

PRECONDITIONS FOR ESTABLISHING PUBLIC PRIVATE PARTNERSHIP AS A MODEL OF EFFECTIVE MANAGEMENT OF PUBLIC AFFAIRS

PREDUSLOVI ZA USPOSTAVLJANJE JAVNO-PRIVATNOG PARTNERSTVA KAO MODELA EFEKTIVNOG UPRAVLJANJA JAVNIM POSLOVIMA

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Abstract

The scope of state activities, particularly of the public administration is increasing and becoming more demanding. State administration has always served to some higher interest, which slightly changed during the history, but regardless, their activities covers numerous areas of everyday life and often complex and formalized procedures that require specific knowledge and skills.

Contemporary approach of state administration needs to be rationalized and inclusive, due to global context, availability of information, higher level of citizen rights and increased needs and other factors. State is adopting new patterns, and one of them that enables the state to follow the social dynamic and rationalize its activities and resources is Public Private Partnership. In this paper the concept of Public Private Partnership has been presented with fundamental motives for its implementation, as well as the benefits and negative aspects, throughout the prism of three countries from Central and Eastern Europe, but practically the same geographical region and with similar political, economic and legal background: Bulgaria, Hungary and Bosnia and Herzegovina. The paper presents the legislative, political and administrative perspective of Public Private Partnership, having in mind that first two countries recently became European Union members, and are just completing the transition that the third country, Bosnia and Herzegovina is starting at the moment.

Keywords: Public Private Partnership; transitional countries; legislative, political and administrative approach; effective management; governance

Sažetak

Djelokrug aktivnosti države, naročito javne uprave raste i postaje sve zahtjevniji. Državna uprava je uvijek služila nekom višem interesu, koji se neznatno mijenjao tokom historije, ali bez obzira na to, njihova djelatnost obuhvata brojna područja svakodnevnog života i često složene i formalizovane postupke koji su zahtijevaju specifično znanje i vještine.

Savremeni pristup državne uprave treba biti racionaliziran i inkluzivan, usljed globalnog konteksta, dostupnosti informacija, visokog nivoa prava građana i povećanih potreba, te drugih faktora. Država usvaja nove obrasce, a jedan od njih koji omogućava državi da slijedi društvenu dinamiku i racionalizira svoje aktivnosti i resurse je javno-privatno partnerstvo. U ovom radu je predstavljen koncept javno-privatnog partnerstva sa temeljnijim motivima za njegovu primjenu, kao i prednostima i negativnim aspektima, kroz prizmu tri zemlje centralne i istočne Evrope, ali praktično istog geografskog regiona i sa sličnim političkim, ekonomskim i pravnim kontekstom: Bugarska, Mađarska i Bosna i Hercegovina. Rad predstavlja legislativnu, političku i upravnu perspektivu javno-privatnog partnerstva, uzevši u obzir da su prve dvije zemlje nedavno postale članice Evropske unije i upravo završavaju tranziciju koju treća zemlja, Bosna i Hercegovina počinje u ovom trenutku.

Ključne riječi: javno-privatno partnerstvo, tranzicijske zemlje, legislativni, politički i upravni pristup, efektivni menadžment, upravljanje javnim poslovima

1. INTRODUCTION

State has changed its organizational forms, political context, relationship with people habituating within its territory and performing various activities, but their essential goal remains the same: to design, perform and control the activities of public interest. In the last few decades, state is open for some reforms that partially include other relevant social actors in the process of design and performance of public affairs. These activities are related to outsourcing, public-private partnership, openness and transparency of government, New Public Management (NPM) and Good Governance principles and similar terms and concepts.

The crucial goal of introducing such concepts is to improve efficiency, quality of public services and products, and legitimacy. Public Private Partnerships (PPPs) started their serious development mostly around 1980s when private sector thinking was introduced and used in the public sector, and market-based criteria were applied to the delivery of public products and services. Questions regarding PPPs very often have to be answered for particular market and even for particular project. The context of PPPs is the one related to the ideas of New Public Management. NPM is a form of public governance and it means including governmental, non-governmental organization and citizens. New Public Management is a way of understanding the role and interaction of government with public that is based on the introduction of private sector managerial instruments in the public sector, with the aim of achieving efficiency, effectiveness and financial stability of the public sector. New Public Management implies the abandonment of the traditional Weberian bureaucratic model of government in favor of modern market-oriented service management. Such administration does not control people and their activi-

ties, but, trying to include as many relevant stakeholders, creates and implements public policies aimed at increasing living standard, increasing efficiency, effectiveness, equality and social inclusion. These policies encourage entrepreneurship, research and innovation, create competition and are ensuring conditions for the development of privatization and public-private partnerships, citizen participation and civil society development, at the same time ensuring financial stability of the society, state and active subjects in the state. Policies created in coordination with citizens aim to foster decentralization, increase professionalism and neutralize the public service.

In this paper we will discuss the legal, and partially political and social background regarding Public-Private Partnerships (PPPs) in Bulgaria, Hungary and Bosnia and Herzegovina. Although first two countries are relatively new European Union (EU) members, we consider them as an excellent benchmark for Bosnia and Herzegovina, as a transition country and potential EU candidate country, since Bulgaria and Hungary have faced serious challenges while coping with EU regulations and market trends, and are still in transition when discussing the issues of Public Private Partnership.

2. BULGARIAN PERSPECTIVE ON PUBLIC PRIVATE PARTNERSHIP

Although public-private partnerships (PPPs) are relatively new practice in the Bulgarian municipalities, Bulgarian local authorities consider the partnerships with private sector as very important. At the same time, the basic concept of public-private partnerships is not always well understood. There is a tendency of classifying all business relationships between municipalities and the private sector as PPP. Therefore, various problems occur and public interest is very often the last what is taken into account when performing the PPP activities.

In this sense, local authorities in Bulgaria, where PPPs commonly appear, have to change their attitude, focusing primarily to the provision of high quality services.

The reform should focus on the legal framework. It should provide enough flexibility regarding the content and nature of the PPP. But, in Bulgaria there was no special law on PPP for a long time. Such arrangements were defined and regulated by a complex interaction between national and municipal regulations as well as the project contract provisions. From the public interest standpoint, different results are achieved due to integration of different practices and PPP arrangements in the same legal framework.

In recent years, there were both positive and negative examples of PPP arrangements.

As Vladkov and Markov (2010) claim, practical experience proved that the PPPs success largely depends on the comprehensive process of various factors evaluation and management. These factors are: type of PPP, risks, partner, contractual arrangements, impacts, project management, municipal program policies and goals, etc. It seems that one of the the main problems is insufficient risk assessment and allocation of funds, that leads to an increase of financial obligations for local authorities. Local authorities have not assessed the risk so far.

Different ministries have published various documents containing PPP definitions and their forms classified by sectors or types of projects. Bulgarian Ministry of Finance has prepared a “Methodological guidelines for public-private partnership” that includes the following definition: “PPP is a long-term contractual agreement between the entities of the public sector and the private sector, to finance, build, reconstruct the infrastructure, infrastructure management and its maintenance, in which the private partner assumes the risk of construction (project execution) and at least one of the two risks - the availability of services or demand for services.” (detailed at: www.minfin.bg/en)

This definition is in line with European Commission guidelines under which the PPP arrangements can be removed from the state balance sheet.

Also, Bulgarian Ministry of Economy has adopted internal rules for the implementation of public-private partnerships which define the following PPP forms:

- α) contracts to design, construct, maintain, operate and manage the public sector assets;
- β) contracts to design, construct, maintain, operate and manage the private state property;
- γ) a service provision contract;
- δ) commercial company;
- ε) civic partnership. (more at: www.mi.government.bg/en)

2.1. BULGARIAN LEGISLATION ON PUBLIC PRIVATE PARTNERSHIPS

Until 2013, Bulgarian legislation did not explicitly regulate the PPP relationship, while there was no special law on public-private partnership. Before that, and partially even today, PPPs have been defined and governed by a complex interaction between national and municipal legislation and regulations, as well as by the project contractual agreements. New legislation was adopted in order to incorporate EU legal requirements into public contracts and concessions in compliance with European Commission Directive. Some of these amendments involve the regula-

tion of issues related to transparency, publicity, free competition, and the guarantee of public interests in the procedures.

National Assembly of Republic of Bulgaria adopted a Public Private Partnership Act in 2013, which has been annulled by the new Concessions Act adopted by the same legislative institution at the end of 2017.

We can consider that besides the Concessions Act and European Union legal acts and guidelines, legal framework in the area of public-private partnerships in Bulgaria is fulfilled with the Public Procurement Act, Local Self-Government and Local Administration Act.

The general legal framework for carrying out public private partnerships is defined in the Local Self-government and Local Administration Act. It provides the legal basis for cooperation and partnership of municipalities with legal or natural persons for achieving objectives of mutual interest and for assigning municipal activities to external partners. PPP is based on cooperation agreement, that has to be approved by the municipal council.

The rules and procedures for the commercial activities of municipalities are defined in the Municipal Property Act. Some Municipality may participate in various forms of economic activities with its financial resources, except subsidies from the state budget. Also, a municipality may participate in commercial entities if it is provided that its liability does not exceed the amount of its shares. Municipalities cannot participate in unlimited liability commercial entities. But, as Vladkov and Markov (2010) notice, municipality may make a decision for a partnership arrangement with legal or natural persons through the establishment of a joint stock company. The registration of such a company is regulated by the Bulgarian Commercial Act.

The Concessions Act is the general act that regulates public-private partnerships between the municipalities and the private sector. As a legal instrument, the concession is present in Bulgaria for few decades. The Concessions Act determines the rules and procedures for granting a concession. It outlines, in detail, the whole process, including preparation, tender procedure, content of the contract, and overall control of the implementation of the concession contract.

In 2013, Bulgarian National Assembly passed the new PPP Act. This legislation has not been considered extremely positive, bearing in mind the Bulgarian political system and political culture, traditional bureaucracy, inefficiency and corruption. However, the reasonable improvements and positive effects of public and academic debates were notable, while many of the discussed issues have been incorporated into the law. But, the Bulgarian practice and European Union acts were not in harmony with this act.

Concessions Act adopted in 2017 put out of legal force the previous Concessions Act from 2006 and Public Private Partnership Act from 2013. The new act transposes into the national legislation Directive 2014/23/EU of the European Parliament and of the Council of European Union from 2014, regarding the allotment of concession contracts.

This Act is focused on high quality and affordability of public services and infrastructure with optimal ratio of price and quality; responding to the public needs in effective, efficient and economic method and all that by optimizing the concession procedures in line with European Union acts and practices and European Structural and Investment Funds and Programmes.

Depending on the object of the concession, a number of sector specific acts – such as the Waters Act, the Ores and Minerals Act, the Forests Act, the Law on Black Sea Coast, the Railway Transport Act, the Roads Act, etc. – regulate the specific objects of a concession and set the rules and procedures according to the concession object. Usually, these regulations define some obligations, limitations, and restrictions on the procedure, depending on the object of the concession.

2.2. POLITICAL PERSPECTIVE AND IMPLEMENTATION OF PUBLIC PRIVATE PARTNERSHIP IN BULGARIA

We can now observe in more detail the academic and political response to the PPP legal framework, structure and activities in Bulgaria. PPP is a relatively new practice for Bulgarian public authorities and is still at an early stage of development. Despite this fact, Vladkov and Markov (2010) claim that Bulgarian local governments give high importance to partnerships with the private sector and consider the approach of implementing infrastructure projects through a PPP as an attractive alternative to the traditional model of procurement of works and services. This is while it can overcome constraints due to the lack of finances and infrastructure in municipalities.

At the same time, Ganeva (2012) notices that the concept behind the term public-private partnership is not always well understood. Public authorities rely on a PPP mainly as an opportunity to obtain new infrastructure. Also, there is a tendency for all types of business relations between a municipality and the private sector to be classified as PPPs. A typical example is the classification of all types of joint stock companies with municipal participation as public private partnerships, although in many cases the public interest is the last thing considered in managing these companies.

Therefore, it is not surprising when Georgieva (2012) claims that the public opinion about these commercial activities of municipalities is strongly negative. A public private partnership suggests that a socially significant public service or a service used by a large part of the population is provided by a private company on behalf of the public authority. The essence of a PPP lies in the positive impact on the community as a result of improved services and infrastructure rather than the particular form of business relations between the municipality and the private sector under a PPP.

In this sense, a shift in the attitude of the public authorities regarding PPP is necessary, focusing primary towards provision of quality services, rather than assets acquisition.

Since not proper risk evaluation and allocation created an increased financial burden for the government institutions, these institutions find themselves in a weak position during renegotiation. This way they are eventually forced into accepting to carry the major share of the risk, with visible effects on the public accounts in the long run.

Quite often, as Peteri and associates (2010) comment, municipalities enter into a public-private partnership by establishing joint stock companies or by granting a concession. The concessions are mainly for operation and maintenance of public assets. PPPs with investment purposes are rather exceptional. In most cases these concessions involve limited financial resources and can be applied to a broad range of municipal services.

A common practice exists among decision-making public bodies to increase or decrease the capital of joint stock companies through properties introduction to the capital of these companies. In reality, most of these properties do not serve the declared activity of the company.

Following the mentioned introduction of properties, these properties are sold on the market and thus the company is financed indirectly by the municipality. At the end the public authority is deprived of revenues that would be generated from the sale or rent of the property. Reflecting on this practice, Valdkov and Markov (2010) claim that the decisions of public authorities on joint stock companies' properties are not supported by detailed surveys of the current status of these properties. In addition, no specific motivation or proof of the benefits to the municipality are given. None of these decisions are supported by financial and economic analysis. Usually the public decisions simply stipulate which properties will be contributed to the capital of which companies and which properties will be sold. These companies, with small exceptions, do not carry out the main purpose for which they were established in the first place.

For those and other reasons present in the academic and political discourse regarding the Bulgarian PPPs, Vladkov and Markov (2010) have designed the following recommendations:

- a) Transparency of joint stock companies
- b) Provisions of Concession Act should be adjusted to local conditions
- c) Need for local strategy on municipal property management
- d) Local policy on public-private partnership should be developed
- e) Clear assignment of responsibilities for PPP projects

Respecting these recommendations and general discourse, National Audit Office in its Report regarding the management of municipal property and the management and control of the municipal share in joint stock companies from 2011 show numerous examples of deficiencies that may be summarized as follows:

- a) municipalities massively allocate property into joint stock companies (JSCs);
- b) the appropriation of municipal private properties to the capital of the JSC is done without any provision of public information by the municipality regarding its investment intentions;
- c) participation of the municipality in the creation of JCSs is done without adherence to any prior developed criteria and procedures for the selection of the partner/s;
- d) selection of the partner/s is done without a competition between interested stakeholders, thus bypassing a tool that would otherwise guarantee the achievement of municipal investment goals to a largest extent;
- e) municipalities do not draw the dividend;
- f) municipalities do not have established mechanisms or procedures for monitoring, evaluating, and influencing the effectiveness and efficiency of service provision and the financial situation of the company. (Ganeva, 2012).

Considering the global tendencies, economic position of Bulgaria and their traditional government combined with increased social needs, Public Private Partnership represents an enormous potential for this countries development.

3. HUNGARIAN PERSPECTIVE ON PUBLIC PRIVATE PARTNERSHIP

Public Private Partnerships (PPPs) do not exist as a separate legal category in Hungary. In other words, PPP transactions involve legal entities that are defined elsewhere, using aspects of competition, procurement, and concession law where appropriate. Secondary regulations, such as the definition of debt, have been inconsistently modified to acknowledge the presence of PPP arrangements. As Jokay (2010) claims, Hungarian Treasury treats PPP obligations as a form of commitment that is limited by the annual budget law, but not counted as national debt. On the other hand, the municipal law does not mention PPPs specifically, and long-term payment obligations of a municipality to a PPP operator, such as availability fees, are not recorded as municipal debt. In fact, long-term service contracts, if they are not a part of a concession agreement, also do not appear as long-term obligations, and do not hinder the municipality's future borrowing capacity, even though free cash flow is certainly influenced, concludes Jokay.

There is no single law on PPPs in Hungary, and the Concessions and Procurement Laws, respectively, do not mention PPPs at all. EU directives on procurement have not kept up with the development of PPPs, and certainly some legislative harmonization at the community level is still needed before this legislation can be optimized in Hungary.

In this fluid regulatory environment, with the incentive to avoid exceeding the Maastricht budget deficit and debt restrictions, Hungarian municipalities have rejected standard BOT and other PPP models in many cases, reverting to their own resources and bank financing, since their PPP commitments do not count as debt, and the larger municipalities have not used up all of their borrowing capacity.

Mistakenly in Hungary and other countries from this region, a full range of options, ranging from contracting out, joint ventures, leasing of assets, service contracts, and concessions, are identified as being forms of PPP outside of the Eurostat definition.

Formal evaluation and policy on PPPs in Hungary exists at the state level since 2003, as PPPs engaged by municipal governments do not enjoy the guarantee of the state budget, unless specifically approved by Parliament. Municipal borrowing and other long-term commitments do not need ministry approval or review, and most municipalities operate significantly below their borrowing limits. Therefore, Peteri and associates (2010) claim that PPPs at the local level in Hungary are in a sense not properly recorded as debt or long-term commitments, and instead show up in different forms, such as long-term service contracts or concessions.

In fact, some municipalities, such as the county capital Veszprém, actually rejected using a PPP scheme in 2006 to build a multifunction sports and convention

facility, saving about 30 percent on construction costs by using its own borrowing capacity.

This is a result of an unstable, inconsistent and short-term policies of the Hungarian authorities. Most of their activities have been motivated by the external pressure, particularly from the EU structures. Chronologically, according to Jokay (2010), The Ministry of Economics and Transport (reorganized as the Ministry of Economic Development) was charged one year before EU accession (2004) with the responsibility of carrying out Government Decision to create an interministerial committee on PPPs. The Economics Ministry handed the responsibility for the committee to a newly combined Ministry of Transport and Communications in 2008.

The Interministerial PPP Committee held its first meeting in June 2003. Its members consist of the Ministry of Economics and Transport, Ministry of Finance, Ministry of Justice, the Prime Minister's Office, and the Statistics Office. As of 2007, a representative of the National Development Agency was added.

Peteri (2010) claims how it became apparent that in the run up to EU accession, large infrastructure projects organized on an ad-hoc basis as PPPs (M1, M5 motorway) could have an effect on Hungary's public deficit and debt statistics. As Eurostat did not issue an opinion until 2004 that defined what kind of PPP project is considered to be public debt and what is not, under ESA 95 (European System of Accounts), the Hungarian authorities had to develop its own procedures in advance of Eurostat's guidance.

Still, some regulations are not in compliance with logic and international standards.

For example, Hungary has had experiences with outsourcing, service contracts, concessions, and similar forms, since the early 1990s. These arrangements, including offering the private sector the right to operate public assets such as wastewater plants, are not considered by the Economics Ministry's Handbook as being versions of PPPs for the simple reason that the funding of the investment comes from public funds, and the asset in most cases is accounted for as a non-negotiable or "core" public asset (Jokay, 2010).

4. PERSPECTIVE OF BOSNIA AND HERZEGOVINA ON PUBLIC PRIVATE PARTNERSHIP

Bosnia and Herzegovina is country with long historical perspective and very positive legal practices in the various phases of its development as an independent country and within the sovereignty of other countries. The country renewed its

independence in 1992, and immediately faced the war and change of internal structure. The imposed constitution, as part of international peace agreement, defined an extremely complex state structure and decision-making procedures that encourage the inner structures to promote negative practices and decelerate the progress of a country in terms of European integrations.

The first precondition for initiating and implementing the reform is the real political will, while the second precondition represent the legal instruments for its concrete realization (Tanović, 2018).

This general description could also be completely assigned to the area of Public Private Partnership in Bosnia and Herzegovina. Additionally, since this field is relatively new practice and in some cases not entirely regulated in global terms, it creates additional confusion and aversion to such kind of reform. As Delić notices, very often certain social patterns are formally implemented, without essential observation and direction of certain phenomena. Due to that, certain phenomena and processes are not understood in an appropriate way, and with the fear of the unknown, everyday life procedures become unreasonably complicated (Delić, 2013). In case of Bosnia and Herzegovina, legal framework and certain practices have been established in the field of concessions, although these require improvements. On the other side, Public Private Partnership framework is only formally and partially introduced and very few successful projects have been implemented, and some of them initiated but not completed.

Due to complex constitutional structure of Bosnia and Herzegovina, central state level of government does not poses the clear jurisdiction in this field, but it is more an issue of lower levels of government (entities and cantons). Certain jurisdiction exist in some related fields, such as concessions.

In Bosnia and Herzegovina, four levels of government exist with some specific additional details. These are: state, two entities and one district that comprise the second level, then 10 cantons as regional government in one of the above mentioned entities, and afterwards the level of local self-government with two subcategories: cities and municipalities. Very often they have separate jurisdictions and one level can not control the activities of another level, or it is limited to some aspects. At the same time, some jurisdiction is shared among few levels and it creates other types of problems (conflict of jurisdiction, lack of legal responsibility, inefficiency etc.)

Regarding the concessions, the Constitution of Bosnia and Herzegovina in principle creates conditions for granting concessions at the central state level, guaranteeing the protection of private capital and property, market economy, foreign direct investment, etc. (Article IV 4.a of the Constitution of Bosnia and Herzegovina). Similar legal provisions exist in the constitutions of two entities and Brčko District

of Bosnia and Herzegovina.

Most of these levels have adopted individual laws regarding this field. State level has adopted the Law on Concessions of Bosnia and Herzegovina in 2002 and amended it in 2004. This act focuses on: - procedure and conditions for allotting the concessions, competent public authorities and their relations with other subjects, tender procedure, concession agreement, rights and obligations of concessionaires etc.

Two entities followed the state level and adopted their laws on concessions in 2002. Entity of Republika Srpska has adopted new law in 2013 and amended it twice, in 2018 and 2020. The Assembly of Brčko District of Bosnia and Herzegovina has adopted the Law on Concessions in 2006, and amended it twice, in 2007 and 2008.

One must be aware of the dynamic changes in social environment, as well as legal recommendations and practice from the international level. This could indicate the need of adjusting the regulations. But, in case of state of Bosnia and Herzegovina and entity of Federation of Bosnia and Herzegovina only one amendment has been made in this field, as mentioned above. Does this indicate the passive institutions (legislative, executive and administrative) regarding this matter or high quality of legislation that does not need to be amended? Although it is not legally binding for Bosnia and Herzegovina at the moment, we emphasize that European Parliament and Council of European Union have adopted new legislation in this field in 2014, which could be a motive for legislative reform in Bosnia and Herzegovina. Also, in professional and academic discussions have emphasized unsatisfactory results regarding the implementation of these laws and social benefits.

Further on, most of the cantons as regional government in the entity of Federation of Bosnia and Herzegovina have followed the time line of state and entity levels and adopted their laws in this field in 2003, while one canton (Western Herzegovina Canton) adopted it even earlier, in 2001, and some cantons waited longer, as Sarajevo Canton (in 2011) or Herzegovina-Neretva Canton (in 2013). Some of these canton laws were amended or even ceased to be valid.

Besides these laws, some other partially regulate this or similar fields. Law on Foreign Direct Investment Policy in Bosnia and Herzegovina promotes a free and market-oriented economic policy, customs privileges, protects foreign investments from discrimination and gives them an equal position in relation to domestic investments. These are applied also in cases when foreign investment is performed through the Concessions or Public Private Partnership model. Entity laws are harmonized with this law.

Also, Bosnia and Herzegovina is obliged, in some cases even by the Constitution,

to follow and implement international obligations, standards, practices, recommendations, agreements, conventions, directives, regional and bilateral cooperation, planned development goals and other documents that regulate Public Private Partnership and various other areas of social regulation.

Besides these legal acts that regulate the complementary areas, the particular laws regarding the Public Private Partnership exist.

Since there is limited jurisdiction at central state level in this field, therefore there is no particular law at state level. Law on Public-Private Partnership in the entity Republika Srpska has been adopted in 2009, and Law on Public-Private Partnership in Brčko District of Bosnia and Herzegovina in 2010. The other entity, Federation of Bosnia and Herzegovina has prepared Draft of Law on Public Private Partnership in 2009, and it is in parliamentary procedure since 2010. Some parliament members announced that the adoption of the Law will be done in 2021, but following the working schedule and latest statements it is hard to expect.

In the meantime, cantons in this entity have adopted their laws. This could be the reason for delayed regulation at the higher level of government. And while Sarajevo Canton was one of the last to adopt the Law on Concessions, it was the first among ten cantons that have adopted the Law on Public-Private Partnership of Sarajevo Canton in 2011. Afterwards followed the seven cantons in 2012 and 2013. Although Zenica-Doboj Canton adopted the Law on Public Private Partnership in 2016, they have active approach in this field. They have developed two catalogues of Public Private Partnership projects, which include 53 potential projects, and have Register of Public Private Partnership contracts. So, far only one project related to establishment of new clinic within the Canton's hospital has been completed, and three other projects are active. But, if we take in consideration that in entire country only one PPP project is completed in Brčko District of Bosnia and Herzegovina, these indicators in Zenica-Doboj Canton could be observed as positive and motivating. Canton Livno is the only Canton without such law, although they have prepared the Draft of the Law in 2016.

As we could see from the previous analysis, Bosnia and Herzegovina with a very complex constitutional system and system of government, followed with very differentiated political strategies, and traditional bureaucratic profile of public administration, and not adequate public pressure is in the initial phase of Public Private Partnership development. For those reasons, the solution for the situation with the implementation of Public Private Partnerships in Bosnia and Herzegovina could be improved by using the agile approach.

The agile approach to project management is based on a set of principles and practices that promote adaptive planning, evolutionary development, early incremental delivery and continuous improvement (Šašić, 2021).

5. CONCLUDING REMARKS

The complex legal framework of public-private partnership countries of Central and Eastern Europe were developed during the 1990s. The basic laws, like acts on concessions or in better solution separate laws on Public Private Partnership were critical and necessary, but not sufficient for creating a supportive legal-administrative environment. They have to be accompanied by regulations on the technical aspects of private sector involvement: sectorial laws and strategies, public procurement procedures, diverse forms of service management, the status of public assets and especially local autonomy in managing municipal property.

Poor quality legislation and lack of administrative capacity may also discourage private initiatives.

Some countries from these area have drafted specific laws on public-private partnerships. For example, Croatia and Poland have recently passed dedicated legislation on the general rules governing PPP, while the Czech Republic and Hungary were able to develop a diverse system of public-private partnerships without specific legislation, instead simply adjusting existing laws to the new requirements. This is common practice in the EU, because a 2005 communication from the European Commission states that specific regulations on all public contracts and concessions are unnecessary.

But, there is obvious space for modifications, while even European Union policies target public-private partnerships from various angles, because PPP is not included in the legal institutions or terminology.

Since 2004, several EU documents have dealt with PPPs and developed the overall strategies and regulations on (i) how PPP should be entered in accounting documents, (ii) procurement rules and (iii) how they are supported, and (iv) why PPP schemes are useful during economic recovery (Damjanovic, Pavlovic-Krizanovic, Peteri, 2010).

In this paper we observed the environment, discussions and slow reform of the PPP legal framework in Bulgaria, Hungary and Bosnia and Herzegovina. Even though there is large space for criticism, if we observe the general environment in these countries, EU policies on PPP, and the overall state of the economy and PPPs impact on it, we may conclude that there is positive approach towards the higher

use of PPP in economic processes, but not always adequate mechanisms, coordination, knowledge, practices and evaluation of the related activities. Bosnia and Herzegovina made some effort, mostly legislative, but still needs a paradigm shift and more intensive support and pressure from investors who should demand more attractive business environment, European Union institutions who should encourage and support the European integrations of this country and its own citizen who should promote and demand improved living conditions, established by legislative and institutional reforms in many areas, including Public Private Partnership.

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