

Contested Waters: Analyzing Third-Party Challenges in French Water Contract Governance (2005-2023)

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Abstract:

The management of local public services has become a central concern for public authorities and is often a subject of debate during local elections. When these services are outsourced, third parties—such as interest groups, citizens, local authorities, and economic competitors of the service provider—may perceive a personal or strategic benefit in challenging the resulting public contracts. While some studies have explored how the risk of third-party opportunism influences contract rigidity, no research has empirically examined how such opportunism manifests or how frequently it occurs. This study fills this gap by analyzing 1,690 first-instance administrative litigation cases from 2005 to 2023, related to the management of drinking water and sanitation services in France. Using logistic regressions, the study examines how and when third-party opportunism is most likely to occur. The results reveal that, although economic competitors excluded from tender processes are the most likely to initiate legal actions, interest groups exhibit the highest levels of opportunism, challenging decisions on tendering, contract governance and water tariffs. These findings offer new insights into the dynamics of litigation in public-private partnerships and the strategic behavior of actors, highlighting the need to account for third-party opportunism in the design and governance of future contracts.

JEL Codes: D23, H57, K23, L51, L33.

Key words: Water management, private sector participation, interest groups, third-party opportunism, litigation.

1. INTRODUCTION

Local public services are fundamental to societal well-being and economic stability, making them highly scrutinized and subject to contestation. When agents “with incompatible goals seek to impose their preferences on others”, conflicts emerge and can pose enduring challenges for local authorities responsible for the service delivery (Heidbreder et al. 2011; Nelson and Nollenberger 2011, p.700; Svava 1990). They may manifest through informal channels, such as media campaigns, or through formal mechanisms, including administrative litigation, regardless of whether the services are provided directly by the public sector or through public-private partnerships.

While conflict may be a constructive element of democratic governance and “a vital dimension of public life” (Hoggett, 2006, p.179), it can also be instrumentalized to advance the private interests of the actors involved. A growing body of literature highlights the distinctive role played by third-party challengers in shaping public contracts (Beuve, Moszoro, et Saussier 2019; Beuve, Moszoro, et Spiller 2023; Moszoro, Spiller, et Stolorz 2016). Third-party challengers are understood as “outsiders who try to create conflict between parties who have reached an agreement” (Spiller and Moszoro 2014, p.6). In local public services, they may include political opponents, interest groups, unsuccessful bidders in public procurement, local authorities, or even state representatives. Rather than solely evaluating success (*e.g.*, assessing the efficiency of public spending), third parties often focus on identifying failures (*e.g.*, gathering information to challenge a project) and contractual loopholes to intensify conflicts. In doing so, they may intensify conflicts with the aim of extracting political, reputational, or economic gains.

Spiller (2009) argues that such behaviors are often opportunistic, as actors strategically exploit contracts for personal or political advantage. This aligns with the concept of opportunism rooted in transaction cost economics, which Williamson defines as a behavior seeking to maximize self-interest with guile (Williamson, 1979). The risk of opportunistic behavior arises when these third parties act in ways that prioritize personal or group interests at the expense of public welfare. For example, political opponents may exploit contract renegotiations for electoral advantage, while contractors may engage in rent-seeking behavior at the expense of service quality and efficiency.

Third-party opportunism influences contract design, as both parties favor rigid frameworks to safeguard their interests, often externalizing the inefficiencies of such inflexibility onto the public (Moszoro et Spiller 2018). While contract rigidity has been empirically studied (Beuve, Moszoro, et Saussier 2019; Beuve, Moszoro, et Spiller 2023; Moszoro, Spiller, et Stolorz 2016), the frequency and manifestation of third-party remain unexplored.

This paper examines third-party litigation involving public contracts in the French water sector and aims at assessing potential opportunistic behaviors and identifying conditions that foster such cases. We analyze a comprehensive and unique dataset of 1,690 judicial cases spanning from 2005 to 2023, including detailed information on challengers, defendants, litigation motives, and other relevant factors. We hypothesize that court rulings provide insight into complaint legitimacy, as opportunistic ones are more likely to be dismissed. By exploring judicial cases, we hope to understand the conflictual dynamics of policy implementation, especially regarding public service outsourcing (Rossi, 2023).

Our findings indicate that economic competitors are the primary initiators of legal actions against public authorities, mainly challenging procurement decisions. Courts frequently rule in their favor, suggesting these cases are based on strong legal foundations. In contrast, interest groups, despite their high litigation activity, are more likely to file opportunistic claims, which courts often dismiss. Their focus on tendering processes and contractual governance structures suggests an intent to delay outsourcing rather than address substantive issues.

To our knowledge, this is the first study to empirically document third-party opportunism, providing a classification based on different types of third parties and exploring the strategies used to contest water contract governance. The paper also discusses implications for improving service delivery and offers managerial insights.

The paper is structured as follows. In section 2, we present the related literature and the theoretical framework. Section 3 presents the institutional context of water service delivery in France, offers a definition of the third parties operating within this sector and explores the incentives for them to engage in legal conflicts. Section 4 presents the methodology and the setting of our research. In section 5, we present the results of our tests, and we discuss them in Section 6. Our conclusions follow on from this.

2. LITERATURE REVIEW

Building on the longstanding debate in public management over whether managing in the public sector is fundamentally different from managing in the private sector (Perry & Rainey, 1988; Ring & Perry, 1985), recent research has increasingly focused on the “productivity of government activities, using economic market or market-like strategies, enhancing attention to citizens as service recipients” (Rainey, 2003). In this context, discussions have predominantly centered on the relationship between public authorities and their private partners, often conceptualizing citizens as passive actors in these contractual arrangements (Osborne, 2000; Osborne et al., 2015; Rossi & Tuurnas, 2021). However, drawing on the notion of public scrutiny, a growing body of literature now positions stakeholders not merely as service recipients, but as proactive participants in co-creation processes for local service delivery. This shift brings renewed attention to the conflicts that can emerge during negotiations over the design and implementation of public services (Palumbo & Manesh, 2023; Skålén et al., 2024).

2.1. *Public Contract Efficiency*

Several theoretical models developed in the 1970s and 1980s examined contracts as coordination mechanisms between agents. Agency theory, for instance, addressed information asymmetries between actors, providing a rigorous framework for analyzing and mitigation adverse selection and moral hazard (Akerlof, 1970; Laffont & Martimort, 2002). Its application to public procurement proved quickly useful (Laffont & Tirole, 1993). However, this approach fails to account for some aspects specific to public procurement: it does not consider the permeability of public contracts. It has also intensified economists' focus on contract awarding and the tendering phase (*e.g.*, the actor selection methods and incentive mechanisms in contracts), at the expense of the contract execution phase, which involves numerous renegotiations and contract challenges (Beuve et al., 2023).

Transaction cost theory (Williamson, 1971, 1975) has, for its part, shifted economists' focus to the contract execution phase. It assumes that economic agents operate with bounded rationality in an uncertain environment, where opportunistic behavior may arise, especially in long-term incomplete public contracts (Guasch, 2004; Guasch et al., 2008; Estache & Saussier, 2014; Iossa & Saussier, 2018; Beuve & Saussier, 2021). However, this theoretical framework also does not distinguish public from private contracts. Consequently, while these theories provide useful insights into contract design and execution, they fail to fully account for the role of

external actors who may influence contract performance, let alone, public contract performance.

Similarly, public administration literature has for long conceptualized public service delivery as a service performed by public professionals, with the service users occupying a largely passive role in the process, whether framed as “clients” or “customers” (Osborne et al., 2015). This reinforces a top-down perspective on public service management (Powell et al., 2010; Singh & Prakash, 2010). Most studies in economics and public management examine the formation and success of public-private partnerships through a dyadic lens, primarily focusing on the relationship between public authorities and private actors. In these frameworks, service users are often portrayed as passive recipients of externalities resulting from the partnership.

2.2. Local Service Performance and the Permeability of Public Contracts

Yet, Ring and Perry (1985) emphasized that public sector could not apply private sector models of strategic management given its “openness” to the external environment. While Meier & O’Toole (2011) simply define publicness of a public contract as the fact that it has a public purpose, Ring and Perry emphasize the role played by the media, and the greater attention toward governments from the public compared to the private sector (Ring & Perry, 1985). Similarly, Kelleher and Yackee (2009) argue that public contract decisions are shaped by electoral concerns, public opinion, and stakeholder pressure.

This characteristic is reinforced for local public service delivery, where service users are key agents in the process of value creation. In this regard, the concept of governance has garnered substantial attention in the public service literature, particularly for its emphasis on collective decision-making processes in the delivery of public services (Wang & Ran, 2023). Within this paradigm, value co-production has emerged as a critical concept. It is defined as “regular, long-term relationships between professionalized service providers... and service users or other members of the community, where all parties make substantial resource contributions” (Bovaird 2007, p.847) and is now central to understanding the performance of local public services.

More generally, this characteristic of public contracts is due to the need for transparency and public accountability in democratic countries (Eckersley et al., 2024; Mayston, 1993; Mulgan, 2000). Public contracts are thus subject to scrutiny and can be challenged at court by third

parties seeking fairness and welfare (McCubbins et al., 1989; McCubbins & Schwartz, 1984). In fact, research in public management highlight the active role of stakeholders' engagement in shaping service performance. Schafer and Zhang (2016) show that stakeholders involvement improves local contracting outcomes, aligning with Boyer (2019), who emphasizes interactive citizen engagement in holding private providers accountable. In fact, public contracts are so embedded in the political environment that even secondary stakeholders – namely stakeholder who “lack formal contractual ties or direct legal authority” (Eesley and Lenox, 2006, p.765) – can influence organizational actions and decisions, including the “make-or-buy” question or the selection of a concessionaire (Brown et al., 2006; D'Amore et al., 2021). This suggests that beyond the traditional transactional and bidimensional view of contracting, the external environment emerges as a key element in the study of public contract performance.

2.3. The risk of Third-Party Opportunism for Public Contract Management

Nonetheless, external interventions in public service delivery do not necessarily aim at improving public value. As Hoggett argues, public organizations are inherently embedded in conflictual dynamics due to their fundamental role that is « to deal with the projections of its citizen » (2006, p.176). These conflicts may reflect broader social tensions or be motivated by self-interest.

This article relies on the theoretical model on third-party opportunism, developed by Moszoro and Spiller, who identify third-party challengers as actors tacitly involved in the contractual relationship but not formally (Moszoro & Spiller, 2018). The theoretical foundations of third-party opportunism lie in transaction cost economics, which assumes that economic actors may behave opportunistically—defined by Williamson (1999) as the pursuit of self-interest with guile. This perspective has proven influential in explaining behavior under conditions of bounded rationality, uncertainty, and informational asymmetries.

The risk of potential third-party opportunism at the beginning of a public procurement project forces public agents to introduce greater specificity and rigidity into the contract to mitigate political exposure and opportunistic challenges. However, rigidity and specificity are frequently perceived by private contractors as generating high transaction and implementation costs, which in turn translate into higher final prices—costs ultimately borne by citizens as end-users. Seeing this, third parties strategically evaluate the advantages of contesting contractual terms, particularly when procedural or substantive weaknesses are identified, and may decide to

challenge such project. They may then decide to challenge the legitimacy of the transaction either informally through media campaigns or formally via legal action, thus imposing other significant costs for the legal authorities. These challenges often aim at exploiting contractual loopholes for personal gain, either political or economic (Spiller, 2009).

Building on this framework, empirical research has explored the relationship between political contestability and contract design—specifically, the tendency for more politically contested environments to be associated with greater contract rigidity or, conversely, reduced contractual flexibility (Beuve et al., 2019, 2023). These studies use electoral data as a proxy for political contestability. However, existing work has largely focused on the level of contestation within public administrations, rather than examining the opportunistic actions of third parties themselves.

Following this theoretical framework, our research investigates the strategies employed by third parties when challenging public contracts, focusing on actors whose interests may diverge from those of public authorities and their private partners. In doing so, we question the often implicit assumption in the co-creation literature that collaborative mechanisms can fully align organizational interests to generate public value (Kitchener et al., 2023; Osborne, 2000; Roehrich & Kivleniece, 2022). Rather than viewing legal challenges merely as barriers to effective service delivery, we reinterpret them as strategic instruments that may be used by actors to advance self-interested objectives. This perspective contributes to a more critical understanding of public contract management by highlighting the tensions, conflicts, and transaction costs that can emerge when public services are managed by a private actor.

3. EMPIRICAL STRATEGY

3.1. Institutional Framework: The French Drinking Water Service Delivery and Sanitation Services

In France, the drinking water and sanitation sectors are structured as local natural monopolies, primarily due to their high fixed costs, which represent between 80% and 95% of total service provision costs (Guelmamen, 2025). As is the case in many European countries, French municipalities retain the legal discretion to organize these services either through direct public management or via delegation to private operators. Currently, 68% of drinking water services are managed by public entities, while 32% are delegated to private providers. However, private

operators serve a disproportionately large segment of the population, accounting for approximately 57% of residents (SISPEA, 2023).

This distribution has remained relatively stable over the past two decades, with the private sector experiencing only a modest decline—approximately 3%—in population coverage since the 2010s, primarily as a result of remunicipalization initiatives in major urban centers. A comparable dynamic is observed in the sanitation sector: although only 25% of sanitation services are managed by private entities, they nonetheless serve around 40% of the population. As with drinking water services, this distribution has shown little variation over the observation period (SISPEA, 2023).

Municipalities in France may opt to manage drinking water and sanitation services either independently or through intermunicipal cooperation structures, which are designed to generate economies of scale and enhance service efficiency (Guelmamen, 2025). Over the past few decades, the French central government has actively encouraged the transfer of competencies from municipalities to intermunicipal entities, notably through successive territorial reforms, including the major restructuring introduced in 2015 (Pezon & Petitet, 2004). In this context, Guelmamen (2025) reports that the share of intermunicipal structures in the drinking water sector increased from 13% to 25% between 2010 and 2018. By 2021, these structures accounted for 25% of drinking water service providers, delivering water to 84% of the French population.

Outsourcing the management of public services frequently provokes public debate. A range of third-party actors—including political opponents, civil society organizations, and interest groups—actively shape the discourse and oversight surrounding public-private contractual arrangements. These actors often assume the role of watchdogs, questioning the legitimacy, efficiency, or transparency of service management practices. Their interventions are frequently embedded in broader political dynamics, wherein perceived shortcomings in delegated management are strategically leveraged to influence public opinion or gain political advantage (Beuve et al., 2019).

Debates concerning the relative efficiency of public versus private management remain particularly salient, especially in light of steadily rising water prices. Notably, there is limited empirical evidence to suggest that contract renewals exert any downward pressure on prices (Mayol and Saussier 2021). As a result, a growing number of municipalities—often under pressure from consumer advocacy groups, environmental movements, or political parties—

have opted to remunicipalize their drinking water services (Bel, 2020; Hall et al., 2013; Hefetz & Warner, 2004). These decisions are typically justified by concerns over escalating tariffs and a perceived lack of public control over strategic investment decisions made by private operators.

3.2. *The French Drinking Water and Sanitation Services: The Key Third Parties*

In these sectors, third parties may encompass regulatory agencies, economic competitors, civil society organizations, and other local public authorities. They often drive the debate on the organization of water services or their efficiency.

Regulatory agencies are responsible for ensuring compliance with water service contracts and the regulatory frameworks governing them. In France, *Préfets* oversee this process through formal mechanisms, such as approving new contracts or requiring contract renegotiations when deviations occur, thereby limiting the flexibility of informal adjustments.

To recall, the decision to outsource water services is made through periodic calls for tenders, allowing municipalities to select private providers. Once awarded, the chosen private provider enjoys a local monopoly for the duration of the contract, which is on average approximatively 12 years (SISPEA, 2023). At the end of each contract period, a mandatory re-competition occurs, offering the possibility of renewing the current operator or replacing them with a more efficient competitor (Chong, Saussier, and Silverman 2015). This periodic auction process is designed to improve contractual performance but must be subject to public scrutiny so as to avoid corruption and graft. Similarly, auditors and oversight bodies monitor the execution of water service contracts to promote transparency, efficiency, and accountability. Their evaluations can lead to public disclosures of mismanagement or inefficiencies, influencing future contracting and management practices.

Economic competitors to the private sector contractors involved in water service delivery retain the right to challenge the selection process or contest the validity of awarded contracts. In France, the market for water service concessions is highly concentrated, with three major private companies dominating the sector and controlling the majority of long-term service contracts (Office Français de la Biodiversité, 2023). Conversely, in the procurement market for water-related works and services, public authorities may retain direct control over service provision while outsourcing specific tasks to a diverse range of smaller private firms. In both

concession and procurement cases, economic competitors are differentiated based on whether they actively participated in the bidding process. Bidders who submitted proposals typically have stronger legal standing to contest procurement outcomes, while non-bidders face more stringent criteria to establish their active role in legal disputes.

Civil society, including individuals and associations, plays a proactive role in advocating for transparency and accountability in water service management. By mobilizing public opinion, pursuing legal action, and engaging in lobbying, the latter seek to influence how contracts are awarded, monitored, and managed (Spiller & Liao, 2008). Recently, Ruiz Díaz (2019) demonstrated that interest groups' actions regarding public contracts significantly impact public authorities, as they can deter or reinforce the latter's opportunistic behavior toward private partners in pursuit of electoral gains.

Finally, other local government entities may also exert influence on water service delivery, contributing to the complexity of managing these essential public services. When technical problem solving are not enough to make a rational choice, politically grounded decisions may take over, often leading to political dissensus, especially in intermunicipal networks (Haveri, 2006).

3.3. *Incentives to Initiate a Lawsuit Against a Public Contract*

For third parties, the decision to litigate can be analyzed considering the costs and benefits associated with such action. A rational plaintiff chooses to sue if the expected utility of litigation exceeds that of alternative actions, such as settlement or inaction.

The expected utility (EU) of filing a lawsuit can be simply expressed as:

$$EU = p * (A - C) + (1 - p) * (-C) - O + SB$$

Where p is the probability of success, A the compensation expected if the plaintiff prevails, C , the expenses incurred during litigation, O the opportunity cost (i.e., the value of the best alternative foregone by choosing to litigate), SB the strategic benefits of the case, whatever the result.

The first term of the expected utility represents the expected benefit if the case is won, while the second denotes the expected loss if it is lost. The third term accounts for opportunity costs,

and the last term reflects the potential benefits of opportunistic litigation for some third parties (i.e., when the probability to win is very low). A rational plaintiff decides to sue if $EU > 0$, indicating that the expected utility of litigation outweighs that of not suing.

In this framework, interest groups have a high probability to litigate opportunistically, as their primary objective often extends beyond winning the legal case. They derive strategic benefits, such as raising public awareness, delaying projects they oppose, or pressuring policymakers to reconsider decisions (de Figueiredo & de Figueiredo, 2002; Spiller & Liao, 2008). Since lawyers are not mandatory in administrative law, and interest groups typically have access to legal support or advocacy networks, their effective litigation costs are reduced. Additionally, their opportunity costs are usually low, as litigations align with their mission-driven focus, making even unwinnable cases a viable strategy to achieve broader goals.

Economic competitors, by contrast, have fewer incentives to sue opportunistically as they must weigh potential strategic gains against substantial costs (Marshall et al., 1994). They may challenge bidding processes, delay projects, or signal transparency concerns to gain reputational leverage. However, they face high litigation costs and the risk of losing favor with public authorities, which could harm their chances of winning future contracts. This reputational and relational cost moderates their inclination to engage in opportunistic litigations, keeping their probability in the medium range.

Individuals (end-users or consumers) have a moderate probability to sue opportunistically due to their reliance on collective action mechanisms, such as class-action lawsuits, which lower individual litigation costs. While they also have access to legal aid, their strategic or non-monetary benefits may be limited compared to interest groups. Lastly, their overall likelihood of suing is constrained by typically higher legal costs and opportunity costs relative to the potential personal gains, resulting in only moderate incentives to pursue unwinnable actions (Lichère & Bell, 2022).

Public authorities are prone to conflicts, particularly in the management of infrastructure within inter-municipal cooperation, where rising agency costs exacerbate tensions (Bel & Gradus, 2018; Haveri, 2006). These disputes can escalate into politicized conflicts, often played out in the press or public debates. However, the likelihood of public authorities filing a complaint opportunistically remains low due to the significant legal and opportunity costs involved. Litigation not only diverts public funds and administrative resources but also carries

reputational risks, as unsuccessful cases can undermine their credibility. Even with institutional support and access to public funds, the pressure to justify expenses and deliver visible outcomes to stakeholders disincentivizes engagement in legal actions perceived as unlikely to succeed, regardless of political or electoral timing.

Finally, regulatory agencies, such as *Préfets*, are even less likely to act opportunistically. While they are legally obligated to refer potentially unlawful acts to the courts, they derive no direct strategic benefit from doing so, as they are prohibited from running for elected office while in position. Moreover, initiating legal proceedings entails the use of public funds and administrative resources, making litigation a costly endeavor. These agencies frequently withdraw complaints during the judicial process once the defendant takes corrective action and rectifies the situation.

We resume the incentives for third parties to sue opportunistically (See Table 1).

Table 1. Third parties' probability to challenge opportunistically

<i>Third Party</i>	<i>Motivation to Sue (A)</i>	<i>Legal Cost Tolerance (C)</i>	<i>Opportunity Cost Tolerance (O)</i>	<i>Strategic Benefits (SB)</i>	<i>Probability to Sue Opportunistically (EU)</i>
<i>Interest Groups</i>	High (advocacy, delaying unfavorable projects)	Medium (pro bono support, network funding)	Low (aligned with mission-driven focus)	High (raising awareness, influencing policy)	High
<i>Economic Competitors</i>	High (market share, strategic gains)	High (substantial resources in competitive sectors)	Medium (litigation may disrupt other operations)	Medium (weaken rivals, delay projects)	Medium to High
<i>Individuals (End-Users)</i>	Low (individual interests, minimal benefits)	Low (high personal costs)	Medium (occasional collective actions)	Low (limited strategic influence)	Low
<i>Local Authorities</i>	High (political deflection, public accountability)	Low (restricted access to public funds, budget constraints)	High (must justify actions to the public)	Medium (political gains, public visibility)	Low
<i>Regulatory agencies</i>	Medium (No individual interests but legal responsibility)	High (low legal costs)	High	Low (legal responsibility)	Low

Drawing from this table, we present our set of research hypotheses:

H₁. Interest groups are more likely to opportunistically challenge public contracts than other groups.

H₂. Economic competitors have a medium-to-high likelihood of challenging public contracts opportunistically.

H₃. Individual citizens are unlikely to pursue opportunistic legal challenges.

H₄. Local authorities are unlikely to engage in opportunistic litigation.

H₅. Regulatory authorities have a low propensity to challenge public contracts opportunistically.

The following analysis aims to examine the characteristics of litigation cases initiated by third parties. Using a unique dataset, we identify their profiles and assess their likelihood of success, which serves as a proxy for distinguishing between opportunistic and legitimate behaviors. We hypothesize that interest groups, being the most likely to engage in opportunistic litigation cases, should also be the third parties with the lowest probability of success.

4. DATA AND VARIABLES

4.1. Data collection

This study leverages data from legal disputes pertaining to public contracts governed by administrative law, spanning from January 1, 2005, and December 31, 2023.¹ To construct the dataset, we systematically collected the whole universe of legal decisions issued by first-instance administrative tribunals, pertaining to drinking water and sanitation services. These decisions were accessed via *Ariane Archives*² at the *Conseil d'État* (the highest French administrative Supreme Court).

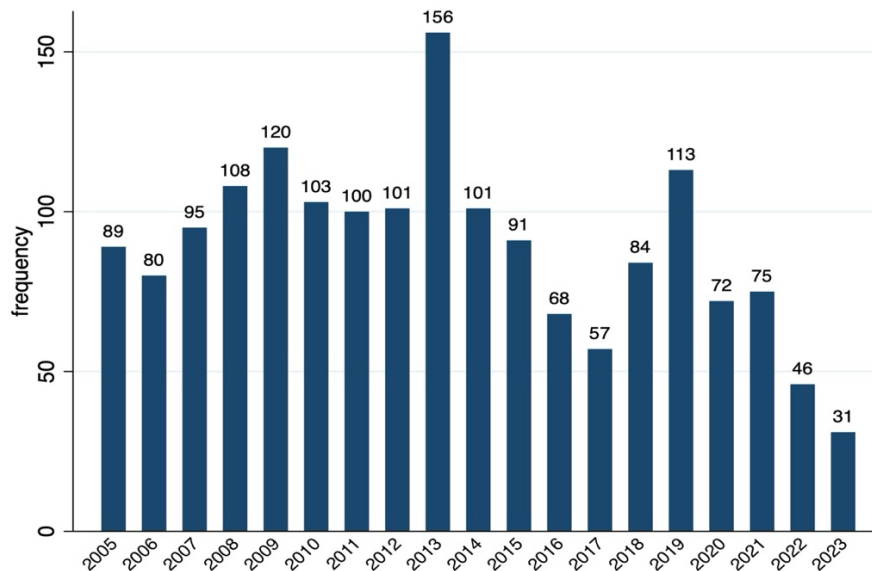
The authors individually reviewed these legal decisions after an initial attempt to automate database construction and variable identification using Excel VBA and machine learning techniques, including ChatGPT. However, due to inconclusive results, we ultimately relied on

¹ The choice of the period is motivated by the availability of comprehensive data and the fact that it is sufficiently long for the analysis we intend to conduct. Moreover, the French administrative justice system has been systematically digitalizing all its court decisions since 2005 only.

² A restricted-access database that compiles rulings from both first- and second-degree administrative jurisdictions, only accessible at the Conseil d'Etat.

a manually curated dataset.³ This approach allowed us to refine our analysis by focusing exclusively on lawsuits filed by third parties. The resulting subset comprises 1,690 cases (see Figure 1 for annual distribution).

Figure 1 : Frequency of challenges per year



Source: Calculus of the authors

The empirical strategy adopted in this study focuses exclusively on legal conflicts that were formally adjudicated in court. These cases encompass legal disputes that proceeded through judicial processes, were settled during litigation, or were withdrawn after being filed. A distinguishing feature of the French administrative legal system is that plaintiffs are not required to be represented by legal counsel to initiate proceedings. This characteristic makes our dataset comparatively broader than those used in empirical studies from jurisdictions where high litigation costs and mandatory legal representation serve as barriers to frivolous lawsuits (Lumineau & Oxley, 2012; Lumineau & Quélin, 2012).

However, this focus on adjudicated cases also implies certain limitations. The dataset does not account for quasi-legislative and quasi-judicial mechanisms through which third parties attempt to influence public decision-making, such as lobbying efforts, public participation in policymaking, activism, or alternative dispute resolution mechanisms (Bingham et al., 2005;

³ Rulings from administrative jurisdictions lack any structured format, making it challenging to use ChatGPT or machine reading/learning solutions at the time for extracting relevant information effectively.

O’Leary & Raines, 2001). Likewise, disputes confined to public debate—through newspaper articles or local council meetings—are excluded (Goldsmith & Eggers, 2005). Additionally, cases adjudicated in criminal courts are outside the dataset’s scope.

4.2. *Third Parties in the French Water Sector between 2005 and 2023*

A first set of dummy variables identifies the entities contesting public contracts. We categorized challengers into six distinct groups.

First, *interest groups* encompass organizations defending the interests of their members or the collective interests, such as environmental advocacy groups, citizens associations or professional federations. They can be defined as formal and permanent organizations, made of members (which can be individuals, or companies, thus differentiating them from the following categories), seeking to influence public opinion formation or policy implementation, without intending to run for elections (Varone & Eichenberger, 2023).

Second, the *state* category includes governmental bodies at both the central and decentralized levels, typically challenging contracts due to regulatory concerns or compliance issues.

Third, the *individuals* group comprises private individuals or small groups of individuals, including elected representatives. Elected representatives are treated within this category under the assumption that individual challenges can be politically motivated, and it is not possible to distinguish them.

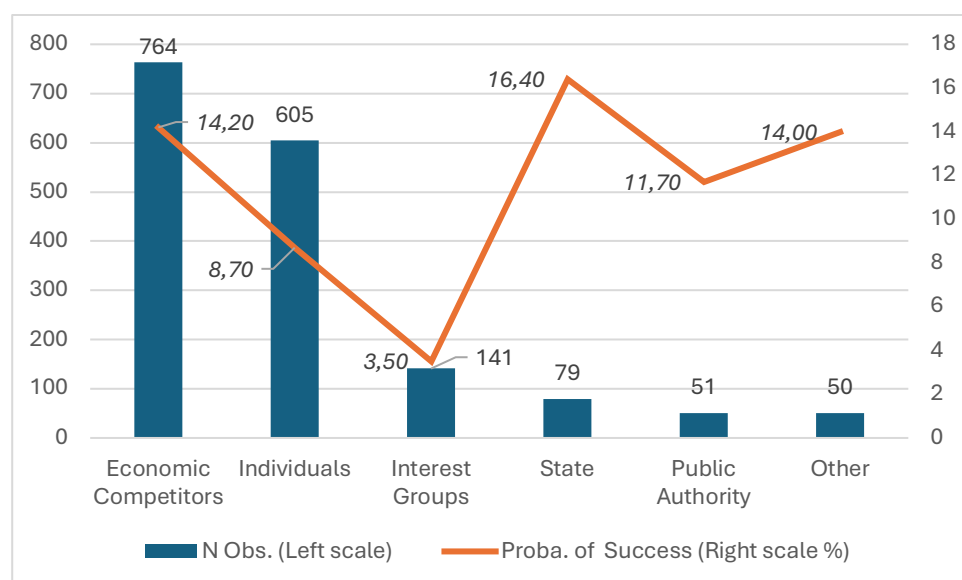
Fourth, the *public authority* category refers to local governments responsible for service delivery to other parts of the population and indirectly involved in disputes concerning oversight or governance. This category also includes municipalities that, while opting for intermunicipal cooperation to provide water services, challenge decisions made by the intermunicipal authority.

Fifth, *competitors to the service provider* include losing bidders and entities inferred to be competitors based on contextual evidence. For example, local companies contesting a contract are classified as competitors, when they attempt to position themselves as alternatives to the current provider.

Finally, the *Other* residual category captures challengers that do not fit within the other classifications, ensuring outliers are accounted for.

The number of challenges per category of challengers is given in Figure 2 as well as their probability of success.

Figure 2 : Number of observations per category of challengers and probability of success



Source: Calculus of the authors.

We can observe that challenges are more frequently initiated by economic competitors and individuals, those two categories of challengers representing more than 80% of the dataset. Although the likelihood of success remains low across all categories, interest groups and individuals have the lowest success rates, at 3.5% and 8.8%, respectively. This aligns with our earlier analysis, as interest groups are the most prone to opportunistic litigation, while individuals tend to be politically motivated. Another possible explanation is that third parties initiate proceedings for varying motives, some of which may have a lower change of being upheld in court.

4.3. *The Diverse Motivations Behind Third-Party Lawsuits*

Figure 3 outlines the motives invoked by third parties, categorized through an in-depth review of these cases.

The first category, “*tendering process and organization modes*” covers disputes arising during procurement. It includes challenges to outsourcing decisions, procedural irregularities before

contract signing, and *ex post* conflicts over contractor selection. While public authorities must justify their choice of provider, governance model selection (e.g., direct public management or private management) is often less transparent. All concession projects and independent public authority establishments require review by the *Commission Consultative des Services Publics Locaux*, but this is only advisory, with the final decision resting with the deliberative assembly (Cour des Comptes, 2024). Consequently, third parties have limited influence over insourcing or outsourcing decisions but can attempt to interrupt the process by challenging them in court.

The second category, “*service management*,” includes disputes related to the operational and technical aspects of service delivery. Examples include performance issues such as leaks, accidents and day-to-day operational challenges. This category also encompasses requests for expertise related to practical or technical failures, and disputes involving coordination between public authorities regarding water distribution responsibilities.

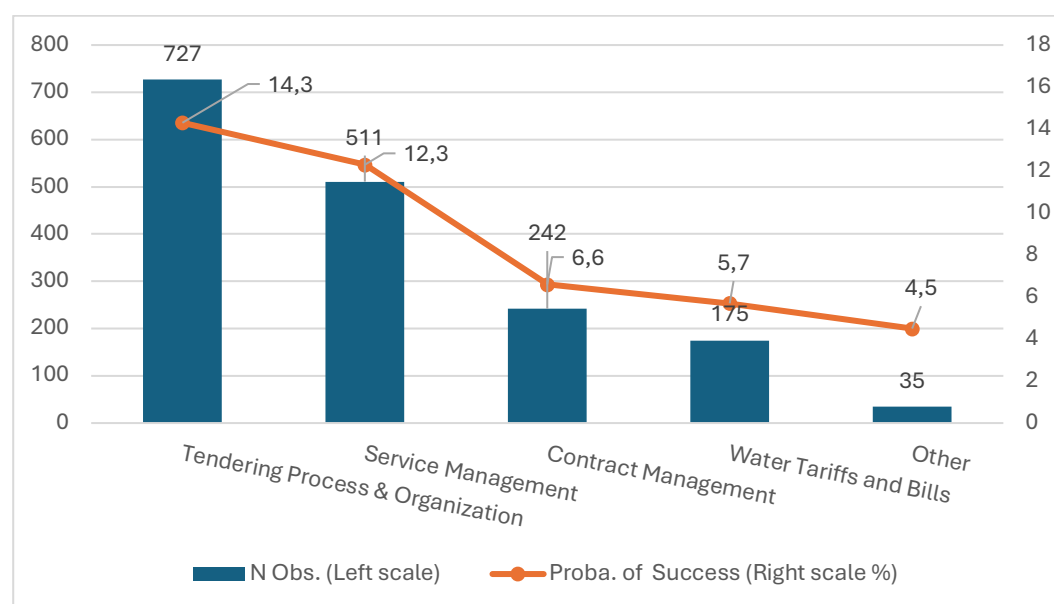
The third category, “*contract management*” encompasses disputes directly related to contracts between public authorities and their economic operators. This category thus includes issues involving the interpretation and enforcement of contract terms, contract modifications, and cases of contract cancellation or termination, as well as conflicts motivated by remunicipalization efforts. It covers both advocacy for contract cancellation and challenges to attempted terminations.

The fourth category, “*water tariffs and bills*” addresses financial disputes, including billing issues, enforcement of payment collection processes, and conflicts over the pricing structure of water services. This category also includes disputes related to cost-sharing models between public authorities and service providers.

The final category “*Other*” includes cases that fall outside the scope of the previously defined categories. These may involve issues related to human resources management or access to water sources (e.g., disputes over spring access).

Figure 3 presents the average success rates for legal challenges based on litigation motives, indicating that success likelihood depends on the specific grounds invoked. Disputes over the tendering process have the highest success rates, while challenges related to water service finances show notably lower success rates.

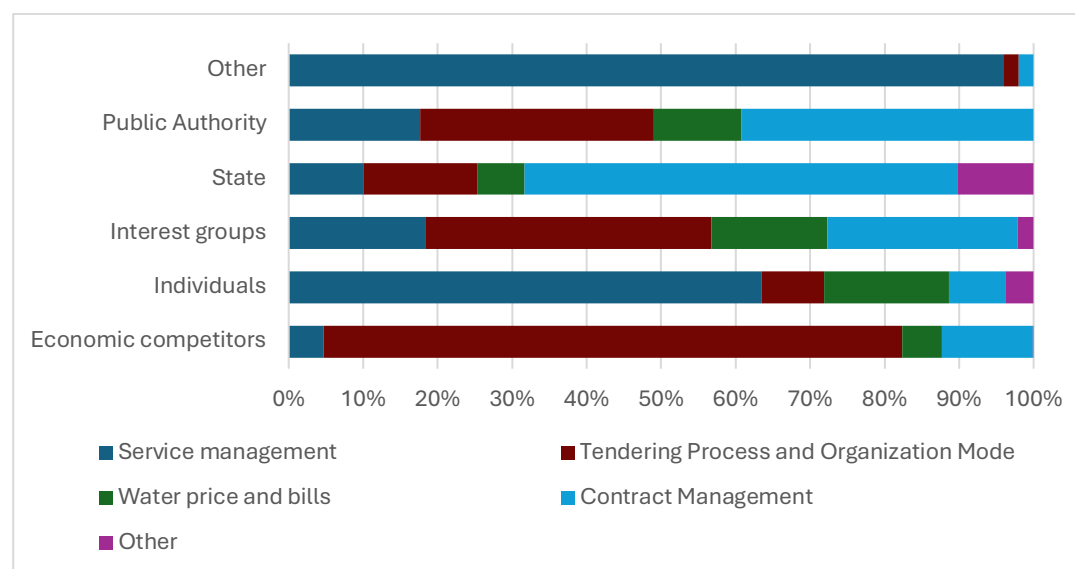
Figure 3 : Number of observations per litigation motives and probability of success



Source: Calculus of the authors.

Interestingly, the motivations behind third-party litigations are closely linked to the specific third party involved, as illustrated in Figure 4.

Figure 4: Distribution of Litigation Motives by Third-Party Category



Source: Calculus of the authors.

The chart highlights the significant variety of litigation motives across third-party categories, with economic competitors focusing mainly on service management, while the state predominantly targets contract management. Meanwhile, interest groups are more concerned with the organization of tendering processes.

4.4. *Third-Party Opportunistic Behaviors and Probability of Success of Lawsuits*

For our empirical strategy, we assume that opportunistic challenges are more likely to be overturned by courts. This assumption relies on prior research on courts' ability to identify and dismiss such claims (Coviello et al., 2018; Maser et al., 2012). This premise helps differentiating legitimate grievances from opportunistic behavior.

To further analyze opportunistic challenges, we examine correlations between challenge success rates and key variables including the type of third party, the timing, motive as well as other control variables. This analysis aims to identify patterns that reveal the strategic motivations behind certain challenges, providing a nuanced understanding of how and when third-party opportunism is most likely to occur.

$$SUCCESS_{itcd} = \sum_k \alpha_k TP_k + \sum_j \beta_j LitigationMotives_j + \gamma Trend + Y_t + \delta_c + \gamma_d + \varepsilon$$

Where *SUCCESS* is a binary variable that takes the value 0 if the challenge *i*, adjudicated at date *t* by court *c* with a defendant *d* is overturned, and 1 otherwise. *TP* is a series of dummy variables identifying the *k* different third parties involved in the conflicts; *Litigation Motives* is a series of dummy variables identifying the *j* distinct grounds on which third parties base their claims; *Y* is the year of the adjudication.

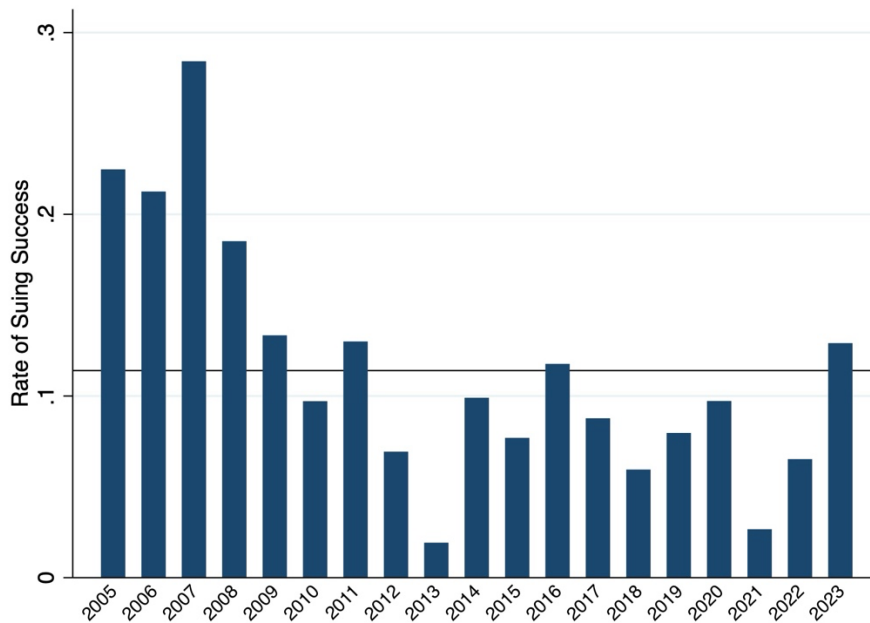
Since our data includes legal decisions from administrative tribunals, we created dummy variables to identify tribunal locations and capture institutional dynamics (δ_c). Our regressions also include *Year* fixed effects and a *Trend*. Additionally, we control for *Defendant* type (γ_d), categorizing them into four groups: municipality, intermunicipal cooperation, economic operator, and other public authority. Since public authorities can manage services locally or through intermunicipal structures, “municipality” covers independently managed services, while “inter” refers to intermunicipal management. “Economic operator” includes private operators, which, though rarely challenged, may face litigation over issues like water leaks or illegal supply cuts. “Other public authority” covers intermediary and national government levels, such as departmental or state authorities, which often oversee wastewater management in rural areas.

When *SUCCESS* equals 1, it indicates that the court accepted the request, resulting in outcomes such as monetary compensation, annulment, interruption, termination, or suspension of an

administrative act (*e.g.*, procurement or contract), agreement approval, expert assessments, or contract interpretations. Conversely, when SUCCESS equals 0, it includes cases where the court rejected the claim, or the challenger withdrew during the judicial process.

Figure 5 presents annual success rate across the dataset, which decreases through time, but has an overall average of 11.4%.

Figure 5: Rate of suing success per year



Source: Calculus of the authors.

The following table presents the descriptive statistics of the variables we use in our empirical analysis.

Table 2. Descriptive Statistics

	mean	sd	min	max	count
SUCCESS	0.114	0.318	0.0	1.0	1690
Interest Groups	0.083	0.277	0.0	1.0	1690
Other	0.030	0.169	0.0	1.0	1690
Individuals	0.358	0.480	0.0	1.0	1690
Public Authority	0.030	0.171	0.0	1.0	1690
Economic Competitors	0.452	0.498	0.0	1.0	1690
Intercommunality	0.514	0.500	0.0	1.0	1690
Other Public Authority	0.061	0.239	0.0	1.0	1690
Economic Operator	0.073	0.261	0.0	1.0	1690
Municipality	0.352	0.478	0.0	1.0	1690
Service Management	0.302	0.459	0.0	1.0	1690
Tendring Process and Org. Mode	0.430	0.495	0.0	1.0	1690
Water Price and Bills	0.104	0.305	0.0	1.0	1690
Contract Management	0.143	0.350	0.0	1.0	1690
Other	0.021	0.142	0.0	1.0	1690
Year	2013.1	5	2005	2023	1690

Source: Calculus of the authors.

5. RESULTS

Table 3 presents the results of our estimates looking at the likelihood of a challenge success.

Table 3. Likelihood of a challenge success

	(1) SUCCESS Logit	(2) SUCCESS Logit	(3) SUCCESS Logit	(4) SUCCESS Logit	(5) SUCCESS Logit	(6) SUCCESS Logit
Interest Groups	-1.6785*** (0.5474)	-1.7163*** (0.5436)	-1.5936*** (0.5816)	-1.4920** (0.6195)	-1.4920** (0.6195)	-1.8009*** (0.6357)
Other	-0.1906 (0.5083)	-0.4349 (0.5246)	-0.2004 (0.5754)	-0.0393 (0.5968)	-0.0393 (0.5968)	-0.8132 (0.6226)
Individuals	-0.7186** (0.3359)	-0.8178** (0.3385)	-0.5901* (0.3529)	-0.5738 (0.3954)	-0.5738 (0.3954)	-1.2308*** (0.4544)
Public Authority	-0.3902 (0.5302)	-0.3448 (0.5266)	-0.4069 (0.5354)	-0.6363 (0.5844)	-0.6363 (0.5844)	-0.8474 (0.6071)
Economic Competitors	-0.1686 (0.3207)	-0.1787 (0.3190)	-0.2727 (0.3340)	-0.2796 (0.3764)	-0.2796 (0.3764)	-0.7092 (0.4427)
Year					-0.0582* (0.0333)	-0.0599* (0.0337)
Tendering process and org. mode						-0.3853 (0.3096)
Water price and bills						-0.8206* (0.4274)
Other						-1.0703 (0.8385)
Constant	-1.6247*** (0.3035)	-1.4979*** (0.3315)	-0.7541* (0.4100)	-1.7887*** (0.6710)	114.8564* (66.8155)	119.0954* (67.6076)
Defendant F.E.	No	Yes	Yes	Yes	Yes	Yes
Year F.E.	No	No	Yes	Yes	Yes	Yes
Court F.E.	No	No	No	Yes	Yes	Yes
r2_p	0.020	0.024	0.081	0.126	0.126	0.138
N	1690	1690	1690	1663	1663	1663

Heteroskedasticity-robust standard errors are reported in parenthesis. In our regressions, the State serves as the reference category for third parties, while Service Management is used as the reference category for litigation motives. *denotes significance at 10%, * significance at 5%, and *** significance at 1%.

Source: Calculus of the authors.

The results support the initial hypothesis regarding third-party opportunism as outlined in Table 1, confirming that third parties exhibit varying propensities for opportunistic litigation. The regression analysis reveals that interest groups are significantly more likely to litigate without strong legal grounds, as reflected in their lower success rates compared to the reference category (the State). This outcome aligns with expectations, reinforcing the idea that interest groups often use litigation strategically to influence policy or delay projects, rather than address contractual failures.

The data also reveals that individuals (end-users) share some traits with interest groups, exhibiting lower success rates, albeit not as pronounced. This finding suggests a moderate level of opportunism, likely driven by collective actions or advocacy rather than direct financial incentives.

Conversely, economic competitors and public authorities display higher success rates compared to interest groups and individuals, suggesting that their challenges are more frequently grounded in substantive legal concerns. This distinction underlines the dual nature of third-party challenges: while some seek to correct procedural irregularities, others, particularly interest groups, appear to use litigation strategically.

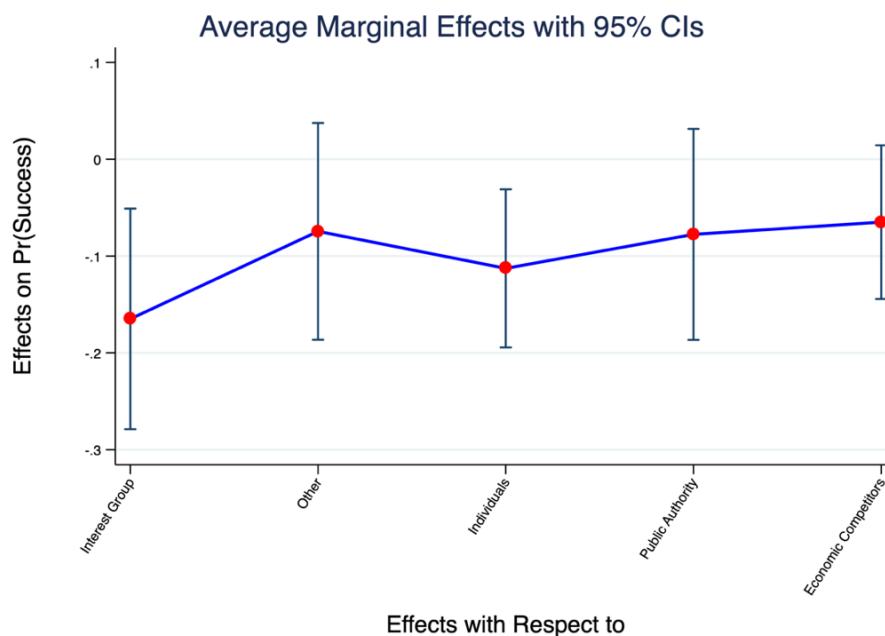
The negative trend in Table 3, consistent across specifications, reflects the declining probability of litigation success over time, as illustrated by Figure 5. This suggests increased judicial scrutiny and a possible institutional learning effect, as courts become more adept at dismissing opportunistic claims, particularly from interest groups. This trend may also indicate a deterrent effect, discouraging weaker cases, and could reflect evolving policies and regulations that have strengthened over time. This trend underscores the dynamic nature of legal contestation in public contract governance, where both third-party strategies and judicial responses adapt. This pattern reinforces the importance of monitoring legal frameworks to ensure they continue to balance public accountability with the need to protect public contracts from excessive or opportunistic litigation.

To better understand how each variable influences success probability, we compute Average Marginal Effects (AMEs).⁴ Figure 6, based on our most comprehensive specification

⁴ Table 3 presents the results from logistic regression models, estimating the log-odds of a successful legal challenge rather than the direct probabilities. Since the logit model is non-linear, coefficient magnitudes and

(SUCCESS (6)), examines the impact of third-party involvement on litigation outcomes. Marginal effect analysis reinforces previous findings, showing that interest groups are significantly more likely to initiate opportunistic challenges. Their probability of failure exceeds 16% on average compared to cases where the State is the initiating party (the reference group). Individuals also exhibit a higher probability of failure, confirming earlier results. This pattern holds even after controlling for key variables such as lawsuit grounds, defendant type, year, overseeing court, and claim nature. Additionally, individuals significantly reduce the probability of litigation success, highlighting their tendency for opportunistic behavior. In contrast, other third parties show neutral marginal effects, suggesting their claims are more legally grounded.

Figure 6: Marginal effects of third parties involved in conflicts on the probability of success



Source: Calculus of the authors.

In summary, the results confirm that interest groups are the most prone to opportunistic litigation, using legal avenues for strategic goals rather than addressing genuine contractual issues. In contrast, economic competitors file challenges with stronger legal merits, leading to

directions do not directly reflect effects on success probability. The impact of each variable depends on all covariates and the baseline probability, making direct interpretation misleading. AMEs convert log-odds changes into probability changes, averaging these effects across all observations. This approach provides a clearer, more interpretable assessment of how each independent variable influences litigation success.

higher success rates. These findings underscore the complex interaction between legal frameworks, public accountability, and strategic behaviors in public contract governance. These results may also challenge the assumption made by Moszoro and Spiller (2012) according to which self-interest is inherently in opposition with public interest.

While third-party oversight enhances transparency and accountability, the prevalence of opportunistic challenges—especially from interest groups—can create inefficiencies and raise transaction costs in public-private partnerships. Policymakers should consider safeguards that balance the benefits of third-party scrutiny with the need to limit frivolous or strategically driven litigation.

6. DISCUSSION

This study provides the first empirical analysis of third-party characteristics, motivations, and litigation strategies. While previous research has examined the consequences of third-party opportunism—such as inefficiencies in public contracts (Moszoro & Spiller, 2019) and the relationship between political contestability, contract rigidity, and renegotiation (Beuve et al., 2019, 2023) – empirical investigation into third-party behaviors has been lacking.

The study aimed to investigate the strategies employed by third parties when challenging public contracts, focusing on actors whose interests may diverge from those of public authorities and their private partners. The findings reveal a dual reality: while economic competitors often raise valid claims on procedural irregularities or abuses of power, interest groups and individuals frequently engage in opportunistic litigations. These results validate our first hypothesis but refute our second and third hypotheses. This result is particularly unexpected for economic competitors, who, as suggested by Table 1, appear prone to opportunistic behavior; yet, the analysis reveals that their claims are generally well-founded. In contrast, the findings on interest groups and individuals were expected and align with the empirical work of Sanda et al. (2022), who identify self-interest as a key driver of stakeholder opportunism in PPPs.

This study deepens the discussion by clearly distinguishing between opportunistic and legitimate challenges. Interest groups are the most prone to strategic litigation, often seeking non-monetary benefits, whereas economic competitors base their claims on stronger legal grounds. These results align with Yang and Callahan (2007) on the importance of community groups in local governance. Our findings reveal that approximately 25% of legal challenges

from interest groups concern public contract management, particularly the tendering process and governance structure. This supports Boyer, Rogers, and Van Slyke (2018), who emphasize the benefits of early stakeholder involvement in project development and contract implementation.

The absence of successful claims from interest groups suggests their challenges are often self-serving rather than responses to genuine governance failures—failures that might have been mitigated through earlier stakeholder engagement. Aligning with Moszoro and Spiller (2012; 2018) who see third-party opportunism as a *potential* threat, our results suggest that interest groups engage more in *nuisance litigation* strategies than substantive threats to public contracts (Kirat & Marty, 2017). This dynamic calls into question the sufficiency of transparency as a mechanism for ensuring accountability, echoing Etzioni's (2014) critique of transparency as an inadequate substitute for substantive regulation. Rather than promoting public interest, third-party oversight may, in some cases, advance narrow personal or group agendas.

However, while our results align with the theoretical framework of Spiller and Moszoro, we challenge their traditional classification of third-party actors. This framework groups political opponents, contractor competitors, and interest groups under the broad label of “third parties” category, contrasting them with voters, the state, and courts, classified as the “public at large” (Spiller & Moszoro, 2012). However, our analysis shows that interest groups and voters (end-users) exhibit greater similarities in how they engage with public contract governance compared to political opponents and economic competitors. This distinction calls for a reassessment of stakeholder interactions in public-private partnerships, where governance remains highly exposed to external pressures.

Given that the theory on third-party opportunism is rooted in transaction cost theory, it assumes is that economic agents may adopt behaviors seeking to maximize self-interest to the expense of public interest (Williamson, 1999). However, by framing opportunism strictly in terms of self-interest in opposition to the public interest, this theoretical lens may oversimplify the complexity of third-party behavior in public service delivery. In particular, it offers a limited account of public accountability dynamics, as it neglects the nuanced ways in which third parties may simultaneously pursue self-interest while preventing procedural defects or even corruption.

These insights also contribute to broader debates in public administration about balancing efficiency with stakeholder engagement and transparency (Douglas & Meijer, 2016; König et al., 2024). Although interest group litigation is frequently dismissed, their persistent involvement highlights tensions between democratic participation and administrative efficiency. These tensions reflect wider concerns about public value creation and distribution in multi-stakeholder partnerships (Krlev, 2023; Roehrich & Kivleniece, 2022). Understanding these dynamics is essential for designing resilient public contracts that balance stakeholder engagement and contractual efficiency.

These findings highlight the complex role of service users and the need to rethink the way public services are perceived. In this regard, public contracts are not just tools that link the public and the private sectors, but they are embedded in a wider political and conflictual environment and need to be governed this way. Consequently, these results align with the work done by Osborne et al. (2015) and Rossi and Tuurnas (2021) on the need for a holistic approach to the study of public contracts. These results also open the discussion in public administration literature on how individuals and organizations may and should collaborate and coordinate to increase public value.

Finally, our findings also contribute to the literature public strategic management and on meta-organizations engaged in addressing “grand challenges” (Andrus et al., 2019; George et al., 2016). While municipalities often choose to join these meta-organizations to enhance their economic performance—and environmental outcomes, particularly through improved pipe management and reduced water leakage—negotiations and conflicts within these structures can be costly. These disputes generate additional transaction costs, which may result in suboptimal organizational arrangements when conflicts arise (Feiock, 2007; Ferraresi et al., 2018; Guelmamen, 2025).

Nonetheless, this study has several limitations. First, it does not account for third-party opportunistic challenges that leverage the media to destabilize local authorities, even though these tactics are less costly and can reach a wider audience. Second, it overlooks certain contextual factors, such as municipal political competition, which is known to influence contract rigidity as well as municipal ideology and path dependence (Beuve et al., 2019, 2023; Beuve & Le Squeren, 2016). Future research should incorporate these factors into regression analyses to better assess their impact on opportunistic challenges. Similarly, it does not control

for service performance, including key elements such as the price and quality of drinking water, which are critical factors in disputes over service management.

REFERENCES

- Akerlof, G. A. (1970). The Market for “Lemons”: Quality Uncertainty and the Market Mechanism. *The Quarterly Journal of Economics*, 84(3), 488–500.
<https://doi.org/10.2307/1879431>
- Andrus, J., Hiatt, S. R., Montgomery, A. W., Bansal, P., Inoue, C., Kivleniece, I., Knoeri, C., Lyon, T. P., Russell, S. V., & Zhao, D. (2019). Addressing Grand Challenges in Water: A Management Perspective. *Academy of Management Proceedings*, 2019(1), 12921. <https://doi.org/10.5465/AMBPP.2019.12921symposium>
- Bel, G. (2020). Public versus private water delivery, remunicipalization and water tariffs. *Utilities Policy*, 62, 100982. <https://doi.org/10.1016/j.jup.2019.100982>
- Bel, G., & Gradus, R. (2018). Privatisation, contracting-out and inter-municipal cooperation: New developments in local public service delivery. *Local Government Studies*, 44(1), 11–21. <https://doi.org/10.1080/03003930.2017.1403904>
- Beuve, J., & Le Squeren, Z. (2016). *When Does Ideology Matter?*
https://extranet.sioe.org/uploads/sioe2017/beuve_le-squeren.pdf
- Beuve, J., Moszoro, M. W., & Saussier, S. (2019). Political contestability and public contract rigidity: An analysis of procurement contracts. *Journal of Economics and Management Strategy*, 28(2), 316–335. <https://doi.org/10.1111/jems.12268>
- Beuve, J., Moszoro, M. W., & Spiller, P. T. (2023). Doing It by the Book: Political Contestability and Public Contract Renegotiations. *J. Law Econ. Organ.*, 39(1), 281–308. <https://doi.org/10.1093/jleo/ewab039>
- Beuve, J., & Saussier, S. (2021). Renegotiations and Renewals of Public Contracts. *Rev. Ind. Organ.*, 59(3), 461–482. <https://doi.org/10.1007/s11151-021-09819-w>
- Bingham, L. B., Nabatchi, T., & O’Leary, R. (2005). The New Governance: Practices and Processes for Stakeholder and Citizen Participation in the Work of Government.

- Public Administration Review*, 65(5), 547–558. <https://doi.org/10.1111/j.1540-6210.2005.00482.x>
- Bovaird, T. (2007). Beyond Engagement and Participation: User and Community Coproduction of Public Services. *Public Administration Review*, 67(5), 846–860. <https://doi.org/10.1111/j.1540-6210.2007.00773.x>
- Boyer, E. J. (2019). How does public participation affect perceptions of public–private partnerships? A citizens’ view on push, pull, and network approaches in PPPs. *Public Management Review*, 21(10), 1464–1485. <https://doi.org/10.1080/14719037.2018.1559343>
- Boyer, E. J., Rogers, J. D., & Van Slyke, D. M. (2018). Analysing managerial perceptions of when and how to structure public involvement in public-private partnerships. *Local Government Studies*, 44(4), 443–464. <https://doi.org/10.1080/03003930.2018.1471396>
- Brown, T. L., Potoski, M., & Van Slyke, D. M. (2006). Managing Public Service Contracts: Aligning Values, Institutions, and Markets. *Public Administration Review*, 66(3), 323–331. <https://doi.org/10.1111/j.1540-6210.2006.00590.x>
- Chong, E., Saussier, S., & Silverman, B. S. (2015). Water Under the Bridge: Determinants of Franchise Renewal in Water Provision. *Journal of Law, Economics, and Organization*, 31(suppl 1), i3–i39. <https://doi.org/10.1093/jleo/ewv010>
- Cour des Comptes. (2024). *LES DÉLÉGATIONS DE GESTION DE SERVICES PUBLICS LOCAUX Rapport public thématique*. https://www.ccomptes.fr/sites/default/files/2024-12/20241219-Delegations-de-gestion-de-services-publics-locaux_0.pdf
- Coviello, D., Moretti, L., Spagnolo, G., & Valbonesi, P. (2018). Court Efficiency and Procurement Performance. *The Scandinavian Journal of Economics*, 120(3), 826–858. <https://doi.org/10.1111/sjoe.12225>

- D'Amore, G., Landriani, L., & Lepore, L. (2021). Ownership and sustainability of Italian water utilities: The stakeholder role. *Utilities Policy*, 71, 101228.
<https://doi.org/10.1016/j.jup.2021.101228>
- de Figueiredo, J. M., & de Figueiredo, R. J. P. (2002). The Allocation of Resources by Interest Groups: Lobbying, Litigation and Administrative Regulation. *Business & Politics*, 4(2), 161–181.
- Douglas, S., & Meijer, A. (2016). Transparency and Public Value—Analyzing the Transparency Practices and Value Creation of Public Utilities. *International Journal of Public Administration*, 39(12), 940–951.
<https://doi.org/10.1080/01900692.2015.1064133>
- Eckersley, P., Lakoma, K., Murphy, P., Caygill, T., & Pell, C. (2024). Accountability as a function of power relationships in public governance networks. *Public Administration*, padm.13032. <https://doi.org/10.1111/padm.13032>
- Eesley, C., & Lenox, M. J. (2006). Firm responses to secondary stakeholder action. *Strategic Management Journal*, 27(8), 765–781. <https://doi.org/10.1002/smj.536>
- Estache, A., & Saussier, S. (2014). *Public-Private Partnerships and Efficiency: A Short Assessment*.
- Etzioni, A. (2014). The Limits of Transparency. *Public Administration Review*, 74(6), 687–688. <https://doi.org/10.1111/puar.12276>.
- Feiock, R. C. (2007). Rational Choice and Regional Governance. *Journal of Urban Affairs*, 29(1), 47–63. <https://doi.org/10.1111/j.1467-9906.2007.00322.x>
- Ferraresi, M., Migali, G., & Rizzo, L. (2018). Does intermunicipal cooperation promote efficiency gains? Evidence from Italian municipal unions. *Journal of Regional Science*, 58(5), 1017–1044. <https://doi.org/10.1111/jors.12388>

- George, G., Howard-Grenville, J., Joshi, A., & Tihanyi, L. (2016). Understanding and Tackling Societal Grand Challenges through Management Research. *Academy of Management Journal*, 59(6), 1880–1895. <https://doi.org/10.5465/amj.2016.4007>
- Goldsmith, S., & Eggers, W. D. (2005). *Governing by Network: The New Shape of the Public Sector*. Rowman & Littlefield.
- Guasch, J. L. (2004). *Granting and Renegotiating Infrastructure Concessions: Doing it Right*. Washington, DC: World Bank. <https://doi.org/10.1596/0-8213-5792-1>
- Guasch, J. L., Laffont, J.-J., & Straub, S. (2008). Renegotiation of concession contracts in Latin America: Evidence from the water and transport sectors. *International Journal of Industrial Organization*, 26(2), 421–442.
- Guelmamen, M. (2025). Does Intermunicipal Cooperation Affect Prices? An Economic Analysis of the French Drinking Water Sector. *Review of Industrial Organization*. <https://doi.org/10.1007/s11151-025-10008-2>
- Hall, D., Lobina, E., & Terhorst, P. (2013). Re-municipalisation in the early twenty-first century: Water in France and energy in Germany. *International Review of Applied Economics*, 27(2), 193–214. <https://doi.org/10.1080/02692171.2012.754844>
- Haveri, A. (2006). COMPLEXITY IN LOCAL GOVERNMENT CHANGE: Limits to rational reforming. *Public Management Review*, 8(1), 31–46. <https://doi.org/10.1080/14719030500518667>
- Hefetz, A., & Warner, M. (2004). Privatization and its reverse: Explaining the dynamics of the government contracting process. *Journal of Public Administration Research and Theory*, 14(2), 171–190.
- Heidbreder, B., Grasse, N., Ihrke, D., & Cherry, B. D. (2011). Determinants of Policy Conflict in Michigan Municipalities. *State and Local Government Review*, 43(1), 32–45.

- Hoggett, P. (2006). Conflict, ambivalence, and the contested purpose of public organizations. *Human Relations*, 59(2), 175–194. <https://doi.org/10.1177/0018726706062731>
- Iossa, E., & Saussier, S. (2018). Public Private Partnerships in Europe for Building and Managing Public Infrastructures: An Economic Perspective. *Annals of Public and Cooperative Economics*, 89(1), 25–48. <https://doi.org/10.1111/apce.12192>
- Kelleher, C. A., & Yackee, S. W. (2009). A Political Consequence of Contracting: Organized Interests and State Agency Decision Making. *Journal of Public Administration Research and Theory: J-PART*, 19(3), 579–602. <https://doi.org/10.1093/jopart/mun014>
- Kirat, T., & Marty, F. (2017). *Le contrat de PPP à l'épreuve des contentieux*. Chaire EPPP Working papers.
- Kitchener, M., Ashworth, R., Horton, D., & Elliott, E. (2023). Co-created public value: The strategic management of collaborative problem-solving. *Public Policy and Administration*, 09520767231162407. <https://doi.org/10.1177/09520767231162407>
- König, P. D., Felfeli, J., Achtziger, A., & Wenzelburger, G. (2024). The importance of effectiveness versus transparency and stakeholder involvement in citizens' perception of public sector algorithms. *Public Management Review*, 26(4), 1061–1082. <https://doi.org/10.1080/14719037.2022.2144938>
- Krlev, G. (2023). Let's Join Forces: Institutional Resilience and Multistakeholder Partnerships in Crises. *Journal of Business Ethics*, 186(3), 571–592. <https://doi.org/10.1007/s10551-022-05231-w>
- Laffont, J.-J., & Martimort, D. (2002). *The Theory of Incentives: The Principal-Agent Model*. Princeton University Press. <https://doi.org/10.2307/j.ctv7h0rwr>
- Laffont, J.-J., & Tirole, J. (1993). *A Theory of Incentives in Procurement and Regulation*. MIT Press.

- Lichère, F., & Bell, J. (Eds.). (2022). Judicial Review of Administrative Action: Procedure. In *Contemporary French Administrative Law* (pp. 154–177). Cambridge University Press. <https://doi.org/10.1017/9781009057127.007>
- Lumineau, F., & Oxley, J. E. (2012). Let's Work It Out (or We'll See You in Court): Litigation and Private Dispute Resolution in Vertical Exchange Relationships. *Organization Science*, 23(3), 820–834. <https://doi.org/10.1287/orsc.1110.0658>
- Lumineau, F., & Quélin, B. V. (2012). An empirical investigation of interorganizational opportunism and contracting mechanisms. *Strategic Organization*, 10(1), 55–84. <https://doi.org/10.1177/1476127011434798>
- Marshall, R. C., Meurer, M. J., & Richard, J.-F. (1994). Curbing Agency Problems in the Procurement Process by Protest Oversight. *The RAND Journal of Economics*, 25(2), 297–318. <https://doi.org/10.2307/2555832>
- Maser, S. M., Subbotin, V., & Thompson, F. (2012). How Bid-Protest Mechanisms Mitigate Opportunism in Government Contracting. *International Public Management Journal*, 15(2), 137–159. <https://doi-org.ezpaarse.univ-paris1.fr/10.1080/10967494.2012.702583>
- Mayol, A., & Saussier, S. (2021). Contract renewals, prices and deprivatizations: The case of water in France. *Applied Economics*, 1–10. <https://doi.org/10.1080/00036846.2020.1861208>
- Mayston, D. (1993). Principals, Agents and the Economics of Accountability in the New Public Sector. *Accounting, Auditing & Accountability Journal*, 6(3), 1–1.
- McCubbins, M. D., Noll, R. G., & Weingast, B. R. (1989). Structure and Process, Politics and Policy: Administrative Arrangements and the Political Control of Agencies. *Virginia Law Review*, 75(2), 431. <https://doi.org/10.2307/1073179>

- McCubbins, M. D., & Schwartz, T. (1984). Congressional Oversight Overlooked: Police Patrols versus Fire Alarms. *American Journal of Political Science*, 28(1), 165–179.
<https://doi.org/10.2307/2110792>
- Meier, K. J., & O’Toole, L. J. (2011). Comparing Public and Private Management: Theoretical Expectations. *Journal of Public Administration Research and Theory: J-PART*, 21, i283–i299. <https://doi.org/10.1093/jopart/mur027>
- Moszoro, M., & Spiller, P. (2012). *Third-Party Opportunism and the Nature of Public Contracts* (No. w18636; p. w18636). National Bureau of Economic Research.
<https://doi.org/10.3386/w18636>
- Moszoro, M., Spiller, P. T., & Stolorz, S. (2016). Rigidity of Public Contracts: Rigidity of Public Contracts. *Journal of Empirical Legal Studies*, 13(3), 396–427.
<https://doi.org/10.1111/jels.12119>
- Moszoro, M. W., & Spiller, P. T. (2018). Implications of Third Parties for Contract Design. *Economia e Politica Industriale*, 45(1), 5–16. <https://doi.org/10.1007/s40812-017-0087-4>
- Mulgan, R. (2000). ‘Accountability’: An Ever-Expanding Concept? *Public Administration*, 78(3), 555–573. <https://doi.org/10.1111/1467-9299.00218>
- Nelson, K. L., & Nollenberger, K. (2011). Conflict and Cooperation in Municipalities: Do Variations in Form of Government Have an Effect? *Urban Affairs Review*, 47(5), 696–720. <https://doi.org/10.1177/1078087411409129>
- Office Français de la Biodiversité. (2023). *Impact des procédures de mise en concurrence lancées en 2020 sur les contrats de concession pour les services d’eau et d’assainissement*.
https://www.services.eaufrance.fr/cms//uploads/LS_2020_Rapport_vdef_7589c98785.pdf

- O'Leary, R., & Raines, S. S. (2001). Lessons Learned from Two Decades of Alternative Dispute Resolution Programs and Processes at the U.S. Environmental Protection Agency. *Public Administration Review*, 61(6), 682–692.
- Osborne, S. P. (2000). *Public Service Logic: Creating Value for Public Service Users, Citizens, and Society Through Public Service Delivery*. Routledge.
- Osborne, S. P., Radnor, Z., Kinder, T., & Vidal, I. (2015). The SERVICE Framework: A Public-service-dominant Approach to Sustainable Public Services. *British Journal of Management*, 26(3), 424–438. <https://doi.org/10.1111/1467-8551.12094>
- Palumbo, R., & Manesh, M. F. (2023). Travelling along the public service co-production road: A bibliometric analysis and interpretive review. *Public Management Review*. <https://www.tandfonline.com/doi/full/10.1080/14719037.2021.2015222>
- Perry, J. L., & Rainey, H. G. (1988). The Public-Private Distinction in Organization Theory: A Critique and Research Strategy. *Academy of Management Review*, 13(2), 182–201.
- Pezon, C., & Petitet, S. (2004). Les nouvelles formes d'intercommunalité en France, un atout pour la durabilité des services d'eau potable ? *Cybergeo: European Journal of Geography*. <https://doi.org/10.4000/cybergeo.1467>
- Powell, M., Greener, I., Szmigin, I., Doheny, S., & Mills, N. (2010). Broadening the Focus of Public Service Consumerism. *Public Management Review*, 12(3), 323–339. <https://doi.org/10.1080/14719030903286615>
- Rainey, H. G. (2003). Public Management: Old and New. In B. G. Peters & J. Pierre (Eds.), *Handbook of Public Administration* (SAGE Publications Ltd).
- Ring, P. S., & Perry, J. L. (1985). Strategic Management in Public and Private Organizations: Implications of Distinctive Contexts and Constraints. *The Academy of Management Review*, 10(2), 276–286. <https://doi.org/10.2307/257969>

- Roehrich, J. K., & Kivleniece, I. (2022). Creating and distributing sustainable value through public-private collaborative projects. In *Handbook on the Business of Sustainability* (pp. 474–500). Edward Elgar Publishing.
<https://www.elgaronline.com/edcollchap/book/9781839105340/book-part-9781839105340-36.xml>
- Rossi, P. (2023). Conflicts in Public Policy Implementation. In M. van Gerven, C. Rothmayr Allison, & K. Schubert (Eds.), *Encyclopedia of Public Policy* (pp. 1–4). Springer International Publishing. https://doi.org/10.1007/978-3-030-90434-0_103-1
- Rossi, P., & Tuurnas, S. (2021). Conflicts fostering understanding of value co-creation and service systems transformation in complex public service systems. *Public Management Review*, 23(2), 254–275.
<https://doi.org/10.1080/14719037.2019.1679231>
- Ruiz Díaz, G. (2019). Opportunism and third-party influence on long-term public contracts. *Utilities Policy*, 61, 100978. <https://doi.org/10.1016/j.jup.2019.100978>
- Sanda, Y. N., Anigbogu, N. A., Izam, Y. D., & Nuhu, L. Y. (2022). Managing Stakeholder Opportunism in Public-Private Partnership (PPP) Housing Projects. *Journal of Construction in Developing Countries*, 27(1), 213–228.
<https://doi.org/10.21315/jcdc2022.27.1.12>
- Schafer, J., & Zhang, Z. (2016). The Role of Stakeholders in Municipal Contracting Out. *Public Administration Quarterly*, 40(4), 789–813.
<https://doi.org/10.1177/073491491604000404>
- Singh, A., & Prakash, G. (2010). Public–Private Partnerships in Health Services Delivery. *Public Management Review*, 12(6), 829–856.
<https://doi.org/10.1080/14719037.2010.488860>

- SISPEA. (2023). *Rapport National des Données SISPEA, Juin 2023* [Observatoire des Services Publics d'Eau et d'Assainissement].
- Skålen, P., Engen, Marit, & and Jenhaug, L. (2024). Conflicts over public value within public service ecosystems: A strategic action field approach. *Public Management Review*, 26(11), 3298–3319. <https://doi.org/10.1080/14719037.2024.2329226>
- Spiller, P. T. (2009). An Institutional Theory of Public Contracts: Regulatory Implications. In C. Ménard & M. Ghertman, *Regulation, Deregulation, Reregulation* (Edward Elgar Publishing). Edward Elgar Publishing.
https://ideas.repec.org/h/elg/eechap/13188_3.html
- Spiller, P. T., & Liao, S. (2008). Buy, lobby or sue: Interest groups' participation in policy making: A selective survey. In E. Brousseau & J.-M. Glachant (Eds.), *New Institutional Economics, A Guidebook* (Cambridge University Press, pp. 307–327).
- Spiller, P. T., & Moszoro, M. (2014). *Third-Party Opportunism and the Theory of Public Contracts: Operationalization and Applications*. MPRA. <https://mpra.ub.uni-muenchen.de/101592/>
- Svara, J. H. (1990). *Official Leadership in the City: Patterns of Conflict and Cooperation* (Oxford University Press).
- Varone, F., & Eichenberger, S. (2023). Interest Groups in Public Policy. In M. van Gerven, C. Rothmayr Allison, & K. Schubert (Eds.), *Encyclopedia of Public Policy* (pp. 1–7). Springer International Publishing. https://doi.org/10.1007/978-3-030-90434-0_53-2
- Wang, H., & Ran, B. (2023). Network governance and collaborative governance: A thematic analysis on their similarities, differences, and entanglements. *Public Management Review*, 25(6), 1187–1211. <https://doi.org/10.1080/14719037.2021.2011389>
- Williamson, O. E. (1971). The Vertical Integration of Production: Market Failure Considerations. *The American Economic Review*, 61(2), 112–123.

Williamson, O. E. (1975). *Markets and Hierarchies: Analysis and Antitrust Implications: A*

Study in the Economics of Internal Organization (SSRN Scholarly Paper No.

1496220). Social Science Research Network.

<https://papers.ssrn.com/abstract=1496220>

Williamson, O. E. (1979). Transaction-Cost Economics: The Governance of Contractual

Relations. *The Journal of Law and Economics*, 22(2), 233–261.

<https://doi.org/10.1086/466942>

Williamson, O. E. (1999). Transaction Cost Economics: How It Works; Where It is Headed |

SpringerLink. *DE ECONOMIST*, 146(1), 23–58.

Yang, K., & Callahan, K. (2007). Citizen Involvement Efforts and Bureaucratic

Responsiveness: Participatory Values, Stakeholder Pressures, and Administrative

Practicality. *Public Administration Review*, 67(2), 249–264.