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The Effectiveness of Public Private Partnerships in Poland

Abstract: Public private partnerships are a tool for completing public projects that in comparison with traditional methods could appear to be more effective. In order for PPP to become successful many conditions and requirements must be fulfilled. They should reflect the local/regional government strategy for development. This strategy ought to include catering for the needs of local inhabitants. The goal of this article is to identify and analyze the determining elements in Poland that the effective completion of public projects following the PPP model depends on. The article shows the situation regarding public projects, especially the self-governments units which began to take on these duties. Next, the author described the aspects of efficiency, which is a very difficult problem in public units because of their special role in the community. The third part of article described the development of PPP in Poland and its specific character. The article shows how the model of PPP exists in the Polish context. Finally, factors influencing the completion of PPP projects are identified. These factors are chosen by the respondents surveyed in the local self-government units that drew up the PPP contracts.

Keywords: efficiency, public finance, self-government unit, public-private partnerships

Introduction

Public Private Partnerships create the possibility for completing public projects in collaboration with private partners. On the public side, the incumbent government has the obligation to satisfy ever growing social needs and fulfilling these expectations presents difficulties, mainly the dangers that come with a growing deficit which limits the possibilities of investment. One solution to this problem of a lack of public resources is the model of PPP, in which private finance is employed for financing public projects, mainly dea-

ling with infrastructure and essential services. The private sector is interested in this form of partnership as it presents it with an opportunity to win public sector contracts that will increase long term profits. The goal of this article is to identify and analyze the determining elements in Poland that the effective completion of public projects following the PPP model depends on. The article consists of three sections. The first underlines the meaning of PPP in completing public projects and highlights the anxieties that accompany these types of agreements. The second section refers to a very important aspect – the effectiveness of investment involved in PPP. The Author draws attention to the reasons that determine the choice and method of servicing public projects. The study was made of Polish public units that are currently engaged in PPP agreements and it shows how the economic and financial situation affected Polish PPP. The summary includes recommendations that should be considered when enlarging the number of PPP agreements.

The role of PPP in meeting social aims and its concerns

The aim of public private partnerships could be described as the optimization of completing large scale projects which lie within the responsibilities of public sector.

In reality, the cooperation of two economic entities means a division of duties and risks adequately to their capacities. It was pointed out by the European Commission which claims that "(...) partners have their shared rights and duties, and when the terms are not followed, this partnership does not work. The partnership requires the will to cooperate from all the involved parties (...)" [EU, p. 12]. The way of dividing the rules was not imposed, letting the parties do it in the best possible way. The characteristics of the partnership are determined by the length of the agreement which must be coherent with the state's policy. The benefits from the agreement must be mutual i.e. public entities have deliveries of services secured at certain standards and certain prices, whereas private entities have the chance to achieve the expected return on investment. Nevertheless, we need to remember that it is the public sector that is still responsible for completing the project. The private sector provides funds, know-how and management skills. Looking at the partnership from the functional point of view, one can say that it comes down to achieving the expected quality of services provided. This could be reached by the freedom of choice of methods with which to accomplish the goal. Yet, to be able to see the economic effects of the agreement lasting 10-30 years, in comparison with the traditional method of realizing public tasks, the time criterion needs to be taken into consideration when discussing efficiency.

The private entity looks upon partnership as a possibility for gaining other investment areas, which with optimal planning will secure it a stable and future predictable source of income/profit. The joint venture of public and private entities can become a place where the atmosphere of cooperation can be created to identify the needs of local communities and find the best way to satisfy them. The scale of benefits that are achieved while using public private partnership is larger when compared to traditional methods, provided that the leader of the investment is the public authority. While being a leader, the authority should create and look after the realization of shared decision making between the partners as they participate in performing a certain task for the ultimate incumbent – the public sector itself.

The force behind the PPP project is the private partner with its management skills, access to technology and capital capacity. The public partner is responsible for the project through all its stages and, contrary to traditional methods, is not a service provider any more but a project manager throughout the agreement. It carries the responsibility for the development of cooperation between the partners, taking the aims, standards and legislation involved into account [Korbus, Strawiński, p. 260].

It is beyond any doubt that a public private partnership structure is intricate in terms of its organization, legal matters, finances and social issues. This is caused by the type and size of the enterprise undertaken, which, in turn, influences the division of responsibilities between the partners as well as identifying and distributing those risks which should be managed during the agreement. That complexity is influenced and shaped by the changeable environment in which we function today.

Today's world is not local, regional or national, but firstly – global with all the consequences of such a situation including one particular – the lack of stability, which is linked to uncertainty. The effect of this state of affairs is that there is a need to minimize predictable risk and allocate tasks. Private partners aim at securing for themselves stable and continuous financial income sources, which in the long run will guarantee not only the return on investment, but will also enable them to stay in the market and increase their value. The public sector, which over the past 30 years, has generated public debts and deficiencies difficult to accept by financial markets, has also created the feeling of instability and realizes that it would be difficult to take on major projects without the input of private capital. Thus, the role the PPP partnership could play is not only economic and financial but also social and psychological. The long term character of the agreements is an indicator that in this forever changing environment, there is something stable after all, which can make for a balanced development. If PPP partnerships are used properly then they should enhance the rational allocation of resources in order to use them more effectively and to meet social needs.

Factors determining the effectiveness of investment employed in the public private partnership formula

Nowadays, the view that management assessment, aimed only at verifying compliancy of actions according to the law, is insufficient and demotivating, is becoming more popular. Increasingly, the term 'pro-effectiveness' is heard, which could be also found in public finances act, which emphasizes how to obtain the best return from investment outlays. That means that public sector units will be assessed based on achievements combined with how a project has minimized costs and maximized results, from the point of view of the public sector.

Effectiveness will be judged on how public and private projects minimize the use of resources in achieving a specific result and maximize the effective use of these resources. Such assessment will include studying the ratio of results which were achieved in a specified time, for example meeting the needs of the specified receiver to outlays necessary to produce the results [Czakoń, p. 40]. Thanks to economic calculations, it is possible to assess the results produced by a specific company in a specific period. Studying economizing i.e. making rational choices is the most controversial in areas where public entities operate. As J. Wilkin [Wilkin, p. 10] points out, the dispute about the issue is present mainly at the normative level due to its specific characteristics. In the case of the public sector, the problem with increasing effectiveness comes down to fair access to public services. Effectiveness is usually attributed to the private sector while the public sector is driven more by fairness [Jachowicz, p. 60]. The public sector makes decisions according to criteria of usefulness and legal compliance. Completing the project becomes the aim, rather than the justification of outlays. Even when looking at budgeting, effectiveness is not a key tool which helps in the decision making process while spending public resources. The public sector makes decisions in accordance with usefulness as well as legal rules. Demand is an important limitation which the public sector cannot shape. Consequently, analyses of effectiveness turn to minimizing outlays rather than maximizing results, which makes the studies on efficiency include costs incurred. There are, however, problems with this particular approach as it does not take into account alternative costs. An additional difficulty for the public sector appears to be external effects, especially in the situation where immediate receivers do not pay for the services rendered.

A question should be posed here whether it makes sense to talk about effectiveness in the public sector context. The answer should be in the affirmative due to the scale of public resources at the public sector's disposal and the effect of fiscal issues. According to M. Kachniarz [Kachniarz, p. 40], we should not ask if we should study effectiveness, but

rather how to do it so that the results reflect the real state of affairs. Another issue appears to be important. When effectiveness in the public sector indicates conducting the business as such - in the public sector it could only be an additional element towards the aims given to public institutions. It does not reduce its importance; on the contrary – it requires an interpretation of the actions taken which call for determining its effectiveness. Moreover, attention to the effectiveness of public authorities is used to emphasize and present a rational policy of spending public resources. H. Brandenburg [Brandenburg, p. 169], in trying to assess the effectiveness of tasks completed by the public sector claims that the following questions should be asked:

- are the aims properly defined and are they assessed and corrected continually?
- are the actions monitored; is the information on the financial aspects of projects available?
- are all possible resources involved in local development?
- is the experience gained used and the effects spread?

An analysis carried out this way should give the answer as to whether the project has shown the signs of effectiveness in terms of aims assumed and if expectations have been met with its help.

Studies on effectiveness in the public sector were general. It stems mainly from the character of self- government units and their ancillary role in society with the best service and fulfilling public tasks to their best ability. Regardless of the economic development level, the needs will exceed the means of their fulfillment [Mishan, p. 15]. This creates the necessity to make the best choices in terms of social expectations. In this case, public and private partnerships can help. Their role is to realize public tasks, using the public and private sectors resources. However, A. Szewczuk's remark, in which he states that despite the changes in the Polish public sector, it still does not use fully effective tools, is still true. The problem lies in quantifying the effects and using the means at the public sector disposal [Szewczuk, Ziolo, p. 179]. It limits the scope of tolls that can be used to realize the task within its competence. The Law on public finances [2009, no 157] contains entries with decisions on increasing effectiveness of using public resources.

Nevertheless, decision making alone, which is of a necessary and paramount condition, is not sufficient to realize the pro effectiveness equation. The will to change the attitude towards functioning should follow the clear legislation, which will result in practice and atmosphere accompanying the whole enterprise. PPP partnerships require a steady environment, clear directions and rules and financial viability for their development and effectiveness [Kamińska, p. 120].

The Nature of Public and Private Partnerships in Poland

The first project, which we can call a PPP partnership, although in its more general shape, started in the mid 1990s. There were a few projects then, which stemmed from the lack of legislation regarding this type of venture as well as insufficient experience. These shortcomings were caused by Poland's historical situation. In Europe and the United States during the 18th and 19th centuries, the main ideas came from the influence of the Age of Enlightenment and the Industrial Revolution. In this period, Poland did not exist. Yet, even during the partitions, Jakub Gottlieb Bloch took part in building the railways, especially Warsaw- Petersburg and Łódź Railway. The venture was possible due to good cooperation with the Tsar's authorities. After gaining independence, at the end of the First World War and during twenty years of Poland's independence, as well as after The Second World War, no attempt at a venture in this formula was made.

In the beginning, the public authorities used the Public Auction Law [2002, no 72] and Municipal Services Law [2011, no 45] or entered a civil law contract based on the Civil Code [1964, no 16]. Due to increased interest in public private partnerships in the west of Europe, the subject became an issue of debate in Poland. Consequently, in 2005 a law was passed on public and private partnerships [2005, no 169]. Its aim was to prepare uniform legal grounds to initiate the cooperation between the private and public sectors. However, despite this good will, it was not possible to prepare a single project in that formula. Exceedingly strict rules, subject limitations, the duty to prepare costly estimates beforehand, the lack of expertise, skills and political will, were given as reasons. In answering this failure to meet expectations, another law regarding the subject was passed in 2008 [2009, no 19]. Enforcing the new act coincided with the preparation and implementation of regulations related to concessions for construction works and services, which until that moment had not existed. The aim of both acts, enforced nearly at the same time, was to create space to work on such ventures, observing fair competition and clarity [Skoczyński, pp. 13–14]. In accordance with the act, the core of the partnership was seen as in sharing a project based on the division of duties and risks between the public and the private parties. The law makers did not impose the ways of dividing the tasks and left them to the parties' discretion. The same has gone for the risks.

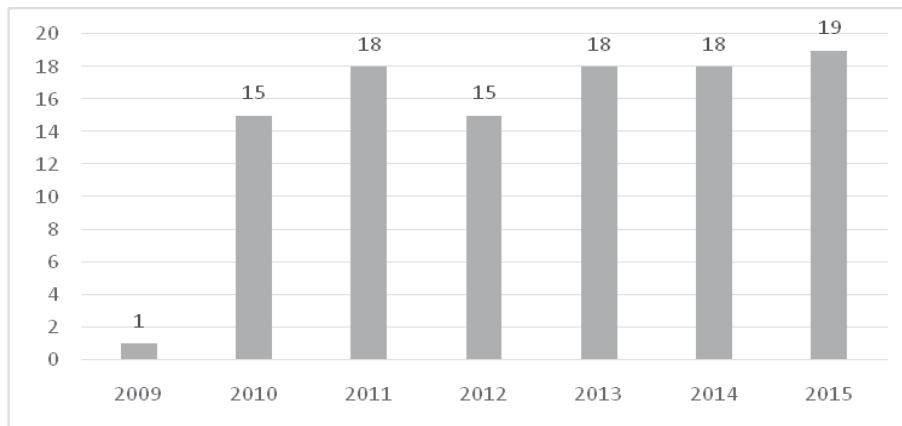
According to W. Orłowski's estimate, the Polish public service sector needs yearly investment from 4.4% GDP to 5% GDP between 2020–2022 (based on 2010 data), to reach the current Western European level. The difference between the available and the estimated resources shows the investments needed. The gap set between 2011–2022 amounts to about 111 billion PLN to almost 2000 billion PLN (at fixed prices for 2009). Annualized investment value is placed between 4–7 billion PLN, which is insufficient to

decrease the gap between Poland and developed EU countries. The question is – how to finance those ventures. Public private partnerships create a chance to take the strain off the public budget while completing planned and necessary investments.

When The PPP Law of 2005 was still in force, some self-governing units, especially in big cities, were preparing to realize that kind of tasks. Because of high demands in terms of legislation, the project was not realized and not before 2005, can we observe a boom in that market.

According to the Institute of PPP's in the period from the beginning of 2009 till the end of 2015, the number of signed PPP agreements rose to 104. In those periods the numbers fluctuated, which is shown in graph 1.

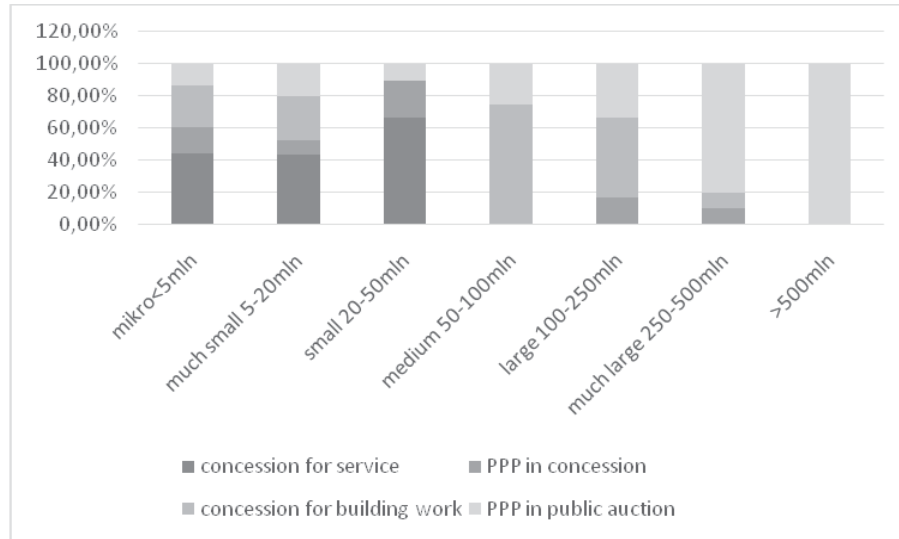
Graph 1. The number of revealed and signed PPP's agreements 2009–2015



Source: own research and data from *Biuletyn partnerstwa publiczno-prywatnego. Dobre praktyki* (2015), PARP, Warszawa, pp. 16–18.

According to the data, 2015 was the most successful year for PPP. The vital role was played by the financial state of self-governing units, as they approached their indebtedness limits and had to start preparing to calculate anew, the individual gearing ratio, which came into force in 2014 and was calculated based on the data from three previous years. Next, very important factor was the novelisation of the law on PPP. According to it, if private partner takes most of building and risk, the agreement does not influence into public deficit/debt. The results show that the scale of the Polish PPP partnership market amounted to 4 450 million PLN to the end of 2015. That amount was invested in projects of different value, which is illustrated in graph 2.

Graph 2. The share of signed agreements according do form of act (%; 2009–2015) in PLN



Source: own research and *Biuletyn partnerstwa publiczno-prywatnego. Dobre praktyki* (2015), PARP, Warszawa, p. 35.

Since 2009 small scale projects have been realized and those are the most numerous in comparison with larger ventures. This situation originates from the fact that from the very beginning of the 2005 and 2009 Laws coming into force, local government units have been interested in the formula. Based on research conducted by the author, the most active local government units, which implemented PPP projects, were found in Pomorskie Province. Whilst investigating the analysis of the units which use partnership agreements, it seems that the most active are in places with fewer than 20 thousand inhabitants i.e. rural and rural-municipal communes.

Taking into consideration those sectors, where the public and the private partners were involved, it is difficult to pinpoint a distinctive trend. Individual projects are being realized in different sectors, which is a result of a short term of investment as well as considerable needs, which concern practically the whole scope of tasks for which the public sector is responsible. Table 1 illustrates sectors and provinces, where the agreements are being realized.

Table 1. Sectors and provinces where PPP is realized

Province/ sector	Canalization	Transport	Public bulding	Internet	Health care	Culture-education	Housing	Rewitalization	Parkings	Waste economy	Sport
świętokrzyskie	-	-	-	*	-	-	-	-	-	-	*
łódzkie	-	*	-	-	-	-	-	-	-	-	-
dolnośląskie	-	-	*	-	-	*	*	-	*	-	*
kujawsko-pomorskie	-	-	-	-	-	*	-	-	-	*	-
lubelskie	-	-	*	*	-	-	-	-	-	-	*
lubuskie	-	-	-	*	-	-	-	-	-	-	-
mazowieckie	-	*	*	*	-	-	-	-	-	-	*
opolskie	-	-	-	-	-	*	-	-	*	-	-
podkarpackie	-	-	-	*	-	-	-	-	-	-	-
podlaskie	-	-	-	-	-	-	-	-	-	-	-
pomorskie	*	*	*	-	*	-	-	*	-	-	*
warmińsko-mazurskie	*	-	-	*	-	-	-	*	-	-	*
wielkopolskie	*	*	*	*	-	*	-	-	-	*	-
zachodniopomorskie	*	*	-	-	-	-	-	-	-	-	*
małopolskie	-	*	*	-	-	-	-	-	*	-	-
śląskie	-	*	*	-	-	-	-	-	-	*	*

Sources: own research.

The data confirms the previous statements that Polish PPPs are mainly in the form of local government PPP. In Poland it is local ventures, initiated by the smallest units of local government i.e. communes, which prevail. The highest value projects are highway projects, which are being completed by provincial government authorities.

The reason why public units decided on PPP is also interesting (Table 2). The main reason given was to improve the infrastructure as well as to provide services. Another reason was because of the economic situation and the lack of available funds to finance large scale projects. The private partner's qualifications were also vital, as well as the fact that it was a more convenient way of allocating risks that accompany such ventures.

Table 2. Reason that decided on PPP

Self government unit/reason	Province	City with county rights	Rural commune	Municipal commune	Rural-municipal commune	Municipal commune unit	SUM
Need professional staff			1				1
Lack of funds			3	1	1	1	6
Allocation of risk		1			1	1	3
Lack of own funds engagement		2			1		3
Private private qualificationa	1	1			2		4
Economic effectiveness		3	1	2	1		7
Possibility of additional funds	1	1			1		3
Improving the infrastructure	2	1	1		1		5
TOTAL	4	9	6	3	8	2	

Souces: own research.

The essence of the partnership agreements is the division of tasks between the public and the private partners in such a way, that each subject can manage them in the best possible manner. During negotiation, problems occurred, which are illustrated in Table 3 and which raised the most controversies.

Table 3. Problems occurring during negotiations

Problems/unit	Province Office	City with county rights	Rural commune	Municipal commune	Rural-municipal commune	Municipal commune unit
The sum of equity capital			*	*	*	*
Remuneration for private partner	*	*	*	*	*	
Terms of payment	*		*	*	*	
Distribution of risks	*	*	*	*	*	
Distribution of tasks	*	*	*	*		
VAT problems		*	*	*		
PIT/CIT problems		*				
Amount of financial penalty	*	*	*	*	*	
Costs and their variability	*	*		*	*	*
Insurance matters	*	*	*	*		
Others:						
Insurance of private partner credit			*			
Non-financing support of public partner				*		
Investment calculation			*			
Economic Ratios		*				
Terms		*				

Sources: Own research.

*-problems mentioned by surveyed units.

The analysis shows that in Poland, the most common model of PPP was small scale, local projects. Large regional or national investments have not been started. Government administration took on only one project, which was a building of a law court. The burden of the partnership process for initiating projects, which influence and create the climate for future developments, is on the local government sector especially at the

communal level. Despite the difficulties and lack of government support, local government units have begun to see the PPP partnership model as a tool for effectively completing public tasks. In Poland, the local model is more common, whereas elsewhere in the world national and regional projects tend to dominate. If the central government does not begin to perceive this kind of partnership as a chance to use future public resources more effectively, then neither of the parties will be interested in this form of completing public projects. The need here exceeds the capacity and political will of the government to tackle a long-standing problem in a new way.

Summary

Nowadays state governments face the need to provide their societies with the access to a growing number of public services, but at the same time, to be aware of deficits and public debts. In this context, Public Private Partnerships provide an opportunity where effective investment can be used for the benefit of the public overall. In Poland, according to the respondents surveyed, who are implementing PPP agreements, there is a need for clarity, functionality, coherence and stability in terms of legislation as well as finance. The change in PPP law (not influencing public deficit/debt) since 2014 has resulted in bigger number of contracts. But we have to remember that this is the beginning of the long process in which the factors will develop. We can clearly see that the government units realize the PPP projects, despite the lack of systematic solutions. It is a good prospect for the future. Hopefully, this initiative and this potential will not get wasted. As of now, it is not easy to identify the elements the effective competition of PPP projects depends on and to describe the model. That is why this problem is still alive and requires research continuation.

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