

# PUBLIC-PRIVATE-PARTNERSHIP

## 1. INTRODUCTION

1.1. Private-Public Partnerships (PPP) are a well known instrument. They not only cover road infrastructure but provide for a wide range of public services, like telecommunication, water plants, financial support, innovative financing, general public services, education and research. Public-Private Partnership arrangements are made attractive by limitations in public funds and also by efforts to increase the quality and efficiency of public services. The Commission has identified four principal advantages for the private sector in PPP schemes:

- to provide additional capital;
- to provide alternative management and implementation skills;
- to provide value added to the consumer and the public at large;
- to provide better identification of needs and optimal use of resources.

1.2. PPPs can achieve additional value compared with other approaches, if there is an effective implementation structure and if the objectives of all parties can be met within the partnership. It must be remembered however, that such financial packages are complex to design, implement and manage. They are by no means the only or preferred option: indeed in some cases it has been reported that they lead to an increase in the costs of services to citizens.

1.3. The Guidelines for Successful Public-Private Partnerships ([http://europa.eu.int/comm/regional\\_policy/themes/infotech\\_en.htm](http://europa.eu.int/comm/regional_policy/themes/infotech_en.htm)) were designed as a practical tool for PPP practitioners in the public sector faced with the opportunity of structuring a PPP scheme and of integrating grant financing. They focus on four key topics:

- ensuring open market access and fair competition;
- protecting the public interest and maximising value added;
- defining the optimal level of grant financing both to realize a viable and sustainable project, but also to avoid any opportunity for windfall profits from grants;
- assessing the most effective type of PPP for a given project.

A resource book was published in July 2004.

1.4. The EIB and the ERBD participate in such partnerships by financing private components. ISPA was deemed to be a typical instrument for developing infrastructure. PPP arrangements appear particularly attractive for the Acceding States of Central Europe given the enormous financing requirements, the large funding shortfall, the need for efficient public services, growing market stability and privatization trends creating a favourable environment for private investment (e.g. One of successful projects is a water cleaning plant in Romania).

## 2. LEGAL FRAMEWORK AND ACTIONS ENVISAGED IN DG MARKT

2.1. Successful PPPs require an effective legislative and control framework which ensures that each partner recognizes the objectives and needs of the others. Such an accepted methodology is necessary to ensure efficient application and to benefit from the recognized advantages for the public and private sector. We recognise therefore the evolving nature of the PPP concept and the need to expand knowledge and implementation capacity of this instrument. One question to be tackled is how we define successful and useful PPP arrangements and those which do not lead to the expected benefits.

2.2. The Regulation 1260/1999 for Structural Funds stipulates in Article 29 chapter (f) that “The contribution from the Funds shall be the optimum utilisation of financial resources in the financing plans, including the **combination of public and private resources**, the use made of appropriate financial instruments in accordance with Article 10(2), and the choice of forms of financing as set out in Article 28(3).

2.3. In its **Communication COM (2003) 579 final of 1. 10. 2003** to the European Council on “*A European initiative for Growth and Investing in networks and knowledge for growth and employment*” the Commission announces in its recommendations to publish a Green Paper on regulatory issues associated with Public-Private Partnerships by June 2004 (DG MARKT). A first draft has been presented in March 2004.

### 2.4. Brief information on new proposals of DG COMP on state aid and public services

**DG COMP** proposed new rules to increase legal certainty for services of general interest regarding state aid. Following the Altmark judgment of the Court of Justice, the Commission has commenced the widely anticipated overhaul of the regulatory framework applicable to Member State’s compensating undertakings that provide services that are deemed to be in the general interest. The Commission has decided to begin consultations on two proposed measures both aiming to increase legal certainty in favour of public interest service providers. A new framework will set out clear criteria and streamline procedures for the assessment of such compensation payments under the EU rules on **State aid**.

### 2.5. EUROSTAT decision on deficit accounting of PPPs

**EUROSTAT** has taken a decision on the accounting treatment in national accounts of contracts undertaken by government units in the framework of partnerships with non-government units. The decision specifies the impact on government deficit/surplus and debt. EUROSTAT recommends that *the assets involved in a public-private partnership should be classified as non-government assets*, and **therefore recorded off balance sheet for government**, if both of the following conditions are met:

- *the private partner bears the construction risk*,
- and the private partner bears at least **one** of either availability or demand risk.

If the construction risk is borne by government, or if the private partner bears only the construction risk and no other risks, the assets are classified **as government assets**.

### **3. CONCLUSIONS AND IMPORTANCE OF PPPS**

The Services of the European Commission have a particular interest in PPPs within the framework of the grants that it provides, both within the context of Cohesion and Structural Funds as well as ISPA. The use of grants in PPPs imposes constraints on projects, given the Commission's over-riding requirement to protect the public interest. Recent years have seen a marked increase in cooperation between the public and private sectors for the development and operation of infrastructure for a wide range of economic activities.

There are in addition to infrastructure projects certain models of PPPs taken from innovative financial instruments, like concentrating public and private capital for setting up new businesses, or ways of successful co-operation in R&D between universities, researchers and private investors. E-learning projects, general measures in the areas of education and health service have also proved to be a successful field for applying PPP instruments.

The future debate should focus on how to further develop the instrument and demonstrate the additional value for PPPs in Structural Funds by creating a clear framework both in terms of policy making and legal certainty.

Useful links:

[http://europa.eu.int/comm/regional\\_policy/sources/docgener/guides/pppguide.htm](http://europa.eu.int/comm/regional_policy/sources/docgener/guides/pppguide.htm)

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