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LIMITS OF IMPLEMENTATION OF PUBLIC-PRIVATE PARTNERSHIP IN THE REPUBLIC OF MOLDOVA

Perspective,
opinion,
and
commentary

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Abstract

In the context of geopolitical tensions and crises that have influenced the economy of the Republic of Moldova, revenues at budgets of all levels have decreased considerably, undoubtedly affecting the development of the country's infrastructure. In such a situation, the partnership between the public and private sectors is of major importance. This complex system management can attract financing from extra-budgetary sources for large long-term projects, implementation of private management in the public sector, diversification and increase the quality of public interest services and goods. This article analyses the limits that arise at the development and realization of public-private partnerships in the Republic of Moldova, as part of organizational agility, although the regulatory framework in this domain is already formed and it's functioning.

RESULTS AND DISCUSSIONS

INTRODUCTION

In the Republic of Moldova, the beginning of privatization was the starting point for the formation and further development of the particularities of the public-private partnership. Namely, the changes in the property relations determined the qualitative characteristics of the economy, which developed in the process of denationalization and privatization of state and municipal enterprises. The PPP is an alternative to the privatization when privatization is impossible for social or strategic reasons. The implementation of PPP's schemes can ensure firstly, the possibility of realization, in the shortest possible time, socially significant projects in the most non-attractive areas for traditional forms of private financing. Secondly, to improve the efficiency of projects through the participation of private business, this, in contrast to state institutions, could solve production and management tasks more effectively (Calugareanu, 2019). In this regard, public-private partnership relations in the Republic of Moldova are becoming more and more widespread as they represent an efficient method of involving and attracting private capital in the realization of infrastructure projects. Approach to issues related to the public-private partnership is dictated by existing limits of its implementation in the Republic of Moldova.

LITERATURE REVIEW

The information resources of the article are the scientific and methodological literature in the PPP field and researches published in the Romania, USA, United Kingdom and India of the scientist as Klinenberg E., Weber B., Staub-Bisang M., Alfen A., Nilanjan R. local laws, statistic bases, data placed on the Internet by different official websites, as well as the results of author's research.

METHODOLOGY

The research methodology has a preponderant normative character and consists of theoretical principles and legal of the public-private partnership process, methods and techniques of data selection (information-factual support), methods and techniques of data processing (dimension of qualitative processing), logical analysis of generalization procedures and the theory systematization).

Currently in the Republic of Moldova are in force normative acts that regulate public-private partnership relations such as:

- Law (1999) on public ownership of administrative-territorial units no. 523
- Law (2005) on leasing no. 59
- Law (2006) on local public administration no. 436
- Law (2007) regarding the administration and de-privatization of public property no. 121
- Law (2008) on public-private partnership no. 179
- Law (2018) on works and services concessions no. 121.
- Government Decision (2012) for the approval of the Regulation regarding the standard procedures and the general conditions for selecting the Private Partner no. 476
- Government Decision (2012) on the National Council for Public-Private Partnership no. 245
- Government Decision (2012) regarding approval of the state-owned goods list and the list of national public interest works and services proposed to the public-private partnership no. 419 etc.

Even though the regulatory framework in the field of PPP is already formed and works, many problems still exist. For example, there have not been elaborated concrete requirements to regulate various issues of the PPP project implementation, including financial ones. There is a lack of comprehensive rules regarding the PPP contractual forms that could lead to the uncertain situations, in case when several public partners participate, as well as the non-obligatory justification of the deadlines for their accomplishment. The need for deadline justification will allow the public partner to eliminate the risk of insuring the integrity of the public patrimony after the contract. The concept of "public partner" is not defined clearly and completely in existing legislation in case there is a second public partner in the PPP relations. Thus no responsibilities are assigned to the parties of the public partner in the clauses of the PPP contracts, as well as there, are not provided precise tasks, in the case of its involvement regarding the PPP accomplishment. Also, there is no list of the branches and priority areas of the public-private partnership system application, in which long-term contracts between public and private partners are allowed. The existing institutional framework does not provide an exhaustive and transparent process of monitoring, controlling, evaluating, recording and reporting the execution of PPP contracts. As a result, the confidence of the investors and the population regarding the beneficial implementation of the PPP, the realization of the established objectives, as well as the identification and the

resolution of the existing deficiencies, that leads to the malfunction of the PPP system.

According to the Global competitiveness index for 2018, the Republic of Moldova, according to the state of the infrastructure, is in a rather low position (79 of 140), the most developed being the level of electrification of the country and the density of the railways, and in other areas quality of roads - position 130, air connections - position 95, water supply and sanitation - position 94, etc. (*The Global competitiveness report, 2018*). In this context, are required sustained improvement efforts for reanimation the Republic of Moldova infrastructure. In Chisinau are realized large projects, such as: the construction of the sports complex Arena Chisinau - the total value being 43 million euros, the modernization and efficiency of the subsidiaries activity of the Î.S. " Gările și Stațiile Auto " - total value being 200 million lei, rehabilitation of the national road Chisinau-Ungheni-Sculeni contracts signed with two Czech and Azerbaijani companies in the amount of 80 million euros, extension of the gas pipeline Ungheni-Chisinau segment through the construction of the 117 km pipeline and installation of a compression station, without which the natural gas delivered by Romania cannot be pumped from Ungheni further to Chisinau - a total value of 100-120 million euros, etc.

Unfortunately, the PPP relations and the contracts developed with the previous public authorities of the Republic of Moldova along with the political changes and the change of the key officials are reviewed to determine if the state patrimony is endangered. Of course, this fact is conditioned by the lack of a qualitative PPP that is often realized with procedural infringement, under non-transparent conditions without the inclusion of all stakeholders. Of course, all these matters lead to a major project risk occurrence. Another important obstacle to infrastructure development is the communication barriers between the Parties and the lack of information about the project that is going to absorb public money. There is no exchange of information and experience about projects and the decision-making process do not flow freely, also, there is no database of infrastructure projects, called in the European Union "sharing knowledge" where the knowledge about PPP projects are disseminated. Often the unrealistic expectations creation among the population causes mistrust that the projects will be carried out to the end, which in the author's opinion, can be solved by creating a certain system of communication and the exchange of operational information.

These effects were caused by the improper application of the PPP's principles and conditions, not revealing the main legal criteria, not evaluating the professional, technical and financial capacities of the private partners and the failure of the

investment costs establishment; appreciation and motivation of the investment return terms; balanced distribution of risks; establishment of the accounting mechanisms; supervision the management of public heritage, etc. There are also considerations related to the quality of the feasibility study preparation, the standardization of documents, criteria and methods, as well as the standardization of processes. In international practice, in the years 2000, appeared non-governmental organizations that were specializing in supporting methodically PPP projects and developing the infrastructure investment market. The first such organization can be considered "Partnership UK" from the United Kingdom, and then similar centers have emerged in South Africa, Australia and other countries that are actively developing the PPP mechanism (*Klinenberg E., 2018*). Most PPP development centers are responsible for drawing up the feasibility studies and preparing plans for the implementation of PPP projects, as well as for further consultative project support. Some centers also help Ministries to develop business plans and perform financial analyses, and others, such as the French PPP Development Center (MAPP), the Australian PPP Development Center and the South African PPP Development Center, exclusively deals with the evaluation of documents and feasibility studies for PPP's that are elaborated by the public administration. In the Republic of Moldova, there are NGOs: the Institute for Urban Development, the Institute for Development and Expertise of Projects which aim to mobilize the efforts of professional consultants and research organizations, design and civil society institutions in order to implement modern methods of urbanism and land-use planning and to improve the activity of the state authorities, and local public administration in the context of sustainable development of urban and rural regions (*Nilanjan R., 2015*).

Another limit of implementation of public-private partnerships in the Republic of Moldova refers to the lack of educational materials. Even though, in the Republic of Moldova was developed "The practical manual on public-private partnerships and concessions", it does not clarify and explain all situations that may arise in the PPP relationship, and also does not contain tools for efficient project management (*The Republic of Moldova Practical Manual on PPP, 2015*). For example, in the UK, a key PPP document is not a legislative or subordinate act, but the so-called "Standardization of PFI contracts" that now it is in its fourth edition. This document aims to guide key issues that arise in PFI (private finance initiative) projects to promote the achievement of commercially balanced Contracts and enable public sector procurers to meet their requirements and deliver the best value

for money. Each edition contains updates to take into account, incorporates the market changes and derogations and provides new guidance on certain matters identified (*Standardization of PFI Contracts, 2018*).

Another important problem is the lack of a PPP projects market in the Republic of Moldova. Project proposals in various sectors are very limited both in terms of quantity and quality. There is a list of state-owned goods and a list of works and services of national public interest proposed to the public-private partnership adopted by the Government Decision no 419/2012, but it was proposed to be updated only in 2019 (*Government Decision, 2012*). The lack of continuous updating of the proposed objects to the PPP means a lack of transparency; this creates additional barriers to attracting private-sector innovations.

It is also necessary to improve the procedure for the formation of PPP strategic development programs and to control their implementation by carrying out an annual review and assessing the effectiveness of their implementation, of course, their results should be available to the public. Because the participation of the private business is usually limited to the "agreements of intent" within the PPP programs at the stage of their formation in the joint governmental and regional projects - this creates risks of non-compliance (*Weber B., Staub-Bisang M., Alfen A., 2016*).

The lack of a strategic planning culture for the social and economic development of the Republic of Moldova, which is an important factor in the decision-making process regarding the long-term PPP projects financing, can lead to many public partner risks associated with:

- early termination of the contract;
- road traffic (when implementing parallel transport projects);
- the exploitation of built objects (in case of the social infrastructure objects construction);
- the exchange rate modification;
- refinancing rates modification etc.

In such a situation, it is necessary to develop guarantee and insurance mechanisms of PPP projects against the risks associated with the fulfillment of the obligations by the public partner. Once such tools have been created, the credibility of the Republic of Moldova authorities will increase, and this will make it possible to attract additional funds from financial investors.

Another important issue is the cost increase of public-private partnership projects. If the cost of the project increases as it is completed, the difference in costs will be borne by the end-user of the object or the public partner, this may lay the basis of the corruption schemes. Development of a mechanism to subsidize credit interest rates from the budgetary funds' account would make the

duration of the project a non-essential factor and would also allow the attraction of long term money. In the Republic of Moldova, there are no limits to the PPP projects financing from the state or local budget, however, there are some general recommendations in "The practical manual on public-private partnerships and concessions". For example "the responsible public authorities that have decided to implement a PPP project must be prepared to invest substantial financial resources - costs that could be reduced when the public partner already has PPP implementation experience" (*The Republic of Moldova practical manual on PPP and concessions, 2015*).

In the European Union, the financing of public-private partnership projects is distributed extremely unevenly between the private and public sectors. For example, in Poland, 76% of all infrastructure investments are made by the state, while in Switzerland 84% of the funding comes from the private sector. There are restrictions on the widespread use of PPPs in the form of large transaction costs, limited capacity to structure and manage the financial project, successfully. Thus, in the US, only 40% of all planned PPP transport projects in 1985 were fully funded by the end of 2015 (*Public-private partnerships in the EU: generalized weaknesses and limited benefits, 2018*). According to the Country Status Report, the investment rate in the Republic of Moldova after the crisis of 2009-2010, has deviated around the level of 22% of GDP, which is quite low, compared to other countries with the same level of income, geographical location or demographic context. Our country has not used all the possibilities to attract private investments in its infrastructure projects. Compared to other countries with the same level of income, the level of private investment in infrastructure projects is extremely low (*Country status Report, 2018*).

Figure 1 shows the volume of investment in long-term mixed ownership (public and private) with no foreign participation.

In 2015-2016, investments in fixed assets registered a dramatic decrease (-20% cumulative at the national level) and an increase of only 1% in 2017. The period 2015-2017 represents the longest phase of the investment crisis in the Republic of Moldova. Some districts and municipalities have registered 40-50% losses of investment flows (*The National Bureau of Statistics, 2019*).

To maintain the infrastructure and to ensure its harmonious expansion, the volume of investments must increase. This requires a reasonable balance between risk and cost-effectiveness of infrastructure projects. Previously, the investment risks of the infrastructure projects were too high and the potential return was insignificant, which reduced the interest of the private investors. Now, developed countries offer financing mechanisms

for private investors that reduce the risk of infrastructure investments. In particular, governments provide a minimum traffic guarantee for investments in transport infrastructure, protection of private investments against inflation; guarantee the investor a minimum payment after the completion of the construction of the infrastructure object.

Functional partnerships between public and private partners may be determined only on the condition that the role and objectives set by each of the parties are understood, and clear rules for interaction. I would like to notice that there are several obstacles in the relationship between the public and private sectors. Unfortunately, the interests of the financial sector are often not taken into account in public-private partnership contracts. This limits the possibilities for attracting private investment funds, including the funds of international financial organizations, to PPP projects. As a public-private partnership is primarily a long-term relationship, to remove all concerns of potential investors, the state must create favorable conditions and provide reliable guarantees in this field.

Currently, the factor that constrains the development of public-private partnerships at the local level is the lack of financial resources. Due to bank fraud that happened in the Republic of Moldova in 2014, corruption, non-transparent governmental decisions the country's financial system is still unable to provide the necessary investment resources, especially for large investment projects.

The long-term financing of investment projects by commercial banks in Moldova has decreased due to the dilapidation of banking assets in the context of bank fraud in 2012-2014. The portfolio of bank loans throughout the system was compressed in 2017, and the banks are not prone to credit risks (*Country status Report, 2018*). Thereby, they remain sufficiently well-capitalized and maintain a sufficient level of liquidity, which ensures the stability of the system, but this happens to the detriment of credit increasing, and the detriment of investments and better economic growth.

At the same time, the confidence of foreign investors has started to decline since 2015. Only in the second half of 2019 was it possible to unlock foreign financial investments after the political changes that have taken place in the Republic of Moldova. Macro-financial assistance from international funds is extremely important, not only because it fills the deficit of internal investment resources but also for innovative organizational technologies and models of management and marketing, which foreign investments bring with them.

However, private funds can also be attracted to investments in large infrastructure projects, where

the state guarantees constant profits. One of the possible investment instruments may be infrastructure bonds. However, due to the weak legal regulation and the lack of high-quality investment projects, this financial tool has not yet been developed in the Republic of Moldova.

At the same time, an additional source of funding for public-private partnership projects could be private individuals' funds. Only in 2013, retail deposits in commercial banks in the Republic of Moldova reached 44.5 billion lei, of which 19,8 are in foreign currency (*Country status Report, 2018*). Infrastructure bonds could also be an alternative to bank deposits. In this regard, the experience of France is quite interesting, individuals could open special savings accounts up to 15 thousand euros in any commercial bank that is not taxed and is guaranteed by the state. The profit is indexed by inflation level and three-month European interbank rate (Euribor). All funds raised in this way are centralized by a bank that uses long-term guaranteed loans (up to 25 years) for the development of social housing and infrastructure projects (*Nilanjan R., 2015*). The same applies to insurance companies in the Republic of Moldova, whose revenues, in 2018, were 2296.0 million lei. These companies are primarily interested in increasing investments, which could be successfully implemented within the PPP.

ENDNOTES

The study of the regulatory framework leads to the conclusion that the availability of quality legislation will contribute to ensuring a significant growth of the economy of the Republic of Moldova by attracting financing from the local and international business environment. At the same time, the business environment around the world prefers to work according to clearly defined and easily understood rules and laws and is careful to protect its financial interests. But other factors slow down the development of this tool in the Republic of Moldova. The lower state support and project regulation, the corruption, the difficulties related to bank credit due to banking system fraud in 2012-2014, non-development of sources and financing mechanisms in our country, has contributed to the fact that internal PPP projects have lost most funding sources. The low quality of project preparation and implementation does not affect the PPP image in the best way, so it is necessary to standardize the documents, criteria, methods, and processes, as well as the implementation of innovative organizational technologies and models of management and marketing, which the private partners could bring with them.

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List of figures

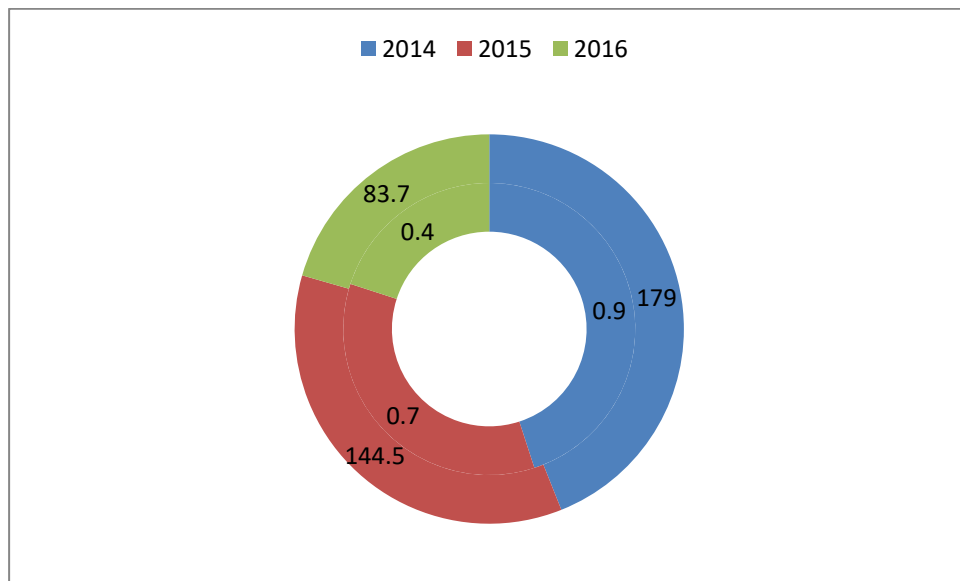


Figure No. 1.

Investments in long-term tangible assets in the form of mixed ownership (public and private), without foreign participation

Source: Developed by the author based on the data of The National Bureau of Statistics (2019). Retrieved from <http://www.statistica.gov.md>