Chapter 15
Financial Sustainability of the Private–Public Partnership Projects: Legal Framework in the Republic of Croatia

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ABSTRACT

The Private-Public Partnership (PPP) is still a new model of financing of public needs in Croatia. Namely, regardless of the attitude of the relevant decision maker on national and local levels that this has to be widely used model of financing, there are still only a few PPP projects conducted in Croatia. There are several reasons for that, like administrative barriers, wrong perception of PPP as a model of financing, insufficient information, etc. In fact, in most cases, the PPP stay as an idea, because the intention of using this model of financing is more declarative than a real feasible idea. This chapter presents some actual figures of PPP in Croatia, based on recent research, available data and literature, and consequently, this chapter provides grounds for future research in this area.

INTRODUCTION

In the last twenty years, Croatia similarly as other post socialist countries of the Middle and East Europe have passed through many changes. First, there were conversion from one political party system, to multi political party system, which brought different perception and approach to the economy and to the market. The turnaround from planning economy to market economy brought ownership that is more private, bigger impact and more important role of private entrepreneurs than
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in previous times. Now, more that 20 years from beginning of those changes Croatia is in another delicate, specific and unique situation, at the front door of EU. Even without approaching to this big club of countries, we know that each period is different, and each country is different (Stiglitz, 2004). The approaching to the full European Union membership is no longer in doubt, and that will surely bring some changes for various parts of Croatian society and economy. In the sense of financing of the public investments, there will be available huge European Union funds, which will be and ten times bigger in financial volume than those in pre-accession period. About these topics will be said more in some of the next chapters of this paper, but previously will be said more about some general figures in PPP projects in Europe.

BACKGROUND: SOME GENERAL FIGURES ABOUT PPP PROJECTS

Blanck Brude at al. (2007) in their paper offered an updated description of the macroeconomic and sector significance of PPPs in Europe, without assessing PPPs from a normative perspective. The description shows that, over the past fifteen years, more than one thousand PPP contracts have been signed in the EU, representing a capital value of almost 200 billion euro. While PPPs have in recent years become increasingly popular in a growing number of European countries, they are of macroeconomic and systemic significance only in the UK, Portugal, and Spain. In all other European countries, the importance of investment through PPPs remains small in comparison to traditional public procurement of investment projects. However, PPP procurement is used extensively for major projects and this is spreading out from transport into other sectors. Although governments increasingly use PPPs, these arrangements still constitute a relatively small component of total public sector investment. The United Kingdom figure of 12% mentioned above is one of the largest. Some countries also informally state that they do not foresee PPPs exceeding 15% of total public investment, one reason being the rather cumbersome process of creating a PPP (OECD, 2008). However, notwithstanding difficulties, countries such as Australia, Germany, Korea and South Africa, as well as France, Portugal and Spain, increasingly use PPPs (Burger & Hawkesworth, 2011). The importance of PPP is even bigger, if we know Europe not only has a euro crisis, it also has a growth crisis. That is because of its chronic failure to encourage ambitious entrepreneurs. Data show that continental Europe has a problem with creating new businesses destined to growth (The Economist, 2012).

As a matter of principle it seems that the choice between using a PPP or traditional procurement should be simple: governments should prefer the method that creates the most value for money. However, in practice the choice is not always as simple. In practice, the value-for-money objective is very often blurred, and the choice between using a PPP and traditional infrastructure procurement may be skewed by factors other than value for money. Some factors skew choice towards traditional procurement, while others skew it towards PPPs. This article considers the various factors that may skew this choice and thereby undermine the pursuit of value for money. Factors may include: the legal and institutional set-up that procuring entities face; the range and complexity of the ex ante and ex post value-for-money tests to which PPPs and traditionally procured infrastructure projects are subjected; the roles in the procurement process of the parliament, the finance ministry, the PPP unit and the procuring entities; and the accounting standards applied to both PPPs and traditionally procured infrastructure projects. Political preference for or against PPPs may also play a role in skewing incentives and affecting choice, together with issues such as the availability of skilled staff, the strength of public sector unions, inability to quantify and price project risks, and the general complexity of some projects. In the

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