THE ECONOMY OF PUBLIC-PRIVATE PARTNERSHIPS: LEARNING FROM INTERNATIONAL EXPERIENCE

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Abstract. *Many European countries have used the investment model of Public Private Partnership (PPP, P3 or P*^{3}*) to implement large-scale infrastructure projects and to accelerate development, but Romania has little experience with such type of projects, although there is a strong economic reason for implementing infrastructure investments, because it can easily be seen the need for investments in this field. This paper is determining the literature review on PPPs, how the regulations of the member states of the European Union is implemented by dedicated PPP units at the national level and, finally, presents the techniques and processes of the contract management. Financing Public Private Partnerships cannot ignore the international economic and financial context. As it could be seen in this paper, the data on PPP market shows that the crisis had a negative impact on their development and implementation at the level of the EU Member States. EU has been promoting PPPs as an important instrument of accomplishing the goals of Europe 2020 strategy. In Romania, the interest in PPPs must be encouraged and the knowledge in this field could increase the administrative capacity of the country.*

Keywords: *Public Private Partnership, Project Finance, Development, Investment policy.*

JEL Classification: H41, J18, L33.

1. Introduction and general data on the European PPP market

PPP projects originate from the financial needs of the public authorities to provide public goods or services at a high quality level. PPP is used at central and local level mainly in Canada, UK, Poland, Czech Republic, France, Germany, Ireland, Italy, Spain, Portugal and most of them have specialized units coordinating the PPP. In 2013, UK was the

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largest PPP market from Europe in terms of value and number of projects, 31 transactions closed (compared to 26 in 2012) for a value of EUR 6 billion (EUR 5.6 billion in 2012)[1]. The next largest PPP value markets were Italy, France, Netherlands, Turkey, Spain, Croatia, Germany, Poland, Ireland, Austria, Belgium, Denmark and Lithuania. The transport section remains the most active in terms of value with EUR 9.6 billion, which represents more than a half of the total market value. This was followed by the: healthcare sector (in terms of number of deals), education, public order and safety/recreation/culture and telecommunication. Although the financial crisis affected the PPP investment sector, the European PPP market showed good signs of improvements in 2013. Public Private Partnerships (PPP) are generally long-term high-value contracts with a high political profile. Many of the PPP contracts fail to ensure Value for Money[2] because of the transfer risks that are an important part of the process that comes out from the complexity of the projects. Value for money means an equitable allocation of risks between the public and private sectors (Grimsey and Lewis, 2000).

According to Prof. Erastus Tarangul Diti, "the state is a bad contractor and administrative bodies lack personal interest to analyze the needs of the citizens and civil servants who receive their regular salaries regardless of performance, it shall endeavor to work in public service the best conditions, but an individual has a personal interest in the proper functioning of the enterprise". Public Private Partnership system currently in place has been shaped since 1980 and took the form of cooperation between local authorities and the private sector to rehabilitate industrial sites and was supported by legal regulations so as to encourage initiative. In Europe, PPP appeared in 1992 in the UK, the PFI (Private Finance Initiative), which supported complex and diverse projects and this has increased the partnership initiatives, innovation and financial engineering. This type of cooperation between public and private has greatly expanded health and currently over 15 % of public investment in the UK PFI type contracts were completed.

[1] Review of the European PPP Market in 2013, The European PPP Expertise Centre (EPEC).

[2] "the optimum combination of whole-life cost and quality (fitness for purpose) to meet the user's requirement" (Definition by UK Treasury). These costs may include, separately to the costs of design and construction, the costs of service operation, asset repair and maintenance, user support, training, decommissioning/disposal and supply of materials.

In Romania, the first forms of PPP have occurred after 1989, due to the public administration reform and the theoretical point of view is supported by public choice theory, both at central and local level, but developing this funding mechanism has been slow and must be encouraged through effective fiscal policy. Currently, PPP is practiced very little, although the current financial problems faced by local authorities should open the appetite for using PPPs, which gave very good results in other European countries.

A PPP process has four different phases, which consists of a number of other steps as well.

PHASE 1 INITIATION	PHASE 2 STRUCTURALIZATION	PHASE 3 SELECTION	PHASE 4 IMPLEMENTATION

2. Data Collection and Methodology

This analysis is based primarily on research and presents extensive theoretical literature existing in the PPP, the institutional and legal analysis related to these types of projects in EU Member States.

3. Results/Findings and implications for the research

PPP projects are complex and in practice they tend to become less optimal than the theories suggested. Among the most common reasons stemming from this are the existence of incomplete contracts and the length of the concession, which may bring uncertainty and changes the structure of a PPP project. Shared decision making can be very difficult due to the involvement of many actors: government, sponsors, lenders, as each pursues objectives and different interests. As it will be shown in the research, the existence of well-defined legal and institutional framework represents the provided primarily by the parties' confidence that with proper management of risks related to PPP projects, will requires finalization and conclusion of nationwide successful partnerships.

4. PPP – Complex system of providing public services

Since PPPs become part of the increasingly important traditional public investment it was observed a particularly interest in the efficiency and success of these projects.

Professional literature of PPP contains many case studies, monographs that analyze and discuss the theoretical aspects, problems, dimension and essence of the PPP investment project, using descriptive and normative models and the general result is that these types of projects are less optimal than the theories suggest.[3] Many articles on PPPs tend to have a national focus and that's why comparative cross-country studies are few (Koppenjan, 2005). PPPs were analyzed taking into consideration the regulatory policies, cost transaction theory and new political economy (Muhlenkamp, 2004). PPPs is seen as a joint of this organizational concept with that of corporate social responsibility (Budaus, 2005). In addition, Public Private Partnerships are examined from a theoretical and institutional based perspective (Tenbensel, 2005) and (Hall and Soskice, 2001) analyzed these type of projects starting from the concept of cost-effectiveness.

The definition of PPP given by the OECD (2008) is not complete although it highlights important characteristics and lefts opened several issues: "*An agreement between the government and one or more private partners (which may include the operators and the financers) according to which the private partners deliver the service in such a manner that the service delivery objectives of the government are aligned with the profit objectives of the private partners and where the effectiveness of the alignment depends on a sufficient transfer of risk to the private partner – Reference to risk allocation is asymmetric: instead of sufficient transfer the expression reasonable (fair, balanced) share (split, allocation) might be politically correct. The set of risks is open; some of them are generated by the partnership itself*".

PPPs are vehicles for bringing together the knowledge, skills and resources of both the public and private sectors (Bovaird, 2004), and in this way, they can contribute to solving problems that otherwise could not be addressed completely by the public sector individually (Stocker, 1998). As Huxham (2003) stated, the rationale for partners to get involved in a PPP is that they have the potential to create "synergy", so called "collaborative advantage". Some scholars use PPP as a generic term to refer to any type of working arrangement between government and the private sector which is projected at achieving societal objectives (Bovaird, 2004; Pollitt, 2003, Skellcher, 2005). There are different approaches to PPPs all over the world, but it needs to fulfill the basic EU rules on public procurement, but how to configure the structure or regulation of PPP itself it is up to the

[3] Anatomy of Public Private Partnerships: Their creation, financing and renegotiations, Joaquim Miranda Sarmento and Luc Renneboog, page 2;

member states, and that's why some countries have dedicated law or regulation and specialized support unit. These aspects are important because they can have a positive or negative influence the overall implementation aspects of PPP projects.

Country	PPP unit	PPP law	Country	PPP unit	PPP law
Romania	▓	░ ░	Malta	▓ ▓	
Bulgaria	▓ ▓	░	Latvia	▓ ▓	░ ░ ░
Spain		░ ░ ░	Sweden		
Portugal	▓ ▓	░ ░	Lithuania	▓ ▓	░
Italy	▓ ▓	░	Slovakia		
Greece	▓	░ ░	Ireland	▓ ▓ ▓	░ ░ ░
Cyprus	▓ ▓		Estonia		░
Hungary	▓ ▓	░	Czech Republic	▓ ▓	░ ░
Austria	▓ ▓ ▓		Slovenia	▓	░
Turkey	▓ ▓	░ ░ ░	Germany	▓ ▓	
Belgium	▓	░ ░	Luxembourg		
Denmark	▓ ▓		Netherlands	▓ ▓ ▓	
Finland		░	UK	▓ ▓ ▓	
France	▓ ▓	░ ░	Poland	▓ ▓	░ ░ ░

▓ Need for PPP unit and some action taken (or only a regional unit existing);
▓▓ – PPP unit in progress (or existing, but in a purely consultative capacity);
▓▓▓ – PPP unit existing (actively involved in PPP promotion);
░ – Legislation being proposed;
░░ – Comprehensive legislation being drafted / some sector specific legislation in place;
░░░ – Comprehensive legislation in place.

5. Contract Management – Design, techniques and processes to manage performance

Focusing on the function of the contract management function established by the Contracting Authority, the practice of PPPs has revealed the following key elements to having effective management of PPP contracts:

- Ensuring a consistently management performance throughout the „life" of the PPP;
- Existing an appropriate design of the contract management function;
- Elaborating a detailed contract management architecture so as to ensure that the private partner is indeed delivering on time the specified services/goods that has contractually committed and to the standard agreed;

- Remaining the contractually agreed risk transfers with the private investor during the contract;

Although these key elements should be applied in the early contract period and from the begging of the contract, it depends very much on the decision taken during the contract award phase. In the phase of designing the contract management function, the Contracting Authority faces many key challenges, such as:

- Good communication and sufficient knowledge transfer from the procurement to the contract management team, especially regarding the objectives of the contract and the ways these should be implemented, and for these reason it should be necessary the continuity of the personnel, although existing the advanced arguments of separation of duties between the procurement team and the contract management to prevent conflict of interest, as it was stated by the National Audit Office for the House of Lords Economic Affairs Committee Report on Private Finance Projects, UK 2009;
- Skilled personnel, with adequate resources and abilities to manage the contract; otherwise, the private investor will receive inadequate signals, especially that the public authority doesn't perceive the contract management of being of high importance and finally, the negotiations could fail in these respect. It is important that the contract management staff should be motivated also, because many employees will be coming into new function and which will evolve over the life of the contract.

The huge potential of using PPP projects in Romania is widely considered to be worthy, especially in the use of EU funds related to European multiannual framework 2014-2020 as structural and cohesion funds will be allocated and may help catching up large infrastructure, education, health etc. In this context, it will have a key role and initiatives of local and regional authorities are important in order to promote such projects of modernization. Their assistance will improve local infrastructure and employment in the regions concerned because it will be necessary for staff personnel for the successful implementation of these types of projects. But to materialize implementation in Romania of such investment partnership models it must be provided a clear legal framework in accordance with European standards that allow flexibility and economic efficiency, eliminate duplication of public procurement legislation and mechanisms to base operational risk, bankability and transparency. Representatives of the European Commission estimated that Romania must adopt a very cautious approach in identifying the private partner and the models of PPP, the payback assessments have low accuracy, especially for road infrastructure. In Romania, the partnerships of PPP are assimilated to concession contracts and in other countries such as Japan, Croatia, Philippines, China, USA, India, a large number of PPP projects were released in a specific form that is called Build-Operate-Transfer (BOT: Build-Operate-Transfer) that means a system of financing public projects in which the private partner invests its own resources and in which the cost and profit recovery is on a long-term, based on a credit in connection with the viability of the project, not the entity loans, and credit insurance is done even with the assets of the project and not the ones of borrowed party. The object of the contract is transferred to the public authorities at the end of the concession period. From the legal perspective, Public Private Partnership differs from public procurement because both private investors and public authorities assume all or part of the economic risk of exploitation afererent to a good or service.

In Romania, the first forms of PPP have occurred after 1989, due to public administration reform and from the theoretical point of view is supported by public choice theory, both at central and local level, but the developing this funding mechanism has been slow and must be encouraged through effective fiscal policy.

Most countries in Europe have a legal tradition based on civil law. Their legislation stems from a set of written rules or civil code. By contrast, in common law jurisdictions such as England, Ireland and Gibraltar, the common law (case law and precedents that rather than a civil code), which is the fundamental basis of all commercial transactions and which developed principles underlying the allocation of risk. Some countries have specific legislation for PPP projects and in other countries it is incorporated into other laws, such as the public procurement law. Commission focuses on optimal distribution of risks between the private and public partners, which is an important step for the success of PPP projects.

6. Conclusions

In conclusion, Public Private Partnerships contribute certainly to economic recovery and growth and sustainable development of the European Union. The main benefits of Public-Private Partnerships can be summed up as following:

- facilitating public projects, especially for infrastructure;

- sharing financial risks and reduce costs for infrastructure;
- promote sustainable development, innovation, research and development, due to competition commitments and private enterprises;
- increasing market shares of European companies in public procurement in third countries.

PPP doesn't mean privatization and it is an agreement between public and private sectors that require a stronger role from the government of a country. If we could make PPP more accessible to the private investors it could have an important role on the infrastructure and public services that people could have access to. These partnership investments should arise from the actual needs of a community/region and must take into consideration the positive social implications of implementing PPPs (environment, health etc.).

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