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# Accountability of immigration administration: comparing crises in Norway, Denmark and Germany

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## Abstract

Accountability can be conceptualized as institutionalized mechanisms obliging actors to explain their conduct to different forums, which can pose questions and impose sanctions. This article analyses different ‘crises’ in immigration policies in Norway, Denmark and Germany along a descriptive framework of five different accountability types: political, administrative, legal, professional and social accountability. The exchanges of information, debate and their consequences between an actor and a forum are crucial to understanding how political-administrative action is carried out in critical situations. First, accountability dynamics emphasize conventional norms and values regarding policy change and, second, formal political responsibility does not necessarily lead to political consequences such as minister resignations in cases of misbehaviour. Consequences strongly depend on how accountability dynamics take place.

## Points for practitioners

Political and administrative leaders as well as civil servants are faced with several demands from the wider public and from internal or external peers. There is a relationship between actors and forums that is important in understanding how public administration works. This relationship can be described as accountability dynamics. In cases of crises, these dynamics can overcome or sustain daily administrative practices and routines. Our accountability framework offers a systematic scheme to recognize five accountability relations which should be considered during reorganization processes or policy changing initiatives.

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**Keywords**

accountability dynamics, accountability mechanism, administration, asylum, civil service, immigration, minister responsibility, public administration

**Introduction**

After years of public sector reorganization, the question of its effects on accountability mechanisms has not been very well understood. The aim of this article is to investigate developments in accountability dynamics within the important and highly politically sensitive policy field of immigration. Even if managing immigration seems to be a standard operating procedure for public services, crises about immigration policies and administrative practices regularly occur and challenge public sector organizations (Christensen and Læg Reid, 2009). Furthermore, migration policy is 'a political minefield' because of its built-in steering problems, conflicting values, path-dependencies and political threats ('t Hart and Wijkhuijs, 1999: 160). Studying accountability mechanisms in the immigration field could therefore very well add to our understanding of how modern accountability mechanisms work, and how they are invoked in politically challenging contexts. With regard to our theoretically driven interest in the activation of accountability mechanisms in immigration policy, we have therefore formulated the following research questions:

- Which accountability mechanisms can be observed during critical events in the immigration field in Denmark, Norway and Germany?
- Why and how are accountability mechanisms activated, and by whom?
- Which types of consequences are applied?

By answering these questions we contribute to the accountability literature in several ways. First, we provide a rich, comparative illustration of accountability dynamics and complexity within an empirical field (immigration) which is highly politicized and has not been investigated before. We cover three cases in three different countries and thereby contribute to the cumulative case-based understanding of accountability dynamics in different institutional settings. We cannot generalize from the chosen cases in a statistical sense, but based on our knowledge of other cases within the three countries it appears that the observed dynamics represent key aspects of accountability processes in the three countries. Furthermore, our analysis includes two issues that have not previously received sufficient attention in the literature, namely how different accountability forms are activated, and why the consequences of apparently similar accountability crises can differ.

The three cases represent recent national-level accountability crises in the three countries, and have as a common feature that the administrative practices of the national ministries or agencies were challenged. Comparing case studies of two

Nordic states (Norway and Denmark) and one continental state (Germany) allows an exploration of the relationship between formal rules and informal norms and values and accountability dynamics in different contexts.

Another contribution of the article is to confirm the methodological merits of using crisis as an entry point for studying accountability dynamics. Crises are important, as they invoke broad attention and often involve high stakes for the actors involved. They therefore appear particularly informative for the study of how accountability works in practice (Romzek and Dubnick, 1987).

We apply a mixed case design, where the political-administrative structures differ across the three countries. Two countries are most similar (Denmark and Norway), and we would therefore also expect more similarities in accountability dynamics between these countries than between Germany and Denmark/Norway. The empirical data contain expert interviews, governmental databases, selected newspaper articles and peer reviewed articles in administrative and political science journals (see the Appendix). We then applied a focused content coding, where we coded for the presence of one or several types of accountability in the different sources as described in the next section.

## Theory

### *Basic concept*

‘Making office-holders accountable is a basic concern in the study of formal organization, public administration and democratic governance, but the concept is typically perceived differently within different research traditions’ (Olsen, 2007), giving rise to considerable ambiguity. An important reference point in the international literature on accountability is the investigation of the space-shuttle Challenger accident by Romzek and Dubnick (1987). This study illustrates that organizations and people who act on behalf of them are embedded in different accountability structures. Romzek and Dubnick introduce four types of accountability: legal, political, bureaucratic and professional accountability affect the way organizations behave in diverse situations. Furthermore, they put a strong emphasis on the argument that the organizational structure and the way organizations are confronted with different demands have a crucial impact on the organizations’ ability to meet their obligations. In the Challenger case, the overstated importance of bureaucratic and political accountability in previously applied organizational reforms and the neglect of professional standards and peer accountability relations is one reason why the space-shuttle mission failed in such a dramatic way (Romzek and Dubnick, 1987).

What we learn from this is (a) that there is more than one accountability mechanism in democratic systems which influence organizational behaviour and (b) that the study of accountability mechanisms can be best realized when we focus on critical events.

### *Accountability mechanisms: A descriptive framework*

Because of its broadness, flexibility, normative and rhetorical attractiveness, accountability is a 'magic concept' for contemporary administrative and political science (Pollitt and Hupe, 2011). Over the last 30 years, innumerable authors in several disciplines have used the accountability concept in many different studies. Brandsma and Schillemans (2010) found that from 2000 to 2010, 114 articles dealing with accountability questions were published in relevant journals by almost the same number of authors. One distinct feature is that all of them use the accountability concept in different ways (Brandsma and Schillemans, 2010; Pollitt and Hupe, 2011),<sup>1</sup> while Romzek and Dubnick (1987) limited their focus to only four types of accountability relations; 25 years later, accountability appears to be an exhausted and 'ever-expanding' (Mulgan, 2000) concept. Bovens (2007) conceptualized accountability as a social relationship 'between an actor and a forum in which the actor is obliged to explain and justify his conduct; the forum can pose questions; pass judgments; and the actor may face consequences' (Bovens, 2007: 452). According to this definition, three main elements of an accountability process must be taken into account: The actor must provide the forum with information about a specific conduct. The forum can start a debate by posing questions on this issue. Depending on its judgement, the forum has in consequence the power to sanction the actor in a positive or negative way. We think that this relationship plays a crucial role for qualifying political and administrative crises for accountability research. As argued above, our case selection fulfils these criteria and allows further investigation.

During the study of particularly informative cases in the field of immigration policy, we refer to a narrow typology of five accountability types. Political, administrative, legal and professional accountability are related to the classic definition of Romzek and Dubnick (1987). The fifth accountability type that we include in our framework is social accountability. We are convinced that in crisis situations, societal actors such as interest groups, spontaneous coalitions and the media play an important role in accountability dynamics. Today, public officials 'should feel obliged to account for their performance to the public at large' (Bovens, 2007: 457). The typology is presented in Table 1, which introduces a two-dimensional framework for the study of accountability mechanisms. This framework defines categories for the comparative research design on critical cases in Norway, Denmark and Germany.

*Political accountability* as a mechanism based on the classic concepts of political representation and the delegation of power. This can be defined as the 'parliamentary chain of command' (Olsen, 1983) or 'chain of delegation' (Strøm, 2000). An important aspect is the accountability relationship between voters and elected politicians, where the ultimate sanctioning mechanism is to vote them out at the next election. In the second notion, political accountability takes place within the executive between political leadership and its bureaucratic staff. In a classical way, this type of accountability concerns the exchange of relevant information between the minister and his or her subordinates, which include public servants in the ministry,

**Table 1.** Descriptive framework for the study of accountability types

	Political	Administrative	Legal	Professional	Social
Information	Official government documents and statements, publications, internal and annual reports	Legislation on administrative practices; whistle-blowing, oversight bodies, performance indicators	Legal evaluations of adherence to <i>Rechtsstaat</i> principles, documentation	Intra- professional exchange, informal networks	Press releases and media, spontaneous publicity (blogs, social networks)
Debate	Parliamentary debates, question times, ministerial edicts	Parliamentary debates, hearings	Appeals, lawsuits	Publications, conferences, hearings	Petitions, opinion polls, public interviews and discussions, demonstration, virtual protests,
Consequence	Resignation, organizational rearrangements, voting out	Dismissals, transfers to other activities,	Judicial decisions	Delegitimation, exclusion from professional communities, de-licensing	Ongoing public scrutiny, naming and shaming, public attention, revolution

Source: Authors' compilation.

agencies and other decentralized units in the relevant domain. Debates in this context are mainly hierarchical top-down processes where the political leadership poses questions to its subordinates. This could lead to dismissals and other consequences with regard to individual public servants' careers. In a more collective version of this actor–forum relation, sanctions include organizational reforms, reshuffling or mergers of units. *Administrative accountability* has an internal and external side and is characterized by classical concepts of hierarchical, bureaucratic command-and-control or New Public Management and agencification logics inside public organizations as well as by external scrutiny. On the one hand, public organizations are still composed of Weberian elements which lead to a clear definition of who is accountable to whom. This is supplemented by new forms of performance-based management or Management by Objectives systems. Flexible types of (time-limited) group or project organization lead to new forms of managerial oversight by new controlling and reporting systems. Information about executives' actions is generated by independent oversight bodies, performance reports, whistle blowing and internal edicts and administrative legislation. Debate usually takes place between administrative leaders and their subordinates in written form or in face to face situations. Furthermore, parliamentary hearings or questions can be classified as debates in reaction to external reports of audit offices or other oversight bodies. Consequences could be the dismissal or transfer of civil servants.

*Legal accountability* is one of the constitutive elements of the public sector. In advanced democratic systems, the *Rechtsstaat* principle, the obligation to written administrative processes and the formal right of the citizens to go to administrative courts lead to a rather obvious accountability mechanism. If political and bureaucratic actors misbehave according to the law, they will be legally sanctioned by jurisprudence.

*Professional accountability* refers to an internal dimension of professional norms and values of public bureaucrats within the public sector. Inter- and intra-ministerial specialists work inside relatively stable networks (Mayntz, 1999). Thus, professional accountability seems to be a relatively persistent relationship between actors and forums which communicate in a self-referential and self-reviewing manner. Information is constantly under debate and consequences of misbehaviour (which could also include withholding of information) would lead to delegitimation and to exclusion from the important network.

*Social accountability* in Bovens' words can be seen as society's 'urge in many Western democracies for more direct and explicit accountability relations between public agencies, on the one hand, and clients, citizens and civil society, on the other hand' (Bovens, 2007: 457). The media plays a crucial role for the activation of social accountability mechanisms in two ways. On the one hand, media's investigations, reports and publications are part of the process of information exchange and public debate. On the other hand, the media itself could be treated as an actor, alongside others, who can pose questions to legislative, executive and judicial officials 'on behalf of' societal groups and individuals (Bovens, 2005). This descriptive

elaboration leads us to further questions of how and why these mechanisms are activated by whom, and how and why different accountability types are connected to each other. To answer these analytical questions, we suggest having a look at organization theory which will be very briefly presented in what follows.

Formal organizational structures, hierarchies, rules and practices can be studied from a *structural-instrumental perspective* (Christensen et al., 2007b). In contrast, structures can also be seen as the result of genuine political conflicts and differences between more or less powerful actors. Instrumentality is at the centre of public leaders' perception. It is realized through classical, ideal-type elements of Weberian bureaucracy and *Rechtsstaat* principles. In cases of misbehaviour, actors will experience consequences according to the formal rules. Furthermore, accountability can also be studied from a *cultural-institutional perspective* on public organizations (Selznick, 1957). Here, political systems also consist of informal norms and values which guide behaviour along cultural routes and standard operating procedures. We will include a short presentation of organizational and contextual features for each of the three country cases below, and will return to the organizational perspective in the subsequent comparative discussion of explanations for case dynamics.

## **The three cases – comparing Norway, Denmark and Germany**

### *Norway – the Amelie case*

*Context.* From 1945 to the early 1970s Norway had a liberal immigration policy. Despite an increasing demand for foreign workers and a low number of immigrants, Norway followed the lead of other European countries and put a temporary stop to labour immigration in 1975 that soon became permanent. The stop in effect ushered in a selective immigration policy in this area that has been in place since it was liberalized under EU influence over the last decade to allow 'economic immigrants' with particular expertise to work (Brochmann and Hagelund, 2010). This area of immigration policy is by far the least controversial.

The most controversial area of immigration policy is the one concerning asylum seekers and refugees. In the mid-1990s, a new policy was adopted that connected domestic to international aspects of immigration. The first comprehensive immigration law was passed in 1988 and implemented in 1991. Despite the fact that Norway is restricted by the UN refugee agreement, the law in fact allows for a good deal of discretion. Concepts such as 'strong humanitarian considerations' and 'strong connection to the country' have been debated and applied in a variety of ways.

*Organization of the field.* In Norway, ministerial responsibility for immigration policy was divided between two ministries until 2001, then became more coordinated for a while before being separated again (Christensen et al., 2006). At the agency level immigration administration has changed from one agency to three agencies.

The Norwegian Directorate of Immigration (NDI) was established in 1988 as a traditional agency, while the 'new' NDI and in particular the Immigration Appeals Board (IAB) have been characterized by strong autonomy since 2001. This has not changed much despite several post-NPM attempts to exert more control over these agencies. Since 2005, under two governments dominated by the Labour Party, the political leadership has generally been rather sceptical towards the autonomy of the immigration bodies which represents a major departure from its attitude in the 1990s, when the party supported the new autonomy (Christensen et al., 2007a). However, the party has not succeeded in reorganizing the agencies so as to reduce their autonomy.

Immigration policy has become increasingly controversial in Norway, due to the increasing popularity of the anti-immigration Progressive Party since the late 1980s, leading to many debates about the rights of immigrants to enjoy the benefits of the welfare state, about increasing social differences, about what requirements immigrants should be expected to fulfil, about the criteria for family reunification, etc. More recently the debate has been aggravated by the fact that Norway has about 18,000 'irregular' immigrants. Maria Amelie was one of them.

*Case description.* Maria Amelie came with her parents to Norway in 2002. This quite wealthy family had to flee from Russia because of threats from the local mafia. The family's application for asylum was turned down the same year and again in 2004. The family continued to stay illegally in Norway and Amelie first took her high-school exam and later a master's degree in technology and science at the Norwegian University of Science and Technology. In 2010, Amelie decided, unlike most illegal immigrants, to make her existence known to the public by publishing a book about what it was like to be an immigrant without papers in Norway. In early January 2011, she was arrested by a number of policemen outside the Nansen school (a humanitarian academy) where she had given a talk about being a paperless immigrant, and she was sent to jail for two weeks. Then, in late January she was sent back to Russia. In April 2011, she re-entered Norway under the terms of a new section on qualified foreign experts.

The case evoked an enormous media debate, demonstrations and heated arguments. The media sided with Amelie's view for most of the process as did many parties and organizations. The blame was laid on politicians, mostly the executive political leaders involved, but also on the IAB, for being inhumane.

There were some arguments for using discretion in this case and for reversing the earlier decision. One was to get individual treatment, but she didn't even get an interview with the authorities. Another argument was that there was room for discretion in the immigration rules connected to the central concepts of 'remain on a humanitarian basis', 'connection to the country' and 'strong human considerations'. Arguments against were that Amelie had no need for protection, and that the ministry had decided that the NDI and IAB should exercise restrictive practice related to the relevant paragraph in the immigration law. Third, Amelie's connection to Norway was based on a long illegal stay which was therefore non-existent

according to the law. Fourth, the PM stressed that it was wrong to treat Amelie in a different way from other illegal immigrants.

Were there any options available so that deportation of Amelie could have been avoided? The argument about qualified immigrants opened up a process which later led to a compromise and to Amelie coming back to Norway. The second argument was an ethical one, related to not being able to enact discretionary behaviour, not seeing the individual behind the case and that decisions in the IAB were ad hoc, inflexible and showed little empathy.

The Ministry of Justice and Police put out a press release in late January 2010 showing that there was a process going on behind the scenes to try to find a solution for Amelie. However, the minister did not say that it was wrong to deny her application and send her back. In late March 2011, the ministry sent a new instruction to the NDI, which eventually led to Amelie's return to Norway in April. The minister underscored that the existing rules could have negative consequences for private businesses in Norway and therefore had to be changed. He did not say that the changes were specially designed for Amelie.

*Interpretation.* The Norwegian case overall shows strong interaction and dynamics between three types of accountability – political, professional and social. In terms of *consequences*, the two decisions in the case, the expulsion of Amelie and her re-entry in line with a new paragraph linked to the need for foreign experts, made it a win-win case, even though it created an acute crisis along the way. The dynamics of the majority coalitions and the traditions for invoking parliamentary accountability forms were evident in both the *information* and *the debate* phases of the case. Expelling Amelie was a victory for the ‘hawks’ in the Labour Party, while allowing her to come back was a victory for the ‘doves’ in the Socialist Left Party which restored peace within the coalition and did not lead to any parliamentary consequences. The *debate* phase showed a diversity of different mechanisms. Amelie and her supporters managed to play on the media and a supportive public opinion (social accountability), on disagreement among legal experts and ambiguous terms in the immigration law (professional and legal accountability) and on the desperate need in the coalition government to find a solution. The final decision to allow Amelie to stay in Norway illustrates that *consequences* can extend beyond the narrow accountor level to also involve broader political or administrative decisions about adjustment in policy, which set the stage for subsequent accountability dynamics.

### *Denmark – the state-less gate*

*Context.* Danish immigration law from 1983 was one of the most liberal in Europe. This changed gradually from 1995 onwards, as the anti-immigration Danish People's Party (DDP) gained voter support and immigration issues became more important on the national political agenda. After the national election in 2001, a Liberal-Conservative minority coalition government came to power. In parliament

the 'strict on migration' party, the DDP, provided the liberal/conservative coalition government with the needed parliamentary support. This led to a parliamentary situation from 2001 to 2011 where the Danish multiparty system resembled a bloc-party system. The influence of the DPP meant that migration became high politics in Denmark in the period. Laws were changed (tightened) regularly, as the DPP used its leverage, for example to bring the issue into the annual negotiations with the government regarding the national budget. Danish immigration policy became the strictest in the Nordic countries, and the number of immigrants or refugees applying for citizenship or asylum decreased accordingly. The many changes in regulation created challenges for the civil servants and their ability to administer according to the ever-changing body of rules.

*Organization of the field.* In Denmark the migration field has traditionally been organized in different directorates within the Ministry of Justice. At the beginning of the 1990s migration was transferred to the Ministry of Internal Affairs. Practical integration services were delivered by an external third-sector organization, Danish Refugee Aid, until 1999, when a major reform made local governments responsible for the implementation of integration policies. From 2001 until 2011 the migration field within the central administration was organized in the Ministry of Integration, where the Danish Immigration Service (DIS) in particular has had the responsibility for the administration of migration rules such as the Danish Alien Act. During the period from 2001 to 2011 there have been several single cases where the administration of the Danish Alien Act by the DIS has been questioned. In 2006 the DIS was reformed following an initiative from the minister. The process gained speed after the National Audit Office had published a critical report about the efficiency of and the culture within the agency. The process ended up with a name change for the agency, a change in its formal organization and the resignation of the former director.

Finally, in Denmark there also exists a formal court-like body, the Refugees Board of Appeal (RBA). The RBA has had a relatively autonomous and court-like status in cases where the DIS denied asylum or access to the country. But its autonomy is modified by its secretariate belonging to the ministry, its leader to the leadership group in the ministry and a representative from the ministerial administrative leadership on the board.

*Case description.* At the beginning of 2011 it became clear in the wider public that a number of state-less Palestinians who had entered Denmark as children, but were now coming of age, had been denied Danish citizenship. This practice neglected international conventions. The administration crisis broke when a member of the parliament's standing committee on citizenship (from the Socialist People's Party) tipped off a reporter at a newspaper because the MP was puzzled about a remark made by the Minister of Integration in response to a question from another MP (from the anti-immigration DDP) on the issue of granting citizenship to 35 people who were formerly stateless. The DPP MP was critical of the number of stateless

Palestinians being granted citizenship, and the minister responded that she was simply correcting a faulty practice. This led the member of the Socialist People's Party to wonder how long this faulty practice had been going on and whether it was intentional on the part of the Minister, previous ministers and bureaucrats. In short, who was responsible for the violation of international conventions and the refusal to grant citizenship to stateless Palestinians?

The standing committee is a formal body in the Danish parliament and has the ultimate controlling role and responsibility for granting citizenship. Yet, ordinarily it is regarded as a 'rubber-stamp' that simply follows the recommendations of the Ministry due to the MPs' lack of resources for control compared to the state body of the Ministry of Integration. Still in this case it seems as if MPs in the committee actually managed to start the processes which eventually led to the dismissal of the Minister of Integration Ms Rønn Hornbech (Liberal).

*Interpretation.* The Danish 'state-less gate' must be seen against the backdrop of the highly politicized nature of the immigration field in Denmark. The triggering event was the invocation of political accountability in the form of questioning by the anti-immigration DPP about granting citizenship to state-less Palestinians having grown up in Denmark. The *information* phase therefore initially consisted of demands for answers from the minister responsible in the parliamentary sub-committee according to the rules and practices of parliamentary control. In the ensuing phase several different *debates* unfolded. The Minister tried to defuse the questions by claiming that she was simply correcting an existing faulty practice, but the issue was picked up by opposition politicians and newspapers, leading to further public and parliamentary debate about political, administrative and professional accountability. In this sense social (media) accountability relations played a leading role in illuminating and escalating the crisis. The minister attempted to shift blame to the civil servants, but the civil servants had learned their lesson from previous crisis events (particularly the 'Tamil Gate' in the early 1990s), and were able to prove that they had in fact informed the minister of the faulty practice as soon as it came to their attention. This can be seen as an example of how professional accountability debates following previous instances where an administrative investigation committee issued a strong critique of bureaucratic conduct, and where legal action was taken against the minister (Tamil Gate), have influenced norms and behaviour among civil servants. In terms of *consequences*, the Prime Minister in the end chose to dismiss the minister responsible thereby avoiding potential further sanctions in the political accountability arena. This is not a direct sanction by an accountability forum, but a sort of pre-emptive action by the PM to contain the potential 'damage' for the government as such. The case is currently being followed up in legal accountability fora in regard to the issue of formal blame against civil servants for not becoming aware of the issue soon enough.

The overall picture is thus one of interaction dynamics between political, social, administrative, professional and now legal accountability. Opposition parliamentarians and newspapers appear particularly important for the activation of

accountability processes. Blame games are important as the case unfolds, and accountability processes become part of this game.

### *Germany – the Visa Affair*

*Context.* Germany is seen as Europe's 'immigration laggard' when it comes to political acknowledgement of immigration as a public policy problem (Klusmeyer and Papademetriou, 2009). With regard to its experiences with the Nazi regime and the challenges of post-Second World War immigration into the German Republic, its asylum law had been one of the most liberal in Europe until it was tightened in the 1990s. Together with the opposition, the conservative-led government changed the constitution (Basic Law), leading to stricter asylum regulations. These basic facts about Germany's immigration policy might add to our understanding of the institutional framework and cultural foundation of Germany's political-administrative authorities. In the following section, this will be very briefly presented before introducing a political-administrative incident, the 'Visa Affair' in 2004, which can be seen as one of Germany's major administrative immigration crises in recent history.

*Organization of the field.* The federal executive branch is an interwoven and complex web of competences between different ministries and specialized agencies. With regard to immigration policy, the Ministry of Foreign Affairs (*Auswärtiges Amt*; AA), which grants visas to third-country citizens, and the Ministry of the Interior (*Bundesministerium des Innern*; BMI), which is in charge of Germany's immigration policy, are important actors in the case of the Visa Affair. The BMI plays the most important role in the coordination of immigration policies. It is responsible for executive policy formulation relating to immigration policies. The major role of ministers in the cabinet's decision-making according to the 'minister principle' (Article 65 of the Basic Law) enables their civil servants to act as almost unchallenged specialists for their specific policy issue. While much has changed since the first red-green government entered office in 1998, immigration is still traditionally part of internal and '*Rechtsstaat*' affairs and therefore seen as the domain of the BMI, which has a distinct directorate with 13 divisions dealing with migration issues.<sup>2</sup> Another important actor with regard to immigration is the AA. With its missions abroad (embassies and consulates), it is one of the largest ministries and is responsible for granting visas to citizens of non-EU member states. Furthermore, it regulates the entry of people who want to stay in Germany for a certain period of time. The embassies are acting as first regulatory authorities concerning immigration policy and are directly embedded in the ministry's hierarchy. Therefore, the Minister of Foreign Affairs is responsible for the 229 German missions abroad. Horizontal conflicts between federal ministries and specialized political organizations are widely recognized in public administration and organization theory research. Yet, the complexity of horizontal coordination between ministries and their subordinates has hardly been taken considered in accountability research.

In contrast to Norway and Denmark, German ministers cannot be forced out of office by a parliamentary majority. There is no formal rule of negative parliamentarism with regard to the selection or deselection of cabinet members. Only the chancellor can be held accountable for government's misconduct by the representatives in the Bundestag through a motion of no confidence (Article 67 of the Basic Law).

*Case description: 'Write it down here: Fischer is guilty' – the 2004 Visa Affair.* When the first red-green coalition government entered office in 1998, Joschka Fischer became the first Green Party Minister of Foreign Affairs. Several political 'scandals' did not harm his image. After all, in 2004/05, he was heavily criticized during the 'Visa Affair', one of the most serious immigration crises in recent history that affected several political, judicial, public and administrative actors and activated various accountability mechanisms.

The 'Visa Affair' began to be of political and public interest when the regional court of Cologne sentenced a Ukrainian man to five years in prison for human trafficking. The court had reduced his term from eight to five years. The court's president argued that, regarding the AA's liberal visa practice, the political leadership undertook a 'cold coup' against the existing *Rechtsordnung* of the Federal Republic (Maaßen, 2005). This judgment and the dramatic statement made public what had been known only to government officials since the BMI had a dispute with Fischer's department about its visa policy in the year 2000 (Egle and Zohlnhöfer, 2007). The crisis originally began in the autumn of 1999. The former Minister of State (Junior Minister) Ludger Volmer introduced a new policy in several East European missions to implement a less strict verification policy of documents needed to get a German tourist visa. 'In dubio pro libertate' was the core of this edict. This was a reaction to complaints from political and societal actors who wanted a more liberal policy. In the year 2000, the BMI internally argued against this policy for the first time. The Minister of the Interior, Otto Schily, the Chancellor's Office and the AA were informed about the concerns. However, the AA did not change its practices and the Volmer edict continued to be in force. Even when Schily personally wrote a letter to Fischer with the words: 'I am surprised that the Federal Ministry of the Interior has not been informed in advance of this event [the anniversary press conference for the "Volmer edict"] – in the same way that it had not been informed when you changed the visa practices the year before' (Bt-Drs. 15/5975; 197; authors' translation), nothing changed.

Two days after the decision of the regional court in Cologne, on 11 February 2004, the conservative opposition in the German Bundestag began an investigation into this case. During the following nine months, the opposition posed a minimum of 260 written questions and innumerable questions in public plenary debates to government officials and ministers (Maaßen, 2005). At the end of November 2004, parliament introduced a committee of inquiry in accordance with Article 44 of the Basic Law which had the objective of finding out whether the federal government had circumvented established national and international laws and regulations.

The committee began its investigations on 17 December 2004 with the questioning of 58 witnesses based on 1600 folders of official documents. For the first time in Germany, public hearings were broadcast live on television and attracted great media interest. The ministers Fischer and Schily and the Minister of State, Volmer, were each questioned by the committee for several hours. Fischer and Volmer spoke for about two hours before the actual questioning could begin. Minister Schily put forward his view on this affair in a statement that lasted five hours and ten minutes (Maaßen, 2005). At that time, Volmer had already resigned from his political offices as Minister of State and spokesman for foreign affairs of his faction (*Frankfurter Allgemeine Zeitung*, 12 February 2005). Fischer, who ‘accepts blame in visa affair’ (*New York Times*, 26 April 2005), answered the chairman’s questions about the responsibility of his staff with: ‘Write it down: Fischer is guilty.’ However, he did not step down from office.

*Interpretation.* In Germany, we see dynamics between legal and social accountability as the major mechanisms in coping with this crisis. It is a quite different example of how accountability works compared with the Norwegian and Danish cases. In Norway, a policy routine situation was criticized by a person affected by this ‘regular’ deportation policy. In Denmark the crisis broke in a combination of political accountability in a Parliamentary committee and social accountability via the media. In Germany, however, innovative immigration policy led to a long and silent administrative dispute about visa practices.

Through legal accountability, the case accidentally popped up in public discourse and questioned the new policy in many ways. The ensuing process of public hearings and formal legal procedures in parliament defined the *information* and *debate* phases. In terms of *consequences*, the end result was a policy reversal to accommodate the debate in internal forums, as well as external ones (e.g. the parliamentary commission of inquiry, the media, etc.). This complexity and external social and political accountability pressure together with the upcoming federal election have led to a rather obvious back-peddalling in immigration policy towards a more restrictive practice. In the end, it also led to *consequences* in terms of the resignation of the ‘deputy’, but importantly not of the Minister of Foreign Affairs himself. There is no direct formal relationship between political accountability to parliament and the consequence in terms of the resignation of the ‘deputy’, and Germany does not have a formal rule of parliamentary no-confidence votes as they do in the Nordic countries (Fischer, 2012). However, if the opposition (political, external) and especially the media (social) had not been able to use this window of opportunity to demand information and debate, legal accountability would not have affected government’s policy at all.

### **Similarities and differences in accountability dynamics**

In this section, we present a summary of the salient accountability dimensions and how they influence the accountability dynamics in each case (Table 2).

**Table 2.** Comparative accountability description

	Political	Administrative	Legal	Professional	Social
Germany	Weak parliamentary control of ministers; strong hierarchy	Great loyalty to leadership	Strong ex-post control of government	Not substantive, no formal consequences	Leads to consequences/resignations
Norway	Majority coalition government in dis-agreement and striking a compromise	Blame game between political executives and agency	Disputed legal terms and use of different rules	Disagreement between internal and external experts	Supporting social groups very strong backed by media
Denmark	Strong parliamentary control of ministers, weak hierarchy	Critical loyalty towards leadership, importance of professional norms	Legal follow-up in progress	Civil servants loyal to the minister, but 'cover their backs' by documenting that they had raised the issue internally	Media as accelerator

Source: Authors' compilation.

The German case is characterized by relatively weak parliamentary control of ministers, and strong internal hierarchy within the political-administrative system. At the same time there is great loyalty towards the leadership within the administrative system. This means that the accountability issue in the German case was kept behind 'closed doors' within the administration in a long internal and 'silent' dispute. However, a legal case triggered broader attention and initiated social accountability mechanisms. The ensuing process of formal hearings and legal procedures led to the resignation of the 'deputy', while perhaps surprisingly the minister responsible remained in place. This can be explained by the weak parliamentary control of ministers in Germany, and the fact that the minister had a strong position in the government hierarchy.

The Norwegian case illustrates the importance of a strong coalition of external interest groups and media for initiating accountability measures and pressuring the government to intervene in administrative decisions. Furthermore, it shows how social accountability pressure becomes very important particularly in cases of contested interpretations of the legal rules upon which the administrative practice is based. This leads to a blame game between the administrative leadership in the agency and the politicians responsible. In the end the minister steps in and accommodates the social accountability pressure by emphasizing an interpretation that allows the immigrant in question to re-enter the country. In this sense the broader consequence of the case is a change in policy practice to accommodate general public pressure. This course of action also serves as a compromise, which dampens the internal conflicts in the coalition government. The minister does not impose consequences on the administration as it is acknowledged that the legal basis for the previous practice was unclear.

The Danish case illustrates that a combination of parliamentary scrutiny in the relevant subcommittee and media attention served as the triggering factors for social and political accountability dynamics. The administrative and legal professionals within government had already questioned the practice, but had kept this behind closed doors, due to the principle of loyalty to the minister. That is, just as in the German case we observe that public bureaucrats refrain from playing the role of triggering accountability debates in the open, although they raise the issues internally. However, as the Danish administrators started to feel that the social accountability pressure put their positions at risk, they stepped forward to document that they had in fact informed the minister that the existing practice could be interpreted as being in conflict with international conventions. This led to a blame game between the minister and the bureaucrats. In the end the Prime Minister stepped in and dismissed the Minister for Integration in order to avoid further potential political consequences. This took place before a formal legal decision on the administrative practice had been reached.

Based on the descriptive framework, we can thus conclude that the main accountability types in the two Scandinavian cases were political, professional and social accountability and that there was interplay between these types. This interplay developed over time into what we have labelled accountability dynamics.

Our findings in general can be summarized as follows. The accountability crisis is initiated by events that evoke questioning on the part of the public, because something is wrong. Then the dynamic develops into an accountability and blame game, both internally within the body of government itself, and externally via the media into the wider public. The final dynamics alleviates the pressure through an act of catharsis taken and announced by the politicians. This process also serves to establish the dominant norms for policy conduct, and thus reduce uncertainty for the stakeholders.

As we have already stated, accountability relations are institutionalized mechanisms which enable or constrain specific conduct of actors involved. The observed accountability processes can be interpreted from a structural-instrumental or a cultural-institutional perspective. On the one hand, formally empowered actors such as the parliamentary opposition or the judicial branch are accountability forums by legal definition. The associated accountability mechanisms result from a logic of instrumentality. Parliamentary hearings (information), the opposition's right to establish committees of inquiry (debate) or the ministerial accountability to the parliament (consequence) are traditional formal accountability mechanisms in representative democracies. On the other hand, there are further quite informal (but not necessarily weaker) accountability mechanisms such as professional or social ones which affect actors and forums that interact in a crisis situation. Political and administrative crises are salient situations which activate these kinds of mechanisms. Social movements, pressure groups or even individuals like Amelie are forums who then hold politicians and the administration accountable in a specific situation, without being formally entitled to do so. Hence, they also seek to promote particular policy norms, often by referring to general *Rechtsstaat* principles.

## Conclusion

In the introductory section we posed three questions for the study. The first question concerned the types of accountability mechanism that can be observed during critical events in the three countries. We observed several different trajectories involving combinations of political, social, legal, professional and administrative accountability (Table 2). The German case makes use of hearings and formal legal procedures as the main mechanism, thus adhering to a more formal interpretation of *Rechtsstaat* principles. In contrast, the two Scandinavian cases are characterized by interaction between social accountability and political accountability, which meant that conclusions were drawn (dismissing the minister in Denmark, overruling the previous administrative decision in Norway) before legal accountability had been allowed to run its course. The weight of different accountability mechanisms thus appears to differ across the three cases due to differences in the institutional contexts. An important part of the institutional context concerns informal norms and values. With regard to our three cases we observe that once a crisis has broken out in this field, the ensuing processes of information, debate and decisions

on consequences are greatly infused by conflicts over norms and values, and that the resulting decisions on consequences serve to establish (temporary) norms for appropriate and inappropriate behaviour. However, this process also creates 'winners' and 'losers' as different actors champion different normative interpretations.

The second question is related to a theoretical issue that has not been explored to a large extent in the literature, namely why and how are accountability mechanisms activated, and by whom? We found that the triggering events varied across the three cases, but that media and other social accountability forums played a crucial role in all three cases. In the Danish case there was an interaction between political accountability, for example in terms of parliamentary questioning in relevant subcommittees, and social accountability in the form of media attention. It appears to be a two-way relationship where parliamentary questioning can trigger attention and scrutiny in the media, while on the other hand attention in the media and other social accountability forums can lead opposition parliamentarians to push for more formal political, legal or administrative information, resulting in debate and consequences.

In Norway the case unfolded as the Norwegian immigration authorities decided to deport an illegal immigrant after she had disclosed her story in a book. This triggered massive attention from the media and various social support groups. In Germany the triggering event was a legal case that (accidentally) brought the discussion out from behind closed administrative doors. The issue was picked up by the media and became a political crisis that was dealt with mainly through national political hearings. The differences in triggering mechanisms illustrate the variety of different entry points to accountability processes. However, it is clear from the three cases that the media have a major role in accelerating the issue. Media attention triggers broader responses in civic society and among opposition parliamentarians. When the pressure becomes too strong the government and administration react. The exact trajectory for reactions depends on the institutional structures and traditions in each country.

The third question concerned the types of consequences that were applied. We observed that the interaction between political and social accountability leads to pressure for sanctions in all three countries. However, the results differed. In the Danish case the Prime Minister chose to dismiss the minister responsible for immigration as a sort of pre-emptive action before potential further parliamentary or legal accountability consequences could be applied. In Norway the main consequences were in terms of massive blame being assigned to the responsible authorities and politicians from a social accountability coalition of news media and organized interest groups. This led to a change in policy and a clarification of the administrative rules regarding entry of particular groups of immigrants. No formal sanctions were applied against administrative staff or the responsible minister. Rather, the crisis was resolved by accommodating the social accountability pressure to allow entry for the specific immigrant in question, and overruling the previous administrative practice while also acknowledging the ambiguous legal and political basis for prior decisions.

In Germany the minister assumed all the blame in the committee meetings. Further, he did not accept the view that a civil servant had been responsible for this policy. He even tried to re-frame the policy as ‘Fischer edict’. This led to his statement that he was solely responsible, which was broadcast live on television. In the end Volmer stepped down from his office, not Fischer.

We can thus conclude that consequences may be very different in three cases that on the surface have similar characteristics involving accusations of administrative misconduct. The types of consequences appear to be related to how the accountability processes unfold, and how much pressure this generates on the decision-makers in government. National institutional contexts contribute to structuring the accountability processes, and thereby the likelihood of different types of consequences, but the political conflicts over the severity of the specific misconduct is obviously also important.

In general terms it appears that our three cases confirm Boven’s (2007) observation that accountability dynamics are likely to be strongly influenced by the national context and the specific nature of the policy area. However, it is also clear that the interpretation of formal rules and informal norms in rapidly evolving and politically sensitive areas such as immigration are subject to development and conflict. Accountability processes serve as battlegrounds for different viewpoints, and serve the purpose of establishing an official view on appropriate policy practice.

Whereas policy-specific norms and values are contested, it appears that broader *Rechtsstaat* principles about openness and due process are generally reinforced by accountability processes. Policy innovations that appear to ignore such core principles are quickly challenged and subjected to various types of interacting accountability mechanisms (political, social, legal, etc.). A single edict or ignorance of a rule on the part of a minister in salient fields like immigration will consequently force him or her into accountability dynamics. If politicians want to change the content of a policy, they must keep this in mind.

## Notes

1. For a comprehensive literature review see Politt and Hupe (2011).
2. [http://www.bmi.bund.de/SharedDocs/Downloads/DE/Ministerium/PDF\\_Organigramm\\_BMI.pdf?\\_\\_blob=publicationFile](http://www.bmi.bund.de/SharedDocs/Downloads/DE/Ministerium/PDF_Organigramm_BMI.pdf?__blob=publicationFile); accessed 17 February 2012.

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