

Urban Development through PPPs “Challenges and Models– Comparison between Albania and European countries”

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ABSTRACT

Albania is lacking relatively behind concerning the adoption of public – private partnerships for sustainable urban development projects. This research states that public-private schemes have the potential of becoming an important tool for promoting urban regeneration in combination with respecting the principle of sustainability.

The aim of this research is to identify how public-private cooperation schemes/ contracts and through SWOT analysis can successfully assist in the implementation of national urban development policies, focusing mainly on the guidelines set by the European Union.

The following subtopic will be explained:

Sharing a common vision on the needs and expectations based on the analysis of actual and original cases in Public Administration Building.

PPP's versus sustainable development, new initiatives on public-private partnership, drawing conclusions and identifying key success factors, identifying trails for progress and drawing recommendations.

The objective is to encourage public policy makers and local authorities in particular to undertake relevant actions in order to promote partnerships with private institutions in the field of urban development. This research concludes by Risk Analyze for a Public-Private Partnership Project.

KEYWORDS: Partnership, sustainable development, public infrastructure, SWOT analysis, Administrative buildings.

1 INTRODUCTION

PPPs (Public Private Partnerships) in urban development can be best defined as a true partnership of public officials and private developers who “have development ambitions that they could not complete alone” (Sagalyn, 2007). In this form of public authorities and private sector cooperation (private companies such as construction companies, private banks, investment companies, etc) the aim usually is

to accomplish a public project/construction by funding and/or operating on the basis of a partnership in which the financial risks of the public sector are to be reduced.

PPPs are mainly driven by limitations in public funds to cover investment needs and by efforts to increase the quality and efficiency of public services (EC, 2003).

Financial Constraints from central government and lack of the local government financial resources that results from narrow scope of taxation, low tariffs, low collection rates, and the minority of appropriate financial instruments, act as constraint for promoting urban regeneration projects, in combination with respecting the principle of sustainability, mainly in social infrastructure and services in Albania. PPP investments are influenced by a hierarchy of legal regimes as shown by Figure 1 below adopted from Guidelines for Successful PPPs (EU, 2003)

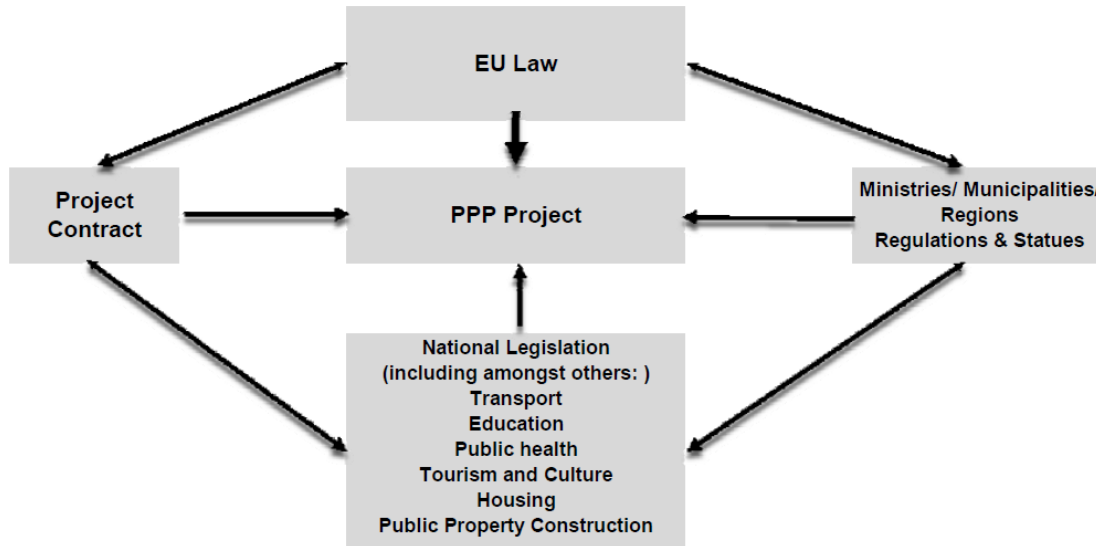


Figure 1: Hierarchy of the legal structures relating to PPP projects Source

For establishing PPPs an institutional structure is required, to allow the public sector to change their role from being a direct service provider to an independent regulator, manager, monitor, and project promoter (EU, 2003). The findings revealed that, there are few PPPs in Albania yet (detailed below in "New initiatives on public-private partnership") and what exists are just concessions given to some investors in the key areas. The sustainable urban development projects realized these 2 decades in Albania by the government/municipality has faced problems with participation and collaboration between actors. There was no clear policy and guidelines developed which can guide the public sector and other partners in the process of forming effective partnerships. This is an indicator which has made the community and private sector participation and contribution to be limited.

This paper aims to focus on the use of public-private partnerships (PPPs) to procure "social infrastructure projects or/and public property building"(under ministries, municipalities and regions administration, such as schools, students dormitories, hospitals, prisons, court building offices, treasury building offices, tourist buildings, agricultures labs and offices etc).This paper identifies and compares some characteristics of Urban development through PPP, that supports Public property building, in the implementation of different schemes of Partnerships and Contracts.

How will become adaptable for Albanian Public property building these new and innovative challenges and methods? Why PPP projects for PPB? This research aims to provide and ensure a sustainability development for the country and in this context to contribute in Albania's progress, in the framework of the process of European integration. This research is focused on how consortiums manage factors involved and the results are presented from a case study of a NFA Buildings Project (National Food Authority). The principal reason for using PPPs is that, where the project is suitable, they can

deliver better value for money than the alternatives. All arguments for and against PPPs must be considered within the context of that overriding objective.

2 CHALLENGES AND MODELS

2.1 Review of PPP activity across Europe

Since 1994, the private sector has invested around US\$260 billion in PPPs across the globe, mainly in Europe, Australia and Canada (Source: Dialogic Project Ware search results for period 1 January 1994 –30 September 2005 for all countries). It is clear that PPPs allow access to a large pool of additional funds, both equity and debt finance. There is no standard method of PPP implementation as each country adapts the process as appropriate for its own culture, economy, political climate and legal system. It is therefore essential that all parties likely to be involved have a common understanding of the principles underlying PPP structures and an appreciation of the key issues from the standpoints of the private as well as the public sectors. The quantum of investment in the infrastructure projects by the private sector entities depends on the position of the project on the continuum between service contract and divestiture. *There is a large and growing appetite for PPP projects across Europe. Well structured projects, both large and small, will benefit. Michael Dinham, Head of Infrastructure Finance and Advisory, ING (London)*

Social infrastructure projects i.e., public building, schools, hospitals, prisons, courts are characterized as generally being smaller in scale than economic infrastructure projects i.e., roads, bridges, tunnels. However, by their very nature, social infrastructure projects also tend to be complex, particularly in terms of on-going involvement with the community. Thus, private sector bidders for social infrastructure PPPs are often presented with a situation where operational complexity, including government policy toward the sharing of revenue, is one of the key differences in whether PPPs are as attractive for social infrastructure compared with economic infrastructure.

2.2 PPP projects in France

The *Mission d'appui aux partenariats public-privé* (“MAPPP”) was created by a decree of October 2004 in application of the PPP Law of June 2004. MAPPP was formally set up in May 2005. MAPPP was created as an “expertise body” in charge of the preliminary evaluation of PPP projects. It was placed under the direct authority of the Minister of Economy and Finance. In 2010, the chairman of MAPPP was asked to carry out a review/audit of the unit which confirmed its relevance but made recommendations to improve its governance and sustainability. This led to the transformation of the status of MAPPP into a service à compétence nationale (service with national competence) placed within the Direction Générale du Trésor (Treasury) of the Ministry of Economy, Finance and Industry (“MEFI”).

2.2.1 PPPs in the judicial accommodation sector

In the judicial sector (e.g. court houses), most investments are carried out through design and build contracts. PPPs are used not for projects with a capital value of less than EUR 30 million.

Where PPPs are used:

- PPP projects are used for new buildings rather than refurbishment programmers.

2.2.2 French PPP legislation: An opportunity for the financing of public investments

French PPP legislation was enacted in June 2012 with the goal of promoting private financing of public investments. The PPP legislation authorizes public authorities to enter into agreements with private contractors covering matters such as financing, building, converting, operating or maintaining public sector assets and/or providing services necessary or desirable to contribute to the performance of a public service. PPP agreements are neither procurement agreements nor delegation agreements. The French

state, national and local public establishments and local public authorities may enter into PPP agreements. These entities are legally autonomous bodies with the power and authority to own assets and contract in their own name. Creditors of national and local public establishments, and local public authorities, have the benefit of an implicit guarantee provided by the French state.

The PPP legislation in Albania which authorizes public authorities to enter into agreements with private contractors for promoting private financing of public investments is still missing.

1.1 Phases of a PPP Project

The phases of PPP projects may vary with the different categories of PPP described so far, but PPP generally evolves through a series of the following phases. The following description of the procurement process refers to a vertical partnership.

Table 1 Phases of a PPP Project

Phase I	Needs assessment & option appraisal
	Assessment of need, economic & financial feasibility Selection of potential concepts .
Phase II	Preparation & conception
	Development of traditional procurement option (PSC)
	Development of PPP procurement option Efficiency comparison (Value of Money test)
Phase III	Tendering process & Contract award
	Preparation and prequalification. Negotiation procedure. Efficiency comparison Contract award and closing the deal
Phase IV	Implementation & contract management
	Construction/operation. Performance control by the government
Phase V	Contract termination
	Transfer. Reuse or decommission of assets

3 NEW INITIATIVES ON PUBLIC-PRIVATE PARTNERSHIP

The research has confirmed that currently in Albania many municipalities are preparing for PPP implementation and are searching for private partners for joint projects. However, due to Albania law this type of cooperation is rarely officially referred to as a PPP. Many municipalities expect PPPs to be a vehicle for fulfilling their duties public tasks with private money, without increasing public spending. Herewith one example: PPP strategy for Korca and capital investment planning in Pogradec

As mentioned above, Albania is lacking relatively behind concerning the adoption of public – private partnerships because of legal obstacles and missing of "expertise body" (differently from PPP in France). The public authorities are not yet ready (ex.PPP in Korca and Pogradec) for entering directly into agreements with private contractors and for promoting private financing of public investments. Korca Municipality have used a new external actor URI (Urban Research Institute) for managing, designing and preparation of standard documentations for public auction.

Case study 1 -EU Funds can be combined with PPPs

3.1.1 Case study participants

The selected project for the case study is the "Construction and Reconstruction of NFA Buildings" which is a current social infrastructure PPP project. The participating consultant was selected as they were the representative of the client (EUD) on the case study project (NFA Building) and was

instrumental in terms of developing the PPP risk and contractual documentation. Consultant staff was interviewed as part of the case study project and had significant experience with PPPs both on a national and international basis. These experiences range in varying capacities from representing both private and public sectors in providing initial expressions of interests to leading full tender preparation and evaluation of major PPP projects.

3.1.2 Data collection and analyses

Case study data collection involved analyzing project documentation, such as contract summary documents, to establish background information and establish the parameters for the interview component of the research. A semi-structured face-to-face interview format was then used and data analyzed using a content analysis approach. The intention of the interview process was to focus on risk factors identified by key senior management involved in developing both the project's risk profile and contract. To ensure this data was accurate and reliable, all participants must have played a leading role (e.g. Project Manager, Consultant etc) and have previous experience with PPPs and large-scale construction projects.

The European Union represented by the European Commission, itself represented in view of the Present tender procedure by the Delegation of the European Union to Albania, for and on behalf of the Government of Albania. The creation of the National Food Authority (NFA) in Albania was based on the strategic priorities set in the European Commission's "White Paper on Food Safety". The NFA was sanctioned in the new Food Law approved by the Albanian Parliament in January 2008. The primary role of the NFA will be the enforcing of food safety related regulations while other task regarding policy development, preparation of legislation and crisis management will be shared with other responsible ministries. Organization and functioning of NFA has been approved by the Decision of Council of Ministers in October 2009.

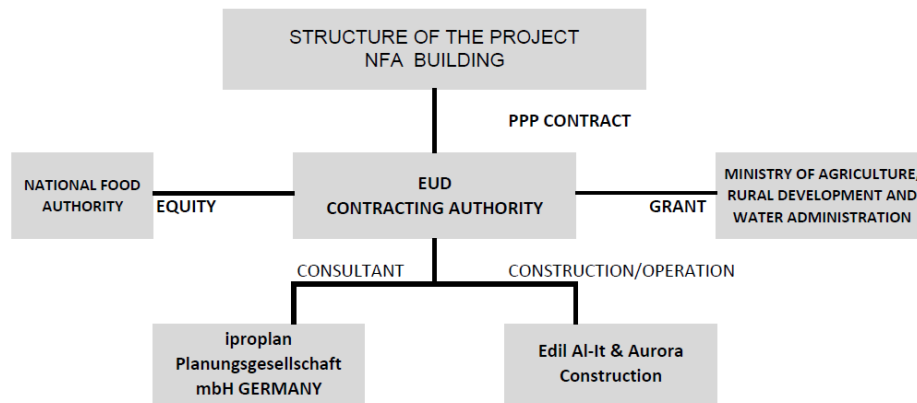


Figure 2: Project Structure

Table 2 Project Data

ID	NFA Regional Offices and Laboratories	Region	No of staff	New construction (m2)	Rehabilitation (m2)	Budget (€)
1	<i>Construction of new NFA offices and laboratories</i>					1,910,000
1.1	Tirana	Central	80	1300		520,000
1.2	Korce	Central	80	1300		520,000
1.3	Shkodra	North	70	1250		500,000
1.4	Berat	South	45	900		370,000
2	<i>Extension and rehabilitation of existing buildings</i>					2,790,000
2.1	Durres	Central	60	1050		460,000
2.2	Elbasan	Central	60		1050	330,000
2.3	Dibra	North	45	600	300	300,000
2.4	Fier	South	55	400	600	320,000
2.5	Gjirokaster	South	60	600	450	360,000
2.6	Kukes	North	50		900	290,000
2.7	Vlora	South	70	200	1000	400,000
2.8	Lezha	North	50	600	300	330,000
	Total Budget for works					4,700,000

1.2 PHASE 1 – DETAILED DESIGN AND TENDER DOCUMENTS

3.1.3 Preliminary studies

- The conditions of the existing buildings and the envisaged sites proposed for new offices, as well as all the service utilities installed are analysed in detail;
- the needed soil, hydrologic and geological studies are performed;
- An analysis is carried out on the environmental aspects as well as on the urbanism regulations and of possible risks to public and private properties of the area involved in the project to address possible problems;
- The preliminary architectural design is proposed for each selected NFA office and laboratory including a cost estimate and agreed with National authorities and EUD;
- All required administrative authorizations and permits procedure have started;
- A detailed time-table for procurement is proposed and agreed with EUD.

3.1.4 Final detailed Design and Tender Dossier preparation:

- It is ensured that the design for the building components are within the envelope.
- The Tender Dossier for tendering the construction works are prepared in accordance with the standard forms under the EU External Rules for works and approved by the National authorities and EUD.

3.1.5 Works tender

- The Contracting Authority is supported during the tender process by assistance during site visits and by answering possible clarifications requests.
- Assistance is provided to the Contracting Authority during the evaluation committees and for possible contract negotiation.

3.1.6 ASSUMPTIONS & RISKS

Assumptions underlying the project intervention

- Regional laboratories and offices are cleared of any potential property claims over the land or building before the preparation of designs.

- All required administrative and legal relevant documents according current legislation for the implementation of the works are made available.
- The responsible authorities will co-operate fully with the Works contractor, the Designer and the Supervisor.
- The responsible authorities will ensure adequate access to the works which is given to the contractor and the supervisor
- The responsible authorities do not provide the permits required for the construction.
- Unsuccessful tendering for works.
- The works contractor does not work according to his performance programme (time table) to enable the Supervisor to plan his work correctly.

1.3 CONTRACT CONDITION

1.4 Design and tender documents (Global Price Component)

3.1.7 Responsible body. The Delegation of the European Union to Albania will be responsible for the project management. The beneficiary of this project is the National Food Authority - Ministry of Agriculture, Food and Consumer Protection, represented by the Director.

Management structure

- The Contracting Authority responsible for managing this contract is as the following:
- The European Union Delegation to Albania
- The Consultant shall liaise with the beneficiary of this project, the National Food Authority, (Ministry of Agriculture, Food and Consumer Protection)

3.1.8 Monitoring and Evaluation

- Design and Tender Documents submitted in accordance with planning
- Number of clarifications requested from tender on tender dossier
- Number of corrections to be made to design
- Works completed on time, within budget and according to the quality requirements

What differs with a PPP is that the separate arrangements are combined (bundled) into one contract and a private sector entity charged with providing, not a building, but a flow of infrastructure services over time. For example, under conventional procurement, the public sector body may enter first into a Design-Build (DB) contract, engaging a private sector firm to design and build a facility in accordance with requirements determined by the government. After the facility is completed and paid for, the government assumes responsibility for operating and maintaining the facility. It may then use a service or management contract to outsource all or part of operations and maintenance.

With a PPP, these separate contracts would be combined. For example, with a Design-Build-Finance-Operate-Maintain (DBFOM) contract the private sector entity, usually a Special Purpose Vehicle (SPV) company created for the project, designs, builds, finances, operates and maintains a new or refurbished facility under a long-term lease (20, 30 years or more). At the end of the concession period, the private party transfers the facility to the public sector.

A well structured PPP can introduce clear lines of accountability, transparency of outcomes and performance, clarity as to the roles and responsibilities of the contracting parties, an assessment of the project risks, competition for the delivery of services, and the motivation to succeed. Compares the characteristics, and thus the advantages and disadvantages of two forms of conventional procurement (fixed price, managing contractor) with a traditional PPP of the DBFOM or DBFM type.

Table 3 Comparison of Traditional and PPP Procurement Models (Source: Based on Ernst & Young Project)

Advantages	Disadvantages
Traditional, fixed price	
<ul style="list-style-type: none"> • Design complexities are resolved before tender award • Low cost of tendering to contractors • Because the full design is prepared and endorsed prior to tendering, the contract value is known before construction commences 	<ul style="list-style-type: none"> • Preparation of fully documented design • Innovative, lower operational costs design less likely when single design is developed • Public sector retains risk for overall design, • After the construction phase there is no link between construction payments and the provision of the facilities to agreed standards over time
Managing Contractor	
<ul style="list-style-type: none"> • Allows public sector to retain control of design development (other than construction drawings) • Government requirements are in specific designs rather than a functional specification • Easier for stakeholders to approve specific designs to ensure accommodation of their requirements, whereas designs resulting from a functional brief may require significant amendment to meet stakeholder needs • Potential for shorter design and construction phase as construction can start during design development • Managing Contractor can interact with the design team on building issues during the design phase facilitating integrated planning of construction and operations • Documentation error risk lies with the contractor 	<ul style="list-style-type: none"> • Only one design is developed • Little potential for innovation based on whole-of life operating conditions • Fixed lump sum can be expensive: usually negotiated — not a competitive tender • Time and cost overruns shared by public sector and contractor until end of design development • If design is not fully documented and agreed prior to construction starting, time and cost overruns can be substantial • Public sector retains design and 'fit for purpose' risk • No link between construction payments and infrastructure standards over time
Public Private Partnerships	
<ul style="list-style-type: none"> • Greater certainty of contract value before construction • Functional brief finalized prior to tendering • Designs are developed by the bidders • Complete integration of design, construction, operational, maintenance and refurbishment costs with potential to achieve value for money • Enables greater transfer of risk at each phase, including cost, to the private sector • Opportunity to fashion innovative solutions • Assumption of 'whole of life' cost risk encourages efficient design and attention to construction and material finishes • Contractor bears design and 'fit for purpose' risk • During the design phase, PPP construction contractor can inform design team on building issues to facilitate 	<ul style="list-style-type: none"> • Well defined functional and service specifications may be difficult to achieve • Detailed stakeholders' discussions may be required to ensure design meets needs • A number of designs being developed simultaneously can translate into significant stakeholder resources being required • Complexity of contracting requires specialist skills from public sector • High contracting costs rule out many projects • Public sector managers need a different set of management skills • Not all risks can be transferred cost-effectively to private sector • Government's ability to make major changes restricted when private party has to accept design and 'fit for purpose' risk

integrated planning of construction and operations • Operating and maintenance standards agreed and costs approved for period of concession	• Financing arrangements and risk pricing can result in potentially higher cost of variations once construction has begun
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4 CONCLUSIONS

Public clients improve their management skills. To achieve this goal in the short term contracting authorities should resort to the services of professional project /construction managers (pcm) to help them govern the whole process and make sure that the works are delivered in time, at cost and with quality adequate to the stated performance requirements. To implement any approach of public private partnership, contracting authorities must resort to the service of professional project/construction managers (Pcm) to help them govern the whole process. And, on the other side, contractors must do the same as their internal management skills can rarely match those of professional organizations. This is not only a guarantee that the works are delivered in time, at cost and with quality satisfying the performance requirements, but also needed to accelerate the evolution of the construction market to an essential component of the “service economy” where private partners offering both capitals and managerial skills can thrive. Nonetheless, PPPs are not without difficulties. They are too complex, and costly, for many small and /or big projects. Often PPP efficiency depends on the scope of the project or activity. In some cases, they may be beyond the capacity of the public sector agency to implement and manage it. For other projects the tight specification of the outputs required may be difficult to detail for an extended period. However, in the process for an urban renewal and social infrastructure development, more collaborative approach is needed by Albanian engineers, architects, lowers, investors and academics.

5 RECOMMENDATIONS

Recommendations for commonly-experienced problems and PPP development in Albania can be summarized as: For public sector activities:

- A special public centre for the exchange of information should be established to produce some standards for contracts and detailed legal solutions, local government officers with experience in PPPs should share their knowledge and experience with others. This activity should be a model organization for PPP departments in the local government structure.
- There should be a special media campaign explaining the idea and advantages of PPP.
- A detailed description of international mistakes in PPP procedures should be prepared to reflect Albania circumstances.
- Transparency should be the number one principle while preparing specific assets to avoid corruption.
- Determination of a specific procedure for Albania condition, based on negative and positive international PPP experience; creating a detailed database with the errors/methods that should be avoided in these processes.

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