

THE PUBLIC-PRIVATE PARTNERSHIP AS A TOOL FOR IMPLEMENTING LOCAL DEVELOPMENT PROJECTS

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Abstract: An essential problem for the current investment processes in Romania is to identify mechanisms and funding sources for public works and public services. A solution for such investments financing is the public-private partnership tool, providing the basis for certain investments, and also for the outsourcing of public services.

The use of this managerial tool offers varied benefits: PPP enables public authorities to undertake projects that they cannot implement on their own expenses and also simplifies the management of public properties.

Based on the legislation applicable in Romania and the European experience in the PPP field, this paper proposes the improvement of Romanian legal provisions on PPP and also its enforcement by local authorities as beneficiaries of such projects in an unitary strategic planning framework.

The research was based on the analysis of the current situation and also on two case studies in the field of urban rehabilitation and leisure tourism. The result is the proposal to include a special section dedicated to PPP projects in a strategic planning framework for community development at local, county and regional level.

Key words: PPP, projects, public services, local development, infrastructure, tourism, urban development.

1. INTRODUCTION

As defined in the specialized literature, public-private partnership represents a form of cooperation between the public and private sectors, which aims to perform public works or public services (Ratiu M, Gherghina S, 2011, 28). The partnership between the public and private sector is based on the fact that the partners have common objectives and are interested in achieving the consensus. Some authors identify a third part of the public-private partnership, represented by the consumer, the PPP construction objective being to meet its expectations (Matei L, 2006, p 5).

The private operator contributes with capital or assets, and the risks of construction, operation and finance are shared between the partners, which is the major difference between PPP and public procurement contracts (Asian Development Bank, 2008, p 1).

Regardless of the legal form that takes, institutional or contractual (M Ratiu, Gherghina S, 2011, p 39), public-private partnership represents a flexible management tool, very useful for public administration authorities which can carry out public interest work or outsource public utilities management.

On the other hand, PPP is an investment instrument through which private entities design, finance, implement and manage assets or public services, for profit.

PPP contracts cover a wide range of specific activities of the public sector and the provided benefits refer primarily to the significant improvement of the public services quality:

- renovation, rehabilitation of existing utility or building a new one;
- private capital infusion in public activities;
- implementation of major projects, technically and financially profitable on the long term.

Furthermore, the benefits of using PPPs are transposed in public, economic and social plan, as follows:

-for public authorities, they are direct: viable lands, newly created functions, collected taxes which are sources of the local budget revenues, direct revenue as royalties, the creation of jobs;

-for business environment: an investment framework created by APL, contributing to attract business development and related activities (for business support, creating new jobs);

-social benefits: the citizen is the indirect beneficiary of investments such as residential areas, recreational, social centers.

In this context, the main factors that condition a good implementation of PPP projects relate to adopting, at least at national level, of legal provisions with a broad range of application as well as the creation of an adequate institutional framework, which requires a clear delimitation of responsibilities, prerogatives and risks that will return to the parties.

2. ON THE CURRENT REGULATION AND PROCEDURE FRAMEWORK OF PPP INVESTMENTS.

The use of PPP represents a challenge both at EU and national level, both in terms of the institutional framework and the legal and financial framework established for the development and implementation of investment projects in this regime.

The optimization and expansion of PPP have been a constant concern of the European Commission after the publication, in 2003, of the first guidelines for the development of PPP projects and up to the establishment of technical assistance instruments at community level (Petrescu M, 2010, p 57), which supports the development of urban investments (JESSICA), business environment (JEREMIE) or PPP projects financed by European financial institutions, regardless of their status (JASPERS).

These actions were justified by the need to find viable alternatives to funding from public sources, but also by the gaps in EU provisions regarding the allocation of funding available within the cohesion policy, in the sense that a PPP entity, contractual or institutional, cannot be eligible applicant in a program co-financed by the Structural Instruments, which is an impediment to access this funding for PPP projects.

Moreover, as an effect to economic recession, the credit conditions were tightened, which substantially restricts the possibilities for private entities to engage in partnership with public institutions, PPP investment.

In Romania, at present, the legal status of PPP is regulated by several laws, among them Law. 178/2010 of public-private partnership, amended and supplemented, Government Decision no. 1239/2010 containing rules for the application of Law no. 178/2010, Government Emergency Ordinance no. 34/2006 regarding the award of public procurement contracts, public works concession contracts and services concession, approved with amendments and completions through Law no. 337/2006, as amended and supplemented.

The first PPP contract was concluded between the French-Greek consortium Vinci-Aktor and Romanian state to build Comarnic-Brasov motorway section, but in 2010, the French-

Greek company canceled the contract because it didn't receive funding from the banks to complete the project.

However, the Romanian Government approved in 2011 a list of priority projects for Romania that could be achieved through PPP contracts (Government of Romania, 2011, Press Office).

The projects of national interest which could be implemented in PPP regime cover the following areas:

- transport infrastructure: Comarnic-Brasov highway, Sibiu - Pitesti highway 116 km, Ploiesti - Buzau - Focsani highway 133 km, the southern and northern Bucharest beltway, both under highway regime, Targu Mures - Iasi - Ungheni highway 307 km;
- energy: Tarnița - Lapustesti hydropower plant, completing 3 and 4 nuclear units of the Cernavoda power plant in Doicești, international project AGRI (Azerbaijan - Georgia - Romania) and gas interconnector;
- environment and agriculture: the Siret-Bărăgan Canal;
- regional development: Eco project from Ghencea neighborhood, Bucharest, which includes the construction of 10,000 homes and other facilities, Esplanada project, completing Danube - Bucharest Canal, road bridge over the Danube, between Braila and Tulcea;
- health: building in public - private partnership six regional emergency hospitals in Timisoara, Cluj-Napoca, Tirgu-Mures, Iasi, Craiova and Bucharest, health center "Ana Aslan" and putting it in value.

Other projects of local interest aim to achieve the construction of Bucharest urban motorway, the construction of a hospital Craiova with the support of AKH clinic from Vienna and waste management integrated projects in urban areas.

3. PPP APPROACH IN THE DEVELOPMENT STRATEGIES AT LOCAL AND COUNTY LEVEL

In order to stimulate the PPP implementation in investment process, especially at local and county level, we consider that a completion of the effective legal provisions, namely Law 178/2010 of public-private partnership would serve substantially to simplify the design, selection and implementation projects process.

At present, Article 23 of this law states that:

"(1) The public partner initiates the public-private partnership project.

(2) To develop a public-private partnership project the initiator prepares a justification and prefeasibility study.

(3) The costs for the elaboration of the pre-feasibility study or justification are the responsibility of the originator."

However, the law does not contain provisions relating to the preparation and adoption of a strategic planning framework for the selection of projects which can be subject to PPP investment, before the stage of preparation of prefeasibility studies and justification for each project.

The main stages of elaboration and implementation of development strategies at local and county level are based on development needs analysis, priority funding and a viable project portfolio for the future development of a community.

The local development multiannual programming takes place through strategies which allocate the available resources on medium and long term, the investment prioritization taking into account the needs identified in the socio-economic analysis, existing connections across sectors to achieve maximum results with optimal use of resources.

In order to extend the use of PPP, the existing legal framework can be improved by making PPP investments planning at local and county level.

To this end, we propose to complete the article 23 of Law 178/2010 of public-private partnership with paragraph 4, which establishes the obligation of the public promoters of PPP for inclusion in the local/county development strategies of a separate section that includes a projects portfolio eligible to be financed under PPP.

Therefore, the strategic development document prepared at the local/county PPP investments chapter will include:

- detailed project portfolio and documentation for sectors where projects will be implemented under PPP or concession;
- project selection mechanism description that can be implemented through these types of instruments;
- identifying funding sources necessary for project implementation;
- establishing priority topics and initiating consultations on PPP cooperation with business environment.

Also, the publication of methodological provisions to establish PPP instruments containing standard procedures applicable to the allocation and implementation of contracts for public - private partnership will greatly facilitate investments.

In terms of PPP contracts, Art. 15 of Government Decision no. 1239/2010 containing rules for the application of Law no. 178/2010, defines 5 types of contracts, depending on the level of involvement of the private investor:

- design – construction – operate – transfer (DCOT);
- construction – operate – develop – transfer (CODT);
- construction – operate – transfer (COT);
- develop – maintenance – operate – transfer (DMOT);
- rehabilitate – operate – transfer (ROT).

To note is that so far, there is no provision in the Romanian legislation defining separately the types of investment regime (greenfield or brownfield) eligible to be financed under PPP. Although paragraph e) of Art. 15 of methodological norm refers to a type of contract for rehabilitation works, it does not distinguish between types of investment, respectively greenfield and brownfield.

This aspect represents a particular relevance in terms of various advantages offered by the investments mentioned above.

On one hand, in the case of brownfield investment, the existence of infrastructure, utilities for land and buildings, labor employed or available (when taking over a job or business from the state), represent factors that make it easier, at least initially, for project execution.

On the other hand, a greenfield investment has a flexible characteristic, giving greater freedom to the private developer to design and implement the project.

In this respect, we believe that a future regulation of PPP contract categories depending on the type of investment criteria (see Table 1), will clarify procedural matters related to acquisition, development, operation and sharing of risks between project partners.

Table 1. The public and private partners' contribution in PPP projects by type of investment

Investment type	Public partner contribution	Private partner contribution
Greenfield	Viable land	Public utilities connection works
	Derelict/unused land	Making the investment
Brownfield	a. Assets owned: buildings, lands, disused or damaged utilities	a. Investments according to the project + operating
	b. Assets Owned: partially realized investments	b. Investment completion + operating as designed
	c. Complete active	c. Operating

4. CASE STUDIES ON ESTABLISHING PUBLIC-PRIVATE PARTNERSHIP FOR THE IMPLEMENTATION OF MAJOR INVESTMENT PROJECTS IN THE OLTENIA REGION

To determine and illustrate the benefits offered by PPP investments, there was used the case study method, widely applied in developing management guidelines and strategic orientations in economics and administration at community level.

The case study method has a strategic approach based on empirical research, with a pronounced particular character, depending on the chosen research topic.

The advantage of using this method in PPP research results from concrete conclusions, practical and of great applicability for defining models of good practices in PPP projects.

4.1. Oltenia Entertainment Park

According to the available statistical data in the last years, investments in tourism registered an ascending trend in the sense that there were built a significant number of reception and accommodation facilities. However, the recreational component of the tourism segment has not been a priority to economic agents, although it represents a means of tourism diversification, an important source of revenue and increased efficiency in tourism.

A major investment project proposal in the Oltenia region could be materialized through a partnership between the public authorities and private sector, namely "OLTENIA entertainment complex."

This opportunity emerged as a result of identification by Dolj County Council of approx. 200 hectares land area close to the International Airport Craiova, location that is managed by Dolj County Council and would be suitable for the location of such a leisure complex.

The objective can be implemented as an integrated project across the region, or on a small scale, taking into account the soil configuration on smaller areas of land in other counties in the region, especially near the county capital cities or urban agglomerations.

This investment would not only be very attractive to the local community and foreign tourists, but could also attract investors and generate jobs, contributing to improving the economic performance of the region.

The entertainment complex could be designed to meet the requirements of multifunctionality, attractiveness and efficiency. It will have modern pools, water slides and waterfalls, spa, multi-purpose sports fields, bowling, billiards, clubs, 3D cinemas, mobile theater scene, playgrounds, outdoor fitness spaces, climbing platforms, zip line, a

replica of a City of the Future or of a traditional village. The modules designed will be diverse and flexible, adjustable, depending on the season.

At each component level, the range of recreational facilities and equipment for spending pleasant leisure time will be diversified: entertainment, sports, culture and art, suitable for all age groups. Therefore, the complex will address to the 3 generations - children, youth and adults.

Such a type of objective can be a major investment, in the country already successfully operating several complexes and amusement parks in Bucharest, Brasov, Târgoviște, Ploiesti or Deva.

One possibility to materialize this project may be public-private partnership. This instrument appeals to the private sector "know-how" that implements the investment on land owned by public authority, transferring the general responsibility for achieving or providing service to a private company, while public authority becomes business partner. PPP can be a way of funding the modules regarding entertainment, gastronomic, accommodation and commercial areas, continuing public investment for land improvement and ensuring necessary utilities.

4.2. Buildings rehabilitation from historic centers of the county capitals

South-West Oltenia Regional Development Agency, as public institution acting in the specific field of regional development, launched an initiative for adopting a common action plan for the five town halls municipalities of Oltenia county cities to identify a solution leading to concrete measures to achieve investments in each historic centre.

We anticipate the complexity of this initiative, given that these buildings in historic centers are not public domain, can become a business card and a touristic core of maximum attraction for each city, offering architectural and cultural heritage glow.

South-West Oltenia Regional Development Agency developed and submitted to City Hall county capitals an action plan model (see Tab. 2) identifying the best solutions for the rehabilitation and recovery of historic buildings in these urban centers.

The initiative foundation is represented by the good practices examples for the rehabilitation of historic buildings both in our country cities (Sighisoara) and in major European cities that have promoted the concept of "downtown".

The action plan identifies a set of 11 activities and represents a framework document that can be the basis for a broader analysis regarding measures to be taken to achieve this objective.

Creating uniform regulations for taking over building facades located in historic centre or taking over the whole buildings for repair, maintenance, preservation, consolidation, restoration and enhancement, represents a priority of the action plan and aims to identify funding sources for rehabilitation projects of these buildings.

In this context, following AMPOR intention to make changes to the Implementation Document Framework and to Applicants Guide for Axis I of ROP to support the economic development of growth poles, South-West Oltenia Regional Development Agency has submitted proposals to revise the eligibility criteria, so that spending on reconstruction activities and building facades located in the historic center (currently not eligible) that are not owned/administrated by the Territorial Administrative Unit, to become eligible.

An alternative to reviewing the Applicant's Guide for Axis I of ROP is to identify and access additional funding sources, complementary to ROP, making these costs with particular relevance achieve the projects objectives that are part of the Urban Integrated Development Plans.

A solution for financing these activities consists in granting revolving type loans through urban development funds, with the financial tool "Jessica", insufficiently known at national level.

Also, developing a state aid scheme, in cooperation with the Competition Council, to carry out, repair, maintain, preserve, strengthen and enhance buildings in historic centers of the county capital may be the funding source for projects of this type.

The involvement of construction companies in building rehabilitation projects will lead to the creation and retention of jobs in this sector, contributing to socio-economic local development.

Table 2. Action plan on maintenance, repair, preservation, consolidation, restoration and enhancement of buildings in the historic center of Craiova

No.	Activities	Implementation stage	Involved entities	Implementation period	Necessary funds
1	Delimitation of the historic center from regional point of view	completed	Craiova City Hall		
2	a) Establishing the action zones based on historical and architectural importance of buildings from the bounded area as historic center b) Building inventory by holders of ownership (public, corporate, individuals) c) Prioritizing action areas	completed	Craiova City Hall		
3	Establishing public-private partnerships and owners / tenants associations to access funds from funding sources that will be identified	Action in progress	Craiova City Hall Building owners of historic center	Jan-Dec 2012	-
4	Evaluation of buildings degradation (foundation, roof, facade, electrical, plumbing, heating and gas installation) by making a technical expertise to determine the categories of possible interventions based on technical condition of the buildings	To be started	Craiova City Hall	Jan-Dec 2012	Technical expertise costs

5	Amendment proposals to the current legal framework to facilitate the financing of rehabilitation and consolidation works for historic buildings	<p>Existing framework (referential): Law no. 422/2001 on the protection of historical monuments, as amended and supplemented by Law no. 259/2006 establishes the legal framework for granting credits, to historic property owners. GD. no 610/2003 for approving the Methodological Norms regarding the approval procedure for loans necessary for works for the protection of historic monuments owned by individuals or legal persons of private law provides the procedure and conditions and granting criteria. GD. No. 1258/2001 on the organization and functioning of the National Historic Monuments Bureau provides, among the main tasks of this institution, the management of extra budgetary revenues obtained from the historical monuments stamps, for granting interest-free loans, low interest or market interest to work protecting historical monuments owned by individuals and private legal.</p>	Craiova City Hall Municipalities Association from Romania Congressman Legal and financial advisors	Jan-Dec 2012	-
6	Categories of funding sources for conservation and restoration work of heritage buildings according to changing legislation	- local budget of Craiova Municipality (an example of good practice is the Oradea City Hall that had been charging a special fee for the rehabilitation of facades from January 1, 2010 and will be supported by the owners of historic buildings on the site) -bank loans -budgetary credits provided in the budget	S-W Oltenia RDA Craiova City Hall Municipalities Association from Romania Congressman	Jan-Dec 2012	

		of the Ministry of Culture and National Heritage -government programs -creating a “revolving” fund	Legal and financial advisors		-
7	Property transfer of buildings from private to public owners (there is a precedent for creating the legal framework in the EU)	Initiating legislative efforts	Craiova City Hall	Jan-Dec 2012	To be evaluated
8	Obtaining optimal funding solution based on prioritizing areas of interest in the historic center of Craiova		S-W Oltenia RDA Craiova City Hall	Jan-Dec 2012	-
9	Preparation of design documents necessary for the maintenance, repair, preservation, consolidation, restoration, enhancement of buildings in the historic center of Craiova and obtaining the approvals required by law	Starting documentation developing	Craiova City Hall Building owners of historic center	Jan-Dec 2012	Design costs
10	Conducting construction work		Craiova City Hall Building owners of historic center	2011-2012 (correlated to completion of the project financed through ROP)	Totals resulted from execution documentation
11	Construction reception		Craiova City Hall Building owners of historic center	correlated to completion of the project financed through POR	-

5. CONCLUSIONS

Public-private partnership is both a mechanism and a source of funding for public works and services, aiming to capitalize on the opportunities for investment as well as outsourcing of services necessary for the local community.

As a management and investment tool, PPP allows public authorities to materialize projects that do not have sufficient financial resources, efforts and investment risks being shared with the private operator.

Expanding the use of PPP as a tool to support local development in the economic recession process is an alternative to public spending; for the future, there is expected an increase of institutional factors concern for using this instrument, given the need of delivering infrastructure projects on the environment, transport, energy and social services.

Although this term has not received an autonomous definition in the community acquis, PPP projects are common for various economic activities and are characterized by a number of common elements, from the mutual benefits to partners to the positive impact in economically and socially terms that is generated at local and county level.

PPP may be the solution for solving daily problems of a community: improving transport infrastructure, development of network utilities, waste management, business development infrastructure.

In this respect, it is recommended to improve the existing legislation with provisions on the establishment of a unified and uniform strategic framework, compulsory for local and county authorities through which development strategies to include sections dedicated to portfolio projects that can be developed using PPP.

At the same time, entrusting investments to the private sector should be strictly regulated by decisions of public authorities and the projects that will be installed to be clearly defined and to follow a predetermined structure.

We believe that locally, it is appropriate to launch a ministerial initiative to the local and county councils of Oltenia region in order to start actions of land identification, clarification of their situation, preparing property documents and placing these objectives both in general urban plans and county development strategies or tourism master plans and spatial planning plans.

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