these." (Respondent EA III).

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29    IAF: International Accreditation Forum; world association of conformity assessment accreditation bodies.
30    ILAC: International Laboratory Accreditation Cooperation; international organisation for accreditation bodies with a specific focus on laboratory testing.

This statement makes clear that the creation of EA policies is not the goal, the policies that EA helps to create would ideally be implemented beyond the EA network. Policies that EA creates focus on for instance requirements on accreditation of flexible scopes (EA, April 18th, 2019). This policy is designed to enable conformity assessment bodies (CABs) to include additional activities they can assess easier. A CAB is usually accredited for a fixed scope, a fixed list of activities. However, due to innovations and new developments this means that a CAB is obliged to be assessed for each new activity to be able to do conformity assessments based on these as well. A different example of EA policies is how EA determines the relationship with accreditation bodies who are not part of the EU or the EFTA (EA, May 26th, 2016). This policy outlines how EA sees its role in ensuring harmonisation and supporting accreditation bodies beyond the borders of the EU and EFTA. The policy is specifically designed to facilitate proper understanding of the EA policies by accreditation bodies of the EU Neighbourhood policies and potential candidates for EU membership (EA, May 26th, 2016). In other words, it is the ambition to create worldwide policies. As EA is an association that represents an important market share, its voice, when given in unison, will be of more significance than a single national accreditation body. EA's work is essentially feeding the harmonisation process at these global networks. It is no longer the sole purpose to keep producing documents that are applicable for the European Union and candidate member states. It is the intention of EA to harmonise accreditation policies globally.

This remark also states the ambition of a single market that stretches beyond the boundaries of the EU. Moreover, EA is perceived as a tool to go into that direction, as its position as a regional participant in these global networks is given key importance. In addition, the fact that ISO norms are already part of the accreditation infrastructure shows the aspiration to enforce global rules. ISO norms are set by a non-governmental organisation with currently 164 members. Nevertheless, discussions in these settings are also off limits to the wider public.

The sensitive nature of the work of EA seems to stretch to minutes, as none are available to the general public. This however is part and parcel to the context of the work of accreditation. Discussions on particular issues might be privacy sensitive quite easily. This ensures that the work of EA needs to be conducted in a safe space, meaning no specific reporting. What is shared are publications on general policies agreed upon, rules regarding communication on behalf of EA, management structure and resolutions of the General Assemblies. In addition, there are reports on the work of the technical committees that do give some insight into ongoing topics, although the reporting style is quite general, due to both the sensitive nature as well as the context dependency of accreditation. An example of reporting on the work of the committees can be seen below. Below an excerpt of a report from a technical committee meeting regarding the content of that meeting is shared.

"The workshop generated vivid discussions by the 56 attendants, keen to share their experience and questions on how to deal with schemes and scheme owners in their daily activities. Practical aspects were reviewed; in particular, how to proceed when assessing and validating a scheme according to EA-1/22, the EA document setting out the evaluation procedure, was discussed based on a presentation by RvA highlighting best practices. In parallel, a work is ongoing at the HHC level to collect examples from NABs with a view to establish harmonised best practice in the field." (EA, June 2017)

The details of the vivid discussions are not provided in the report. Rather the developments and outcomes of the discussions are shared. In addition, the example discusses the establishment of a harmonised best practice. This does not solely hint at a best practice information function but the implementation of one such best practice throughout the accreditation infrastructure, as the harmonisation workgroup is simultaneously looking into the establish best practice in the field. This is also seen in the ambition to: "establish harmonised best practice" (EA, June 2017). Although it has been made clear that the meeting discussed the evaluation procedure of EA, the details of what precisely was up for discussion is left out of the report. As the excerpt also states that the workshop dealt with the sharing of experience and how to-questions regarding daily activities, it is not difficult to imagine that this could become privacy sensitive quite easily. For example, discussing daily activities would in accreditation mean discussing a conformity check of a particular company or service. This information needs to be handled in a safe space. To discuss best practices in the field of accreditation you need to discuss when things regarding conformity went wrong, and this will automatically bring you into a potential minefield if you were to disclose this information. As the bulk of EA work is the creation of common understanding regarding standards and testing, open discussions on the reality of working with these standards needs to be included in the work of EA (Respondent EA I, Respondent EA II, Respondent EA III, Respondent EA IV). The sensitive nature of this is also clear from the reporting style and choices for confidentiality (Respondent EA I, Respondent EA II, Respondent EA III, Respondent EA IV). Given both the need and necessity for confidentiality, the accountability structures is very much based on following rules. The potential impact of accreditation is such that strict oversight on the following of the rules need to be established.

Account giving of the general work of EA to the wider audience is both done based on reflection and a prospective outlook. A work program for the coming year as well as annual reports are shared with the European Commission and made available to the public online. This has to do with the resolution by which the EA is established as the European Accreditation Infrastructure as well as funding of the network by the European Commission. The position of the European Union as an organisation involved in the work of EA is of special interest in this network. First because it was vital for its establishment and second in that EA is performing a task set out by the European Union.

8

Having assessed how account is giving by EA as an organisation regarding its own work, we now move to how account is given on the work in EA of participants. For this we focus specifically on the work of participants in the context of EA. This means that we pay attention to how participants are selected for the work and most importantly how they give account of the work they do in EA context. For the time being we will not focus on the implementation of the EA policies in the home organisation. We will address that issue afterwards.

## 8.5.2 Account giving structure of the participants of EA to the home organisation

Account giving on the actual content of EA work, with the context of discussions is left to the discretion of the participants. What is not conveyed in the EA reports, for instance those vivid discussions, can be shared by the participants of that meeting to their own home organisation. It is left to the discretion of the participants. Active membership is required by the rules of EA, and the national body of the Netherlands, which we will use for our assessment, has made the conscious choice to have a Dutch delegate in each technical committee (Respondent EA II). The Dutch body also had the fortunate opportunity to be represented in the executive board of EA. Respondent EA II disclosed that harmonisation as a primary task of the network costs a lot of time and energy to be reached. Time that is taking away from the primary process of the home organisation. By that the respondent was referring to the primary process that is conformity testing in the home state. The RvA has around 93 FTE, according to last available data (RvA, March 12th, 2020), of which around 9 are involved with the work of EA (Respondent EA II).

The objective of EA is to reach consensus regarding the creation of new rules and standards. This essentially boils down to arm wrestling with your counterparts (Respondent EA I). With this last part the respondent discussed that it is really about positioning yourself as a national accreditation body in the organisational structure of EA. With the opportunity to be involved in the executive board and to be involved as an actor in all technical committees the Dutch organisation has made a distinctive choice with regards to positioning itself. It shows the level of importance it gives to the work of EA. In addition, it is an indication as to how it wants to exert power and influence in the network.

The choice for delegates is based on expertise and levels of communication. In the RvA (Raad van Accreditatie), the Dutch national accreditation body, team leaders elect those member(s) of their team they want to send as a delegate to a technical committee. Other bodies within the EA, to which the RvA sends delegates are board level employees. The delegates for the technical committees are chosen based on their knowledge of technical issues discussed in the committees as well as their ability to communicate in the English language. Moreover, they will need to possess a level of cultural sensitiveness in order to become a delegate. This is deemed very important in establishing and maintaining professional relationships with the other national accreditation bodies (Respondent EA I, Respondent EA II).

When a delegate has been to a meeting of a technical committee or other body of EA, it is expected that a report by means of annotations to the agenda of the meeting is provided to the respective team leader of RvA and the board. In the notes the outcomes, the highlights of the meetings, what stood out to the delegate, and the extreme positions that other delegates might have taken are included in the report (Respondent EA II, Respondent EA III). The only exception to this rule of reporting is for the delegate of the MLA council and the Executive Board. The work of these delegates is considered of such a nature that it is not allowed to be shared internally in the RvA. Trust is placed in the respective delegates of both the MLA council and the Executive Board by the EA not to share the information discussed there (Respondent EA III). It must be stated though that respondent EA IV disclosed that the number of people that attended a meeting and the main outlines of that meeting were on occasion shared with the Ministry of Economic Affairs. Yet it was stressed that these occasions were quite rare. The Ministry of Economic Affairs is responsible for the oversight of the Dutch accreditation body. This means that they first and foremost need to financially control the activities of the RvA as well as look at the policy implementation by the organisation. The Ministry for instance pays the membership fee of the RvA to the EA (Respondent EA IV). The involvement of the Ministry with regards to the policy content of EA is deemed quite limited (Respondent EA I, Respondent EA II, Respondent EA IV). The involvement is mostly on the financial oversight. When an employee of the RvA has attended an EA meeting the accountability to the RvA starts. This process is explained by one respondent as follows:

> "When a participant attended a meeting, a report will be written and send to the team leader and the board of the RvA. These reports on meetings in EA are if necessary, send with an accompanying e-mail. This is the case when a discussion is relevant to the objectives set by the RvA. The RvA will set specific target objectives that they want to focus on. If a meeting of EA tackles issues relating to one of these objectives it is the job of the delegate to flag this to the RvA. There is one exception to this though, which is if the participant is part of the MLA Council. The documents shared in those meetings are confidential. This also includes the peer reviews. Only this participant has these documents, and these will not be shared due to the fact that confidentiality needs to be preserved." (Respondent EA II).

The confidence given to delegates of the RvA is such that detailed information or reporting is unnecessary. As one respondent stated:

> "When we send someone to attend EA meetings, they have earned their stripes. We trust they have the capabilities to convey the vision of the RvA to our partners." (Respondent EA II).

The reports also serve as input for biannual meetings which are held by the team of employees of the RvA who conduct part of their work in international settings such as EA (Respondent EA II, Respondent EA III). These meetings are called *Coordinatie Overleg Internationaal*

(Coordination Consultation International). Based on the main points the reports are discussed. The focus during these meetings is on results and the implications for the target objectives (Respondent EA II). These meetings are essentially the starting point for account giving on the implementation in the home organisation. Which is what we will discuss below. Having assessed the account giving by EA within EA context first, and the account giving by participants in an EA context second, we now move to the third part in our assessment of account giving.

### 8.5.3 Account giving on implementation of EA policies

In case a report highlights problematic issues, in the worst-case scenario the ministry is called in. A worst-case scenario would for instance be the threat of a (temporary) expulsion from the MLA, as this would have major consequences for trade and the recognition for goods and services. The Ministry of Economic Affairs is responsible for the task performed by the RvA, although other ministries might be involved in other parts of the work conducted by the RvA. For instance, in case of health conformity assessment the Ministry of Healthcare is involved. The RvA operates as an independent governmental body, performing a public task. But because of the European regulation, the national government is responsible that the RvA performs its task competently. The ministry is however seldom if ever involved in work regarding EA (Respondent EA II, Respondent EA III, Respondent EA IV).

Nevertheless, the ministry is updated on the work of EA by the RvA as the developments by means of General Assembly resolutions are always send to the ministry. This is done proactively. Questions by the ministry are not frequent (Respondent EA II). The Ministry is a member of the advisory board of stakeholders of the RvA, as such they are in regular contact. In addition, there are biannual *bijpraatsessies* (catch up sessions) between the ministry and the board of RvA (Respondent EA IV). During these sessions general policy developments are discussed, specifics are often not part of these sessions. There is a singular contact person at the ministry level and at RvA whom are in contact. It is mentioned that the contact is more on general policy than on specific developments. The work the RvA does in EA is not discussed often. Only if and when issues in EA come up that are useful to know these will discussed with the ministry. If that is the case, especially if an issue holds potential negative consequences the communication protocol will be deployed. This protocol basically is an assessment regarding the potential impact of policy decisions of which other ministries should be informed. In case an issue involves a multitude of ministries the ministry of Economic Affairs will take on a more mediator position, especially with regards to changes in legislation (Respondent EA IV). However, this has not occurred in relation to the work of EA, to the knowledge of the Respondent EA II and Respondent EA IV. The ministry does, sometimes, pose questions to RvA if the agenda of the Internal Market for Products Group has items pertaining to the work of EA. This group is part of the European Commission and the ministry is part of this group. Sometimes the agenda of this group covers subjects that are part of EA's task. If that is the case, then the contact person of the ministry will ask for input of the RvA. The meeting of this group is once a year (Respondent EA IV).

Because of the governance structure of the RvA, they have a supervisory board. This board must approve the annual report, the budget and appoint the director of the RvA. In that sense this supervisory board has a role in the oversight of the RvA. When asked about the role of this council in accountability of EA internally in RvA, it became clear that the supervisory board is not too involved. Its work is focused on the strategies of the RvA and the general objectives. The task, accreditation, of which EA is an extension is less of their concern. There is no discussion on the execution of the task rather the performance of the organisation, is point of discussion (Respondent EA II).

In addition, the supervisory board, the RvA also has an advisory panel. This advisory panel is made up of stakeholders to the work of the RvA. For instance, insurers; manufacturers, representatives of laboratories, certification bodies, and as mentioned the ministry of Economic Affairs. This advisory panel is interested in the work of EA., especially regarding policy making i.e. meaning when a new norm is explained in terms of a guidance document (Respondent EA III). The interpretation of a norm or new standard is of interest, yet it is more about the outcome than the procedure. Their input is heard but only acted upon if the RvA is in agreement (Respondent EA III). Both the supervisory board and the advisory panel are not too involved in the work of EA, this becomes clear by the fact that respondents do not indicate them as a forum in an accountability line.

With regards to the implementation of EA policies, Respondent EA I, Respondent EA II and Respondent EA III all mention peer reviews by experts of other members of EA as the most important accountability relationship. The level of scrutiny in these peer reviews was perceived as high, by these respondents. Each national accreditation body is bound by the rules of EA, and they will be audited on the implementation of these rules by means of peer reviews (Respondent EA I). These peer reviews are based on the MLA. Based on that agreement national accreditation bodies need to prove to the other members of EA that they uphold the standards of accreditation and so on, to be recognized across borders as a competent partner. In the section below we shall discuss the procedure of peer reviews as conducted by EA.

## 8.5.4 Peer review on the implementation of EA policies

For the peer review, a national accreditation body prepares by means of self-assessment. This basically entails that they produce a report with regards to information needed for the peer review, information regarding how the national accreditation body has accommodated EA policies in their own policies and procedures. EA policies are the standards to which the national bodies are tested. They form the formal structure to the peer review procedure. On site, an EA team will sample some assessments in a variety of fields, this means that EA assessors joined RvA on site assessments. The team of delegates is selected by EA and they all need to stem from different national conformity assessment bodies. The witnessed assessments (when the EA team joins RvA assessments) are reported on in a given format:

date of assessment, assessment team members, accreditation standards assessed, scope and type of an assessment. This is followed by description of the process regarding: preparation; conduct; critical issues by the team and conclusions. These are included in the report. The final report is anonymised for the general public, but in that anonymised form they are made accessible to the general public upon request. The EA team visits twice for three days within six months. The number of team members may vary. For instance, in the peer reviews of RvA in 2014, there was a team of eight members. Whereas this number in 2018 was thirteen. The background of the members was varied to ensure the entirety of the scope of the MLA agreement the RVA is a signatory of is covered. These peer reviews prove to be the most important line of accountability for both the ministry and the supervisory board (Respondent EA I, Respondent EA II, Respondent EA III, Respondent EA IV). One of the respondents even mentioned that both the ministry and the supervisory board rely:

"(..) almost completely on the results of the audit." (Respondent EA II).

For the most recent peer review in 2018 the ministry had delegates present at both the opening and closing meeting of the peer review (Respondent EA IV). This evaluation is also the way signatories of the MLA prove their compliance to the standards set by EA. This is in line with the Regulation 765 by the European Union. This regulation details that EA takes on the role of oversight over all national accreditation bodies within the EU (Respondent EA II, Respondent EA III). Performing this specific task is funded by the European Commission. These funds are earmarked by the European Commission for the fulfilment of this task which means for instance, that training sessions for peer evaluators are funded. Peer reviews are the backbone of the accreditation structure since 2010, when the regulation was set up. By doing so:

"EA for a significant part gives account to the European Commission by means of the peer review."(Respondent EA III).

This line of accountability also is the one with the potentially gravest consequence for the RvA (Respondent EA I). If a peer review is unsatisfactory the accreditation body can be scrapped as signatory, or parts of the MLA can be (temporarily) removed from it. This will have grave consequences for both the national accreditation body as well as the clients of the accreditation bodies whose services and products are subject to assessment. This situation is unlikely but has occurred a few times. A respondent mentioned that he knew of three or four times an accreditation body's signatory status to the MLA was temporarily suspended (Respondent EA II). When this happens the national government of the accreditation body audited springs into action to reverse the matter (Respondent EA II). As one respondent attested:

"It is the most serious of means EA can deploy". (Respondent EA III)

The consequences are such that the quality of goods and services that require conformity assessment are instantly called into question. Which means that mutual recognition is at that point non-existent. It could potentially lead to goods and services requiring conformity assessment will not be accepted across the border or even within the state. For instance, forensic laboratories are conformity assessment required. If the conformity assessment body conducting these tests is deemed to not fulfil the correct requirements the product of the forensic laboratory will be questioned. The product of a forensic laboratory which for example could be a smoking gun (figuratively speaking) in a murder trial will then potentially become obsolete. Calling products and services quality or conformity into question would disrupt society almost instantly. It is therefore to be avoided. The most serious of means that Respondent EA III was referencing should therefore not be taken lightly.

The aim of a national accreditation body is therefore to be given the status of MLA holder at the end of a peer review. This is why the focus of the executive summary of the peer review is precisely on this. In the peer review report of 2014 of the RvA, as well as the peer review report of 2018 of the RvA, the only sections in bold within the summary read:

"The team is confident that RvA operates according to the international standards and proposes that RVA under condition of proper closure of the findings remains a signatory of the EA MLA." (EA, 2014)

"RVA remains an EA MLA signatory for the fields of accreditation of calibration/testing/ medical testing laboratories, inspection bodies, certification bodies for management systems, products and persons as well as validation and verification bodies, provided that the condition linked to NC7 is complied with; RVA becomes a signatory of the EA MLA for the field of accreditation of reference materials producers, provided that the condition linked to CN& is complied with" (EA, 2018B).

These sections are most important for a national accreditation body, as it signals that the work of RvA remains recognized. Given the importance of remaining a signatory, the RvA proactively shares the report with the ministry. Next to the report, the RvA also details how the report was received by EA members beyond the assessor team to the ministry. However, according to Respondent EA II, Respondent EA III, Respondent EA IV the ministry is not too involved in the operational work of the RvA in EA. This also relates to the report. As Respondent EA IV stated:

"It is mostly for informational purposes. And with a good result it is understandable they would want to share this." (Respondent EA IV)

8

It becomes clear that the outcome-based assessment regarding the report on the signatory status of the MLA is the technique deployed by the ministry and the supervisory board of the RvA. If the report details that the work of RvA is still recognized there is no need to ask questions. The ministry is focused on this result, questions on content of the work in EA are not asked by the ministry (Respondent EA II, Respondent EA III, Respondent EA IV). This is unlike the peer review structure which in itself is more of an auditing technique and has a clear emphasis on how the procedure of implementation is deployed within a national accreditation body.

## 8.6 Legal accountability in EA

In this chapter we expected to find a legal accountability type predominance. Legal accountability is a type of accountability with an external source of control. Standards are set by an external source to which the actors need to adhere. This also ensures that the control over actions is high. The direction of the accountability line is diagonal, with a focus on the process of the actors' conduct. In other words, the actions of the actor are tested based on whether the actor has followed stipulated procedure and rules. In the empirical findings we do see this expectation met although elements of other types of accountability are also assessed. In the following section each will be discussed.

EA as a network deals with what we understand to be delicate issues. Issues connected with the ability to trade with trustworthiness of the quality of the service/product. The inevitable affiliation with and to the European Commission weaves through our description of accountability. Even though the consequences of the account given are not imposed by the European Commission, the European infrastructure is instructive in the work of EA and its members. To discuss the type of accountability to which members of EA yield, requires us to learn the specificity of the policy context. The sensitive nature of accreditation ensured that examples to exact cases were denied access to. Nevertheless, a picture with multiple lines of accountability could be distinguished.

In this section we will address the different lines we distinguished, and we will categorize them based on the types of accountability discussed in chapter 4.

We started with the description of the account giving of EA network within the confinements of the network itself. Information sharing of conduct within the meetings of the EA network was done via a participant-only access structure. This meant that the forum to which information was provided was made up out of professional peers. The relationship between participants of EA is of a horizontal nature. We understand that discussion in the sessions of which reports are shared have a focus on the results of professional performance as best practices are mentioned. In addition, the account giving by participants to their home organisation based on the work of EA is likewise based on deference of individual judgement and expertise. This combination would be considered professional accountability. However, if we move towards the line of accountability that stems from a participant of the RvA within the EA network

back to the RvA we understand there to be a difference regarding the information on conduct. Although the respondents mentioned a referral to the level of expertise that is expected of the participant, an accountability structure in terms of reporting is also set up. For instance, when a participant has joined a particular meeting a report is expected of this participant. That report is sent up the chain of command, meaning the team leader and the board of the RvA. The forum in this instance thus changes from the professional peer to the supervisor role in a bureaucracy. The relationship between actor/forum is then vertical. The mentioning that outcomes garner most attention in reports, in combination with the deference to professional conduct is indicative of professional accountability. The highlighting of extreme positions taken by partners in EA meetings seems to suggest some degree of bureaucratic accountability, as these extreme positions are relative to the organisational directives of the home organisation (i.e. RvA). The referral to obedience to organisational directives is a clear element of this type of accountability. In addition, the emphasis on obedience with regard to reporting to a supervisor in the home organisation indicates bureaucratic accountability as well. We see here that both professional and bureaucratic accountability seem to be deployed and that these work in congruence. By focusing on the actual implementation of account giving a true assessment regarding the type of accountability deployed is possible.

If we shift our focus to the implementation of EA policies, we need to address the position of the Ministry of Economic Affairs. Formally this ministry is tasked to oversee the functioning of the RvA. Part of the work of RvA is done within the setting of the EA network. Nevertheless, respondents have consistently stated that the involvement of the ministry with regards to the EA network is rather limited. The account giving to the ministry is conducted by means of outcome-based assessments. The RvA proactively shares results when they see fit but the external stakeholder (the ministry) often does not pose questions. This could partly be due to the independent structure of the organisation of the EA. It operates clearly and with obvious reason at a distance from the ministry.

Even though the forum in this instance, could be described as elected representatives as the ministry clearly is part of democratic oversight, the relationship is vertical, and the source of control is considered external because the information provided to the ministry is rather about compliance with external rules as well as obedience to organisational directives. This is best exemplified by the peer evaluation communication to the ministry. The direction of control suggests a political line of accountability present. The information provided to the ministry is however, not in the fully in line with political accountability. It seems to be on administrative performance, which would indicate political accountability, but the emphasis is not on responsiveness which one would expect. The emphasis is rather on procedure. The first emphasis is what we would expect to find in political accountability the latter is more in line with legal accountability. It is more along the lines of legal and bureaucratic accountability. In any case the importance given to the role of the ministry regarding accountability as a concept as well as the procedure of account giving concerning the EA's work is considerably less than that given to the peer review.

8

The peer review is the most important technique deployed in the account giving structure. This is exemplified in the experiences of the respondents, the fact that is holds the harshest consequences and the fact that the reporting on the peer review is valued by the Ministry, the supervisory board, the European Commission and the RvA itself. The peer review itself, is conducted by a team of professionals from differing national accreditation bodies that assess another national accreditation body. It is somewhat difficult to interpret them in terms of relationship direction or source of control. We could view this team as peers. Which would mean that they have a horizontal relationship with the national conformity assessment. However, as the team is selected by the EA and it operates as an independent team for EA we consider them distinct from the RvA. We would argue that we could perceive this peer review team as diagonal. The source of control, one could view as internal if you were to follow the argument that team members of the peer review team are part of the same infrastructure as RvA is. Again, the auspices of EA as an organisation is key here. By setting up a system wherein a team of delegates is assembled in such a way to enable independence, would indicate a more external source of control. The peer review structure is set up in such a manner that independence of the audit is guaranteed, which means that the control is external. As the peer review team is established as an independent entity, even though this is done by the EA, it should be seen as diagonal. The peer review team is independent, not a part of RvA nor a part of EA as an established institution. It audits a single national accreditation body and assesses its quality autonomously. The peer review structure thus operates as an auditor outside of the organisation, which is a clear sign of legal accountability. The formal nature of the process and procedure of the peer review would also affirm this view. The team of delegates of differing national accreditation bodies is assembled to review the management system of the national accreditation body under review. Based on procedure, compliance with rules and standards is assessed. The sanctioning of non-compliance ensures that involvement of national government officials is expected in case an evaluation has a negative outcome. In relation to the peer evaluation structure, we can speak of legal accountability. Given the provisions made to the procedure of the peer review based on its formal character, the composition of the team and the involvement of EA in overseeing the process we argue that it falls in the category of legal accountability.

The implications of non-compliance for this organisation will automatically affect a broad range of actors. Every organisation in need of conformity testing for instance regarding food safety, laboratories and so on, will be negatively affected in case the accreditation body does not perform adequately. The fact that the work of RvA and EA is so connected with the internal market demonstrates the political salience. Fortunately for the RvA, they could inform their stakeholders in the annual report of 2018 that they successfully passed the audit of the EA (RvA, 2019). The peer review structure that assessed the national accreditation body is a form of legal accountability. This is what we would expect based on the potential policy shift that is expected in harmonisation networks. In addition, because the high level of formalisation, EA being an example of a network administrative governed network the compliance to rules is not a surprise.

Regarding the expectation to find legal accountability we have placed our outcomes in the table below, which summarizes our discussion on our assessment.

**Table 8.1: EA and legal accountability**

|  | **Legal Accountability** | |
|---|---|---|
| Definition | Diagonal relationship between an actor answering to a forum in which the source of control is external and the degree of control over actions is high. | |
|  | **According to framework** | **EA** |
| Forum | Courts, auditors from outside the organisation | Several are in place, as the peer review system is considered the pre-eminent form of accountability our focus is on this forum. The forum is made up in this case of auditors of differing national accreditation bodies, coordinated by EA. |
| Relationship | Diagonal | We can consider it diagonal, however those partaking in the peer review process can also be assessed as peers. Given the structure of the peer review procedure we would argue a diagonal relationship rather than the existence of a horizontal one. |
| Source of control | External | External, in the peer review case although we have found instances of internal control for instance in the international coordination component which was set up in the RvA. |
| Information on what conduct? | Compliance with external rules/ mandates | The procedure of accountability is set up in such a way that compliance with standards and norms is key in each of the accountability lines we distinguished. In the account giving structure of the network EA and in the account giving structure of the participant back to the national organisation. However, this could simply be part and parcel of the policy it serves. |
| Emphasis | Procedure | This is clear in each of the accountability lines. The referral to rules, and the obedience to them is key to both the work of accreditation as well as the accountability assessment. |
| Techniques of review | Auditing Contracts Courts Monitoring Registries Licensure | Auditing as well as monitoring is clear in each of the accountability lines. |
| Discussion on what | Acting in full compliance with legally established rules and procedures | As this is also the goal and objective of national accreditation bodies it is no surprise, we have found this to be the case. |
| Control over actions | High | The potential consequences of the prevalent peer review accountability line are such that immediate high-level involvement is expected when there is a negative review. The monitoring/auditing of the national accreditation body is done so regularly which could be viewed as a high level of control over actions. This, however, is not felt as such by our respondents. Then again, this is perhaps built in the system and infrastructure of accreditation. |
| Sanctions | Revision of the administrative act -sanction or recognition of the official involved Compensation for the citizen | The sanction of expulsion is deemed the most extreme of all sanctions, which is a possible consequence of the peer review accountability line. |

8

## 8.7 Reflection and considerations

In our description of accountability stemming from EA back to the national accreditation body we were able to interview respondents. However, due to the nature of the policy context and the sensitivity of the topics discussed we were able to interview four delegates to the network EA. Because we were able to interview respondents that have positions that allow them in-depth knowledge of the different levels of the RvA this allowed us to assess accountability.

The case under review is a harmonisation network, moreover the type of governance structure: network administrative governance is evident in this case. The fact that we reviewed the Dutch national accreditation body and its national accountability relationships we would argue is generalizable as accreditation is based on mutual recognition with procedures determined at the international level. Even though the national context, especially regarding governance structure might differ we do find the importance of the peer review reflected beyond this specific national case. We understand that line of accountability to be predominant not only based on the comments of our Dutch respondents but also in the way the review is performed and how the results are disseminated and used in the feedback loop to EA. By that we mean that the outcome of a peer review could have a major effect on a national accreditation body, as well as that its best practices feed into policies of EA.

What was apparent in this empirical case study is that not just the governance structure of the organisation (i.e. the RvA) structures accountability lines, but the sensitive nature and possible gravity of implications of the policy, forms the lines of accountability. Depending on the type of network and the nature of the policy field, TGNs perhaps not only vary in terms of type of accountability but also which phase of accountability is most important. The reliance on the audit results combined with the national implications in case of suspension of the MLA, are such that further exploration is necessary to attest if policy context influences the level of scrutiny. Accreditation as a policy but also an infrastructure is so unique that it would possibly automatically lead to legal accountability, especially, given the fact that accreditation by nature is focused on assessing procedures and the embedding of standards. Assessment is the core business of accreditation bodies. It could therefore be considered no surprise to find the distinguishing features of legal accountability in this network.

In addition, the role of the European policy structure and the acts by the European Commission were left out of this description as we have focused on accountability from EA to RvA. Nevertheless, the involvement of the RvA in the creation of EA to start with, and the interconnectedness with the policy area of the single market might be an explanation for the dominance of legal accountability over the other types. In essence a European mandate is the *raison d'être* of the EA, therefore it would only be natural that information on the conduct would focus on the overarching mandate. The harmonisation of policies based on a single harmonised strategic idea of the single market commands this dominance.

The sensitive nature of the work of EA, is something to consider, as respondents mentioned this again and again. In addition, this was noticeable to the researcher when most documents of the organisation were not available for consultation. EA offers a venue for open discussions, especially so in the MLA Council. Confidentiality offers a way to discuss the difficult cases and find a way to deal with these. This is needed both to ensure society is not disrupted due to a failure of recognition, and the quality of products and services is not undermined. The work of EA is thus extremely important to our economic and political system, making accountability paramount. Further research into TGNs should seek whether there are network administrative governed harmonisation networks which operate in different policy fields, without a need for confidentially, or those who carry a lesser political and economic impact. If these TGNs can be disseminated, it will be interesting to see if the expectation still holds. But perhaps, a network administrative governed harmonisation network will only exist in similar policy fields.

8

# CHAPTER IX

Conclusion and reflections

## 9.1 Introduction

This dissertation studied the effect that TGNs have on practices and principles of democratic accountability in the national central government. Studying TGNs is of importance given that they are increasing in numbers as well as being used as a venue for policymaking (f.i. Eberlein and Newman, 2008; Keohane and Nye, 1974; Mastenbroek and Martinsen, 2018, Raustiala, 2002). In addition, academic literature has focused mostly on the threat TGNs could pose to democratic ability but has not addressed how day-to-day activities of TGNs shape the accountability relationship with national central governments. This study has filled that gap. In this chapter we will first reiterate our main objectives and discuss the main findings of this study. The second part will center around the implications of this study on the principles of accountability. The third part of this chapter will consider the theoretical implications this study holds for research on TGNs. The last part of this chapter will focus on suggestions for future research on this topic.

## 9.2 Main objectives and findings

In this study we found that different types of accountability arise in TGNs due to the combination of governance style and function of the network. Moreover, we found that accountability deficits are often less problematic in practice than described in literature on TGNs. However, when they do arise they could have grave consequences.

Academic literature on TGNs assumes an accountability deficit. Empirical proof for this deficit was lacking. In addition, the literature has a general focus on political accountability. This general focus obscures the various types of accountability that can be used in the setting of TGNs. This dissertation has addressed specifically these two issues by focusing on how accountability is arranged for in TGNs.

The creation of TGNs is often seen as a necessary form of international cooperation between civil servant with a high level of expertise. Transboundary issues can be addressed by these TGNs. However, as civil servants partaking in these TGNs are often employed by national administrative agencies which are not an integral part of a ministry, it is assumed that an accountability deficit will arise. Account giving to a political forum such as a national parliament will be difficult due to the distance between the civil servant and the forum.

By focusing on the day-to-day workings of a TGN, we have assessed how accountability is arranged for in TGNs. Based on the function (Slaughter, 2004) and governance style (Provan and Kenis, 2008) of TGNs we were able to determine different types of TGNs. With the creation of a typology, the different types of TGNs could be linked to different types of accountability. This led us to our main finding that variation in the governance style combined with the function of TGNs determine, to a large extent, which type of accountability is dominant. We therefore claim that the type of accountability present in a TGN is causally related to the

function of a TGN and the governance style of the network. To assess how TGNs incorporate accountability into their day-to-day functioning, we were sensitive to the context of TGNs. A typology of TGNs has been devised in this study, by combining literature on the function of TGNs (Slaughter, 2004) with governance styles of networks in general (Provan & Kenis, 2008). The typology resulted in a differentiation of TGNs into nine ideal-type varieties.

How a TGN operates is based on two elements. Firstly the function of the network and secondly the governance style of the network. Starting with the former, the function of a network describes the intended end of a TGN. Slaughter (2004) finds three distinct functions that a network can hold: information, enforcement, and harmonization. The potential impact of a TGN on policy is also linked to the function of the network (Lavenex, 2007). The three functions each have their own potential of steering policy making away from the central government level. By linking the work of Slaugher (2004) to that of Lavenex (2008) we can assess the potential for influence in the domestic level by the network. The bigger the potential to steer policy, the bigger the shift away from the home organization of the network participants in relation to the network itself. This will have an effect on the direction of accountability as well as the amount of oversight.

An information network has the least ability for potential impact, as the main objective is to formulate best practices and exchange information. An enforcement network has a bigger potential of steering policy as this function focuses on enhancing the ability of peer organisations to enforce regulations. A harmonization network has the function of setting benchmarks and standards, and as such it has the greatest potential to steer policy making.

How a TGN achieves the aims of its function is locked into the governance style it adopts. In order to assess which governance styles can be adopted we turned to the work of Provan and Kenis (2008). They discerned three types of governance style to be in existence with regards to networks in general. This distinction has not been tested or theorized in the context of TGNs but is widely used in network literature. The three governance styles they discern are: participant-governed network, lead-organisation networks and network administrative governance. They differ in terms of the level of centralisation and formalisation. The participant-governed network is one end of an extreme, as it is the least centralized whereas the network administrative governed network is the most centralized. The level of centralisation determines the type of accountability instruments that can be deployed (Hollis, 2010).

The dimensions that cause the varieties of TGNs, function and governance style, can be considered as institutional design. This institutional design has not been considered regarding how accountability can be affected by it. Nevertheless, scholars have argued that accountability is bound by circumstances of organisational structure (f.i. Deleon, 1998; Romzek, 2000).

9

We propose that the potential impact of a TGN, which is based on the function (Lavenex, 2007), will partly determine the amount of oversight, with those with less potential for impact having less and those with a higher potential having stricter oversight based on authority. In addition, we theorize that the level of formalization of the governance style will have an effect on the accountability relationship (Hollis, 2010; Provan and Kenis, 2008). Because of this, we have included these rationales in the typology by linking them with the different varieties of democratic accountability as introduced by Romzek and Dubnick (1987). Based on control over an agent's actions (high or low) and the source of this control (internal versus external) four distinct accountability types arise: bureaucratic, professional, political and legal. Placing the theoretical underpinnings that influence accountability relationships over the typology, we filled in which variety we would expect.

First, we expect that *when a TGN is an information network and participant governed, the TGN incorporates professional accountability into its day-to-day functioning*. In an information network, civil servants from different national public administrations come together on a voluntary basis, discuss their problems, and formulate best practices. When the governance style of a network is participant-governed the members themselves collaborate, without a secretariat coordinating or supporting the collaboration. Given the horizontal actor-forum relationship in participant-governed information networks, the actors within the TGNs are peers. These characteristics increase the likelihood that this type of TGN incorporates professional accountability into its day-to-day functioning. This type of accountability consists of peer-to-peer accountability based on relatively loosely formulated professional norms and standards, with high discretion for the civil servant.

Second, *when an information network is network administrative governed, the TGN incorporates bureaucratic accountability into its day-to-day functioning*. When an information network is network administrative governed, its main function is exchanging information between participants. A secretariat is set up within the network to help steer, govern and coordinate the network in a centralized manner. We expect bureaucratic accountability to be dominant here. In this type, the relationship between actor (i.e. the civil servants in the TGN) and forum (i.e. the supervisor in the home organization at the domestic level) is based on close supervision. The civil servant participating in the TGN faces internal controls on a regular basis through the occasional participation in the TGN by the supervisor from the home organization. There is a strong vertical dimension, with a codification of rules. The impact of an information network is not perceived to be great by the home organization, but at the same time the network administrative part leads to a formalized component in the TGN, which institutionalizes the regular involvement of supervisors from the home organization to a higher degree than if the network was only participant governed.

Third, *when a harmonization network is participant governed, the TGN incorporates political accountability into its day-to-day functioning*. In a harmonization network regulations such as benchmarks and standards in a particular policy area are harmonized between

the participating countries through the activities of the TGN. When the governance style of a network is participant-governed the members themselves collaborate without a clear organisational entity within the structural make-up of the network that coordinates or supports the collaboration. The accountability type that fits this institutional set-up of a TGN best is political accountability, in which an actor needs to give account to a domestic political forum such as a national parliament or a minister. Under political accountability, the civil servants have considerable discretion to perform tasks, which is key to ensure that the expertise of the civil servants in the TGN can be used to the full in order to fulfill the important task of harmonizing benchmarks and standards across member states of the network. Given the importance of this type of TGN for the member states because of its high impact on the state, and the need for a high level of discretion for the expert, the civil servants in the TGN need to be responsive to the supervisor in the home organisation but cannot be constantly hampered by strict compliance to legal standards because of the importance of using their expertise in a flexible manner.

Fourth, *when a harmonization network is network administrative governed, the TGN incorporates legal accountability into its day-to-day functioning*. When the main function of the network is to harmonize benchmarks and standards between participating countries and a secretariat within the network is set up to help steer, govern, and coordinate the network in a centralized manner, the impact of the network on the state is likely to be considerable. At the same time, the activities of the civil servants in the TGN are subject to rules externally set at the global level, which are subsequently monitored by audit teams working independently from the secretariat of the TGN. This fits the type of legal accountability because here the emphasis is put on compliance with set rules and procedures.

We have addressed these expectations by making use of four distinct empirical cases of TGNs. These empirical cases were ideal types which could be placed in the outer corners of our typology. This was necessary as it enabled us to assess the variety of TGNs and the differing effect this may have. Assessing the influence of TGNs was done by document analysis, participatory observations of the work of TGNs as well as interviews with participants of these networks located in one country. This was done to isolate the effect as much as possible by leaving out the possible differences in governmental traditions and culture.

9

 In this dissertation we have found that TGNs do indeed make use of accountability. The type of accountability is not necessarily political accountability as it is assumed in literature (f.i. Freyburg, 2017; Bignami, 2005; Mastenbroek and Martinsen, 2018), rather the type of accountability is determined by the institutional set-up of TGNs. Out of the four empirical cases three of the TGNs incorporated an accountability type that was expected based on the governance style and function they hold. In addition, this has led to limited accountability deficits. In these three cases there was a clear relationship discernible between an actor and a forum, in which the obligation to explain and justify conduct on the part of the actor was clear; the forum could pose questions and pass judgment, with the actor facing

possible consequences. Small accountability deficits were apparent where sanctions for non-compliance were limited. This was the case for the TGNs: participant governed information network (IMPEL), network administrative governed information network (EReg) and the participant governed harmonization network (WENRA). Given the potential impact of each of these varieties on policy, the deficits in case of an information network should be considered less important. The effect of the network to steer policy is less. This means that the deficit in IMPEL and EReg is of lesser concern than that of WENRA.

The potential impact to steer policy making is related to the saliency of the topic (Lavenex, 20070. In case of high levels of political salience, the potential of impact to policy is bigger. Saliency should also guide the level of interest of a forum, in the sense that more scrutiny should exist, making deficits in networks dealing with less salient topics less serious than in the reverse cases.

As said, in one case our expectation could not be unambiguously identified based on the empirical findings. This was the case for the participant governed harmonization network (WENRA). The expectation was to find political accountability, but we found multiple types of accountability. Although steps are being taken to increase the dominance of political accountability in this TGN, during the time of research this was not fully in place. This case does confirm the difficulties reported in the literature of attracting the attention of the elected politicians regarding the work of the TGN (Raustiala 2000; Slaughter 2002; Papadopoulos 2007; Black 2008; Sabel and Zeitlin, 2010; Busuioc 2010; Papadopoulos 2014). Regardless, this finding that political accountability is in conflict with the way TGNs conduct their daily activities should not result in a dismissal of all TGNs suffering from an accountability deficit. This research has shown that the variety of accountability types should not be ignored when assessing how TGNs incorporate accountability into their day-to-day functioning. In addition, the variation between TGNs with regards to function and governance style should be considered more when discussing accountability and TGNs. This research has shown the effect of these on the relationship between actor and forum.

## 9.3 Limitations

This section focuses on the implications of the research design followed in this dissertation. First, in this dissertation we have chosen four distinct TGNs, that operate within member states of the European Union. Regarding informal networks between civil servants in the European Union there is a body of literature that defines these as European Administrative networks (EANs) or European regulatory networks (ERNs) (f.i. Mastenbroek and Sindbjerg Martinsen, 2018). It is argued that these EANs or ERNs are perhaps more vertical or sectoral in structure with more involvement by the European Commission. Because of this structural dimension, other types of functions conducted by the networks could arise. The choice for TGNs in this dissertation focused on the horizontal nature of the networks. In this regard, it could mean that the specific nature of TGNs that could also fall under the definition held by

EAN literature would hold a wider range of functions. This would interlink with the presence of the European Commission in the activities of the network. In the TGNs we have studied the influence and presence of the European Commission was not as distinctly noticeable as EAN literature details. Future research should seek out the differences between networks that befall the definition of EANs/ERNs and those networks of TGNs. The typology and its applicability in the context of EANs/ERNs should be addressed, not in the least in order to also understand the differences between the two types of network.

Next to that, the role of the European Union institutions should be studied as well. In this we follow Curtin and Egeberg (2008) who acknowledge that account giving should not solely be considered for national governments but that it should be complemented with forums and mechanisms regarding supranational bodies and national agencies with dual loyalties (2008: 639). In each of the cases there was a role for the European Union (i.e. European Commission), sometimes at a distance but sometimes attending meetings, for instance at IMPEL. Their role seemed to align with the embedding European rules within the policy field. When discussing the historical background of TGNs, the role of said TGN in the development of a policy field is necessary. The role WENRA has played in the development of the policies regarding nuclear safety should serve as an example for this necessity. To explain the development of this network an acknowledgement of the push from the European Union as well as the ensuing discussions with member states informed the progress and mandate of the network and also in part informed the accountability structure, as both the content and type of activities were influenced. The position of European Union institutions in TGNs should be reviewed, to determine the appropriateness of the creation of new or complementing accountability relationships. This again is a turn away from the old conceptions of traditional forms of accountability by including other types of accountability as well.

Secondly, a conscious choice was made to study networks that not only differ in terms of governance style and function but also in policy field. By adopting maximum variation sampling, the generalizability of the results would be possible. The typology holds in three out of the four different case studies. The respondents of this research acknowledge that the organisational structure of the policy field regarding account giving also instructs how they give account of the work for the TGN, which somewhat follows the reasoning of Deleon (1998) and Romzek and Dubnick (1987) who argues that accountability is partly based on institutional context. However, the policy field as an institutional factor is not explicitly mentioned by either of these authors. The function and governance style seems to align with the context of the policy field its serves. The policy field determines the amount of formalisation that is necessary. Next to that it instructs the potential to change or make policy. The policy field of a TGN could therefore also prove to have an effect on how accountability is structured. For instance, the level of salience as well as the distinction of whether the policy field is regulatory or distributive in nature could be instructive to the institutional set-up of the network.

9

Future research should thus include networks with differences in governance style and function but within the same policy field. Further research should take this consideration into account, especially considering the link between saliency and ability to impact policy (Lavenex, 2007). A network with the potential to steer policy should be scrutinized more than a network with a limited potential of impact. This potential of impact is very much linked to the topic the network deals with or the policy field it is part of. The fact that in the case of nuclear safety (WENRA) the deficit in accountability has been identified and has met with a change in the accountability relationship is indicative of this. A forum not being aware or not interested in the work of a network in this policy field given its perceived saliency, would furthermore be damaging to its own reputation. This would not be the case for networks in policy fields where the saliency is lower. It will be of interest to learn whether a policy field steers the type of governance style and function of TGNs.

Third, the typology of this dissertation is based on structural drivers for accountability drivers, meaning constructs that are somewhat fixed, and bound by negotiations between participants before they can be altered. Both governance style and function of a network can be perceived as such constructs. This suited the purpose of this dissertation as we focused on how traditional forms accountability are affected by TGNs. There are therefore drivers of accountability that we have not considered. For instance, we understand that saliency can drive choices for the type of accountability. Arguably, saliency is incorporated into the typology in that the function of a TGN is connected to the potential impact of policy. This impact could very well link to saliency. Another example of an alternative driver is agency. By this we mean the capacity of individuals within the network to act independently of these constructs. The level of agency might be related to personal characteristics and to the position (of influence) of the individual in the network. Future research should consider alternative drivers of accountability such as these as well.

Related to the previous is the mention of the organisational distance between ministries and agencies. Respondents mention that organisational distance affects the involvement and interest of the parent ministry as the account holder. This assessment is in line with the position held by Keohane and Nye (1974) that participants of TGNs are not closely controlled or monitored by their parent ministries. According to Brown (2007), Raustiala (2002) and Sabel and Zeitlin (2010) this divorce between authority and autonomy can create an accountability deficit. Their research has focused on democratic accountability. Given the fact that accountability is context-dependent, placing a sole focus on one type of accountability means obscuring others. In this research the focus was on researching which type of accountability was in place. It also directed questions into the involvement of specific parties in the process. Although differing for each policy field, the distance between the home organisation of the participant and the parent ministry was often addressed. All the home organisations in the empirical cases operated at a functional and operational distance from central government while simultaneously being part of it. This determined their relationship regarding international activities. This research has only

focused on the Dutch aspect of accountability of TGNs. The distance between agency and central government could just be indicative for the Netherlands, although we are aware that functional and operational distances exist between ministries and agencies in other national governments (f.i Maggetti, 2009). The level of distance between the ministry and the agency in the network should, however, be addressed in future research. This distance influences the accountability relationship between the actor and forum; a difference in distance could therefore have a distinct effect. The distance between a parent ministry and an agency might be different due to the level of centralisation in a country. For instance, the organisation of a federalist country would create more distance between actor and forum than a unitary centralised state would. This distinction should be taken into account in future research.

## 9.4 Implications for accountability

In addition to the main results of this study as presented above, this study also has broader implications for studying accountability. In this section we will address these implications specifically.

This research has effectively challenged the notion that TGNs lead to accountability deficits. Account giving as a process is intertwined with other aspects of the policy making process. This murkiness forces us to turn to the manner in which individuals who are part of this process experience it. Empirical evidence of accountability in TGNs was lacking due to a rather abstract and meso approach (f.i. Papadopoulous, 2007, Eilstrup-Sangiovanni, 2007). A micro level approach was long overdue (Papadopoulos, 2018). This research has shown based on a micro-level approach that accountability relationships are forged based on function and governance style. The findings are important as they offer a reconsideration of the effect TGNs have on accountability. Participants of TGNs are aware of the need for accountability, which is in sharp contrast to the work of Black (2008) and Thurner and Binder (2009), who argued that civil servants will have only a limited regard for this. The awareness of a need for accountability by civil servants is exemplified by the fact that they take notes, create annotated agenda's, and so forth. This is in line with the expectation held by Barr and Miller (2006) who speculate that civil servants may set up their own procedures regarding accountability. The accountability relationship with the central government is safeguarded by these actions in so far as the actors are doing their part; how the forum responds is the next step.

Accountability is a relational concept (Mashaw in: Dowdle, 2006). To study this, the activity of giving account between an actor and a forum needs to be isolated from other activities. This however is difficult to achieve, due to the fact that in TGNs multiple lines of accountability are in existence (Curtin and Egeberg, 2008; Messner, 2009). To whom one should give account depends on the experienced relationship by the actor and the forum. Account can be given towards the national central government but in the context of TGN this is not the sole avenue to take. Peers in the network as well as external actors or supranational organisations involved

9

also prove to consist of an accountability relationship. We have noticed this in all of our cases. The response of the TGNs to accommodate to a certain extent to these different forums should therefore be considered the answer to the questions raised by Curtin and Egeberg (2008) who argue that integrated administrations, of which TGNs are a good example, should not only be accountable to national central governments. Even though TGNs do not replace traditional forms of government they do offer a shift in paradigm making it essential to view accountability as not simply a singular line between civil servants and voters (Yesilkagit, 2012).

When we direct our attention to the theoretical implications of this research on the conceptualisation of accountability, we see that in all the cases the topic of sanctions seemed somewhat problematic. The most severe sanction was to be found in the case of network administrative harmonization network (EA), namely the expulsion of a national accreditation organisation. The consequences of this is that products and services in need of accreditation in a particular country have limited ability to prove their quality of standards. This will have clear economic consequences. In the other TGNs there were no clear signs of sanctions, or at the very least these were not experienced as detrimental to the participants. Although sanctions need not be formal sanctions for an accountability line to be present, a referral to possible consequences is part of the definition we followed. In the context of accountability in TGNs this seemed to be different than for perhaps more traditional structures of accountability. This could well be due to the fact that the monitoring of elected principals is missing as mentioned in the literature (f.i. Keohane and Nye, 1974; Raustiala, 2002), but we also need to take into consideration the impact of multiple accountabilities on integrated administrations (Curtin and Egeberg, 2008; Hofmann and Türk, 2007; Maggetti, 2009; Yesilkagit, 2012). By this we specifically refer to sanctions of informal networks such as TGNs, which might be difficult to enforce, because of the compounded structure (being part of national central government, international cooperation and the linkage with peers) and therefore sanctions might present themselves differently than traditional views of sanctions have led us to expect.

The conceptual implications for accountability in TGNs can also be seen in the setting of a mandate, by which the participants conduct their work on behalf of the home organisation. Often this mandate is not specified, and the participant is to decipher it from more general or strategic policy plans of the home organisation. There is a lack of a clear mandate from the home organisation. Oftentimes a mandate is decided upon either by the individual or by a small team within the home organisation.  A clear mandate with regard to more technocratic work is also not desirable, as it would impede the expert's autonomy. It is in this setting that the definition of accountability needs to be understood. Understanding how a mandate is intended by the forum is left to the actor. The accountability relationship therefore hinges on the interpretation of the participants of the network. This coincides with the fact that participants of TGNs are sent out by their home organisations on the basis of trust. They have earned their stripes. Without trust, accountability will be problematic. This is because in its essence accountability is a social relationship. With this we argue against the notion that a strict mandate from and control by a principal is always needed (f.i. Busuioc, 2010; Brown,

2007) in an accountability relationship. Our research has shown that the determinants of an accountability relationship is not so much a procedural but a social understanding.

The social relationship of accountability in the definition we follow is one between an actor and a forum. The involvement of the two is essential. We have, however, found some (political) forums less involved in the request for account giving. Clarifications or explanations are not often sought. There is a general lack of interest by account holders in the work of transgovernmental networks. Questions on the work conducted in TGNs are not often asked. This would hint at what in the literature has become known as forum drift (f.i. Schillemans and Busuioc, 2015). The reason this occurs could have to do with "(.) demanding agendas, shorter time-frames and limited interests in the intricate details of policy implementation" (Schillemans and Busuioc, 2015: 17) of the forums. There was interest from political forums in the case of WENRA. The Belgian parliament for instance raised questions regarding the safety levels of nuclear reactors. In contrast in the context of EReg limited to no oversight was reported on behalf of the ministry. The possible salience of a topic could place the interest of a forum higher up the list of priorities. Again, the policy field and the possible function of a TGN could prove an influential aspect and should be explored.

We should however be aware that accountability is pliable depending on the circumstances (f.i. Fisher, 2004; Romzek, 2000). Accountability should be understood as a dialogue, that takes place between an actor and a forum establishing the norms and standards they consider worthy to uphold. This is dependent on evolving discussions. Tailoring accountability to the work of TGNs to make it fit within the organisational governmental structure but also within the larger policy field should be the course of action.

## 9.5 Theoretical implications for research on TGNs

During this research much has been discovered regarding TGNs and their effect on accountability. This research has made three main contributions. Firstly, that political accountability should not be considered the only type of accountability in TGNs. The daily activities allude to other types of accountability as well. This also speaks to perceived accountability deficits, they are not as vast as they are made out to be in literature (f.i Papadopoulous, 2014). The perceived deficits are instead filled or supplemented with other types of accountability such as legal, professional or bureaucratic accountability. Secondly, governance styles and functions have an effect on the type of accountability deployed in a TGN. Ranking governance styles in terms of formalisation and ranking function based on the level of potential policy shift also allowed for the inclusion of the rationale behind the different types of accountability (Romzek and Dubnick, 1987). The empirical cases proved that the theoretical underpinnings of the typology hold, which indicates that the typology should be explored more. The variation in TGNs should not be overlooked. Thirdly, previous research has addressed TGNs top-down and network-centred (see Papadopoulos, 2018). This research has taken a micro-level approach to the intricacies of nested administrative organisation, i.e.

9

the TGN, the home organisation and the central government. This novel approach has offered insights into how the interaction between the three levels works. TGNs are extended arms of national administrations too, which is important to note. This perspective on TGNs and their place in the administrative space should be studied more (Curtin and Egeberg, 2008; Maggetti, 2009; Mastenbroek and Martinsen, 2018). TGNs do not operate as stand-alone organisations. Moreover, their variation as well as their potential to steer policy commands a more in-depth and micro-level approach to understanding them.

The diversity and the difficulty of actually seeking TGNs out proved challenging. Finding a workable definition and literature on general networks helped to fill in the gaps of the literature. Desk research was at times cumbersome as documents were unavailable to the researcher but did offer useful insights into the formal structure of networks. Unsurprisingly, networks were not labelled as transgovernmental network in practice. Nor were they often listed as networks at all. To research transgovernmental networks meant searching LinkedIn-profiles of civil servants who listed activities abroad for their organisations. Searching for international activities on the websites of governmental organisations also helped in finding transgovernmental networks, as did the annual reports of these organisations.

When international arrangements between governmental organisations were found, the next step was to look for a website related to that arrangement. Those websites were often not available and if they were, information regarding individual participants or the actual content of their activities were sealed off from the public. This clearly speaks to the exclusiveness and perhaps clubbishness of TGNs (Raustiala, 2002). A secured part of the website was created for those participating in the international arrangements. For researchers this would be a treasure trove of information, as this secured website offers the foundation documents that not all networks have readily available, together with notes, agenda's and so on.

After the difficulty of finding transgovernmental networks came the obstacle of gaining access to the networks and its participants. The use of formats regarding the generation of e-mail addresses for governmental organisations at times offered the opportunity to decipher work e-mail addresses of potential participants. This proved successful at times but mostly resulted in non replies. Getting a foot in the door was most helpful, as respondents were often helpful in directing us to other participants of the network. Although a side note needs to be made here that for the harmonization networks access remained limited. The reason for this needs to be explored, it could well be that the potential for policy boundary shift (Lavenex, 2007) is an explanation for this.

Doing research in an incremental manner had its advantages as it emphasised the very notion of the informal character of TGNs (Keohane and Nye, 1974) also in terms of gaining access to other respondents, i.e. based on referral. The informal character in TGNs is also seen in the communication between participants. It is heralded as a key feature that enables honest

conversations and discussions. For politically sensitive issues this is particularly useful, as is attested by the respondents. The informal character is also instructive as it hinders intrusiveness, in this way ensuring the frankness of experts in discussions unencumbered by the obstacles of politicking that tends to come with treaty-based international arrangements. This is a real asset for TGNs and is instrumental to their effectiveness (f.i. Slaughter, 2004). Although these political games are sometimes part of discussions in TGNs, it is on a more limited scale than the treaty-based international arrangements. The added value of a TGN is the informal aspect, in particular the ability to discuss and decide without outsiders (non-experts or political superiors). Escalation is not considered a method for reaching an agreement as the focus in each network seems to be firmly placed on collaboration.

We have noticed that transgovernmental networks do not operate in a vacuum, meaning that TGNs are often connected to other international arrangements whether these are other transgovernmental networks or transnational networks or international organisations. This is very much in line with literature on integrated administration (Hofmann and Türk, 2007). Often, they are connected to these arrangements because they have a slight difference in mandate or topic or operate in the same domain but with differing mandates and topics. This structure and cooperation instruct accountability lines within the international arrangements as well. The focus we have on the accountability line towards the national government, when looked at from the perspective of one network, is not the entire picture, as one organisation feeds into the other, and each has its own line(s) of accountability.

Next to the informality of TGNs and the interlinkages with other international arrangements there are other noticeable characteristics. For instance, there is a dependency on those individuals working in and for the network. Their motivation and time determine the success of projects. The participation of individuals in TGNs is very dependent on the culture of the home organisation as well as on the capacity to free up individuals to participate in international activities. Participating in networks is seen as a side-project but not as part of the day-to-day operations of the home organisations, even though the work conducted at the TGNs seeps into the work of the home organisation. This has been noticed by Maggetti (2009) as well. This dependence on the individual participant as well as the ability of an organisation to participate in a TGN is indicative for the advancement of a TGN. The capacity of individuals for instance in terms of English language proficiency determines their potential to contribute to a TGN. The ability of an organisation to send participants to join the work of TGNs offers the ability to decide on the speed and agenda of a TGN. These implications are important as not all organisations have the same ability to free up staff or have staff with the necessary skill set to join a TGN. This could result in a TGN that operates contrary to the need of some of the members. The fact that projects of TGNs are determined by the working groups of the networks more than by the annual meetings where superiors attend, means that it is those organisations that are in a position to attend more meetings (working groups are more frequent) which decide on progress.

9

For all the potential TGNs bring to policy making, it does come with implications. It can be a solution to overcome global problems (Slaughter, 2004). It can even do so at a lower cost than treaty-based international arrangements. Yet, the informality that is its strength could also prove to be an obstacle. There is a of lack visibility for account holders, which is in line with the expectations held by Papadopoulos (2007). This perhaps also ensures that transgovernmental networks are not ingrained in the home organisation as part of its day-to-day operations. To research TGNs it is therefore essential to go to and hear from participants of TGNs. The context of a TGN can only be assessed properly by taking in their views and experiences.

Another observation is that the nature of the work of transgovernmental networks is technocratic. This is mentioned in the literature as well (f.i. Eberlein and Newman, 2008). The strategic discussions of the network occur once or twice a year during general meetings. Most of the meetings by transgovernmental networks are conducted based on specific topics, think of the mincing of words regarding potential guidelines before reaching agreements. This technocratic nature makes it hard to distinguish the influence of participants in TGNs in the general policy directions laid out by the senior and political staff. Participants of TGNs upload information to the senior staff. Who directs who, is a question that needs to be answered. Respondents have attested that this process of uploading their insights is both needed and valued. This is in contrast to the expectation held by some scholars (f.i. Black, 2008; Galmaird and Patty, 2012; Kinney 2002; Raustiala, 2000) who argue that civil servants operate as agents with their own agenda. The participants of TGNs that we have spoken to, do not see their work as being political or strategic. The discussions they have and the decisions they make are in line with the strategies set out by their organisations. The participants of the network underplay how superiors make use of notes and annotated agendas in determining the position of the network. The collaboration of setting the mandate and giving account is a circular process rather than a procedure. It is not a series of actions conducted in a particular order. The relationship between account giver and accountee is just that, a relationship. To research this is to understand how both see the relationship.

## 9.6 Research agenda

In this research the focus has been placed firstly on examining transgovernmental networks and secondly on the way they affect accountability. By assessing four different cases and studying these from a Dutch perspective by means of interviews, observations and document analysis, we are able to gauge the relation between TGNs and accountability. There are reflections to be made on the choices in this research which could help future researchers on either topic. In the following section we will address four observations that could help guide future research.

First, the four cases all come from different policy fields. In the considerations we mentioned the influence the policy field might have on the type of accountability deployed. This is a venue

worth exploring. Each policy field has its own historical development and entrenchment in organisational structures. This, combined with policy salience, is not accounted for in this research as the focus was on function and governance style. The influence of the policy field could however prove to be a variable in the relationship between TGNs and accountability.

Second, this research focused on actor-forum relationships of TGNs from a Dutch perspective. This was done both for theoretical as well as practical reasons. The institutional governmental context in a country was considered an element that could create differences. By limiting the research to one country and so avoiding this as an intervening variable we can first assess if the function and governance style by themselves offer enough for theoretical expectations to hold. The cases themselves are, however, extremes in our typology which ensures a higher level of generalizability so that in these types of cases in similarly organized countries (decentralized, neo corporatist and having a tradition of cabinet governments) similar results can be expected. During the interviews and the desk research the mentioning of different accountability structures being dependent on the organisation at home arose. Future research would do well to assess the effect of governmental characteristics on accountability.

Third, the focus on the actor was made consciously in this research, since actors are the key player in the relationship between the TGN and the home organisation. The forum was established based on the experience of the actor. If possible, we reached out to the forum identified. But more often than not, contact was shut down. Discussing accountability as a topic proved to be difficult as potential respondents stated that they did not like the idea that they were being judged. Nevertheless, the cooperation of the respondents in this research proved invaluable. Their insights and especially the opportunity to observe the networks was indispensable. Researchers studying this topic might want to think of taking these steps as well, hoping to include both forums and actors as much as possible.

Fourth, the examined cases are four out of a possible nine varieties. It goes without saying that opening research up to include other varieties would be an interesting venue to take. That said, we understand that the varieties are ideal types, meaning that it is unlikely to find exact varieties of each. It is theorized that the varieties are not as clear cut. For instance, activities in a TGN could concern more than one function simultaneously. We have seen this for instance in the case of IMPEL, which mostly has an information function. To study which variety a TGN is, is to assess the prevalence of one function over the others. In addition, it is not unimaginable that the governance style also will show elements of each of the varieties in a TGN.

Studying TGNs is about understanding the inner workings of a network both in terms of institutional set-up as well as of participants' behaviour. Future researchers and students on this topic would do well to acknowledge the effect of differing characteristics. The definition of TGNs used in this dissertation is general, allowing us to fit a wide variety of organisations

**9**

under its umbrella. The characteristics have an effect on behaviour, both by the participants but also on concepts such as accountability. Accountability in turn is a concept that is context dependent. In new organisational set-ups such as TGNs we need to study the effect from the ground up before reverting to general statements regarding deficits. Accountability as a relational concept is what the actor and forum determine it to be.

9

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# List of Abbreviations

| | |
|---|---|
| ANVS | Authority for Nuclear Safety and Radiation Protection (*Autoriteit Nucleaire Veiligheid en Stralingsbescherming*) |
| CAB | Conformity assessment body |
| CAF | Comprehensive Accountability Framework |
| CAS | Conformity Assessment Schemes |
| CETA | Canada-European Union Comprehensive Economic and Trade Agreement |
| CoC | Certificates of Conformity |
| EA | European co-operation for Accreditation |
| EFEH | European Federation of Environmental Health |
| EFTA | European Free Trade Association |
| ENSREG | European Nuclear Safety Regulators Group |
| EReg | The Association of European Vehicle and Driver Registration Authorities |
| EU | European Union |
| EUCARIS | European car and driving license information system |
| GDPR | General Data Protection Regulation |
| HHC | Horizontal Harmonisation Committee |
| IAEA | International Atomic Energy Agency |
| IMPEL | European Union Network for the Implementation and Enforcement of Environmental Law |
| IRI | IMPEL Review Initiative |
| ISO | International Organization for Standardization |
| MLA | Multi-Lateral Agreement |
| RDW | Netherlands Vehicle Authority (*Rijksdienst voor het Wegverkeer*) |
| RHWG | Reactor Harmonization Work Group |
| RvA | Dutch Accreditation Council (*Raad van Accreditatie*) |
| SRL | Safety Reference Level |
| TGN | Transgovernmental Network |
| ToR | Terms of Reference |
| WENRA | Western European Nuclear Regulators Association |
| WGWD | Working Group on Waste and Decommissioning |
| WIG | WENRA Inspection Work Group |

# Dutch Summary

## Verantwoording in transgouvernmentele netwerken

### Probleemstelling van dit onderzoek

Steeds vaker zijn grensoverschrijdende of internationale problemen in het nieuws. Vaak zijn dit problemen met een grote impact. Denk daarbij aan terrorisme, klimaatverandering of pandemieën. Grensoverschrijdende problemen met een sterk technisch of praktisch karakter krijgen, ondanks hun grote impact op ons dagelijks leven, vaak veel minder aandacht. De aanpak van technische problemen gebeurt vaak door groepen ambtenaren die internationaal samenwerken.

Technische problemen hebben vaak een grote impact op het dagelijks leven van burgers. Denk bijvoorbeeld aan de bestrijding van de Japanse duizendknoop in Europa. Deze invasieve plant veroorzaakt zowel schade aan de biodiversiteit en economische schade doordat de plant pijpleidingen en asfalt kan doorbreken. De bestrijding van de plant wordt, vanwege het grensoverschrijdende karakter van het probleem, internationaal aangepakt.

Om tot een oplossing te komen zijn ambtenaren de afgelopen decennia in toenemende mate samen gaan werken met hun equivalenten over de grens in zogenaamde 'transgouvernmentele netwerken'. Vaak is het werk van ambtenaren die deelnemen aan een transgouvernmenteel netwerk specialistisch en werken zij op een operationeel niveau in een specifiek beleidsterrein. Zij komen samen in een transgouvernmenteel netwerk om *best practices* te ontwikkelen, kennis te delen, en in sommige gevallen om beleid te maken.

Doordat er in transgouvernmentele netwerken ook besluiten over beleid kunnen worden gemaakt, is het van belang om te weten hoe verantwoording wordt afgelegd aan hun nationale politieke leidinggevenden. Ambtenaren die deelnemen aan transgouvernmentele netwerken doen dit onder het mom van dat zij Nederland vertegenwoordigen. Tegelijkertijd werken zij vaak op afstand van hun politiek leidinggevenden. Zo werken veel ambtenaren voor autoriteiten die onafhankelijk van de ministeries hun werk doen. Omdat het ambtenaren zijn, blijven zij ondanks deze afstand nog wel gebonden aan democratische verantwoording.

In de wetenschappelijke literatuur is er sterke kritiek op het verantwoordingsproces van transgouvernmentele netwerken. Deze kritiek richt zich met name op het gebrek aan *politieke* verantwoording. Dit gebrek zou te maken hebben met de afstand van de ambtenaar in het transgouvernmentele netwerk tot de politiek leidinggevenden. De politiek leidinggevende draagt de verantwoordelijkheid over het werk dat ambtenaren doen binnen transgouvernmentele netwerken, maar wordt daarbij gehinderd door een beperkt zicht op hun handelen, mede door de afstand. Tot op heden is de aandacht voor transgouvernmentele

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netwerken in de wetenschap vooral gegaan naar theoretische opvatting hierover. Dit proefschrift onderscheidt zich doordat het zich richt op de praktische uitoefening van verantwoording in transgouvernmentele netwerken. Door de focus te leggen op de handelingen en percepties van de ambtenaren die deelnemen aan de transgovernmentele netwerken, brengt dit proefschrift in kaart wat het effect is van het bestaan van transgouvernmentele netwerken op de principes en praktijken van democratische verantwoording in nationale centrale overheden. Juist door naar democratische verantwoording te kijken, is het mogelijk om verschillende typen van verantwoording te onderscheiden. Die verschillende typen kunnen er ook voor zorgen dat een mogelijk politiek verantwoordingstekort wordt opgevuld.

## Theoretisch model en methode

In hoofdstuk 2 gaan we in op de verschillende vormen en eigenschappen van transgouvernmentele netwerken. Volgens wetenschappelijke literatuur kunnen transgouvernmentele netwerken drie verschillende functies hebben. Een functie is dat van een **informatienetwerk** (*information network*). In dit netwerk komen ambtenaren op vrijwillige basis samen om te discussiëren over gezamenlijke technische en operationele problemen, om *best practices* te formuleren op basis van het uitwisselen van ervaringen van werkwijzen. Een tweede functie is dat van een **handhavingsnetwerk** (*enforcement network*). Dit type netwerk richt zich op het verbeteren van de handhaving van regels op het nationale niveau. De regels waarop zij toezien komen van internationale of supranationale organisaties. Een derde functie is dat van een **harmonisatie netwerk** (*harmonisation network*). In dit type netwerk worden standaarden en benchmarks afgesproken voor een specifiek beleidsterrein.

Elk van deze functies wordt gekoppeld aan de mate waarin een transgouvernmenteel netwerk de mogelijkheid heeft om beleid te veranderen op nationaal niveau. De mogelijkheid van aanpassing van beleid is het hoogst ingeschat bij het harmonisatie netwerk, en het laagst bij een informatienetwerk. Het handhavingsnetwerk neemt een middenpositie in.

Naast dat transgouvernmentele netwerken verschillende functies hebben, is ook bekend in de literatuur dat netwerken verschillende bestuursstijlen kunnen inzetten. Er zijn drie stijlen te onderscheiden. De eerste bestuursstijl is het door **deelnemers bestuurde netwerk** (*participant governed network*). In deze bestuursstijl staat de samenwerking tussen de deelnemers centraal. Er bestaat geen duidelijke entiteit die het werk van het netwerk coördineert of ondersteunt. Dit type netwerk is sterk afhankelijk van de mate van betrokkenheid van de deelnemers omdat deze verantwoordelijk zijn voor het functioneren van het netwerk. De tweede bestuursstijl bestaat uit een **sturende organisatie netwerk** (*lead-organisation governed network*). Dit is een meer gecentraliseerde bestuursstijl in de zin dat alle grote netwerkactiviteiten en sleutelbeslissingen gecoördineerd worden door (de organisatie van) één deelnemer. Hierdoor is er sprake van een sturende organisatie binnen het netwerk. Een sturende organisatie biedt vaak administratieve en secretariële ondersteuning aan het netwerk. De laatste bestuursstijl is dat van de **netwerk administratieve organisatie** (*network administrative organisation*).

In deze bestuursstijl wordt er een entiteit opgezet zoals bijvoorbeeld een secretariaat. Deze entiteit heeft als doel de activiteiten van het netwerk te sturen, besturen en coördineren. In dit type netwerk zijn de deelnemers niet langer de leidende partij, maar werkt het netwerk als zodanig als intermediair.

De bestuursstijlen lopen op in mate van formaliteit en centralisering. Het *deelnemers bestuurde netwerk* is het minst formeel en het minst gecentraliseerd. De *netwerk administratieve organisatie* is daarentegen het meest formeel en meest gecentraliseerd.

Wanneer de functie van een netwerk gecombineerd wordt met de bestuursstijl van het netwerk ontstaan er negen mogelijke variëteiten. Naast de verschillen in transgouvernmentele netwerken zijn er ook verschillen waar te nemen op het gebied van democratische verantwoording. In hoofdstuk 3 wordt ingegaan op de verschillende vormen van verantwoording.

In wetenschappelijke literatuur zijn vier typen verantwoording te ontwaren op basis van twee dimensies. De eerste dimensie is de bron van verantwoording en de mate van controle over de handelingen van de deelnemers. De bron van verantwoording kan zowel intern als extern zijn. Interne controle betreft zowel de formele hiërarchische relatie tussen leidinggevende en ondergeschikte als de informele *peer-to-peer* relaties tussen ambtenaren binnen de organisatie. Externe controle kan voortkomen uit algemene juridische arrangementen of uit hiërarchische relaties tussen twee of meer organisaties (of netwerken) waar de ambtenaar deel van uit maakt. De tweede dimensie betreft de mate van autonomie die de ambtenaar heeft ten opzichte van het forum aan wie verantwoording moet worden gegeven. Bij een hoge mate van controle over de handelingen van een ambtenaar in een transgouvernmenteel netwerk is er sprake van veelvuldig contact met en monitoring door het forum.

Op basis van een combinatie van de twee dimensies kunnen vier typen verantwoording worden onderscheiden. In dit proefschrift worden deze vier typen verantwoording verder uitgewerkt ten behoeve van de toepassing op transgouvernmentele netwerken.

Bij **administratieve verantwoording** (*bureaucratic accountability*) is de relatie tussen de ambtenaar en het forum gebaseerd op nauwlettend toezicht, de codificatie van regels is krachtig, en de ondergeschikte (ambtenaar) wordt geconfronteerd met interne controlemechanismen. **Bij juridische verantwoording** (*legal accountability*) hebben de ambtenaren meer autonomie dan bij administratieve verantwoording. Dit komt omdat de bron van controle extern is. De focus ligt hier op het nagaan of de ambtenaar handelt in overeenstemming met de verwachtingen van het forum. Bij **professionele verantwoording** (*professional accountability*) vindt de verantwoording plaats tussen *peers* onderling. Relatief losjes geformuleerde professionele normen en standaarden gecombineerd met een hoge mate van autonomie voor de ambtenaar vormen de basis voor deze vorm van verantwoording. Bij **politieke verantwoording** (*political accountability*) heeft de ambtenaar, net als bij

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professionele verantwoording, aanzienlijke autonomie in het uitvoeren van taken. Echter, bij deze vorm moet de ambtenaar verantwoording afleggen aan een extern politiek forum. Denk daarbij aan een parlement of aan gekozen politici die een ministerie aansturen.

In dit onderzoek wordt betoogd dat het type verantwoording verband houdt met de functie en de bestuursstijl van het netwerk. Dit is weergegeven in de onderstaande tabel. De wederzijds gerichte pijlen in de tabel geven aan dat transgouvernmentele netwerken in werkelijkheid zich op een spectrum van verantwoordingstypen begeven. Dit komt doordat transgouvernmentele netwerken ook gemengde functies en bestuursstijlen kunnen hebben. De verwachtingen van dit onderzoek betreffen de situatie waarin bestaande netwerkfuncties en bestuursstijlen dichtbij komen (of idealiter overeenkomen) met de pure functies en bestuursstijlen.

**Tabel 1. Typologie van transgouvernmentele netwerken en verantwoordingstypen**

| | | Degree of autonomy/Source of control | | |
|---|---|---|---|---|
| | | Low/Internal | | High/External |
| | | Information network | Enforcement Network | Harmonization network |
| Degree of authoritative element /control actions — Low | Participant Governed | **Professional accountability** | ↔ | **Political accountability** |
| | Lead Organization Governed | | ✕ | |
| Degree of authoritative element /control actions — High | Network Administrative Governance | **Bureaucratic accountability** | ↔ | **Legal accountability** |

Dit onderzoek is gebaseerd op vier gevalstudies van verschillende transgouvernmentele netwerken. In hoofdstuk 4 wordt aangegeven welke methodologische keuzes er zijn gemaakt. Door middel van participatieve observaties (totaal 11 dagen), interviews (27, duur 18 uur en 54 minuten) en document analyse (786 documenten) is data verzameld over hoe

verantwoording door deze netwerken wordt afgelegd. De casussen zijn geselecteerd op basis van de functie van het netwerk, de bestuursstijl van het netwerk, en het beleidsterrein waarin het netwerk opereert. Deze keuze is gebaseerd op aanwijzingen in de literatuur dat deze drie elementen gerelateerd zijn aan de vorm en inhoud van verantwoording. In dit onderzoek zijn de drie elementen voor het eerst bijeengebracht in een model.

Er is gebruik gemaakt van de maximale variatie steekproef techniek (*maximum variation*). Dit betekent dat eerst geïdentificeerd is welke sleuteldimensies of variaties nodig zijn voor het toetsen van het model. Vervolgens is geïdentificeerd op welke dimensies de casussen onderling zoveel mogelijk kunnen verschillen. In de geselecteerde casussen is de verwachting dat één verantwoordingstype dominant is over de andere verantwoordingstypen. Daarnaast is ervoor gekozen om het onderzoek te concentreren op enkel Nederlandse deelnemers van transgouvernmentele netwerken. Hierdoor kan de invloed van culturele en land-specifieke verschillen uitgesloten worden. Nederland is daarnaast geschikt als subject van onderzoek vanwege het formele proces van ministeriële verantwoording. Nederland heeft een on-doorbroken enkelvoudige constitutionele verantwoordingsketen, waardoor verschuivingen van dit enkelvoudige principe makkelijk empirisch zijn vast te stellen.

In dit proefschrift worden vier verwachtingen getoetst. Elk van deze verwachtingen heeft betrekking op één type transgouvernmenteel netwerk:

1. Indien een transgouvernmenteel netwerk de functie *informatienetwerk* heeft *en* de bestuursstijl *deelnemer bestuur* is dan zal het netwerk professionele verantwoording in de dagelijkse praktijk toepassen (hoofdstuk 5).
2. Indien een transgouvernmenteel netwerk de functie *informatienetwerk* heeft *en* de bestuurstijl *netwerk administratieve organisatie* is, dan zal het netwerk administratieve verantwoording in de dagelijkse praktijk toepassen (hoofdstuk 6).
3. Indien een transgouvernmenteel netwerk de functie *harmonisatienetwerk* heeft *en* de bestuursstijl *deelnemer bestuur* is, dan zal het netwerk politieke verantwoording in de dagelijkse praktijk toepassen (hoofdstuk 7).
4. Indien een transgouvernmenteel netwerk de functie *harmonisatienetwerk* heeft *en* de bestuursstijl *netwerk administratieve organisatie* is, dan zal het netwerk juridische verantwoording in de dagelijkse praktijk toepassen (hoofdstuk 8).

## Bevindingen en bijdragen aan onderzoek

Dit proefschrift levert een aantal verschillende bijdragen aan bestaand onderzoek. Deze bijdragen worden nader besproken in hoofdstuk 9. Ten eerste stelt dit proefschrift vast dat in transgouvernmentele netwerken verschillende typen verantwoording worden toegepast. Hierdoor zijn verantwoordingstekorten in de praktijk vaak minder problematisch dan de literatuur doet vermoeden. Tegelijkertijd hebben, verantwoordingstekorten die wel aanwezig zijn grote consequenties. Ten tweede hebben de bestuursstijl gecombineerd met de functie van

een transgouvernmenteel netwerk een effect op het type verantwoording dat wordt toegepast. De empirische casussen tonen aan dat de theoretische onderbouwing van het ontwikkelde model kloppend zijn. Ten derde laat het zien dat een benadering vanuit het microniveau (de ambtenaar in het netwerk) additionele inzichten biedt in de praktijk van het verantwoording geven. In tegenstelling tot theoretische verwachtingen zoeken ambtenaren uit zichzelf ook verantwoordingstrajecten op. Door het perspectief te leggen bij de ambtenaren in de netwerken is vast komen te staan dat ambtenaren tegelijkertijd geconfronteerd worden met verschillende verantwoordingslijnen.

In drie van de vier casussen is het verwachte verantwoordingtype inderdaad geïdentificeerd. In één casus, te weten het deelnemers bestuurde harmonisatie netwerk, vonden we meerdere vormen van verantwoording. Op basis van het ontwikkelde model zou hier politieke verantwoording dominant moeten zijn, dit bleek echter niet het geval. Hoewel dit laat zien dat het lastig is om aandacht van de politiek leidinggevende te krijgen voor het functioneren van een netwerk, is het te kort door de bocht om te stellen dat alle transgouvernmentele netwerken leiden aan een verantwoordingstekort. De toepassing van de verschillende verantwoordingstypen moet niet worden genegeerd. Dit onderzoek adviseert om de variëteit aan transgouvernmentele netwerken met betrekking tot functie en bestuursstijl, mee te nemen in discussies over verantwoording in transgouvernmentele netwerken. Dit proefschrift laat zien dat de combinatie van functie en bestuursstijl effect heeft op de relatie tussen de ambtenaar en het forum waaraan deze verantwoording geven.

# About the author

Daniëlle van Osch (April 19th 1988, 's-Hertogenbosch) attended pre-university education at the *Jeroen Bosch College* in 's-Hertogenbosch. She holds a bachelor's degree in Public Administration from the Radboud University in Nijmegen. She subsequently obtained a master's degree in Public Administration and a master's degree in History from Leiden University. After this she has worked as a lecturer for Public Administration at Leiden University before starting her PhD research in September 2015. Throughout her PhD she was engaged in courses on the European Union, international administration, public policy, multi-level governance and has supervised students writing their master thesis. She has participated and presented her work in a number of international conferences such as The Academic Research Network on EU Agencies & Institutional Innovation (TARN), the annual conference of the European Group of Public Administration (EGPA), European Consortium for Political Research (ECPR), and the annual conference of the Netherlands Institute of Government (NIG). During her PhD, Daniëlle was a board member of the PhD Candidates Network of the Netherlands (PNN) between October 2015 and June 2017. Additionally, she was a policy officer for the European Council of Doctoral Candidates and Junior Researchers (EURODOC) between April 2016 and April 2017. Currently, she works as a researcher on European Union policy at the Netherlands Court of Audit (*Algemene Rekenkamer*).

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