

## **Developing public private partnerships in Denmark –The role of construction firms in networked public services**

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### **Abstract**

The establishment of private public partnerships in Denmark in relation to construction has been a long and reluctant process. A first wave of PPP arrangements started flourishing in Danish municipalities from the late nineties. Although a number of arrangements were established, the development was halted because of a scandal in one municipality in 2002. In the spring of 2004 however the government launched an action plan and PPP arrangements are now emerging. One central issue in the establishment PPP is how to develop a governmental metaframe, which is here viewed as an emergent process of networking, learning and establishing of institutions. Drawing on new public management perspectives, it is argued that the future model of public services is a network of a mixed set of players (private, voluntary and public). Such networks might be strong in combining forces and strength from these various sectors in producing present public services. The paper analyse the emergent network and the metaframe. Examples of Danish PPP are given highlighting the role of the construction firms. The experiences illustrate the importance of recognizing public private partnerships as emergent political arenas.

### **Keywords:**

public private partnerships, municipalities, metagovernance, political processes, Denmark.

### **1. Introduction**

Public procurement represents 16,3% of the European Unions GDP and is an important factor in European Economy. An increasing number of European Countries have engaged in developing public private partnerships (PPP) as a means to develop the built environment element of the public services. Where the status just a few years back was that UK was the dominant market for PPP, this is now rapidly changing, and countries like Germany and Portugal are now embarking on a development, which earlier included Ireland, Holland, France, Italy and Denmark (EU 2004, 2005).

This contribution discusses the development of PPP in Denmark. It is analysed how the networks, alliances, have developed through the construction of the arrangements related to PPP, there is a focus on the role of the construction firms, in particular consulting engineers. In contrast to many other construction research contributions, which tend to analyse the single project level (as for example Ahadzi & Bowles 2004), the aim here is to look at the governmental frame, denoted metagovernance (Heffen et al 2000), for the PPP projects. The idea is that conditions for realising PPP and for construction companies are dependent of the metagovernance.

The paper is structured as follows. After the method the paper introduces a theoretical frame viewing the future public sector as a network of services and with partnerships with private enterprises. These networks will feature political dynamics. The case develops the characteristics of the Danish context and how PPP has emerged. The conclusion maintains that despite the state effort the governance frame still incorporate contradictions and tensions.

## **2. Method**

The approach is multidisciplinary combining construction management (Leiringer 2002 a.o.) and public sector research (Ferlie et al 1996, Jones et al 2001, Rosenau 2000). The development of public private partnerships in Denmark has been followed through desk research and participation in Danish events on the subject. The descriptions build on public documents, media coverage and previous reports on the issue. Some material collected refers to a qualitative study organised by CSTB, the French Building Research Institute (Antonini et al 2004), covering experiences of PPP in UK, Italy, France and Denmark. The paper extends and develops the argument made in Koch et al (2004).

## **3. Networked Public Services**

The central aim for a public private partnership is to develop (design, finance and built), operate and maintain a public service. It is therefore important to understand how public services are developing. New public management (NPM) perspectives have argued that the future of the welfare state is in the form of networked public services encompassing a mixed set of players (private, voluntary and public) (Ferlie et al 1996, Jones et al 2001). The networks are expected to be strong in combining these various sectors in producing a set of public services. Public services are however not static, but should be understood as emergent and politically negotiated amongst a range of players. According to context either an institutional or a contractual form would be adequate (EU 2004) Similar to private service products, public services also become increasingly complex (Sundbo 2000). Here the interest is in buildings as part of a public service. The construction industry, that is architects, consulting engineers and contractors, operate as service providers for customers, predominantly owners of the coming building, including public sector clients. This type of professional service encompasses direct cooperation with clients (Løwendahl 2000), although it also occurs in more indirect forms through partners. Construction sector development currently seeks to strengthen the service aspects of its products (Carassus 2002, Aranda 2002).

Partnerships can be seen as basic units in networks, since partnerships involve usually two or at few players, where networks consists of multiple actors. These relations have also previously taken various shapes including long term informal cooperation, but is now through NPM changed into stable contractual relations, including models like Sales and Lease back, Build, own, operate, transfer (BOOT) or Renovate, Operate and transfer (ROT), which reshape the roles and actor relations in producing public service within buildings and infrastructure such as dwelling for pensioners and youth, schools, swimming pools etc.

Most scholars of networks picture them as collaboration built on values and with relationships characterised by mutuality and trust (see Koch 2004). However partnerships and networks collaboration are built between organisations, and also this inter firm arena are shaped by power and political processes. Network participants influence the decision-making process, promoting their specific interests. Organisations with more powerful positions will seek to exploit and preserve this position whilst weaker organisations will seek to alter the conditions of their dependency. Network participants will seek potential sources of network support and then seek to control interactions within the network in order to use these supportive structures. This will involve exercise of power by one party over another. However power processes should be examined encompassing its relational characteristic and the importance of coalition building, enrolment and legitimation in mobilising and exerting power. Studies of political processes of negotiation, like actor network theory (Latour 1995), understands the process as coalition building, the intersection and tension between internal and external collaboration as well as between stability and social dynamics. These dimensions can be further elaborated by drawing on organisational politics, which is done elsewhere (Koch 2004).

#### **4. PPP in Denmark**

Denmark is as a welfare society, characterized by a large public sector in a three layer configuration: state, counties and municipalities. In a long period the interest for PPP has been limited and driven more by the interest in additional means of developing public services than lack of public capability for financing investments. The background for private public partnerships in Denmark is mainly four trends: Marketification of public service, new public management, financial- and construction innovation. As late as the nineteen eighties large infrastructure projects were realised with full state financing (Farø-bridges). Privatisation did commence at that time, but the *marketification of public services* is in particular driven by EU-legislation demanding that public services are tendered on market conditions. In Denmark a series of activities has been privatized on all public levels. *New public management* emerges as a belief in managing public tasks with methods, tools and roles as in the private sector. New public management has been influential in Denmark over the last 15 years. *Innovation in financing* of public building projects probably commenced with the large infrastructural projects, like the Great Belt fixed link, but continues with the financing in the sale and lease back model (see below). The *Construction innovations* have from 2000 focused on the role of the client as the key change driver. Parts of the public client “body” are indeed very active in developing new construction management forms such as partnering. The *reforms in the legal framework* have occurred in two waves, described below as windows of opportunity. The first include the implementation of the first EU-directive for public procurement, in an order of July 1998. According to this a municipality can withdraw 5% of revenue of a sale every year. In contrast the subsequent state intervention in the sales and lease back model by June of 2000 implies that the ministry for internal affairs have to approve the municipalities arrangements. The sales sum is to be deposited, only 5% can be withdrawn after 10 years, and it is prohibited to exploit the difference between short and long-term interest rate. The second wave of reform from roughly 2002 was embedded in the Ministry of Economic and Business Affairs with the National Agency of Enterprise and Housing (EBST) as prime mover. An order issued in 2003 thus obliges public units to investigate whether PPP would be feasible in all planning of future building projects. The reform is accompanied with soft regulation such as subsidies, template-contracts and guidelines.

##### **4.1 The first Window of opportunity 1998-2000.**

The municipality Farum with 18.000 inhabitants obtained in 1998 revenue of 300 mills. Euro by selling a wastewater plant and the pipe-net, four schools, a culture centre and a swimming pool. By selling public property, and leasing them back, the municipality obtained capital and could speculate in the difference between short and long term interest (Beck Jørgensen & Bozeman 2002). The approval of the Farum model

by the ministry for internal affairs occurred in 1999. Farum developed its model 1998-2000 and 15-20 other municipalities did the same. Typical partners were a financial institute, a contractor and a municipality. In 2000 a government intervention meant that the municipalities were only allowed to speculate in differences in interest rates and have to deposit the sales-sum. In spring 2002 a scandal surfaced. The economic and political transactions of the mayor involved clientelism, fraud and “circular financial transactions”. Expensive dinners and excessive consumption of redwine annoys the public. The contractors Hoffmann and Skanska are accused for paying sponsorates for Farum football club, which was headed by the mayor. Hoffmann and Skanska did obtain several larger contracts in Farum. Skanska was later convicted for their part. The mayor is now a court case. Farum experienced major deficits on its accounts and raised taxes. In many other municipalities however, the PPP arrangements of this kind were rather successful (Koch et al 2004).

In December 2000 the government announced an effort to develop PPP as part of the so-called “client package” in the Taskforce report. The effort consisted of three elements: First tools to evaluate a PPP before initiation, second standard/generic contracts for PPP and third further consideration of commencing and funding experimental projects. For various reasons these efforts were delayed. Legal issues meant that representatives for the authorities developed a small report on these (Konkurrencestyrelsen 2002). From autumn 2002 a “public sector comparator” was developed as a realization of point 1 above. By COWI (consulting engineer) with a Dutch partner (Dutch and UK experiences were central for the shaping of the comparator). The comparator aids calculating expenses related to building, operation and maintenance so a PPP-offer can be compared to a traditional offer. In 2003 more seminars were held and public reports were published to further support the development (EBST 2003).

#### **4.2 The second Window of opportunity 2004-?**

In the beginning of 2004 the government launched a major action programme providing a new metagovernance frame for PPP and embedded in the National Agency for Enterprise and Housing. The elements include a central counselling unit, a new set of contracts, obligations for state units to consider PPP, a comparator to calculate, a selected set of pilot projects, subsidies for feasibility studies and further investigations of various elements in the strategy such as market developments, urban development as areas for PPP etc. (EBST 2004, 2005). The process from the December 2000 announcement of public interest in PPP, commencement and elaboration of elements in PPP (2000-2003), over the announcement of the action programme in 2004 allowed a set of private actors to develop competencies and to align with the public units engaged in the development (primarily EBST and the Ministry of Traffic). This emerging alliance/constellation encompasses international consultancy companies, international lawyers, engineering consulting companies and financial actors. The participating consulting engineers are COWI, Rambøll, Birch&Krogboe and Moe& Brødsgård. And to some extent the large “Danish” contractors, although contractors appear to be reluctant in engaging in institutional PPP and prefer the contractual form, which means that they prefer to participate in PPP as a traditional contractor. EBST also established a series of seminars for interested actors, which therefore became a “platform” for the network. A database of consulting engineers for feasibility studies encompasses 300 companies.

A present three projects act as prime movers for PPP, a state building, a motorway and a municipality public school: The state agency for properties has pre-selected five consortia of consultants to develop a project for a *new national archive* (Rigsarkiv). All the mentioned consulting engineers above are participating with international players such as KPMG, Grant Thornton and Ernst & Young. This project is estimated at 76 mill. Euro. The international business lawyers Grant Thornton have carried out a feasibility study of a *motorway* in southern Denmark. This project is estimated to be at 121 mill. Euro. The study was financed by the ministry of traffic, who have 3,4 mill. Euro allocated for such studies. A municipality wanting to build a *public school* is in the stage of competitive dialog in a EU tender. This project is estimated to be at 13 mill. Euro and the comparator calculus shows a benefit of 10% in favour of PPP. This

projects feasibility study was financed by the national subsidy. The feasibility subsidy is at 800.000 Euro and covering three years. In 2004 roughly 20 municipalities and counties showed interest. A number of traffic infrastructure projects have surfaced as possible PPP during 2004-5. These include tunnels, lightrail and motorways.

Although the second window of opportunity for PPP in Denmark is clearly opening there are still barriers to be overcome. The EBST have been eager to underline a “100 million Dkr”/ 13,5 million Euro lower limit for the feasibility of PPP. This rule of thumb refers to the initial cost of establishing PPP. The forms of contracts are perceived as complex and financial limitations prevail. Finally, the entire public mega structure is under reform. The municipalities are to merge into larger units and it is unclear how the future county structure might be. It is possible that the reform halts PPP projects. Another development is to engage in local conditions and look at cooperation patterns between small architects, consulting engineers and contractors, who might be partners with municipalities in more modest PPP arrangements thus transcending the mentioned lower limit promoted by EBST.

## 5. Conclusion

The Danish government have successfully developed a set of guidelines, funding, competences, a network of actors and a central unit for supporting PPP. A series of PPP cases are by now under way. However despite the vivid governmental enthusiasm in reforming the metagovernance, it still constitutes an ambivalent frame for partnership projects for small companies and public players. In the cases made in the first window of opportunity, the building managers, the engineers and architects experienced the building project at times look pretty much like a traditional building project, which can be haunted by adversarial interests and strategies (Koch et al 2004). For the construction firms the Farum scandal, which led to the closing of the first window, underlines their dependency of their public partners and their vulnerability in their effort to develop and maintain strong links to public players.

In the second window the competences among central state players, consulting companies, consulting engineers and financial institutions in developing partnerships are now growing rapidly. The government's present effort to develop a better metagovernance frame might solve some of the problems that cases from the first window demonstrated. Within such as stabilisation however the political processes of all parties will continue to create new tensions and dynamics. Such political processes are inescapable in public private partnerships and continue to exist after the establishment in the future networked public services. Where the consulting engineers see this as a risk to be taken, contractors are presently considerably more ambivalent in establishing more than contractual partnerships.

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