PUBLIC POLICY IN THE FIELD OF STATE-PRIVATE PARTNERSHIP

[a]NADIIA KALASHNYK, [b]OLEKSANDRA KHUDOBA, [c]IRYNA KOLOSOVSKA, [d]DIANA ZAYATS, [e]TETIANA PANFILOVA

[a-e]Lviv Regional Institute for Public Administration of the National Academy for Public Administration under the President of Ukraine, 16, Sukhomlynskoho Str., 79491, *Lviv-Bryukhovychi, Ukraine*
email: [a]kalashnyknns@gmail.com, [b]khudoobai@gmail.com, [c]kira2007amaill@ukr.net, [d]dianazzaji22@gmail.com, [e]panfiilova_tt@academy.lviv.ua

Abstract: The article attempts to comprehensively describe development trends, essential features, peculiarities, and forms of the mechanism of public-private partnership. The analysis of the functions of public-private partnership is presented with the actualization of the main goals of public and private partners. The article presents the attempt to reveal the main positive effects of public-private partnership, as well as possible difficulties for both the public partner and the private partner. It is shown that the current high interest in public-private partnership (PPP), its various schemes and mechanisms is determined by the fact that the cooperation of public authorities with the private sector in various fields can offer and provide a number of benefits and attractive opportunities. The results of the study can be taken into account by state and municipal authorities, both in the development of state strategy for the development of PPP, and in the formation of the legal framework in this area.

Keywords: Education, Healthcare, Investment, Policy, Property, Public-private partnership.

1 Introduction

The global financial crisis of 2008 and even more so the current crisis related to the COVID-19 pandemic showed that one of the reasons for the negative consequences of the crisis was the sharpening of the fundamental contradiction of the existing management system between the objective need to strengthen its public character and the growing level of alienation of objects of management from subjects of making administrative decisions. The main mechanism for its resolution is the creation of an effective system of public administration, the core element and adequate institutional and structural form of object certainty of which is competently organized public-private partnership (PPP).

In the economics science of the early 21st century, the studies of the above problem became especially relevant and important, as they pave the way for the formation of a modern paradigm of public administration due to changed realities in economic relations of public authorities, civil society, and business environment [1, 7, 40]. In the structure of these relations, and, as a consequence, in the system of public administration, there are changes dictated by the need to develop new transparent actions of the state, contributing to the strengthening of the public nature of governance. In this regard, today it is necessary to transform the existing system of government into a qualitatively new model of public administration, based on the interests and needs of civil society in general and entrepreneurship in particular [49]. One of the effective mechanisms for implementing the new model of public administration and its adequate economic nature is namely public-private partnership.

The interaction between the state and the private sector to solve socially significant problems has a long history. However, if earlier such interaction was manifested through the organization of individual events and procurement, in recent decades it has taken a legally established form of cooperation based on the use of public-private partnership mechanisms [8]. The need for public-private partnership arises, first of all, in those areas for which the state is traditionally responsible public facilities (education, health care, etc.).

Public-private partnership, by its economic nature, provides a practical implementation of a mixed model (when the financing of facilities is carried out on the principles of subsidiarity of public and private funds) and enables the development of traditional mechanisms of economic relations between government and private sector to develop, plan, finance, build and operate infrastructure facilities [59]. Therefore, the partnership between the state and the private sector should be characterized as a long-term interaction in order to attract additional sources of funding. The main goal of public-private partnership is the development of infrastructure in the interests of society by combining resources and experience of each party, the implementation of socially significant projects with the lowest costs and risks, under conditions of the provision of high-quality services to economic entities.

2 Literature Review

It should be noted first of all that the term “PPP” is usually used in several senses [7, 8, 40, 52]:

1. Broadly as any form of interaction between the state and business in order to solve socio-economic problems (to avoid confusion, it is also proposed to use the term “public-private interaction”);
2. In a narrow sense as a special form of cooperation between the state (municipality) on the one hand and a private investor on the other, aimed at implementing a joint investment project in relation to the object in the sphere of public interest and control (usually public infrastructure) [2- 4, 6, 13, 16]. The specificity of this form of public-private interaction is determined by a number of features, including the pooling of resources and a particularly balanced distribution of risks. The latter implies, on the one hand, the transfer to a private partner greater risks in comparison with the purchase of goods, works, or services for public use and, on the other hand, less risks than rent on investment terms. This balance of risks is usually enshrined in law in the form of specific types of long-term contracts concession agreements, public-private partnership agreements. One could argue about the possibility of classifying other contractual types as PPPs, but all this has no legal, and, therefore, great practical significance.
3. In an even narrower sense, it can be seen as a special contractual form of PPP, which has a number of significant differences in relation to the concession agreement. States approach the distinction between concession and PPP agreements differently, but in world practice, concession is often understood as an investment project structured on the principles of PPP, in which the return on investment of a private partner (concessionaire) is carried out through direct collection of fees from consumers, in contrast to the PPP agreement, according to which a private partner does not usually collect fees from consumers in its favor, but receives from the state a regular fee for the operational readiness of the facility (“availability payments”) [17-19]. There are also other approaches. It is also important to keep in mind that too broad interpretation of “public-private partnership” is undesirable due to the possible confusion between PPP and public procurement.

In PPP theory, it is considered as a tool to intensify the implementation of infrastructure and other projects [10]. Involvement of interested private partners in the implementation of projects by the state with their financial, organizational, intellectual resources, complementing the state's capabilities, multiplies the resulting effect, allowing to significantly intensify the implementation of infrastructure and other projects, significantly reduce the time of providing consumers with certain infrastructure opportunities [1].

PPP mechanisms have significant potential for the creation and implementation of infrastructure projects that allow for more efficient use of public resources and opportunities, partially free up public resources and opportunities for other projects and offer conditions for government agencies to achieve better ratio of cost and quality by improving risk allocation, innovation, as well as improved asset use and management practices [7].

This is ensured by using the experience of the private sector in the planning and implementation of projects, by reducing the initial projected budget costs for project implementation by attracting private investment. At the same time, infrastructure projects implemented within the framework of PPP, in themselves, act as powerful incentives to minimize costs throughout the life cycle of the infrastructure project, which is extremely difficult to achieve within the established model of public procurement.

3 Materials and Methods

The theoretical basis of the study included the works of the authors in the field of public administration, scientific achievements in the field of institutional and evolutionary economics, management theories, public and project management, as well as public-private partnership. The methodological basis of the study was a dialectical method that allows identifying the principles, contradictions, patterns of phenomena and processes in their relationship and development.

Public-private partnership is defined as aimed at achieving a socially significant goal, sustainable and institutionalized cooperation between business entities and the state based on the division of responsibilities and risks, a harmonious combination of private and public interests[20-24, 44]. This concept of PPP is most consistent with such economic forms as the supply of products for public needs (contract system), concession (if the grantor is the state in the person of the authorized body or organization), as well as the creation of joint private-public enterprises, associations or projects. It is important to note that in addition to the two participants in public-private interaction, the non-profit sector, represented by non-profit organizations and institutions, is often an important partner. These are educational institutions that are interested in becoming platforms for PPP, and various foundations, social movements and associations that pursue the goals of educational development and ensure their own development [8].

PPP allows to significantly increase the financial and other resource provision of infrastructure projects, which allows implementing larger, innovative and efficient projects in a significantly shorter time.

According to the European Economic Commission's Practical Guide to Good Governance in Public-Private Partnerships, PPPs provides the government with access to alternative private sources of capital, allowing for important and urgent projects that would otherwise be unlikely possible [47].

PPP provides complementarity in terms of enabling access to new sources of funding and overcoming structural problems to ensure a higher level of investment in the addition of government assets to certain projects [25-29, 45]. In theoretical and methodological terms, against the background of a large-scale surge in popularity and increased attention to the phenomenon of PPP, science today increasingly and on a larger scale captures, but insufficiently describes and analyzes the situation of public-private partnership with practically flexible content and functions (the nature of the conflict of interests of the state and business, the concentration and localization of government resources, etc.), which necessitates an in-depth analysis of the public nature of governance in the development of public-private partnership.

4 Results and Discussion

Public-private partnership is a fairly flexible legal instrument that allows implementing projects in various areas of public infrastructure. Specific infrastructure sectors or objects of agreements may be fully or not fully defined in national law[43, 46, 48, 51]. An open list of infrastructure areas where a PPP project is possible is the most advanced approach, but it places a greater responsibility on the government to monitor the efficiency of public resources (budget, land, and other treasury assets) involved in such projects.

At the same time, it should not be forgotten that PPP is a mechanism for the development of state and municipal infrastructure, and not a tool for state support of private commercial projects [30-35]. Therefore, certain regulatory restrictions on the range of eligible PPP projects still need to be established. Otherwise, abuses in the form of use of the provided rights, privileges, budgetary funds and real estate for creation of private objects which are not the state infrastructure are possible.

At the same time, it is important for the legislator to understand what should be the object of PPP. Thus, in a number of countries, including some CIS countries, a mandatory element of the object of both the concession agreement and the PPP agreement, as a general rule, is real estate, which the investor must either build or reconstruct [36-39, 42]. Movable property may be only a part of the object of the agreement (together with one or more real estate objects) and only provided that it is technologically connected with the real estate object and is intended for carrying out the activity provided by such agreement. This does not mean that movable property cannot be involved in the activities of the agreement, but the possibility of budget financing of the costs of a private partner for its creation (acquisition) will be severely limited [52, 56].

At the same time, at the present stage of economic development, in post-industrial society, such an approach should be considered irrational, as it cuts off the possibility of implementing a large number of projects in information technology, public transport, and all other projects and operation of expensive movable property. The balance of resources and risks allocated in the PPP project is largely dictated by the functions performed by each party to the agreement. From the functions, it is possible to construct various models of PPP (BTO, BOOT, ROOT, BOLT, BOO, ROO, DBTO and many others), however, quite often the national legislation, for prevention of abuses and mixing of PPP, first of all, with state purchases and privatization, fundamentally limits the range of models that can be structured both in the form of concessions and in the form of PPP agreements.

With the right level of legal regulation of PPP, it is interesting for a private partner, first of all, based on the possibility of co-financing the project from the state or municipal budget, as well as in terms of attracting cheaper bank loans (financing PPP projects is considered low risk, which is positively reflected in national regulation requirements for bank reserves) [41]. In addition, PPP involves the possibility of transferring part of the financial and operational (in the case of PPP) risks to the public partner, including obtaining a number of guarantees and preferences provided by legislation in this area to protect investors from bad faith actions of the public partner, adoption of new regulations which change the 'rules', or other significant changes in the terms of the project (in particular, the possibility of including in the agreement the obligation of the public party to provide a minimum guaranteed income of a private investor, financial guarantees in case of termination of the agreement, etc.). In addition, investors are attracted by clearly regulated and very tight deadlines for response and approval of the project by the authorities, as well as the hypothetical possibility of obtaining a plot of land or object for reconstruction without bidding.

PPP does have many advantages for a public partner, but this does not mean that one should try to build on this model absolutely all investment projects. Even if the infrastructure object falls under the statutory lists of PPP objects (concessions), this does not imply in itself that the project needs to be implemented according to the PPP model. PPP is by no means a universal remedy, it is not a 'panacea for all ills'. This mechanism implies the involvement of various participants (authorities, state/municipal enterprises, banks, investors, builders, operators, consumers, the population), in the preparation and implementation of the project, the need to take into account different opinions and interests, clearly balanced allocation of resources and risks. In fact, public-private partnerships represent a complex and expensive tool that, if mishandled, can at best lead to the bankruptcy of a private partner and, in a more negative scenario, destroy the region's economy. On the other hand, PPPs ‘in good hands’ can effectively solve a complex infrastructure problem, create hundreds and even thousands of jobs, attract billions of private investment, not to mention those cases where PPP is simply the only possible solution to the problem.

When preparing a PPP project, the authorities often forget that the project must be effective, first and foremost, for the investor, and the latter must evaluate it against simpler mechanisms that do not involve such a close tandem with the state such as investment leasing. The lease offers a clear distribution of investment and operational risks   they are entirely imposed on the investor, who is much less controlled by the public. If an investor needs, for example, only a plot of land and does not need a partner in the person of the state, then perhaps this is a sure sign that PPP is not the best option for such a project. Of course, the public side can insist on the use of public-private partnership if the issue (type of infrastructure) is very sensitive to the territory and the public side would not want to lose control, but in this case the project must be guaranteed to be effective and beneficial to the investor, and its profitability should be calculated with a large margin   the project should not become a social burden for a private partner, it should always remain optimistic and interested in further participation in the project, should strive to maintain stability and efficiency of the facility [59]. Ensuring this is the task (risk) not only of the private partner, but also of the public side, so the latter must pay serious attention to this issue during the preparation of the project and carefully analyze all components of its financial model.

PPPs work where, firstly, the state (specific region or individual municipality) as a whole has a clear and objective need for a certain infrastructure and, secondly, the budget does not have the funds to implement the project without attracting private investment. If the budget has the capacity, it will be easier and cheaper to hire a private operator using an outsourced public procurement model (including, if applicable, life-cycle contracts), and if there is no clear interest, sooner or later a private investor risks not receiving from a public partner what he expected when concluding the PPP agreement (budget funding, guarantees, preferences, assistance, other support measures), because the authorities can easily lose the incentive and interest in the project. Here, taking into account the long-term nature of PPP projects (usually 15-30 years), the problem of succession of power, changeability and rotation in the leadership of the region (municipality) arises.

In addition, for PPP to make real sense, the private partner must have a clear basis for transferring some of the risks to the public partner. Most often, the financial and legal models of the project show that for its implementation it is necessary to transfer to the public partially the risk of project financing and (or) the risk of receiving revenue, which is expressed in providing capital and operating grants to a private partner, providing a minimum guaranteed income (subsidy), sovereign guarantees. The distribution of risks between the private and public parties is reflected in the detailed risk matrix of the project, and the relevant obligations of the parties are enshrined in the text of project agreements (concession agreement, PPP agreement, direct agreements between private, public partners and funding organization) [53-55]. At the same time, it should be understood that each decision has a side effect: in the case of PPP, for a private partner, it manifests itself in the fact that the investor loses a significant share of independence, he falls under strict control of the public side, which due to project transparency, access to documents and financial information, has the opportunity to examine the project and the private partner ‘under the microscope’ and take appropriate operational measures.

Thus, the success of the PPP project is largely determined by its quality preparation, which should identify all potential problems and risks with a view to several decades ahead, identify and take into account the interests of all project participants (above, stakeholders, including consumers and the public), capable of influencing the implementation of the project; a competent technical and operational solution should be proposed, a clear and well-calculated financial model should be prepared, as well as a clear, balanced risk matrix and project agreements. However, even with proper project preparation, the human factor remains decisive. In this regard, the experience, qualifications, and reputation of the investor (operator), as well as the presence of a qualified project team both in private and public partner are crucial.

In the modern world, one of the leaders in the use of the PPP mechanism is the United Kingdom, where the so-called Private Financing Initiative took shape in the late 1990s. The essence of this mechanism is to attract private investment for the construction of large public facilities. Reimbursement of the private partner's expenses is carried out subsequently either at the expense of operating revenues or at the expense of payments from the budget. Very often, the investor is involved in the further operation of the facility and the organization of its activities. Educational institutions can also be objects of this PPP mechanism. According to the OECD, partnerships with businesses in the field of state property management allow the UK to reduce 15-20% of public spending [49].

In terms of the use of PPP mechanisms, for example, the education sector, on the one hand, is characterized by a large number of transactions compared to the utilities sector, but on the other   by relatively small amounts. The reason is that in the field of education there is a need to build or reconstruct a significant number of individual facilities (schools, other educational facilities), while in the field of transport infrastructure it is about capital-intensive projects, such as the Channel Tunnel or the London Underground.

It should be noted that public-private partnership is an important tool for the development of education. The application of this mechanism has many advantages, including: reduction of the expenditure part of the state budget, increase of the number of implemented projects with a high level of efficiency, increase of quality of services. Public-private partnership has several types, in particular, there are contract types: management of public schools, investment in infrastructure, the provision of part of educational services on a commercial basis, carrying out of scientific research, etc. [5]. The state does not perform management functions effectively enough in most public schools, so the non-governmental sector is involved in the management of the educational institution through the conclusion of a contract. Examples of these contracts are as follows [5, 11, 14, 15, 50]:

- Public schools, which are established on the basis of the charter (contract for a period of 3-5 years) in the United States;
- Alegria program in Latin America – a non-governmental organization controlled by the Jesuit Order of the Catholic Church. In addition to managing pre-school, primary and secondary education, the organization promotes vocational training for citizens in the poorest communities in Spain and Latin America, as well as its activities to provide quality education to the poor;
- Contract schools, having a number of features: they are managed by a private structure, while ownership and funding obligations are assigned to the state; training there is free.

In addition, the development of a world-wide continuing education system that meets international standards is impossible without the interaction of the public and private sectors of the economy. In this direction, such forms of public-private partnership as joint preparation of advanced training programs, participation in the development of a national qualification framework, creation of a certification center in the form of a non-governmental non-profit organization, and others are relevant.

In the field of healthcare, public-private partnerships can be implemented in various areas: the fight against common/chronic diseases; coordination of efforts in the field of R&D and stimulation of drug development in accordance with the needs of the health care system, the structure of morbidity; creation of an information base for making regulatory decisions; assistance to countries with limited resources (international partnership), etc.

The PPP mechanism in the health sector, considered as an alternative to the privatization of medical organizations that can attract private funding, contributes to the following results [12, 15, 35]:

- Attracting additional funding to the industry and thus optimizing the costs of state and regional budgets;
- Distribution of project implementation risks between the state and the private sector;
- Access to technological, science-intensive and intellectual resources;
- Investing additional resources in the reconstruction of existing medical organizations;
- The formation of digital medicine.

Given that one of the main tasks of this type of interaction is the solution of social security issues by the state, the prevalence of PPP in health care in the European region and the United States is quite high. In particular, during the financial and economic crisis of 2008-2012, the largest rating agencies recommended that Western European countries carry out a more radical reform of the social sphere, which, above all, means the development of PPP (including in health care). In other words, the urgency of improving PPPs in health care is higher than ever. The phenomenon of the global crisis, the reduction of financial and economic resources encourages governments to more actively address issues of improving the social security system. The coronavirus pandemic (COVID-19) has posed a serious challenge to the health system and made PPP projects even more in demand.

Analysis of the experience of PPP use shows that in the G7 countries, PPP projects in health care are on the 1st place in terms of feasibility (184), and on the 2nd place, there are projects in education (138), on the 3rd place – roads construction (615 projects). In the United Kingdom, 123 projects out of 352 PPP projects in the country are being implemented in the health sector, and 113 out of 352 projects in the field of education; in Germany, education projects account for 24 of the 56 projects [49].

The priority areas for PPP mainly include: health and social services; funding of research with prospects for commercialization; development of innovation infrastructure; development of production and transport infrastructure; housing and communal services [57, 58].

In general, the PPP mechanism promotes the establishment of multilateral relations between the state and representatives of civil society and entrepreneurship, in order to involve the population in the management of public affairs. It enables development of partnership relations between the state and private entrepreneurs on the basis of a clear division of risks and responsibilities of the parties, as well as contributes to increasing the transparency of public administration bodies' activities.

5 Conclusion

The modern economy is too complex to be governed solely by policy-making methods and too multilayered to function effectively through private investment. The reduction of budget funding for various spheres of activity in many countries has led to the search for mechanisms for the joint functioning of the state and business, because they were and continue to be the main economic entities of any country. In modern conditions, business, relying on its internal potential, can operate in different scenarios, within one control center and network of infrastructure facilities, within several control centers, in tandem with the state, or self-sufficient, fulfilling its obligations within the legal field of chosen organizational-legal form of management. However, public-private partnership in the last three decades has become the most popular way of interaction between the state and business in the implementation of various projects aimed at improving the social sphere and strengthening the national security of the state in many respects.

The attractiveness of PPP schemes is due to the fact that even in conditions of limited public financial resources for a project or sudden difficulties for the state to raise funds for the next stage of the project, the continuity of its implementation, development will be provided by the necessary planned pace through funding by private partners.

PPPs represent an effective way to optimize risk allocation and enable high efficiency of risk management, based on the need to ensure that each party bears the risk that it is best able to manage, at the lowest cost. Accordingly, the success of PPP development as a factor of modernization and a tool for the implementation of officially established goals and objectives of the country's development correlates with the need for a conceptual change in the model of public administration (towards the "activating state"); development of measures for decentralization of state property and its management; implementation of planned activities to minimize political and administrative risks; creating incentives for the development of corporate social responsibility; the formation of a system of professional development of officials in the field of PPP (the model of "power as business"), which is especially relevant at the level of regions and municipalities.

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Primary Paper Section: A

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