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IMPLEMENTATION OF PUBLIC-PRIVATE-PARTNERSHIP IN THE CZECH REPUBLIC**Lubomir Pana**

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The study focuses on the possibilities and the reality of using Public Private Partnership projects in the Czech Republic. The author describes the areas and highlights specific examples of where such partnerships could be used. He also offers a concrete solution of the further application of Public Private Partnership. Despite the lack of experience in public private partnerships, the author proposes the following: to establish a central organization of the Ministry of Regional Development, which will support the implementation of public-private partnerships. With the eventual aim to build a large infrastructure, it would be better to hire a private consortium as a partner, consisting of several large, strong and stable companies. For the South Bohemian Region the author puts forward social projects which will be implemented through the public private partnerships.

Key words: Public Private Partnership, Czech Republic, South Bohemian Region.

РЕАЛІЗАЦІЯ ДЕРЖАВНО-ПРИВАТНОГО ПАРТНЕРСТВА В ЧЕХІЇ**Любомир Пана**

Вища школа європейських та регіональних досліджень

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У статті проводиться аналіз можливостей і реальності використання проектів державно-приватного партнерства в Чеській Республіці. Досліджено області та конкретні приклади можливого використання, запропоновано конкретне рішення про подальше застосування державно-приватного партнерства. Враховуючи відсутність досвіду державно-приватного партнерства, запропоновано створити центральну організацію Міністерство Регіонального Розвитку, яке підтримуватиме впровадження державно-приватного партнерства. З метою оптимізації витрат при створенні інфраструктури запропоновано використання консорціуму як приватного партнера, на основі поєднання зусиль декількох великих, сильних і стабільних компаній. Для регіону Південно-Чеський край запропоновано соціальні проекти, які будуть реалізовуватися за допомогою державно-приватного партнерства.

Ключові слова: Державно-приватне партнерство, Чехія, Південно-Чеський край.

PROBLEM STATEMENT. Public Private Partnership (PPP), according to the Green Paper of the Commission of European Communities on the Partnership of public and private sectors and law of the Communities on public procurement and concessions, dated 30/04/2004, means in general the forms of cooperation between public administration authorities and the business sector in order to ensure funding, construction, renovation, administration or maintenance of the public infrastructure or provision of public services. It can be stated that PPP is an expression of the efforts to involve the private capital in building public goods (the infrastructure) on other than subcontracting basis, or more precisely to engage the private capital in their construction, operation and maintenance in a determined time period. It is a specific contractual relationship where the private sector ensures the infrastructure including related services which are otherwise traditionally procured by the public sector. For example, the construction and operation of a public sewerage system, construction and operation of a public lighting system, or construction, operation and maintenance of highways (LOUDA, 2010, 19).

It is a partnership of the public and private sectors formed on the basis of a contract, leading to ensuring the public infrastructure and services and using the capabilities of both partners through the best-possible allocation of resources, responsibilities and risks, as well as the corresponding income (OSTŘÍZEK, 2007, 2).

In terms of the subject-matter focus of PPP, the

public administration authorities of EU member states often use contractual arrangements on PPP to implement infrastructure projects, predominantly relating to transport, health service, education and national security, as well as innovations, research and development.

In terms of the process, PPP can be divided into PPP of purely contractual nature, where the partnership between the public and private sectors is solely based upon the contractual connection in the form of concluding an agreement denoted as a «public contract» or «concession», and PPP of institutional nature including the cooperation between the public and private sectors as part of a jointly established entity.

It is the year 1992 that is generally regarded as the beginning of PPP, when the government of the United Kingdom of Great Britain and Northern Ireland announced the first PFI (Private Finance Initiative) program, focused on the construction, or innovation, of the public infrastructure (primarily roads), provision of public services (the health service).

EXPERIMENTAL PART AND RESULTS OBTAINED. The goal of PPP projects is to achieve effectiveness in the construction and operation according to the project intentions (LOUDA, 2010, 21). The effectiveness advantage is to be achieved by integrating the functions of planning, construction, operation and funding. With limited budget means, PPP funding of an investment via a private partner allows faster implementation of projects. PPP projects are regarded as alternative or supplementary forms of funding the public services and public infrastructure.

The projects are mainly used for the construction and operation of transport infrastructures. Typical examples of their successful application are roads, highways, highway bridges, tunnels, high-speed railways or airports. PPP projects have also been successfully used in health service, education, ecology, prison service, justice, culture, sports.

In a simplified fashion, the PPP principle can be described as follows: an investment or public service that is needed for the community as shown by public interest is neither built, nor operated/nor provided by the public sector which traditionally procured such services, but by the private sector. In such cases, the private investor and government become equal partners. The private investor will invest funds in making a publicly beneficial service/construction of a building and then operates/manages it. The government pays the price agreed in advance for the services to the private investor, or receives financial means directly from end users, for example by collecting the toll.

It is not possible to determine and identify all PPP advantages and disadvantages in general, because each institution involved approaches the projects in a different way, from a different, specific perspective.

PPP projects can be characterized as follows: the submitter is always a public entity which defines the requirements for a public service and remains responsible for ensuring it; the role of the private partner is to ensure the public infrastructure as effectively as possible and/or according to the order from the submitter; the submitter assigns some risks which are usually borne by the submitter during the implementation of a public contract to the private partner (such as demand, availability and construction risks); in many projects it is the private partner that builds, operates, maintains and funds the infrastructure. This procedure allows easier control and planning of life-cycle project costs; the submitter pays regular sums to the private partner during the project, or allows the concessionaire to use the infrastructure or service (collection of fees from the users), or both, there are numerous payment mechanisms that can be used; the project is usually implemented through a company set up for such purpose; typical features of the projects are a relatively long-term relationship regarding the cooperation between the public and private partners on various aspects of the planned project, concession contracts are usually concluded for 25-30 years; the method of project funding, ensured by the private sector in part, sometimes by means of complex contracts among various parties, which specify the scope of risk and responsibility assignment among individual partners; an important role of the economic operator who participates in various phases of the project (draft, project, performance, funding). The public partner mainly focuses on defining the goals that need to be achieved with respect to the public interest, quality of the provided services and pricing policy, and assumes the responsibility for the control of their observance; by division of the risks between the public partner and private partner, who usually assumes the risks that are normally borne by the public sector. However PPP does not have to mean that the

private partner bore all risks connected with the project, or a major part of them. The specific division of risks is determined on a case-by-case basis, depending on the possibility of the engaged parties to evaluate, control and handle particular risks (PPP, 2014).

Areas in which PPP projects can be used in the Czech Republic

PPP projects can be used in almost any area, primarily in transport infrastructure; administration and state administration; schools and education; health service; defence and security; culture; sports; leisure activities; accommodation capacities and social care; homes for senior citizens; social housing; nursing homes; children's homes; the environment and ecology; water and sewerage systems; waste collection, disposal and recycling; sewerage plants; sludge disposal.

In practice there are many various forms of contractual arrangements within PPP projects. They mainly differ in the form of risk distribution between the private and public entities. And in the distribution of benefits resulting from the cooperation. PPP project have a lot of advantages, disadvantages and risks.

Advantages: Calculation of the life-cycle costs by the private partner; motivation and ability of the private partner to keep the budget and planned time schedule (payments at the time that a service is provided); experience and know-how of the private partner, as well as long-term and good quality solutions (innovations, savings); comprehensiveness of PPP (negotiations with one partner); during the project, transfer of risks which the public sector is not able to manage effectively to the private partner; only one partner for the entire project period; evaluation of the project through life-cycle costs; value for money – the law imposes an obligation to compare the advantages of PPP solutions with a standard public contract; scheduling of payments in time, the submitter's budget is not burdened by a single action; innovative approach of the private partner to the project in order to maximize the effectiveness of invested means, it does not only mean financial means, but also investment of time in the project preparation.

Disadvantages: lack of experience, relatively few completed projects; price, higher costs associated with the preparation, on the contrary some costs do not arise at all (project); time factor, period of study duration, approval process; future indebtedness, mandatory costs; long-term relationship, risk of project modifications; political risks, it may happen with some projects that banks or investors will request the provision of guarantees; unsuitability for certain types of projects, capital-intensive projects.

Risks – implementations of PPP projects are associated with a great number of risks. Eurostat has simplified and structured the evaluation of risks, and the fact whether a project is to be included in the government budget or not will depend on the analysis of the following three risks (PPP and Slovakia, 2013): construction risk; availability risk; demand risk.

The first attempts to use the PPP concept as a possible resource of funding public contracts appeared in the Czech Republic roughly at the end of the 90s of

the 20th century. At that time, however, it was not quite clear whether it would be necessary to formulate a new legislative framework for such activities. Furthermore it should be mentioned that even today the legislative framework of individual member countries of the European Union in this field is not fully uniform.

The efforts to implement a public infrastructure construction in the Czech Republic using PPP culminated in 2004, when the government of the Czech Republic passed the Policy in the field of partnership of the public and private sectors in the Czech Republic. The government declared that the power to decide whether the partnership approach should be used, to determine the planned outputs of partnership projects in the form of an offer of public goods and services, and to implement the project is in the competence of the state administration and local authorities. The public administration (public sector) plays the role of the submitter (PEKOVÁ, PILNÝ, JETMAR, 2008, 674).

At the same time, on the basis of item 2 of the Government Resolution dated 7 January 2004, the PPP Centre was set up, whose goal was to support the implementation of PPP projects, or *"to speed up in an coordinated fashion the preparation of the legislative environment, including methodical procedures and dissemination of proven knowledge in the management and implementation of PPP projects on the part of the public sector"* (Pavel, 2007, 38). In another step, the Ministry of Regional Development and the Ministry of Finance prepared a bill, which was adopted under No. 139/2006 Coll., on concession contracts and concession procedure (herein after referred to as the «Concession Act»). Then several projects were chosen which should have tested the system functioning in the conditions of the Czech Republic, and simultaneously the public administration should have «learnt» to work with the PPP projects within the chosen projects (PAVEL, 2007, 38). It was expected that the experience gained from the implementation of those projects, i.e. the evaluation of the course from the draft to the implementation, would provide a sufficient quantity of information for the implementation of PPP in the Czech Republic. The chosen projects were generally denoted as pilot projects.

The necessity to finance the needs of public interest and thus to maintain and develop quality of the life of citizens is evident. Not only the Czech Republic, but also the neighbouring countries solve the problems where to obtain the funds for investments in the period of economic crises. Particularly in the area of transport infrastructure, it is necessary to continue investments in the development of roads and railways, to facilitate better transport connection, and as a result to afford better business opportunities. The opportunities then can contribute to the development of economy, and consequently gaining new financial means for the government. One of the ways is offered by the cooperation of the private and public sectors as stated above. Looking at the situation in the Czech Republic, it is obvious that this form of cooperation was not much welcomed and the endeavour to implement it failed at the very beginning, namely on the projects

which should have tested the functioning of this form of cooperation. Most of the so-called pilot projects became more costly to the state, while no implementation ever commenced. It should also be noted that the situation is much better at the level of towns and villages, and if any projects have ever been implemented in the Czech Republic, then it has been there.

It is evident that the PPP principle has not been understood quite well in the Czech Republic, because even most of the implemented projects could be more precisely classified as outsourcing. If the representatives of municipalities, i.e. elected representatives and people whose responsibility is to promote the public interest, state in the research among others that they are not satisfied with the transparency of PPP projects, because they provide almost zero corruption potential, it will be very difficult to bring the projects into life in the Czech Republic.

A model of the so-called Participative Budget (BRABEC, 2014, 110) is gaining attention in the Czech Republic, however still in the phase of an experiment, where residents of a particular municipality or municipal district etc. decide directly on specific earmarked parts of the municipal budget. This type of budgetary control requires the will and ability to discuss and decide on the expense or income items of the municipal budget, and is open to the representatives of all segments of the community (i.e. NNO representatives, entrepreneurs, employees etc.). Within the process of decentralization, the dependence on central subsidies is decreasing (it can be combined with PPP and other forms of funding) and is directly supporting the mechanisms of authentic democracy.

CONCLUSIONS. The author believes that in spite of an alarming lack of experience of PPP in the Czech Republic, it is possible to use this form of funding, and proposes the following solutions: to observe the duty to compulsorily publish data on the websites of individual entities of public administration, and to make even classical awarding of contracts for public works more transparent in this manner, and therefore to balance the «corruption potential»,

- to set up the central register of contracts, upon the understanding that any contract that is not entered in the register will not be valid,

- to set up the central organization again, in the opinion of the author – ideally established by the Ministry of Regional Development, which will document, monitor, train and support the implementation of PPP as it was intended in the case of the PPP Centre,

- to abandon a complex legislative process and similar regulations in view of the fact that, for example, in neighbouring Austria the projects are used without a complicated legislative framework only on the basis of already functioning standards,

- to use, alike in the case of the Austrian Twin City Liner, the opportunities that are offered by cross-border cooperation.

In the current situation, for the purposes of big infrastructure constructions, it would be better to engage a consortium as a private partner, consisting of

several big, strong and stable companies.

For the South Bohemian Region, we propose, together with Ječmínková (Ječmínková, 2014), the following projects in the PPP form (primarily focused on social policy and education):

- construction, maintenance and operation of kindergartens and other facilities specialized in pre-school care, for example day nurseries,

- construction, maintenance and operation of facilities for senior citizens and persons with limited self-management abilities, homes for senior citizens, nursery homes, day and week short stay hospitals.

At the level of individual towns and villages, to use PPP to solve leisure activities for citizens, for example by participation in construction projects:

- water parks or swimming pools (after the fashion of similar facilities built and operated in neighbouring Austria),

- construction of outdoor sports centres, as intended in the Freetime Park project in České Budějovice

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РЕАЛИЗАЦИЯ ГОСУДАРСТВЕННО-ЧАСТНОГО ПАРТНЕРСТВА В ЧЕХИИ

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Высшая школа европейских и региональных исследований

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Исследование фокусируется на возможностях и реальности использования проектов государственно-частного партнерства в Чешской Республике. Рассмотрены области и конкретные примеры возможного использования, предложено конкретное решение дальнейшего применения государственно-частного партнерства. Учитывая отсутствие опыта государственно-частного партнерства предложено создать центральную организацию – Министерство регионального развития, которое будет поддерживать внедрение государственно-частного партнерства. С целью оптимизации затрат на создание инфраструктуры, предложено формирование консорциума как частного партнера, состоящего из нескольких крупных, сильных и стабильных компаний. Для региона Юго-Чешский край предложены социальные проекты, которые будут реализовываться с помощью государственно-частного партнерства.

Ключевые слова: Государственно-частное партнерство, Чехия, Южночешский край.

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