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PUBLIC-PRIVATE PARTNERSHIP AS A TOOL FOR DEVELOPMENT OF TERRITORIES

Abstract. The article establishes that sustainable territorial development is impossible without the partnership of public authorities and business. It is noted that Public Private Partnership (PPP) is an institutional and organizational alliance between authorities and business for the purpose of realization of socially significant projects in various spheres of activity. It is revealed that this transfer of business is part of the powers, responsibilities and risks associated with the implementation of investment projects that have traditionally been implemented through budget financing. The attention was paid to the forms of public private partnership. The current state of realization of local public private partnership projects is analysed, actual problems have been identified and directions of financing of development of territories have been clarified. It is proved that the partnership between the authorities and the private sector is aimed at increasing the efficiency of the implementation of infrastructure projects at the local level, solving important issues of local importance and meeting the needs and interests of the territorial community in obtaining quality services. There are listed spheres and sectors of application public private partnership. There are mentioned advantages of the use of public private partnership. The statistical data and the dynamics of realization of projects implemented on the basis of public private partnership are presented. An example of the use of public private partnership, as an instrument for the development of territories, is presented. Attention is paid to the institutional environment of the implementation of public private partnership projects. The expediency of harmonization of concession legislation with the legislation on public private partnership and implementation of best international experience in legal regulation in Ukraine is substantiated. The necessity of development of public private partnership as an instrument of development of territories in the conditions of realization of the decentralization of power relations reform is pointed out.

Keywords: Public Private Partnership (PPP), projects and development of the territory.

ДЕРЖАВНО-ПРИВАТНЕ ПАРТНЕРСТВО ЯК ІНСТРУМЕНТ РОЗВИТКУ ТЕРИТОРІЙ

Анотація. Встановлено, що сталий територіальний розвиток неможливий без партнерства органів публічної влади й бізнесу. Зазначено, що державно-приватне партнерство — це інституційний та організаційний альянс між владними органами і бізнесом з метою реалізації суспільно значущих проектів у різних сферах діяльності. З'ясовано, що це передача бізнесу частини повноважень, відповідальності та ризиків щодо реалізації інвестиційних проектів, які традиційно впроваджувалися за рахунок бюджетного фінансування. Приділено увагу формам державно-приватного партнерства. Проаналізовано сучасний стан реалізації місцевих проектів державно-приватного партнерства, виявлено актуальні проблеми та розкрито напрями вдосконалення фінансування розвитку територій. Доведено, що партнерство органів влади і приватного сектору спрямоване на підвищення ефективності впровадження інфраструктурних проектів на місцевому рівні, вирішення важливих питань місцевого значення, задоволення потреб та інтересів територіальної громади щодо отримання якісних послуг. Перелічені сфери і сектори застосування державно-приватного партнерства. Зазначено переваги застосування державно-приватного партнерства. Наведено статистичні дані і динаміка реалізації проектів, що реалізуються на засадах державно-приватного партнерства. Також наведено приклад застосування державно-приватного партнерства як інструменту розвитку територій. Акцентовано увагу на інституційному середовищі реалізації проектів державно-приватного партнерства. Обґрунтовано доцільність гармонізації концесійного законодавства із законодавством про державно-приватне партнерство, імплементації кращого міжнародного досвіду до правового регулювання в Україні. Наголошено на необхідності розвитку державно-приватного партнерства як інструменту розвитку територій в умовах реалізації реформи децентралізації владних відносин.

Ключові слова: державно-приватне партнерство, проекти, розвиток території.

ГОСУДАРСТВЕННО-ЧАСТНОЕ ПАРТНЕРСТВО КАК ИНСТРУМЕНТ РАЗВИТИЯ ТЕРРИТОРИЙ

Аннотация. Установлено, что стабильное территориальное развитие невозможно без партнерства органов публичной власти и бизнеса. Отмечено, что государственно-частное партнерство — это институциональный и организационный альянс между властью и бизнесом в целях реализации общественно значимых проектов в разных сферах деятельности. Выяснено, что это передача бизнесу части полномочий, ответственности и рисков по реализации инвестиционных проектов, которые традиционно внедрялись за счет бюджетного финансирования. Уделено внимание формам государственно-частного партнерства. Проанализировано нынешнее состояние реализации

местных проектов государственно-частного партнерства, выявлены актуальные проблемы и раскрыты направления улучшения финансирования развития территорий. Доказано, что государственно-частное партнерство направлено на повышение эффективности инфраструктурных проектов на местном уровне, решение важных вопросов местного значения, удовлетворение потребностей и интересов территориальной общины в получении качественных услуг. Перечислены сферы и секторы применения государственно-частного партнерства. Раскрыты преимущества применения государственно-частного партнерства. Приведены статистические данные и динамика реализации проектов, реализуемых на принципах государственно-частного партнерства. Также приведен пример применения государственно-частного партнерства как инструмента развития территорий. Акцентируется внимание на институциональной среде реализации проектов государственно-частного партнерства. Обоснована целесообразность гармонизации концессионного законодательства с законодательством о государственно-частном партнерстве, имплементации положительного международного опыта в правовое регулирование в Украине. Указано на необходимости развития государственно-частного партнерства как инструмента территорий в условиях реализации реформы децентрализации властных отношений.

Ключевые слова: государственно-частное партнерство, проекты, развитие территории.

Problem statement. It is difficult for local authorities to effectively implement the Social and Economic Development Program of territorial communities. Budget financing is not enough to implement capital construction projects, maintenance of roads, purchase of equipment and equipment, modernization of housing and communal services, institutions of social and humanitarian spheres: education, health care, social protection of the population, culture, provision of high-quality services to the population. This indicates the relevance of public private partnership, because sustainable territorial development is impossible without the cooperation of state executive authorities, local governments and business.

Analysis of recent researches and publications. Some issues concerning the development of public private partnerships are highlighted in the works of national scientists [1; 2; 4–6; 8], and others. Nevertheless, Public Private Partnership (PPP) as an instrument for financing development of territories requires additional research.

Purpose of the article. The article analyses the current state of realization of local public private partnership projects, identifies actual problems and reveals the areas of improving the financing of the development of territories.

Presentation of the main material. It has been established that Public Private Partnership (PPP) is an institutional and organizational alliance between the authorities and business for

the purpose of implementing socially significant projects in various fields of activity: from the development of strategically important industrial sectors and research and development to the provision of public services to the population [1]. Public private partnerships allow the private sector's financial resources to be invested in social infrastructure, making it easier for public authorities to fulfil their public service obligations. That is, the transfer of business is part of the powers, responsibilities and risks associated with the implementation of investment projects that have traditionally been implemented through budget financing.

According to B. O. Vynnytskyi, M. I. Lendiel, B. P. Onyshchuk and other scientists, protection of state and communal interests is guaranteed through the institutional framework, provisions of regulations and concluded agreements [2, p. 13]. The partnership between the authorities and the private sector is one of the ways to increase the efficiency of implementation of infrastructure projects at the local level, addressing important issues of local importance, and meeting the needs and interests of the territorial community in providing high-quality public services. The use of public private partnerships allows local authorities to reduce budget expenditures, accelerate the process of building and commissioning social infrastructure, implement innovative technologies and use innovative abilities and efficient working methods. At the same time, bodies of state power and bodies of local self-government create tax and other privileged conditions for business, perform administrative and control functions.

It should be noted that domestic legislation contains a wide range of areas and sectors of public private partnership, in particular [3, p. 4]:

- Search, exploration of mineral deposits and their extraction, except those carried out on the basis of production-sharing agreements;
- Production, transportation and supply of heat and the distribution and supply of natural gas;
- Construction and/or operation of motorways, roads, railways, runways at aerodromes, bridges, road overpasses, tunnels and subways, sea and river ports and their infrastructure;
- Mechanical engineering;
- Collection, purification and distribution of water;
- Healthcare;
- Tourism, rest, recreation, culture and sports;
- Ensuring the functioning of irrigation and drainage systems;
- Waste management, except for collection and transportation;
- Production, distribution and supply of electric energy;
- Real estate management;
- Provision of social services, management of a social institution and institution;
- Production and implementation of energy saving technologies, construction and overhaul of residential buildings completely or partially destroyed as a result of hostilities on the territory of the antiterrorist operation;
- Installation of modular buildings and the construction of temporary housing for internally displaced persons;
- Provision of services in the field of education and health care;

- Management of architectural monuments and cultural heritage.

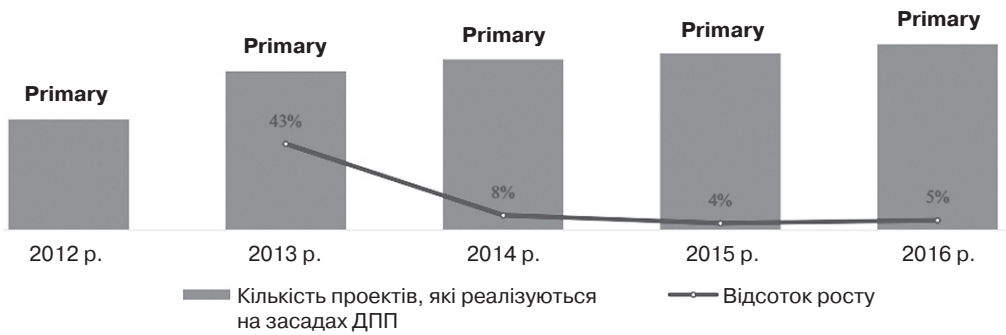
Public private partnerships can take many forms depending on the degree of involvement and the level of risk that they assume as contracts for the execution of works and the provision of public services, the supply of products for the needs of the territorial community, etc., and the activities of joint ventures. The most common forms are concession, leasing and lease in the international practice of public private partnership.

Having examined the features of each form of public private partnership, it has been discovered that concessions, joint ventures, or mixed ones are the most appropriate tools for structuring the legal relationship between a private partner and a central or local executive body and a local self-government body to attract investment. The current legislation establishes a clear procedure and conditions for the selection of the concessionaire unlike the order of determining the private party in other forms of public private partnership. A sufficiently detailed regulation of concession relations provides a sufficient level of legal certainty and allows full implementation of concession projects. Contractual lease relations (leasing) and joint activities can be considered as a mechanism for attracting private investment in the event that the project does not involve significant investments and large-scale construction. Property management does not involve the implementation of payments and, as a rule, does not involve a significant amount of investment in assets transferred under such an agreement. The investment agreement is not sufficient-

ly regulated in the current legislation, which makes it problematic for structuring large investment projects [4, p. 37].

It was established that public private partnerships should be used to accelerate technical re-equipment and increase resource and energy efficiency of housing and communal services and modernize infrastructure. Among the main problems in housing and communal services, which require urgent resolution, include: aging of housing stock and lack of funds for its reconstruction; monopoly and underdevelopment of market mechanisms, unjustified increase in the cost of low-quality public utilities; depreciation of fixed assets; obsolete technologies; insufficient innovation potential; mismatch of a significant part of employees of housing and communal enterprises with modern management requirements; and passivity of the population, etc. The imperfection of the housing and communal services management system, the unsatisfactory technical and economic state of communal enterprises, and the delay in housing and communal sector reform led to the fact that the enterprises of the sector cannot work effectively in market conditions, and to provide consumers with the services of an appropriate level and quality [5, p. 38–39].

The statistics of the Ministry for Economic Development for 2012–2016 indicate an increase in the interest of the private and state parties in such cooperation (see Fig. 1). Concessions prevail among the agreements concluded. We note that the data are given without concession agreements that were implemented on the territory of the



Dynamics of realization of projects implemented on the basis of public private partnership (PPP)

Crimea (as of January 1, 2014, 63 projects were implemented) and Donetsk and Loans Oblasts (9 projects), since the objects under which the agreements were concluded are on the territory of uncontrolled Ukrainian authorities [6, p. 18].

According to the data of central and local executive bodies in Ukraine, as of January 7, 2018, 192 agreements were concluded, 66 of which (41 concession agreements, 24 joint activity agreements and 1 PPP agreement), 126 agreements are not implemented (4 agreements expired, 9 agreements terminated and 113 agreements not fulfilled). The said projects are implemented in the following spheres of economic activity: collection, purification and distribution of water (31 contracts, representing 47,0 % of the total); production, transportation and supply of heat (8–12,1 %); waste treatment (7–10,6 %); construction and/or operation of motorways, roads, railways, runways at aerodromes, bridges, road overpasses, tunnels and subways, sea and river ports and their infrastructure (7–10,6 %); real estate management (4–6,1 %); production, distribution and supply of electric energy (3–4,5 %); search, exploration of mineral deposits and their extraction

(1–1,5 %); health care (1–1,5 %); and others (4–6,1 %) [7].

The following is an example of using public private partnership as an instrument for financing development of territories. Thus, School-Lyceum № 1 named after N. Sosnina, Secondary School № 2 and Children' and Youth Sports School (total area of buildings 17 thousand m², more than 1800 students and teachers) were heated by boilers that were in poor technical condition, which resulted in excessive consumption of heat and electricity in the city of Malyn, Zhytomyr Oblast. Therefore, local authorities decided with the help of public private partnership to conduct an examination, attract financial resources and technologies from the business side. In 2014, between the Malyn City Council and Energia Tepla, LLC within the framework of realization of public private partnership, an agreement on joint activity was signed for 15 years from the date of signing.

As a result of the project, the city government has been saving money, stable heat supply (wood fuel is much cheaper than imported natural gas) and improving the business climate. A private partner has received a stable

long-term customer of heating services; the reputation of the company that successfully passed the competitive procedure and concluded the contract without using opaque means of influence. The state is increasing energy independence, reducing the impact on climate change and a positive example for the future PPP projects [4, p. 75–79].

It was established that a serious obstacle to the implementation of public private partnership projects is the general state of the institutional environment in which a private partner has to implement the project. Thus, according to V. Harbarynina, the institutional environment for the implementation of public private partnership in Ukraine needs to be improved, and the search for ways to identify priorities for the development of the territory and the selection of the best tools for the implementation of projects. The main reasons that should encourage the state to implement public private partnership projects are the benefits of increased efficiency, active involvement of innovation and higher productivity in delivering quality public services by creating a competitive environment. The main advantage of public private partnerships for the private sector is that they are able to invest in the country's social and economic lives, which previously were considered a public investment area, thus expanding their investment opportunities [8, p. 180–181].

Most researchers are of the opinion: a public private partnership tool is best suited to attracting investment in infrastructure, as:

- The long-term agreement allows the participants to carry out planning for a long period;

- The private partner gets the opportunity to freely make managerial and economic decisions, invest in projects guaranteed by local authorities, receive stable income within a certain period of time;

- Business has the right of ownership and use of the object of state or communal property only, and state or local authorities are levers of influence on the private partner if there are violation of the terms of the agreement;

- Public authorities receive from the private party advanced methods and technologies of management, which positively affects the quality of public services;

- The territorial community partially relinquishes the risks of functioning of infrastructure objects and exceeding the estimated cost of construction;

- The investor adheres to the terms of the project, which is set out in the agreement, since it depends on the return of the investment; for governments, this delay has significant negative social and economic effects;

- There are significant incentives to reduce the actual cost of the project due to competition among the contestants.

It has been established that increasing the efficiency of the economy requires the attraction of private domestic and foreign investments. Ukraine has significant potential for cooperation and mutual investment in various sectors. The experience of many countries with different economic systems and the level of development of market relations show that one of the most effective ways to improve the quantitative and qualitative characteristics of the activities of state and communal property objects is the attraction of pri-

vate capital and management of these objects under conditions of public private partnership.

The result of the improvement of legislation in the field of public private partnership, including concession, is the systematization of current laws regulating concession activity, harmonization of concession legislation with public private partnership legislation, implementation of best international experience in legal regulation in Ukraine, ensuring the possibility of applying legal norms for all spheres of activity. The draft of new edition of the Law of Ukraine “*On Concessions*” (Reg. № 8125 dated March 15, 2018) provides for amendments to more than 30 legislative acts of Ukraine in order to bring them in line with the provisions of the bill and eliminate barriers for the implementation of concession projects [9].

Draft Laws “*On Amendments to the Tax Code of Ukraine on Creating Conditions for Modernization of Infrastructure through Implementation of Projects under Public-Private Partnerships, Including Concessions*” (Reg. № 8127 dated March 15, 2018) and “*On Amendments to the Budget Code of Ukraine as regards the Creation of Conditions for Infrastructure Modernization through the Implementation of Projects under the Conditions of Public Private Partnership, including Concessions*” (Reg. № 8126 dated March 15, 2018) propose to introduce internationally recognized approaches to the settlement of financial issues [9]. The state will stimulate the interest of potential private partners in implementing large-scale and socially significant projects of public private partnership. Public authori-

ties will be able to attract investments for modernization and creation of new infrastructure, improve the quality of public services, and promote accelerated economic growth, and so on.

Conclusions and prospects for further researches. Thus, it is expedient to use different forms of public private partnership with a view to successful implementation of state and regional strategies for social and economic development, to create a favourable regulatory and institutional environment, to provide state support and guarantees to private sector partners, to involve civilian institutes society and to introduce public control over fulfilment of contractual obligations by all partner parties in order to improve the existing situation. Public private partnership (PPP) should become a priority instrument for the development of territories in the context of the reform of decentralization of power relations. We really hope that our further researches will be devoted to it.

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