

Realization of PPP Projects in the Slovak Republic

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Abstract

Under the term of PPP (Public Private Partnership), projects with private partnership, we understand projects focused on the support of cooperation between public sector and private sector. The aim is to provide public infrastructure and public services by private firms, by using their own resources and capacities, whereby the private firm gets a permanent flow of public money. As a counter value the partner gets the right to operate and to provide services by this infrastructure. It's applied the model, in that the state acts as a client and the private legal entity acts as a provider of service, infrastructure. The first part of the paper is focused not only on the theoretical aspect of PPP projects, but also on the analysis of legislation applied for PPP projects in the Slovak Republic. The second part is focused on the analysis of utilizing PPP projects in the Slovak Republic. It analyzes the PPP projects in three dimensions: in respect to their status of implementation, in respect to the regional belonging and in respect to the industry.

Key words: PPP projects, public procurement, forms of public procurement, PPP legislation, criteria of PPP project selection

JEL Classification: H44, H54, H57

1 Introduction

The economic and social growth of individual regions, through this the growth of the all country, and the creation of new job opportunities are influenced by the existence of modern and effective infrastructure. Until recently, building and operating was provided mainly by the public sector. However, nowadays the importance of private sector in this field is growing for two reasons. The first is that the private sector realizes major investment much more efficiently than the public sector. The state puts the private sector to realize the part of activities that is not able to realize more effectively by itself. The second reason is that by the usage of services provided by the private sector it is possible to provide better-quality infrastructure without the immediate impact on government's budget expenditures.

2 Legislative framework of Public Private Partnership in Slovak Republic

As the PPP projects are relatively extensive and they have substantial influence on the public administration budget, the Ministry of Finance of Slovak Republic has some important roles – as to regulate the preparation of PPP projects, to support subjects of public administration in preparing PPP projects by the best international practice. This practice is incorporated into the methodics enacted by the Ministry of Finance of SR. In relation to PPP projects the Ministry of Finance of SR fulfils:

- regulation function,
- methodical, supporting and controlling function,
- Knowledge and Communication Centre function.

Within the frame of the regulation function of the Ministry of Finance in cooperation with the Statistical Office of the Slovak Republic it is giving opinions towards contract proposals of PPP projects (just concession contracts on building works) in respect to their influence on public debt in the common methodology ESA 95 in European Union; and it is providing the right recording of their influence on the public debt.

Since 16 of September 2008 the Ministry of Finance is one of the constituent members of the specialized centre EPEC (European PPP Expertise Centre).

One of the supporting institutions for PPP projects in Slovak Republic is also the PPP Association. This association is acting on the part of private sector. This association is merging building companies, financial institutes, law companies, finance advisory companies, etc., that are involved in the PPP field.

2.1 Methodical documents issued by the Ministry of Finance of SR

The Scheme of PPP project proposal and the criteria of its selection – it includes the mechanism of selection of project proposals that are applying for consultation and financial support from the Scheme of Technical Support for PPP.

Fulfilment of the procedures mentioned in this document is obligatory for the public subject that is applying for the consultation and financial support from the Scheme of Technical Support for PPP. This methodical document serves also as a help while elaborating project plans also for other public subjects that are planning to realize public infrastructure building by PPP and they are not interested in applying for consultation and financial support from the Scheme of Technical Support for PPP.

The criteria of the Ministry of Finance of SR serve as a tool for project proposals selection. These criteria are divided in elimination criteria and selective criteria. The role of the set of criteria is to ensure the selection process transparency and select the project proposals that have the biggest expectations of realizing by the form of PPP. Fulfilling all the elimination criteria is a condition for the following evaluation of the project proposal by selective criteria.

It consists of two parts:

- 1) The Scheme of PPP project proposal – consists of the Basic project description and Following specified data about the project
- 2) The criteria of PPP project proposal selection:
 - a. Elimination criteria – Elaborate the project proposal in accordance with the given scheme of project proposal, Provide public service, Involve private partner (finance + build + operate), The minimal length of project duration, Investment costs of the project, Institutional PPP
 - b. Selective criteria - Investment costs of the project, Possible involving of the private partner – design, Socio-economic benefit, Form of fee

PPP project preparation management codex – it serves for every PPP project applicant regardless of they are taking consultation or financial help from the Scheme of Technical Support for PPP. This document involves organizational setting and roles of preparing PPP project that are elaborated on the basis of international experiences.

Approach to the PPP project risk management – it's the basic methodical tool for the identification, evaluation and optimal allocation of PPP project risks.

Legislation

- Public Procurement Law no. 25/2006 Z. z. and its revisions
- Law about the Public Budget Rules no. 523/2004 Z. z. and its revisions

- Law about the Public Budget Rules in Self-Administrative Regions no. 583/2004 Z. z. and its revisions

2.2 Public Procurement – PPP projects

Procurement in the form of PPP projects is managed in the Slovak Republic by the Public Procurement Law no. 25/2006 Z. z. and its revisions. Procurer is liable for performance of activities in public procurement by private entity person that reached specialized skills in public procurement and they are involved in the register of persons with specialized skills. Specialized Skills are the complex of specialized knowledge and practical experience that are necessary to secure procurers tasks in public procurement. To reach specialized skills it is necessary to be taintless, to have university degree with four years of practical experience in public procurement or secondary school degree with six years of practical experience in public procurement, to participate on the specialized preparation, to make a test and to pay the administrative fee.

An applicant in the public procurement can be every private entity, legal entity or group of these persons, that supplies goods, makes work or supplies services and submits an offer.

An interested person is every private entity, legal entity or group of these persons, that supplies goods, makes work or supplies services and is interested in participate in Closer Competition, in Publicized Negotiation or in Non-Publicized Negotiation.

Public Procurement is a procedure of placing an order to deliver goods, to realize building work, to provide services, concession and competition of proposals.

The basic practices of public procurement in conformity with Public Procurement Law are:

1. **Public Competition** is declared for an unlimited number of interested persons in submit a bid to make a contract for procure goods, work or services.
2. **Closer Competition** is declared by a procurer for an unlimited number of interested persons, whereby the procurer can limit the number of interested persons to at least five and at most 20. A bid can be submitted just by an applicant that is invited by the procurer to submit a bid.
3. **Publicized Negotiation** is declared by a procurer for an unlimited number of interested persons, whereby the procurer can limit the number of interested persons invited to submit a bid and to negotiate, to at least three persons. Negotiations are processes within which ones the procurer is negotiating with selected applicant or selected applicants about the conditions of contract. This method can be used just if it's fulfilled at least one of the conditions established by the Law.
4. **Non-Publicized Negotiation** is possible to apply just in the case of there is fulfilled at least one of the conditions established by the Public Procurement Law.
5. **Competition Dialogue** is applied in the case of especially complicated projects and it is not possible to use Public Competition or Closer Competition. The objective of the Competition Dialogue is to find and define the best way to meet the requirements of procurer. The proposals are in this case evaluated upon the economically most convenient offer. The Competition Dialogue is announced for an unlimited number of interested persons, but the procurer can limit the number of interested persons in the dialogue to at least three.

In the Public Procurement is necessary to keep certain procedure. A procurer announces the public procurement by advertising the announcement of the public procurement method or the announcement of the work concession. The conditions stated in the announcement can't discriminate any applicant or interested person. The expected cost of the procurement has to be in accordance with the financial limits stated in the law. The expected cost is exclusive of Value Added Tax. If the expected cost of the object of procurement is equal or it is higher

than the financial limit, then is the procurer advertising the public procurement in the Official Gazette of the European Union and in the Public Procurement Gazette.

Not every interested person or applicant is allowed to take a part in the public procurement. It is necessary to fulfil certain terms, whereby as the most important is considered that this person hasn't any residual taxes or other outstanding payments in Slovak Republic, there is no bankruptcy proceedings or settlement proceedings, the person is not in bankrupt or liquidation, is authorised to deliver the goods, realize the work or provide service, etc. Every applicant can submit just one offer.

The applicant as well as interested person is required to prove the financial and economical status, the technical and specialized skills in procuring goods and services, and also the ability to provide services taking in account qualification, performance, experience and reliability.

The procurer states in the announcement of public procurement or in the call for tenders the criterion of evaluation of offers. The offers are evaluated by the economically most favourable version of by the lowest price.

In the case of evaluating by the most economically favourable offer, the procurer states the individual criterion related with the object of procurement. This criterion are mainly the price, technical construction, functional characteristics, environmental characteristics, operating costs, operating cost effectiveness, after-guarantee service and technical help, delivery time. Except of these criterion there are stated also the conditions of their application. These conditions have to be indiscriminative and they have to support the fair economic competition. The procurer states for every listed criterion their relative weight, this can be stated as an interval with a certain maximum range.

The procurer is obligatory to establish a Committee for Evaluation of Offers at least with three members. The members of the committee have to have vocational education or skilled experience in the field of procurement matter. The Committee evaluates the individual offers and after that is the procurer obligatory to notify every applicant in writing of the evaluation results. The successful applicant will be notified that his offer is offer is accepted, and the other applicants will be notified that they failed because of not accepting their offers.

The whole process of Public Procurement ends with signing the contract with the successful applicant. This will be done within 14 days after sending the notification of evaluation results to every applicant with evaluated offer. It is necessary to enforce that the signed contract is not in conflict with the documentation in the competition and with the offer given by the successful applicant.

In the case that the procurer will not receive offers, or any of received offers will fulfil the requirements, or any of the applicants/interested persons will fulfil the conditions of participation in public procurement, the procurer can cancel the applied procedure of public procurement. It can be also cancelled if there is some significant change in circumstances under which ones the public procurement had been proclaimed.

3 Analysis of the use of PPP projects in the Slovak Republic

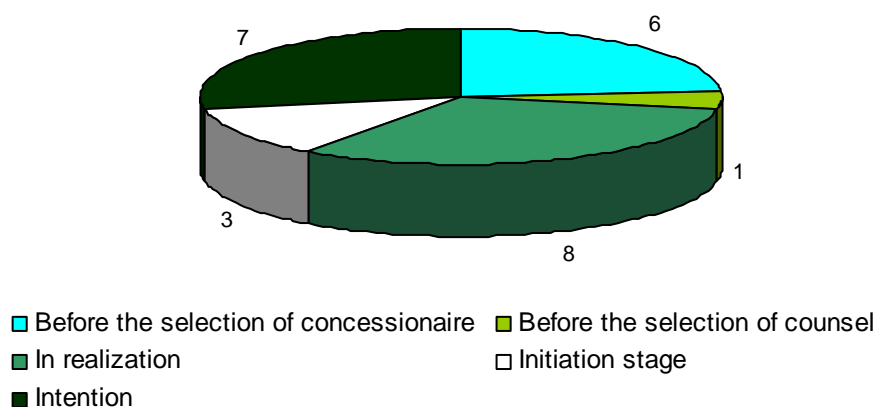
At the present time in the Slovak Republic there are in realization eight PPP projects in various sectors, and one project that is a project close to PPP, called "NsP Malacky in the form of PPP", realized by the Bratislava Self-Governing Region in the area of health service. In the order party there are the Ministries of the SR, the Self-governing regions and certain cities. In the area Transport and Infrastructure there are carried out three projects:

1. Second package of PPP – R1 speedway (by-pass road Banska Bystrica), in the order party there was the Ministry of Transport, Posts and Telecommunications of SR,

2. Construction works of the roads of II. and III. classes, where in the order party was the Kosice Self-Governing Region,
3. Parking in Presov through PPP project, where in the order party was the city of Presov.

In the sector of Education and Schools is currently implemented one PPP project ordered by the Self-Governing Region of Banska Bystrica called “High school in the form of PPP project”. In the field of Environment is realized by the city of Kosice the project of “Removal and disposal of municipal waste in the city of Kosice” and in the area of Social Infrastructure is in progress the project of “Water Infrastructure in the city of Trencin in the form of PPP”. In the category of Other industries there are included two projects, which are ordered by the Presov Self-Governing Region and the city of Liptovsky Mikulas. These projects are “The Sub-Tatran Water-supply and Sewerage” and “Public lighting in Liptovsky Mikulas”.

Figure 1: Number of PPP projects divided by the status of implementation



Source: author

Between the total number of 25 PPP projects - projects that are already in realization phase, in the phase of intention, or in the phase before the selection of the concessionaire, before the selection of counsel – there are three projects still in the initiation stage, these are:

1. Hockey Hall for World Cup 2011, which is ordered by the Ministry of Education,
2. Revitalization of the neighbourhood unit Kosuty 2 in the city of Martin and
3. Project Sunshine in Bratislava schools, which belongs to a group of close to PPP projects and the order party is the Bratislava Self-Governing Region.

On the territory of the Slovak Republic there are prepared 7 intentions for the use and implementation of PPP projects over the next few years in the area of Transport and Infrastructure, Culture, Media and Sport, Social Infrastructure, Health and Other Industries. The purpose of the Presov Self-Governing Region is to build the Amusement park Vtacie udolie in Humenne. In Kosice there is an intention to build Parking garages in the Historical Center of Kosice and the use of Brownfield. The Ministry of Health came with the intention of using PPPs for the implementation of the objectives of eHealth, the Municipality of Zilina came with the intention of using PPP project to build the National Sport Center and the city of Trencin has an intention to build ropeway transport system to the Trencin Castle. Also the Bratislava Airport wants to use PPP projects in the following period.

Between the PPP projects that are in the phase before the selection of concessionaire we can include mainly projects from the area of Transport and Infrastructure, namely:

1. The First PPP package – sections of D1 and the Third PPP package – sections of D1, whose order party is the Ministry of Transport, Posts and Telecommunications of Slovakia,
2. Electronic Road Fee ordered by the National Motorway Company,
3. Transformation of train stations into multifunctional centres – in the form of PPP, which is ordered by the Railways of the Slovak Republic.

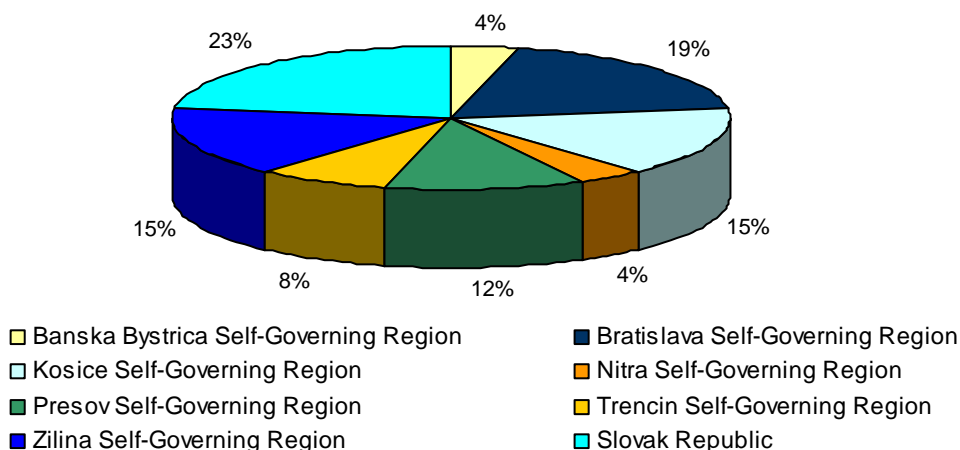
Another project that is in the phase before the selection of concessionaire is the project of “Joint Office of STV (Slovak Television) and SRo (Slovak Radio) through the PPP project” in area of Culture, Media and Sport ordered by the Ministry of Culture, and also the project from the area of Social Infrastructure, called “Outsourcing of Public Services in the city of Sala”.

The last group of PPP projects – projects in the phase before the selection of counsel – is represented by the project ordered by the Ministry of Defense. This project deals with the complex modernization of the Central Military Hospital SNP in Ruzomberok.

The Regional disparities are reflected also in the PPP projects (Fig. 2). The smallest but most advanced and most developed region of Bratislava is realizing or is planning to implement in the near future most PPP projects in comparison with other regions of the SR, i.e. 5 projects, representing 19% of all PPP projects in Slovakia. It is followed by the regions of Kosice and Zilina both with four projects (the share of both regions is 15%), the region of Presov with three PPP projects and the region of Trencin with 8% market share (2 projects). In the region of Banská Bystrica they are currently implementing one project and in the Nitra region is also just one PPP project, however this one is still in the phase before the selection of the concessionaire.

PPP projects, that are not realized in a specific region of the SR, but are considered as a national project, represent 23% of all PPP projects in Slovakia, i.e. 6 projects. These are mainly projects from the area of Transport and Infrastructure ordered by the Ministry of Transport, Posts and Telecommunications, National Motorway Company, Railways of the Slovak Republic and one project from the area of Health ordered by the Ministry of Health.

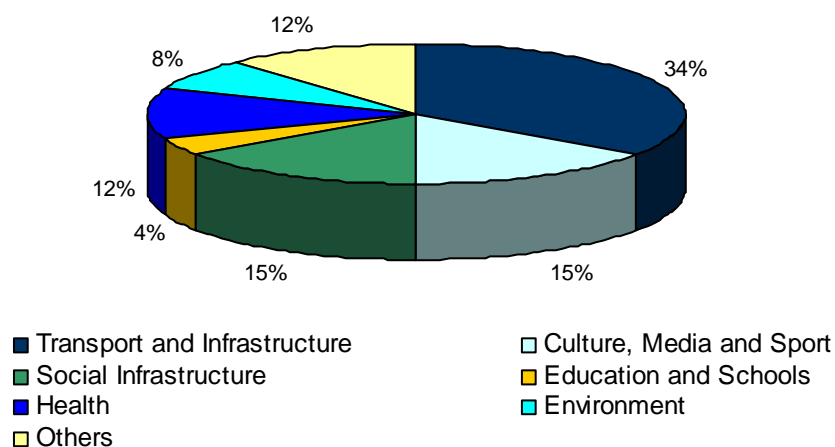
Figure 2: The realization of PPP projects in the regions of SR



Source: author

From the point of view of industry sectors, to which belongs the realization of PPP projects, in the Slovak Republic dominates the sector of Transport and Infrastructure, in that we can count 9 projects (Fig. 3). In the sectors of Culture, Media and Sport and Social Infrastructure they realize or are planning to realize in the near future four projects both, representing a 15% share per sector. Only one PPP project is implemented in the sector of Education and Schools, the order party of this project is the Self-Governing Region of Banska Bystrica.

Figure 3: Industries in which are realized the PPP projects



Source: author

4 Conclusions

Changing the economic system in Central and Eastern Europe since the early 90s had resulted in large investment requirements, associated with the need of construction, respectively reconstruction of infrastructures, such as telecommunications, roads, railways, airports, water management. Requirements for investment were determined by changes in demand for infrastructure, and also by political pressure when the governments of Central and Eastern Europe tried to reduce the differences in comparison with Western Europe. In order to improve the infrastructure, many countries in Central and Eastern Europe decided to use the financial resources for the construction of infrastructure through public-private partnerships. The main reasons for using the PPP are the lack of public domestic financial resources, the relatively favourable conditions in providing capital by international financial institutions, as well as the efforts of international project developers to demonstrate that public-private partnerships can work also in Central and Eastern Europe.

In the paper was analysed the present situation in the area PPP projects implementation in the Slovak Republic. PPP projects were analyzed in three dimensions: in respect to their status of implementation, in respect to the regional belonging and in respect to the industry. The analysis showed that at the present time are in the phase of realization just eight PPP projects in the whole Slovak Republic, the region with the higher potential of realization is the Bratislava Self-Governing Region and most of the projects are realized in the area of Transport and Infrastructure.

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