

METHODS OF MANAGING TOURISTIC INVESTMENTS MADE BY LOCAL PUBLIC ADMINISTRATIONS

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Abstract: When it was decided that the ineffective mines in the Jiu Valley should be closed, there began the economic fall of the region determined by a permanent decrease in the standard of living of the community. The only viable alternative to replacing coal exploitation was considered to be the development of tourism, the area having spectacular mountainous landscapes and natural resources which favour winter sports.

In this context, the City Hall of Petroșani aimed to ensure, through the implementation of successive investment programmes, the efficient exploitation of the area Rusu-Parang-Slima. Along with the materialization of the investment, the municipality has to find the best solution of managing it, putting in balance all the options, and direct management, the delegation of administration to a company belonging to the municipality, a public private partnership or leaving the services on the hands of a private investor.

JEL classification: H41, O18

Key words: touristic investments; local public administration; administering; options; efficiency

1. INTRODUCTION

The changes that took place in the Jiu Valley by reconsidering the attitude towards mining activities carried out in the area which resulted in closing down a number of mines and dismissing staff, had a series of adverse consequences for the economic and social level which were manifested mainly by decreasing occupancy rates and hence lowering the standard of living. As a result, the local public administration was put in the position to identify new ways to resolve the existing situation by adopting measures oriented towards and based in particular on turning to profit local resources and opportunities, and especially on taking advantage of the touristic potential.

In this context, the City Hall of Petroșani has planned to ensure, through the implementation of some successive investment programs, the efficient exploitation of Rusu-Parang-Slima area, aiming at the achievement of benefits relevant to the local population, to the local business environment, especially for entrepreneurs and operators of tourist services.

In order to develop and diversify tourist offerings and to improve local economic opportunities, the city Hall of Petroșani has been carrying out since 2010, within the programme of national interest for tourism development "Super-ski in the Carpathian", the investment called "The improvement of ski slopes in Parang tourist area".

“The improvement of ski slopes in Parang tourist area” is a project initiated by the local Public Administration of the municipality of Petroșani financed entirely from budgetary resources allocated by the Ministry of Regional Development and Tourism (68 million Euros), which consists in developing a tourist area on a surface of 45 hectares that will include: a cable car linking Petroșani and the mountain resort, 17 ski slopes, a reservoir that will provide water necessary for snow cannons, building recreation areas which will include accommodation, food, health units, etc., operating cableway installations, provide snow groomers for flattening the snow on slopes, a park for snow-board, a ski school and thus making it the largest ski area in the South-East Europe.

Managing ski slopes

The operation of a competitive high class ski slope implies a series of complex activities which involve, among other things, an adequate management act, the existence of considerable available funds and a large number of employees, heterogeneous in terms of skills, continuity and professional training.

The investment in progress, even though at a rather small percentage of achievement (estimated at about 10% by the end of 2012), requires proper management, as it is handed over by the building unit to the beneficiary, respectively to Petroșani municipality,.

Thus, for the municipality of Petroșani there is the need to maintain and make use of these goods. Given the current legislative framework with regard to the modalities of managing public services, the City Council will have to choose between the internalization (which involves carrying out services within the producing unit) and outsourcing, considering that it ensures the premises of a normal evolution of services, in agreement with economic and democratic principles.

Among the major criteria that underlie the choice between outsourcing and internalization, one can consider the following [7]:

production costs (that can influence positively the outsourcing due to specialization),

transaction costs (on condition that there are market costs involved),

frequency of service demand (if it is large the internalization variant is preferred, but in case it is reduced the solution of outsourcing works better),

issues related to the protection of information (favoring the internalization of services which in order to be provided need the basic information of the company).

Considering all these from above and analyzing the legal solutions one may highlight *the following ways of organizing and controlling services for local administration*:

direct management by one of the services of Petroșani;

the delegation of management of services to a company belonging to the municipality of Petroșani;

making a public-private partnership;

Signing a contract of concession of services.

Direct management by one of the services of Petroșani

Unfortunately, at the present time, according to the legal regulations in force, public administrations cannot hire employees. In 2009, the Government decided according to the Emergency Ordinance (GEO No. 63/2010), following negotiations with the IMF, to suspend employment through competition or examination for the available positions and to allow recruitment of a single official for 7 vacancies, exceptions were made only for the

positions of leadership, senior officials and undersized administrations. The decision was maintained in 2010 and in 2011, and it will be maintained this year, too.

Currently, the city of Petroșani has 320 jobs approved, and according to the above mentioned order, it could have up to 321 vacancies. The organization and management in optimal conditions of the activities generated by the takeover of investments carried out require relatively large size organizational structures, with various positions in terms of subject, specialization, as well as a proper budget, conditions which currently cannot be met by the local public administration.

This form of administration of public goods is associated with a series of inconveniences related to the fact that, for a period of time any method and possibility of competition is excluded, being influenced by political mutations that occur within the local elected body [6].

In general, this form of public goods management, through the specialized services of the local councils, is recommended to be used only for small communities, as well as in the case of services without technical complexity, which have a budget-administrative character, which is not the case of the service that the Mayor Hall of Petrosani wants to manage.

Delegating the management of services to a company belonging to the municipality of Petroșani

Starting from the provisions of law No. 51/2006 – The law of community services for public utilities, with subsequent amendments and additions, which creates the legal framework necessary for the establishment, organization, management, financing, operation, monitoring and control of operation of community services for public utilities, the company PIATRA SA (having the city of Petrosani as a sole associate and a subscribed and paid-in capital of 90,000 lei) was set up in 2008 by the decision of the local Council of Petroșani No. 209, in order to manage the ski area of Parang. The decision to set up a company to take over the management of the assets resulting from the investment made in the ski area was based on the advantages generated by the operation of such companies, namely: the separation of the actual management of services, made by the new company and the control of how they are managed, which pertains to local public authorities; the establishment of contractual relations between the local Council and the company, which allows for the imposition of minimum standards as regards the quality and quantity of services. Last but not least, another advantage may be stimulating the interest in extending the services carried out.

Currently, the activity of the company is suspended because the law has changed. The management of goods within the project “The improvement of ski slopes in Parang tourist area” cannot be handed over directly to a company, thus it cannot be handed over to PIATRA S.A., but due to a public acquisition procedure, as stated in article 30 of Law No. 51/2006: “the delegator has an obligation to award the contract to delegate administration following an open tender procedure [...]. The delegator has the right to apply direct negotiation procedures only if, after repeating the tender procedure according to paragraph 1. (9), there was no successful tenderer”.

In order to be able to participate in the tender procedure, S.C. PIATRA S.A. or any other company set up by the Local Council, should be capitalized, which would strike the municipality budget Petroșani, and the company might not win the auction, the financing of this company being useless without turning out any benefits.

Making a public-private partnership

The public private partnership has registered recently a surprising development in providing multiple forms of public services, the private sector entering various forms of partnership with the public sector, thus improving the ways community problems can be solved.

Romania laid the foundations of this type of cooperation, by setting up in 2005 The Central Unit to Coordinate Public Private Partnership and by creating a legislative framework, updated repeatedly, which allows the development of these partnerships.

Public-private partnership expresses the relation of cooperation between public authorities and the private sector (companies, non-governmental organizations, associations of businessmen), for financing, designing, building, renovating, managing or maintaining the infrastructure or providing services that traditionally would have been covered by the public sector. Genuine partnership implies combining specific advantages of the private sector (more competitive and more efficient) and of the public sector (with responsibilities to the society regarding spending public money), incorporating the strengths of both the public sector and the private one.

Although the starting point in a public private partnership can be different in the case of the public administration, which is concerned with providing public goods or services, while the private partner is oriented towards profit, the ultimate goal, however, is a common one: cost effective services for the community.

The local authority may take into account the partnership with the private sector where *the following circumstances exist*:

- the service or project cannot be covered financially by the local administration;
- the private partner can improve the quality of the service as compared to the possibilities of the local administration;
- there is a support of service consumers for the involvement of private partners;
- there are opportunities of competition among potential private partners;
- there are no legislative or regulatory restrictions regarding the involvement of private partners in providing services or in the project;
- the result of providing the service can be measured and estimated quite easily;
- the project or the service offers opportunities for innovation; there are opportunities to improve economic development.

In accordance with the provisions of Law No. 178/2010 – The Public Private Partnership Law, it concerns the initiation and implementation of public private partnership projects for public works in various sectors of activity with private financing. At the completion of the contract, the public good is transferred, free of cost, to the public partner in good condition and free of any charge or obligation.

The public private partnership is a mechanism of economic association of 2 partners, the local public authority and the private investor in order to create, through the public private partnership project, a public service or a public good. This must be completed with the help of a distinct subject – the Project Company.

The project company will be organized and it shall operate as a company the capital of which is owned by the public partner and the private investor. It shall be operational throughout the entire period of public-private partnership contract and it shall be completed, according to law, at the date of expiry of validity.

The project company has as main activity the operation and management, based on economic principles, according to the law and its own statutes of establishment and operation, of all stages of the public private partnership contract, by taking on the

obligations of the contracting parties, as well as the transfer of goods and services mentioned in the contract by the public partner, for public benefit.

Throughout the period of operation of the project company, it may not change the object of its activity and may not engage in economic transactions beyond the purpose of the public private partnership project for which it was set up nor for the development for the benefit of the community.

The project company will be headed by a management board where the 2 partners will be represented according to their contribution.

At the present time public private partnerships in tourism are considered to be rising worldwide and they will become more widespread; the basic premise for public private partnerships in tourism is that all parties may take benefits, by aligning resources and objectives: administrations may have concrete and immediate benefits, while the private sector may have access to new markets and opportunities and tourism is one of the key areas.

A few of **the benefits of public private partnerships in tourism** can be [14]:
encourage new destinations,
provide the necessary facilities for development,
preserve the heritage sites,
successfully promotes and trades destinations.

Unfortunately, despite all the advantages generated by such an alternative of creating and administering the investment that is to be made in the Parang-Petroşani resort, *this procedure cannot be applied in the case of the project 'The Development of Ski Slopes in Parang', because the public private partnership can be applied in the case of new investments, before starting them, and the entire funding must be assumed by the private partner.*

Contract of concession of the services

In accordance with GEO No. 34/2006 on public procurement contracts, the contracts of concession of public works and lease of services, with subsequent amendments and additions, the contract of concession of services “has the same characteristics as the service contract, except that in exchange of services the contractor, as a concessionaire, receives from the contracting authority, as the concession provider, the right to exploit the services for a specified period of time, accompanied by the obligation of payment of a certain sum of money.”

The concession is possible through a management contract concluded between administrative authorities and private or legal entities with the help of a contract of concession, one party – the concession provider – transfers to another party – the concessionaire – the right to maintain and operate, in exchange for a fee, an economic activity, a public service, a productive subunit or state- owned property. The duration of the concession is not more than 49 years.

The concessionaire makes the necessary investments in order to create the public service, the investments being recovered from charging the users of the public service.

Nowadays, concession is one of the most commonly used ways of delegated management of public services.

The concession of public services is a method through which local authorities match the general interest of the local community with the particular interest of the public service operator, provided that the nomination of the service provider is made according to a procedure (e.g. auction), and the advertising necessary to start competition among the interested parties and to make the best win comply with the principles of transparency.

3. CONCLUSIONS

An investment in tourism of such high importance in Parang resort places the local authority in the position to decide which is the best method to provide services, to analyze what matches best the current constraints and opportunities, to evaluate the local administration experience and the interest of the private sector in these opportunities.

Carrying out an analysis of the ways a local public administration can use in order to ensure proper administration of the services available, revealed a series of both advantages and problems whether they referred to direct management, delegating service management to a company belonging to the municipality of Petroșani, concession of services or to a public private partnership. After a comparison the 'winning alternative' detaches itself from the concession of services.

Through the concession of services, all goods remain in the administration of the municipality of Petroșani, the concession provider will cover operating losses and maintenance; Petroșani municipality will have a benefit, either fixed or variable through the collection of fees; moreover, Petroșani shall not have to use more money than necessary for the completion of works covered by the investment.

Placing the contract of concession of goods into competition, by organizing a transparent tender procedure (public tender) guarantees that the management of equipment will be done with the help of a specialized economic operator with logistics and financial support of the effort to manage the touristic area, through an adequate and competent management act.

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