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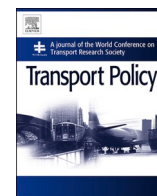
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A multi-level governance response to the Covid-19 crisis in public transport

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ABSTRACT

This paper examines the Dutch policy reaction to the financial crisis in the public transport sector caused by Covid-19. Using the multi-level governance theory complemented with the notion of informal governance, the analysis explains the decision-making that defined a State-aid scheme to public transport operators following a process of consultation and concertation between state and non-state actors across governance tiers. To agree on a financial rescue package, these actors engage in front-stage and back-stage political interactions, constrained and enabled by formal and informal governance structures and practices. By analyzing how the interplay between the political mobilization of actors, policy-making arrangements, and existing polity structures shapes political alignment around the financial support scheme, the paper concludes that the crisis did not change customary governance and policy-making practices. Stakeholders sought their usual partners and followed existing routines in path-dependent ways to address the policy challenge brought by Covid-19. Despite being triggered by a major exogenous shock, the policy response to the crisis was driven mainly by endogenous forces; the decision-making mechanism remained the same and the network of actors did not shrink or expand.

1. Introduction

The immensely disruptive character of the Covid-19 pandemic has brought society and the public transport sector (hereafter PT)¹ to a near complete halt. The uncertainties surrounding the potential risk of virus transmission on PT led many governments to recommend citizens to avoid using collective modes of transportation. Paradoxically, PT also emerged as a vital service to allow the transportation of essential workers, such as healthcare staff, to their job location, thus being crucial to the basic functioning of cities and countries.

In the Netherlands, this challenge was present from the outset of the crisis. In March 2020 the national government determined that people should avoid using PT unless strictly necessary. At the same time, operators were requested to continue providing sufficient levels of services to ensure that those without access to alternative means of transportation, especially crucial workers, would be able to travel. The combination of a major decline in ridership and ticket revenues, and the need to provide normal services, put Dutch PT under unprecedented financial and operational strain, requiring urgent policy responses lest the system could collapse.

How can PT systems react to such a complex, urgent, and unpredictable policy problem? Following up on other literature exploring the

impact of Covid-19 on PT policy (Vickerman, 2021; Zhang et al., 2021), this paper takes the current crisis as a call to enhance the existing empirical knowledge on instances of policy-making carried-out in response to global policy challenges. The empirical focus lies on the response to the financial crisis faced by the Dutch PT sector due to the outbreak of Covid-19. The aim is to scrutinize the decision-making process that led to the definition of a State-aid scheme to support operators. Ultimately, the goal is to draw lessons to assist better policy responses to unruly global policy problems.

To this end, the paper develops a within-case qualitative analysis and builds on the multi-level governance theory (hereafter MLG) as an analytical tool able to recognize multi-actor dispersed policy-making performed within and across politico-administrative institutions in diverse territorial levels (Stephenson, 2013). For this analysis, MLG is complemented using the notion of informal governance, as developed in European studies (Christiansen et al., 2003; van Tatenhove et al., 2006).

The paper is structured as follows. Section 2 introduces the analytical toolkit informing the analysis. Section 3 presents methods and materials. Sections 4 and 5 describe the multi-level governance structure of Dutch PT and the main events connected to the crisis respectively. Sections 6 and 7 bring an in-depth investigation of the decision-making process defining the Dutch State-aid scheme and reflect on findings vis-à-vis the

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¹ Public transport refers here to all collective modes of regional and long-distance land passenger transportation available to users on a non-discretionary basis and provided by public or private operators.

paper's analytical framework. Conclusions follow.

2. Analytical approach

This section introduces the main tenets of the MLG theory and how it is employed in the paper. Afterwards, it presents the notion of informal governance.

2.1. Multi-level governance

As a theoretical approach, MLG emerged in the 1990s to explain new patterns of decision-making dynamics in the European Union (EU), highlighting the dispersed policy-making activity performed jointly by diverse state and non-state actors within and across politico-administrative institutions in diverse territorial levels (Marks, 1993; Stephenson, 2013).

According to Hooghe and Marks (2001), MLG systems have three defining characteristics. First, that decision-making is shared by actors organized at different territorial levels rather than monopolized by national governments. Second, collective decision-making amongst EU states involves a significant loss of control for individual national governments. Third, political arenas are inter-connected, both formally and informally, rather than nested; sub-national and non-state actors, operating in different networks and across national and supra-national arenas, challenge the policy-making 'gate-keeping' capacity of national executives.

Complementing this, Bache and Flinders (2004) explain that MLG theory sheds light on two important dynamics occurring simultaneously at vertical and horizontal dimensions of policy-making. The 'multi-level' refers to the increased vertical interdependence of actors operating at different territorial levels, beyond the national state. This includes actors above the state – such as the EU and international multilateral agencies – that can influence domestic policy-making, as well as the subnational actors empowered by increasing political devolution within the domestic arena. The second dynamic, 'governance', refers to the growing horizontal interdependence between governments and non-governmental actors via policy-making through complex networks. It indicates "... the increased participation of non-governmental actors in public policy-making and delivery. The term is used to imply an appreciation of an increasingly complex state-society relationship in which network actors are prominent in policy-making and the state's primary role is policy co-ordination rather than direct policy control." (Bache and Flinders, 2004, p. 35).

From a normative perspective, thus, MLG systems can be seen as a superior political alternative to provide policy solutions for challenges that span across multiple territorial levels and thus demand the involvement of different levels of governance (Bache et al., 2016). Problem-solving in MLG involves collaborative decision making characterized by actors concentrating on joint production, common interests, and creating value to solve the policy problem, and not only pursuing their own narrow political agenda (Thomann et al., 2019). Consequently, by relying on negotiated, non-hierarchical exchanges between actors, the political power and institutional capability in MLG systems are linked to a capacity to wield and coordinate resources and align interests from public and private actors (Peters and Pierre, 2001).

As an analytical tool, MLG's most significant contribution comes from Hooghe and Marks (2003). The authors conceptualize two distinct ideal-types of multi-level governance to explain how MLG systems redefine the state's institutional structures. Type I bundles competencies in multi-task general-purpose jurisdictions at a limited number of territorial levels. These jurisdictions are mutually exclusive at each territorial level, and the units at each level are nested within those at the next higher level in a setting that is intended to be durable. Type II, in turn, organizes public good provision into several specialized, task-driven jurisdictions designed to address a limited set of related problems. Type II jurisdictions are thus more flexible and with a tendency to be less

durable.

Despite MLG's influence on political sciences literature and the impact brought by the typology from Hooghe and Marks, controversy remains in relation to MLG's explanatory power to account for policy processes and outcomes, or actor complexity (Piattoni, 2010; Stephenson, 2013). In this view, MLG became a catch-all concept with limited analytical value (Alcantara et al., 2016), offering little more than a proto-concept or governing metaphor (Bache et al., 2016). In particular, MLG is understood as unable to define the boundaries of governance and distinguish between engagement and influence (Bache, 2008), or to clarify causal relations to specify which actors, at which levels, will be causally important (Blom-Hansen, 2005). Furthermore, since much contemporary MLG scholarship has explored and developed the 'two types' distinction (Bache et al., 2016), this lead to a narrow focus on the reconfiguration of state polity structures in the delivery of public services leaving aside issues of informal governance that are also relevant for policy-making (van Tatenhove et al., 2006).

In light of these limitations, Alcantara et al. (2016) propose that to explain policy outcomes in MLG systems it is important to approach the theory as more than a means of understanding how government systems are structured – i.e., as a system where governments can play both Type I and Type II roles; MLG is also a framework to analyze distinct policy-making episodes and how the characteristics of the governance system determine the particular instances when policy decisions come about. In other words, to understand and explain outputs of any MLG system of governance it is necessary to examine both the vertical distribution of power and agency of diverse actors between spatial scales and the horizontal negotiated arrangements in policy-making carried-out through networks (Bache and Flinders, 2004; Peters and Pierre, 2001).

To implement this more bounded understanding of MLG as instances of multilevel policy-making defined by a particular configuration of actors, scale and decision-making process (Alcantara et al., 2016) - and thus identify and examine the particular vertical and horizontal linkages at play in the definition of a PT State-aid scheme in The Netherlands - this paper's analysis is structured using Piattoni's (2010, 2009) work as an entry point. Following the author's framework, the discussion is organized across a tripartite view of MLG, as a theory addressing phenomena taking place at three different analytical levels: that of political mobilization (politics) – focusing on how non-national state authorities and non-governmental organizations also play important roles in daily politics bypassing the 'gate-keeping' capacity from the central state; that of policy-making arrangements (policy) – observing how actors form policy networks to produce authoritative decisions via diverse decision-making arrangements and policy instruments; and that of state structures (polity) – concentrating on transformations of formal governance structures.

2.2. Informal governance

To enhance the proposed MLG analysis, the paper draws on concepts and vocabulary from informal governance theory.

Governance can be broadly conceptualized as the steering and co-ordination of interdependent (usually collective) actors based on institutionalized rule systems (Treib et al., 2007). Accordingly, the notion of informal governance attempts to refine the understanding of the informal institutionalized interactions aimed at securing coordination amongst actors in multi-level governance settings.

Christiansen et al. (2003) define informal governance as those interactions among policymakers that are not yet or cannot be codified and enforced (either because enforcement is technically impossible or because it is politically unwise). Similarly, and drawing on institutional theories and governance approaches, van Tatenhof et al. (2006) define informal governance as non-codified settings of day-to-day interactions concerning policy issues in which the participation of actors, the formation of coalitions, the processes of agenda setting and (preliminary)

decision making are not structured by pre-given sets of rules or formal institutions. Thus, policy-making in a setting of multi-level governance is the outcome of the interplay of formal and informal practices.

Additionally, van Tatenhof et al. (2006) suggest that the formal and informal interactions can be either front-stage or back-stage. The first type refers to policy-making processes that follow rule-directed arrangements, observing both codified rules as treaties, and a wide variety of rules that are generally accepted, but have not been formally laid down. Back-stage politics, instead, concerns settings in which the roles of actors and the rules of the game are not given beforehand, nor structured by rules and norms of existing institutions.

The result of these distinctions is a classification of staging governance practices (Table 1). Formal front-stage behavior refers to simple adherence to existing sanctioned rules. Cooperative informal behavior at front stage works to ease an institutionally complex solution or agreement and hence act as lubricant; actors embedded in formal arrangements and practices may have developed routines to deal with matters in ways that are not formally approved or accepted to facilitate formal processes of agenda setting, decision making or implementation. When the orientation is conflictual, actors raise a critical voice to change undesirable developments ongoing within formal practices, the specific substance of policies or the proper application of existing rules. At the back stage, formal cooperation constitutes an experimental garden for new rules, i.e. these are practices initiated and authorized by formal institutions but at the same time experiment changes to rules that can eventually become formalised. Finally, back-stage informal behavior concerns those actors that deliberately seek to circumvent existing rules and institutions not by way of experiment, but avoiding formal routes that do not function to their satisfaction.

3. Methods and materials

Case studies are especially suitable when the phenomenon being analyzed is highly context-dependent – and characteristics such as specific political actors, their relationships, the formal regulatory framework and informal institutions have a pivotal influence on the way policy-making processes unfold (Flyvbjerg, 2006; George and Bennett, 2005). Therefore, the paper’s use of an in-depth within-case qualitative analysis is consistent with the objective of scrutinizing the decision-making process leading to the creation of the Dutch State-aid scheme to PT.

Due to specific institutional features of the Dutch PT that, combined, distinguish the sector from that of neighboring EU countries, The Netherlands can be considered a paradigmatic case, representing a reference point (Flyvbjerg, 2006). These features are hypothesised as key factors shaping the Dutch response to the crisis and justify case selection. First, the responsibilities for funding and planning PT are fragmented across government levels: whilst the bulk of funding is provided by the national government, planning responsibility has been regionalized to provinces or metropolitan agencies. Second, most concession contracts in the country allocate revenue risks to operators (so-called net-cost contracts), therefore it is the operators who suffer with the loss

Table 1
The staging of practices in formal and informal settings (van Tatenhove et al., 2006).

Setting	Formal	Informal
Front-stage (pre-given rules)	Formally sanctioned and codified rules and procedures.	Rules and procedures commonly agreed upon and accepted by actors. <ul style="list-style-type: none"> • Lubricant • Critical voice
Back-stage (no pre-given rules)	Rules and practices authorized by formal institutions, but with a ‘rule-altering’ nature. <ul style="list-style-type: none"> • Experimental garden 	Alternative routes outside and beyond existing rules and institutions. <ul style="list-style-type: none"> • Circumventing

of ticket revenue. Consequently, this affects state and non-state actors in The Netherlands and abroad - both local publicly-owned operators and private operators which are subsidiary of international companies are impacted by the crisis, adding another multi-level dynamic to the policy process. Third, as further explained in Section 4, some of the Dutch regional PT authorities (hereafter PTAs) are province governments whereas others are task-specific metropolitan authorities, i.e. the planning of PT in different regions is conducted both by multi-level governance ideal Type I and II PTAs. Fourth, another multi-level factor is the involvement of the EU, since it must approve any State aid program in member-states. Case selection also took into account practical considerations, mainly the direct access to primary sources of information. This is particularly important since the study involves a time-sensitive issue; if developed only based on desk research or too long after the decision-making process took place, the paper would not be able to gather the same wealth of detailed evidence.

The analysis was focused on events taking place between March and December 2020, and builds upon multiple data sources. First, data was collected in fourteen qualitative interviews conducted with key actors directly involved in the negotiations defining the State-aid scheme – some of which were interviewed twice (see Table 2). Interviewees were identified and selected through a mix of sampling based on actor types (to ensure representativeness in terms of actor types to guarantee representativeness in terms of perspectives) and snowball sampling (based on references from interviewees). Initially the aim was to contact all stakeholders participating in the board meetings of the National Public Transport Council (further explained in Section 6), a body that involves representatives from all main PT stakeholders in The Netherlands, and that was a central actor in these negotiations. In those cases in which a particular individual identified as a relevant interviewee was not available, s/he was asked to suggest others that could contribute considering the scope of the research.

The interviews followed a common protocol consisting of open-ended questions to clarify (i) key challenges during the period investigated; (ii) main stakeholders and their role in the decision-making process; (iii) how stakeholders’ interactions were organized; and (iv) main points of consensus and dissent in discussions. All interviews started by asking interviewees to freely narrate the main events and challenges since March 2020. The aim was to allow interviewees talk on the subject rather than just answering to questions and, as such, obtain their insiders’ perspectives (Beebe, 2001). Conversations were recorded and transcribed (*non verbatim*). In case of inconsistencies or unclear information across interviews, follow up questions were sent by email to interviewees. Case investigation was complemented with data obtained from desk-research of policy documents, public correspondences, and articles from media outlets. Data from these multiple sources were

Table 2
List of interviews.

Interviewee	Affiliation	Interview dates
I1	Ministry of Infrastructure and Waterways	December
I2	Dutch National Rail Company	November
I3	PTA in the Amsterdam region	October
I4	PTA in the Amsterdam region	September and December
I5	PTA in Groningen-Drenthe region	September and December
I6	Operator in the Amsterdam region	September and December
I7	Operator in Groningen-Drenthe region	September and December
I8	DOVA (cooperation between PTAs) ^a	November
I9	OV-NL (cooperation between operators) ^a	November
I10	Politician – province level	November

^a Section 6 details these actors’ roles and responsibilities.

triangulated to improve the accuracy of the findings.

4. The multi-level organizational of Dutch public transport

In the Netherlands PT is organized and managed in a distributed manner, in a MLG system, whereby responsibility for different aspects of the mobility system rest with different actors across multiple tiers.

The Dutch politico-administrative structure is based on three levels of government: national, that of provinces, and municipal. The authority for PT policy-making rests with the national government, currently being assigned to the Ministry of Infrastructure and Waterways (hereafter MI&W). The national government, also through the MI&W, is the main source of subsidies to the sector, providing earmarked funds that are used for operational costs and small infrastructure projects. These funds are channeled to operators via PTAs. In addition, the MI&W is responsible for the organization of heavy rail services: these services are awarded to the Dutch National Rail Company (hereafter NS), that plans and operates intercity and regional trains. The Ministry of Finance (hereafter MF) is a major shareholder in NS.

The national government was also responsible for the planning of all PT services until 2001, when a new Law on Passenger Transport was enacted and, amongst other changes, decentralized PT planning and allocated this responsibility to PTAs. Currently, there are fourteen such PTAs, twelve of which are province governments and two other are task-specific metropolitan authorities. These PTAs award concession contracts to operators, public and private, that hold exclusive rights to offer PT services in their respective concession areas. These concessions are competitively tendered, as determined by EU regulation (EC) 1370/2007 on public passenger transport services by rail and by road, as internalized in the Dutch legislation. However, regulations also allow for exceptions to this rule, and the concession contracts of municipally-owned operators in Amsterdam, The Hague, and Rotterdam are directly awarded without competition. Other concessions are currently operated by subsidiaries of foreign companies. Most Dutch concession contracts, fifty-one in total at the time of writing, are primarily net-cost, so that the commercial risk connected to ticket revenue fluctuation rests mainly with operators.

In addition to this national structure, supranational regulations from the European Union apply to Dutch PT. Particularly relevant for the current analysis are the already mentioned Regulation (EC) 1370/2007 and the Treaty on the Functioning of the European Union. The latter provides for the rules according to which The European Commission oversees and approves any State-funded aid schemes created to compensate specific companies or sectors for the damage suffered due to exceptional occurrences.

Fig. 1 illustrates this structure.

5. The crisis and the policy response in brief

On March 12, 2020 the Dutch prime-minister announced measures to try and halt the spread of Covid-19. In addition to the closure of schools and of the hospitality sector, national government advised people to work from home and stay in as much as possible. People were also told to avoid using PT unless strictly necessary (this recommendation was in place until July, lifted until November, and then in place again until the end of 2020).

Following the adoption of these measures, PT demand has rapidly declined. On 16 March, i.e. the start of the first working week after the measures had been announced, passenger numbers dropped by 74% compared to 2019 (considering the number of passenger check-ins in the system). In the case of long-distance services, NS saw demand reaching its lowest level in week 14 of 2020, when it fell to 9% of 2019 levels. Between March and May, overall demand for PT reached levels between 80 and 90% lower than 2019 (European Commission, 2020). By the end of 2020, NS, the major operator in the country, saw a decline of 42% in ticket revenues that added to the loss of revenues from the operation of

stations led to a record year loss of 2.6 billion Euro (Nederlandse Spoorwegen, 2020).

Despite the recommendation to avoid PT, the Dutch government indicated to PTAs and operators that normal service supply levels should be kept. The continued provision of PT was deemed essential, not only for people working in vital economic sectors (health care, police, food chain, etc.), but also for people dependent on PT for their mobility needs. Additionally, having enough frequency of services would allow more space for passengers to travel keeping safe distance from each other.

That situation was financially unsustainable. By then, the 2020 estimated deficit was of between EUR 550 to 750 million in regional PT and between EUR 750 million to 1 billion in the national rail network (European Commission, 2020). Operators and PTAs approached the national government to claim for financial support and negotiations involving operators (in municipal and regional concessions), NS, PTAs, and two ministries, the MI&W and the MF, started.

On 5 June a first political commitment was reached and presented to the Dutch Parliament.² In addition to maintaining the normal payment of subsidies, the national government promised to pay operators a so-called availability fee (“Beschikbaarheidsvergoeding”) to compensate losses in ticket revenues, ensuring that 93–95% of operators’ costs between March 31 and December 31, 2020 were covered. Operators accepted bearing the remaining 5–7% loss.

Despite this high level agreement, negotiations between PT stakeholders continued. It was still necessary to define how to operationalize the availability fee, i.e. define the precise amounts to be paid and to whom. This second stage of negotiations involved a two-fold debate, one within the Netherlands and the other at the supranational level.

On the national level, it was necessary to agree on how to assess operators’ costs to define the amount due to each of them. Setting a standard way to measure costs and having all operators to open their books to reveal their accounting was challenging. One additional complexity was to deal in a uniform way with the differences between the fifty-one concession contracts in the country – each with varying risk allocation and remuneration rules. On the European level, the EU Commission must assess State-aid granted by Member States to compensate specific companies or specific sectors for the damages caused by exceptional occurrences. It was the MI&W that conducted talks with the Commission.

It was only in October 2020 that a final decision was reached, and national regulation was issued formalizing the payment mechanism of the availability fee (Regulation no. IENW/BSK-2020/201912 of the State Secretary for Infrastructure and Water Management). The aid takes the form of direct grants funded by the State budget. The PTAs would have to apply for a payment to the MI&W. The concession grantors were responsible for determining how to provide the availability fee to the operators, either via a separate subsidy scheme (in addition to the subsidy scheme that some concession providers already have) or via an amendment to the concession. The overall support package amounts to approximately EUR 1550 million. At the EU level, the EU Commission approved the Scheme soon after (European Commission, 2020).

6. The multi-level governance of the crisis

This section explains the decision-making process resulting in the availability fee. The analysis is organized across the three dimensions of MLG – policy-making, politics, and polity.

² Letter from the State Secretary of Infrastructure and Waterways to the Dutch Parliament. Available at https://www.tweedekamer.nl/kamerstukken/brieven_regering/detail?id=2020Z10292&did=2020D22323. Last accessed on 20-04-2021.

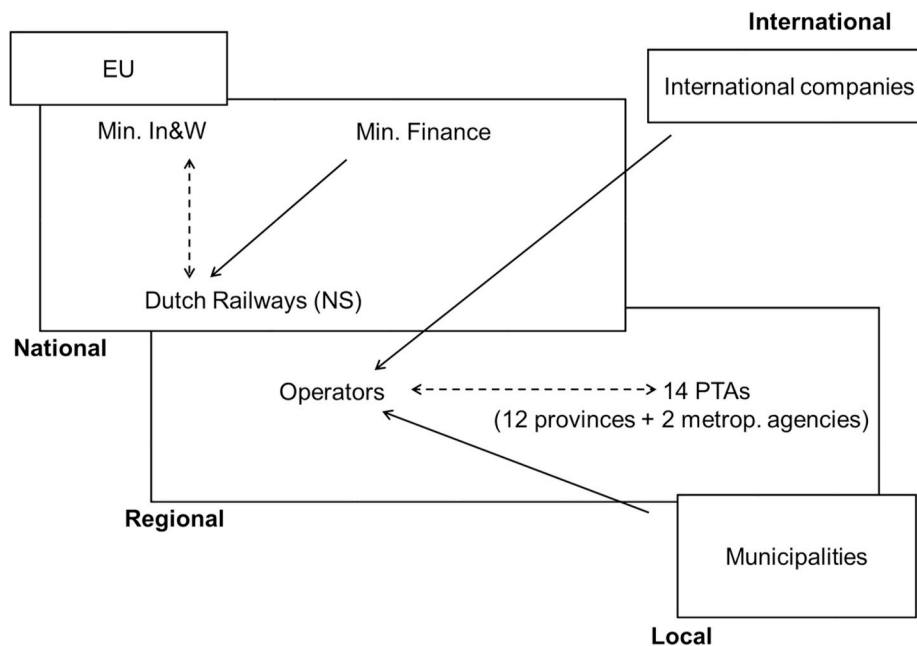


Fig. 1. Multi-level governance of Dutch PT (full lines indicate ownership relation and dashed lines indicate concession contracts).

6.1. Decision-making arrangements

Alongside the formal governance structures of PT described in Section 4, some informal decision-making arrangements were key to define the Dutch State-aid to PT.

The National Public Transport Council (NOV-B in the Dutch acronym) is an informal cooperation platform where PT stakeholders meet for consultations, to exchange views, and to seek agreements. It was initially devised for discussions involving payment methods, but over time the range of topics expanded to include other aspects of PT planning and operations. NOV-B's board includes representatives from the MI&W (chair), from operators (NS and operators from main cities and rural areas), and PTAs (representatives from province governments and from metropolitan regions). It is the only forum where all main Dutch PT stakeholders meet to deliberate (although it should be noted that passengers have no participation).

NOV-B has not always been very active (at some point it was about to stop existing), but early in the Covid-19 crisis, it became a central decision-making forum. The choice to use NOV-B as a decision-making forum was natural according to interviewees, even if the entity has no statutory character and decisions have no binding power. "It was a lucky coincidence that we had NOV-B as an option already available." said interviewee I3, whereas interviewee I2 suggested that "it just made sense" to meet there. NOV-B's board established working groups to deal with Covid-19, one of them dedicated to the financial dimension of the crisis. In one of its initial collective outputs, the board sent a correspondence to the MI&W formally expressing the need for financial support to operators.³

Two other informal cooperation platforms of national scope supported NOV-B meetings: the cooperation between PTAs (DOVA in the Dutch acronym), gathering representatives from the fourteen PTAs, and the Industry Association Public Transport Netherlands (OV-NL in the Dutch acronym), gathering representatives from all PT operators in the country. Both DOVA and OV-NL serve as *fora* for discussions and

³ Letter from the Members of the National Public Transport Council to the State Secretary of Infrastructure and Waterways. Available at <https://www.ov-nl.nl/wp-content/uploads/sites/5/2020/05/Randvoorwaardelijke-adviezen-voor-verantwoorde-opstapeling-OV-.pdf>. Last accessed on 20-04-2021.

deliberations where members regularly meet to exchange views and agree on common positions regarding diverse topics in PT planning and provision. They work essentially as representation groups, having a coordinative role – and, in the case of OV-NL, also lobbying.

DOVA and OV-NL supported NOV-B and participated in its working group providing information about the crisis 'on the ground' and participating in deliberations. In addition, the two platforms continued to work as coordinative *fora* keeping their respective members in constant contact to agree on unified positions to be then discussed at NOV-B. In fact, as confirmed by interviewees I8 and I10, agenda-setting for NOV-B's meetings would rely on daily contact between the chairmen of DOVA and OV-NL and one representative from MI&W.

These cooperation platforms work as MLG policy networks involving state and non-state actors allowing for new and informal decision-making arrangements (Piattoni, 2010). Fig. 2 complements Fig. 1 with the addition of these three platforms.

6.2. Actors' political mobilization

As indicated above, the mobilization of actors in the decision-making of the availability fee occurred mainly within and through informal platforms that served to build consensus. However, important problem-solving initiatives outside these informal channels (and outside formal frameworks too) supported collective coordination during the crisis.

One important example is the role played by the MI&W, undertaking multiple tasks in different fronts throughout the negotiation period. At NOV-B, the MI&W acted mainly in the role of arm of the national government, thus with a concern with the amount of public budget that could be spent on supporting PT. This led to a cautious posture with careful analysis of the request from PTAs and operators. At the same time the MI&W was responsible the interaction with the MF, who would be the ministry actually disbursing national funds. In this task, the MI&W would have to adopt a different approach and convey the message and desires of PTAs and operators to the MF explaining the dimension of the crisis. This involved helping the MF to familiarize with the specifics of the workings in the sector. Interviewees highlighted some hurdles in the negotiation due to the lack of knowledge of the MF in relation to the business and contractual practices in PT. The intermediation and 'translation' by the MI&W, always with support from PTAs and operators, was important to help bridging gaps in several

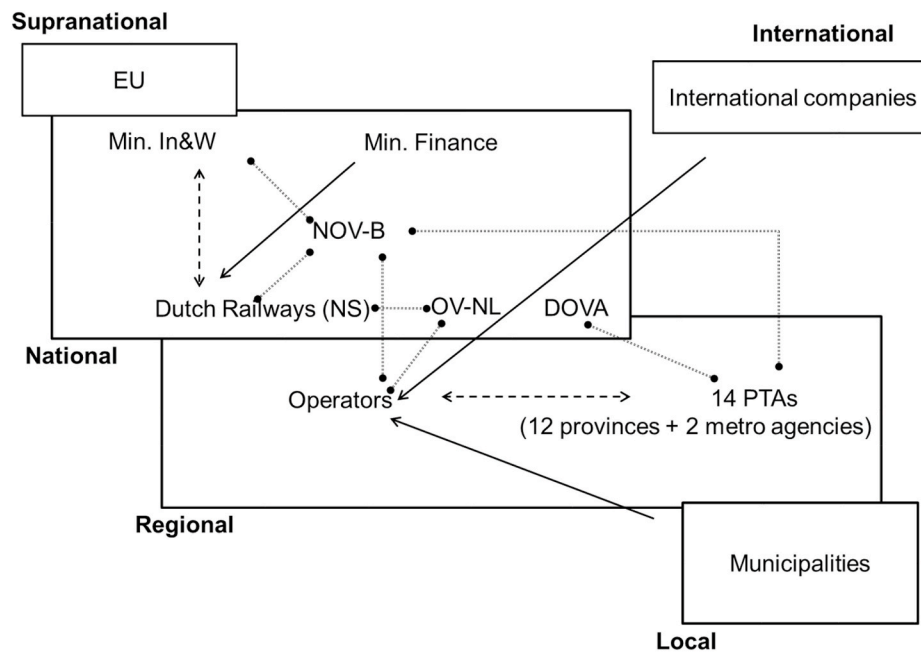


Fig. 2. Multi-level governance of Dutch PT including cooperation platforms (full lines indicate ownership relation; dashed lines indicate concession contracts; dashed lines with round cap indicate membership).

moments.

The MI&W also worked to facilitate an agreement by activating resources that could be helpful. They have invited the chairman from OV-NL to join NOV-B’s board meetings, despite him not having a regular seat. That individual has a long career in the Dutch PT sector and maintains good relations with diverse stakeholders. This allowed him to develop a coordinative role during negotiations. Representatives of the MF were also occasionally invited to attend NOV-B meetings despite not having a regular seat.

Overall, thus, the diverse roles taken by the MI&W illustrate relevant MLG dynamics: the increased vertical interdependence of actors operating at different territorial levels and, mainly, the state’s primary role in policy coordination rather than direct policy control (Bache and Flinders, 2004).

Another important political move concerned the mobilization of PTAs that sought different partnerships at different moments. Interviewee I10 recognized that PTAs joined moving coalitions, indicating that they would ally with operators to “try and get as much money as possible from the national government.” On the other hand, PTAs would partner with the national government as defenders of the national interest – for example to make sure that operators that are subsidiary of foreign companies would not send funds from the availability fee back to their foreign shareholders.

Finally, other individuals played important roles during negotiations. In addition to the chairman of OV-NL, DOVA’s chairman played a coordinative function within and across PTAs. Furthermore, both worked well together: “The cooperation between DOVA and OV-NL has been good. The chairmen have been working well together.” emphasized interviewee I5. This work required these actors to be active outside the NOV-B context. It involved other informal decision-making routines with frequent communication via phone or Whatsapp groups with CEOs of operators, heads of PTAs, the Secretary of State in the MI&W, and members of the several NOV-B’s working groups.

The alderwoman for transport in Amsterdam is also frequently cited as a key player. Besides her role within the municipality, she has a place at the two main governing bodies of the region’s PTA, the council and the daily board. Importantly, she is also the member of NOV-B board representing PTAs of metropolitan regions (Amsterdam and Rotterdam-The Hague). In addition to the participation via these formal roles, she

has also worked to promote an agreement through other channels. Being a former member of the Parliament and former Ministry of State, “She knows her ways in The Hague and called the Prime Minister directly to help make things happen” said interviewee I4. In addition to an understanding of the political context, interviewees also identified other skills: “The State Secretary in the Ministry of Infrastructure and Waterways is in a difficult position. She has some leadership as chair in NOV-B, but also must go to Parliament to present solutions, and must negotiate with the Ministry of Finance. The alderman for transport in Amsterdam realized the difficult position of the State Secretary, so she was giving time to the ministry, avoiding conflict” reminds interviewee I3.

The mobilization of actors was not free of conflicts though. Many interviewees were not satisfied with the slow pace of negotiations, especially during the decision-making of how to operationalize the availability fee, between May and October. Interviewee I2 pointed out that “Sometimes the Ministry was taking too long to make decisions. They followed a pace different from our business pace as operators.” Interviewee I9 said that “The discussion to operationalize payments was very difficult. Issues of trust became a bit of a question. Do we really trust each other? It was a lot of money and sometimes a bit less harmony.” It became clear that the fact that the two ministries held the decision power on available State funds helped limiting the extent of these controversies and debates – this enabling role provided by formal positions is discussed below.

6.3. Polity structures

The formal frameworks of Dutch PT (described in Section 4) are also relevant to explain the dynamics of the decision-making process of the availability fee, ultimately influencing the final policy outcome.

A first factor is the enabling role played by the formal position that actors have in existing structures (Battilana, 2006). It is plausible to consider that the MI&W naturally took the role of network manager described above given its formal position within the governance structure of PT – it is the main responsible for policy-making. It eventually had a broad organizational role in domestic discussions and conducted the formal process with the EU Commission too. The formal positions held by those individuals mentioned to have offered key contributions to

the development of negotiations was also important to allow them exercise their convening and negotiation skills, i.e. their positions as chairmen or alderwoman represent enabling conditions, giving them more agency.

The formal separation between the responsibilities for funding and planning PT (national and regional roles respectively) led to important differences in the way the MI&W and PTAs saw the crisis and sought for solutions. PTAs are much closer to the actual operation of PT and thus more knowledgeable about the ways in which the crisis impacts operations and concession contracts. At the same time, PTAs are dependent on funds from the MI&W, having less agency and power to act to directly solve the crisis. Thus the formal MLG dynamics of PT, i.e. the diffused distribution of political power across territorial levels and actors (Stephenson, 2013) helps explaining the coalition between PTAs and operators mentioned above.

Another influencing factor was the market structure of Dutch PT. Interviewees I3, I8, and I9 mentioned that the relatively small number of stakeholders (especially PTAs and operators) involved in the decision process made it easier for participants to reach consensus. “It is only very few companies, so all CEOs know each other and even like each other, it is easier to talk in a small group.” Said interviewee I9.

On the other hand, the contract type (concerning risk allocation) did not seem to be decisive in shaping the decision process or the policy outcome, differently than hypothesized in Section 3. To treat all operators equally and to facilitate the task for the MF in organizing all State grants, stakeholders agreed to deal with all concession contracts in the country as if they were net-cost in 2020, allocating the ticket revenue risks in that year to operators. This solution allowed defining payments within a single systematic across all concessions and as such different contract types only required practical accounting considerations connected to payment flows. In addition, the investigation of the definition of the availability fee does not show any evidence that the coexistence of Type I and Type II multi-level governance systems in the way PTAs are organized to deliver their services influenced the decision process or the policy outcome.

7. The front and back-stage politics of the availability fee

This section links MLG and informal governance. The typology of staging of practices in formal and informal settings defined by van Tatenhof et al. (2006) can be used to review the findings and analyses from Sections 6.1–6.3 and clarify the interplay of factors driving the Dutch policy response to the financial crisis in PT.

The interaction between the MI&W and the EU Commission for the approval of the State-aid scheme was plainly front-stage and formal. It followed EU formal sanctioned and codified rules. Likewise, the bilateral discussions between MI&W and the MF could also be included in this category, since they consist of practices that are performed according and due to the formal roles and powers of these bodies. These interactions are *law-abiding business as usual* practices, following pre-determined codified roles and rules.

Differently, the overall decision-making arrangement with a prominent role for *cooperation platforms* illustrates front-stage informal interaction whereby policy-making and decision-making are based on rules that are commonly agreed upon and accepted by the actors involved. The Dutch governance and policy-making practice has a longstanding and well-documented culture and tradition of multi-actor decision-making based on cooperation, consensus building, and democratic self-rule – the so-called “polder model” (Zonneveld and Evers, 2014). Governance has almost always been a matter of deliberation, persuasion and compromise in networks of interested actors (both private and public, individual and collective) who seek new ways of attaining common goals and enforce agreed-upon solutions.

This tradition of setting up cooperation platforms to work alongside formal governance structures helps explaining why the use of NOV–B and further recourse to DOVA and OV–NL were immediate and logical

responses to deal with the Covid-19 crisis. In their accounts, several interviewees recognized this as a routine approach: “This is how we do things in The Netherlands” or “You know, we are in The Netherlands, we set up a platform and discuss until we reach consensus” and “In The Netherlands we all think we are the boss, just voting would not work”. Given their cooperative character and ambition, these *cooperation platforms* work similarly as the category of lubricant defined by van Tatenhof et al. (2006), easing an institutionally complex solution without antagonizing formal rules, but instead, complementing them.

In another category, PTAs and their *moving coalitions* characterize informal back-stage politics across jurisdictional levels and with state and non-state actors. There are no pre-given formal rules regulating these interactions, and actors deliberately seek alternative routes outside and beyond existing rules and institutions. The actions of the chairmen of DOVA and OV–NL, as well as those of the alderwoman for transport in Amsterdam, acting as *bridge-builders* to help consensus fit this ideal-type. Equivalently, by deciding to invite specific actors to join NOV–B meetings, the MI&W also acted outside existing formal and informal rules or pre-established script to *activate resources* useful for consensus-building. Strategically engaging with existing formal and informal structures, and in interactions characteristic of MLG systems, these actors travelled across and linked state and non-state actors in different governmental levels and distinct policy networks. They wielded influence to coordinate resources and align interests of public and private actors to enable collective problem-solving (Peters and Pierre, 2001; Thomann et al., 2019).

Table 3 summarizes these roles and practices.

This classification of interactions suggests some additional important reflections. First, none of the behaviors examined here fit the category of experimental garden, suggesting that overall stakeholders did not find room for or were not interested in attempting new governance strategies or policy-making practices. This suggests that in critical and urgent situations players tend to look for known allies, routines, and recipes. The exogenous shock of Covid-19 did not trigger major change, at least in the immediate short-term policy response. Players sought their usual partners and followed existing routines that were readily available, recognized, and accepted as legitimate.

Second, the categorization observes only cooperative behavior and no antagonistic interactions. This may appear unreasonable in real life political processes, but the evidence collected does point in this direction. Whilst recognizing some hurdles (mentioned in Section 6.2), interviewees were overall satisfied with the way negotiations unfolded and with the outcome. “The cooperation with government was not always easy, even if we all had a cooperative mind-set. It is a lot of money and we had to cross the bridge while building it. In this process of cooperation, we sometimes didn’t share views on how to build the bridge, but eventually the bridge is good and works for 2020.” said interviewee I2. According to another interviewee, I9, “Overall there was a lot of solidarity. Operators don’t necessarily work well together normally. Cooperation has never been so good. This was the positive side of corona.” Finally, interviewee I7 felt that “Actors with relations with politicians were in better place for negotiations initially, but eventually it all came together well at NOV–B.”

To conclude, whilst the framework of staging of practices focuses on the relationship of formal and informal governance structures, it also highlights the deliberate and strategic action of actors. In other words,

Table 3
The staging of practices in formal and informal settings for the Dutch availability fee.

Setting	Formal	Informal
Front-stage	• Law-abiding business as usual	• Cooperation platforms
Back-stage	–	• Moving coalitions • Bridge-builders • Resource activation

the interplay between formal and informal governance reveals the way rules constrain or enable deliberate actions of players seeking to advance their interests through politics. Therefore individual or collective agency is a critical explanatory factor in MLG policy-making.

8. Conclusion

This paper investigates the decision-making process around the Dutch response to the financial crisis in PT that was caused by the abrupt decline in demand during the Covid-19 pandemic. Facing an unprecedented fall in fare revenues, PT stakeholders joined efforts to articulate a State-aid scheme for the sector. The analysis reveals the multi-level governance character of the policy response; decision-making was marked by diffuse and collaborative policy-making across government tiers and involved state and non-state actors. In a process of consultation and concertation stakeholders reached the political alignment needed to establish an availability fee to cover 93–95% of PT's operational costs in 2020, whereas operators accepted to bear the residual 7-5% losses.

The paper builds on and expands MLG theory. Approaching MLG not only as a 'system' of governance, but also as a means of understanding how and why particular policy 'episodes' allow to implement policy solutions, the Dutch response to the crisis can be explained as an instance of policy-making characterized by a particular configuration of actors, scale, and decision-making process. Furthermore, by innovatively linking MLG and informal governance, the paper enhances MLG's explanatory power. The analysis unveils how front- and back-stage political interactions between Dutch PT stakeholders, constrained and enabled by formal and informal governance structures and practices, drove the studied the MLG policy outcome. As a result, the paper advances a relevant way of understanding governance processes and relationships that are increasingly characterized by vertical distribution of power and agency, and horizontally negotiated and contextual. Methodologically, the approach in the paper also highlights the importance of (individual and collective) agency in MLG dynamics, a dimension of policy-making that the MLG theory alone cannot sufficiently account for.

The findings have important implications. First, they clarify that the flexibility of informal governance can be crucial to allow consensual decision-making and policy responses in crises. Usual routines and practices are readily available, recognized, and accepted as legitimate. The ensuing processes and decisions are accepted and implemented even not having binding power. This supports the idea that negotiated non-hierarchical exchanges – characteristic of MLG systems – and that foster multi-actor and cross-sector collaborations leveraging resources and building joint solutions can help tackling policy issues that span across multiple territorial levels and demand the involvement of different levels of governance.

This also indicates that the crisis has not been used as a window of opportunity for transforming PT governance and policy-making. The immediate short-term response to urgent circumstances was based on existing practices – especially the informal ones. Players sought their usual partners and followed existing routines in path-dependent ways. Despite being triggered by a major exogenous shock, policy response in this case was driven mainly by endogenous forces. The Dutch frequent recourse to processes of consultation and concertation was maintained with the participation of the usual stakeholders – the decision mechanism remained the same and the network of actors did not shrink or expand due to the crisis.

However, informal bodies and practices naturally lack the formal power and authority for key decisions, and relationships between individuals may see cracks sometimes. Therefore, policy change is not necessarily facilitated by informal practices or driven by the entrepreneurship of specific individuals; formal frameworks remain as important enablers in decision-making, as shown by the roles played by the MI&W.

The Dutch example further suggests the possibility that during crises there might be a shift in the weight that the dynamics across each of the

three analytical dimensions of MLG have in the decision process: the political mobilization of actors – bridge-builder individuals acting within informal consensual bodies – appears, at least in the immediate short-term policy response, as the dimension where most action takes place driving policy outcomes.

A single-case study may limit the possibility to generalize conclusions – findings are mostly contingent to the Dutch situation. The UK, for example, adopted a much more centralized and hierarchical decision-making process in response to the same crisis (Marsden and Docherty, 2020). However, the approach offers richness of detail that is well-suited to understand context-dependent policy issues, and the design and implementation of the case study followed best practices. Additionally, whilst addressing the most central governance challenge for PT at the moment – the financial dimension of the crisis – the analysis covers only one policy issue among the many being negotiated between the same stakeholders. Analyzing the decision-making process of other aspects of PT planning and provision being affected by Covid-19 could yield new views. Yet, the focus on a specific policy-making instance is consistent with the MLG understanding used for the analysis, i.e. not only a system of governance but also as a particular episode of multi-level policy-making.

Taken with the findings above, these limitations create important opportunities for future research. First, the methodological approach developed here linking MLG and informal governance can be used – and improved – in studies analyzing other policy-making episodes related to Covid-19 or to other unruly policy problems. Follow-up studies could then compare a larger set of cases (either countries or policy-making instances) and assess the causal interplay between different factors explaining decision-making in PT (e.g. Hirschhorn et al., 2019; Sager and Andereggen, 2012). By the same token, comparative analyses that examine other decision-making processes being undertaken by the same actors involving other impacts of Covid-19 on PT – such as the postponement of tenders and planning of future concessions, or timetable adjustments – can reveal relevant – could reveal relevant findings that further clarify dynamics of MLG policy-making. It would also be relevant to explore in the future whether the current MLG policy response will transform the Dutch PT institutional structures and practices in the long-term.

Notably, a crucial emerging research question is how to foster, if at all possible, an environment where influential actors can find formal and informal enabling conditions to facilitate and support collective decision-making processes. Can regulatory frameworks be adapted to promote informal arrangements, incentivizing increased governance flexibility and giving more room for agency (individual or collective) in periods of crises? Further investigation on how issues such as agency and leadership influence PT policy-making can help this investigation (e.g. Hirschhorn et al., 2020; Reardon, 2018).

By scrutinizing the decision-making process that led to the definition of the Dutch availability fee, this paper draws lessons that can support policy for PT's recovery after Covid-19 and, more broadly, policy response to future crises. The powerful political mobilization and decisiveness from key actors that were so influential in producing responses to PT funding crisis in the Dutch case can be key to use this moment to reset and redesign PT governance more broadly to address public values beyond only financial sustainability. Other global policy problems closely linked to transportation, such as the climate emergency and social (and health) inequality need the same urgent attention.

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