

PRIVATE PUBLIC PARTNERSHIP

Sarıbrahimođlu Hukuk BÜrosu, Aralık 2020

Prepared by: Av.Betül Arslan Aydın, Çađla Ođuz, Selin Bıkmaz

PRESENTATION OVERVIEW

- PRIVATE PUBLIC PARTNERSHIP (PPP) PROJECTS IN TURKEY
- PPP PROJECTS FOR HEALTH FACILITIES
- HIGHWAY PROJECTS
- TURKEY'S MEDIUM-TERM PROGRAM POLICIES RELATED TO PUBLIC PRIVATE PARTNERSHIPS (2019-2021)
- PPP'S IN EUROPEAN UNION: COMMON DEFICIENCIES AND LIMITED BENEFITS
- PPP PROJECTS IN FRANCE
- THE PANDEMIC ERA AND PPP PROJECTS (TURKEY-WORLD)
- CONCLUSION

PPP PROJECTS IN TURKEY

- It is an investment and a service model.
- The purpose of this model is to provide faster and better service to the society.
- These models are used in many fields of activity such as hospitals, highways, infrastructure, airports and more.

CONTINGENT LIABILITIES AND GOVERNMENT GUARANTEE

- ▶ Public guarantees are indirect supports provided by the relevant public administration in order to eliminate the risks that occur or may occur during the investment process at the financing phase of the PPP projects.
- ▶ Indirect government supports are called "contingent liabilities" because they are tied to certain conditions.
- ▶ The liabilities undertaken by the public administration for the sustainability of the investments are considered as guarantees right when the contingent liabilities occur (Bülbül & Atabey, 2010: 63-66).
- ▶ These guarantees are long-term, which in the long run means that the government may face new public debt that is difficult to predict.

THE FORMATION FOR CONTINGENT LIABILITIES

- It can be in the form of a commitment made by the public administration to the private sector investor during the financing phase.
- It can also be in the form of providing a service purchase guarantee (demand guarantee) or leasing the buildings, machinery and equipment produced within the scope of the service from the private sector investor (Yusufoğlu, 2017: 165).
- Apart from these, public guarantees can also be provided for issues such as undertaking expropriation costs, inflation and exchange rate risk (Public Private Partnership Specialization Commission, 2018: 43).

PPP MODELS APPLIED IN TURKEY

- Build-Operate: This model is used in electricity generation. At the end of the contract, the facility remains with the private sector.
- Build-Operate-Transfer: The private sector is given the right to establish facilities on public land and risks are shared between the private and the public sector.
- Build-Rent-Transfer: The private sector provides the physical equipment of the facility it established, operates it for the period of time settled under the contract and finally transfers the facility to the public. The public pays rent to the private sector every year for the facility.
- Privatization and Transfer of Operating Rights: The operating rights for the facility is transferred to the private sector for a certain period of time, but the property remains with the public sector.

LEGAL FRAMEWORK FOR PPP'S IN TURKEY

- Turkey has numerous number of PPP laws. These laws are either model based or sector based.
- Turkey is ranked second in the World Bank's Private Participation in Infrastructure Database's (PPI Database) latest update.
- In comparison with the EU, Turkey is currently more enthusiastic than any other EU country.

TURKISH LEGISLATION ON PPP PRACTICES IN THE HEALTH SECTOR

- Private sectors participation in the health sector using the PPP model is constantly increasing.
- Turkey also was influenced by the privatization movement worldwide.
 - Decree Law No. 233 on State Economic Enterprises
 - Law No.2983 dated 17.3.1984 on Promoting Savings and Accelerating Public Investments
 - Law No. 3096 on “Electricity Generation, Transmission, Distribution and Trade of Institutions Outside the Turkish Electricity Authority”

- The Law on the Construction of The Facility, Renewal and Service Provision (no. 6428), is important in the health sector and also it serves the development of this sector with PPP models, which was entered into force on 21.02.2013.
- The State Tender Law No. 2886 and Public Procurement Law No. 4734 do not apply to projects that are subject to Law No. 6428 because the contract concluded between the administrative authority and the private company is governed by private law.
- The Turkish courts have jurisdiction over the disputes that may arise from the contract.
- The parties may also agree on arbitration for the settlement of disputes.
- A very important issue for the dispute settlement is that the provision which says “the seat of arbitration shall be in Turkey” has been annulled from the Law to facilitate a much more unbiased alternative dispute settlement system for PPPs.

- The private party is responsible for third-party damages during the term of the contract.
- The private party can transfer the contract to the private legal entity or person who meets the conditions specified in the law numbered 6248.
- If the private party has not fulfilled its obligations during the specified construction period, a written notification is made to the private party to complete the works and the lenders are also informed.
- In case of failure to fulfill its obligations within the specified period, the financial supporter is offered a change in the partnership structure of the private company to complete the remaining work, if not the contract will be terminated by the administration.
- However, if the project has become impossible to continue due to the failure of the private party, then the work will be done by someone else on behalf of the private party without presenting any of the options above.

PPP HEALTH FACILITIES THAT HAVE COMPLETED THE TENDER PROCESS

- According to the data of the Directorate General of Health Investments 20 of the city hospitals contracts are signed, and 13 of them are operating. Among these, Konya Karatay, Tekirdağ, İstanbul Başakşehir İkitelli city hospitals were put into service in 2020, while Gaziantep, Kütahya, Kocaeli, İzmir Bayraklı, city hospitals and Şanlıurfa Health Campus are planned in 2021.
- According to the data of December 2017, in Turkey, from 1986 to the end of 2017 there were 225 PPP projects signed 191 of which were in the operational phase and 34 of them are under construction. In the year 2017, 10 PPP projects were signed as implementation contracts.

NO	PROJECT NAME	BED CAPACITY	OPERATION DATE
1	Adana Şehir Hastanesi	1.550	PUT İNTO SERVICE
2	Mersin Şehir Hastanesi	1.294	PUT İNTO SERVICE
3	Isparta Şehir Hastanesi	755	PUT İNTO SERVICE
4	Yozgat Şehir Hastanesi	475	PUT İNTO SERVICE
5	Kayseri Şehir Hastanesi	1.607	PUT İNTO SERVICE
6	Manisa Şehir Hastanesi	558	PUT İNTO SERVICE
7	Elazığ Şehir Hastanesi	1.038	PUT İNTO SERVICE
8	Ankara Bİlkent Şehir Hastanesi	3.711	PUT İNTO SERVICE
9	Eskişehir Şehir Hastanesi	1.081	PUT İNTO SERVICE
10	Bursa Şehir Hastanesi	1.355	PUT İNTO SERVICE
11	İstanbul Başakşehir Şehir Hastanesi	2.682	PUT İNTO SERVICE
12	Konya Karatay Şehir Hastanesi	838 (1.250 Kapasiteli)	PUT İNTO SERVICE
13	Tekirdağ Şehir Hastanesi	486	PUT İNTO SERVICE
14	Kocaeli Şehir Hastanesi	1.210	2021
15	Kütahya Şehir Hastanesi	610	2021
16	Ankara Etlik Şehir Hastanesi	3.624	2021
17	Gaziantep Şehir Hastanesi	1.875	2021
18	İzmir Bayraklı Şehir Hastanesi	2.060	2021

HIGHWAY PROJECTS UNDER THE BUILD-OPERATE-TRANSFER MODEL IN TURKEY



1- SOME EXAMPLES OF HIGHWAY PROJECTS WITH BUILD-OPERATE-TRANSFER MODEL:

- Kınalı - Odayeri Kuzey Marmara Highway (the Europe part) :
- Kurtköy - Akyazı Kuzey Marmara Highway (the Asia part):
- *Ankara - Niğde Mainroad Project:*

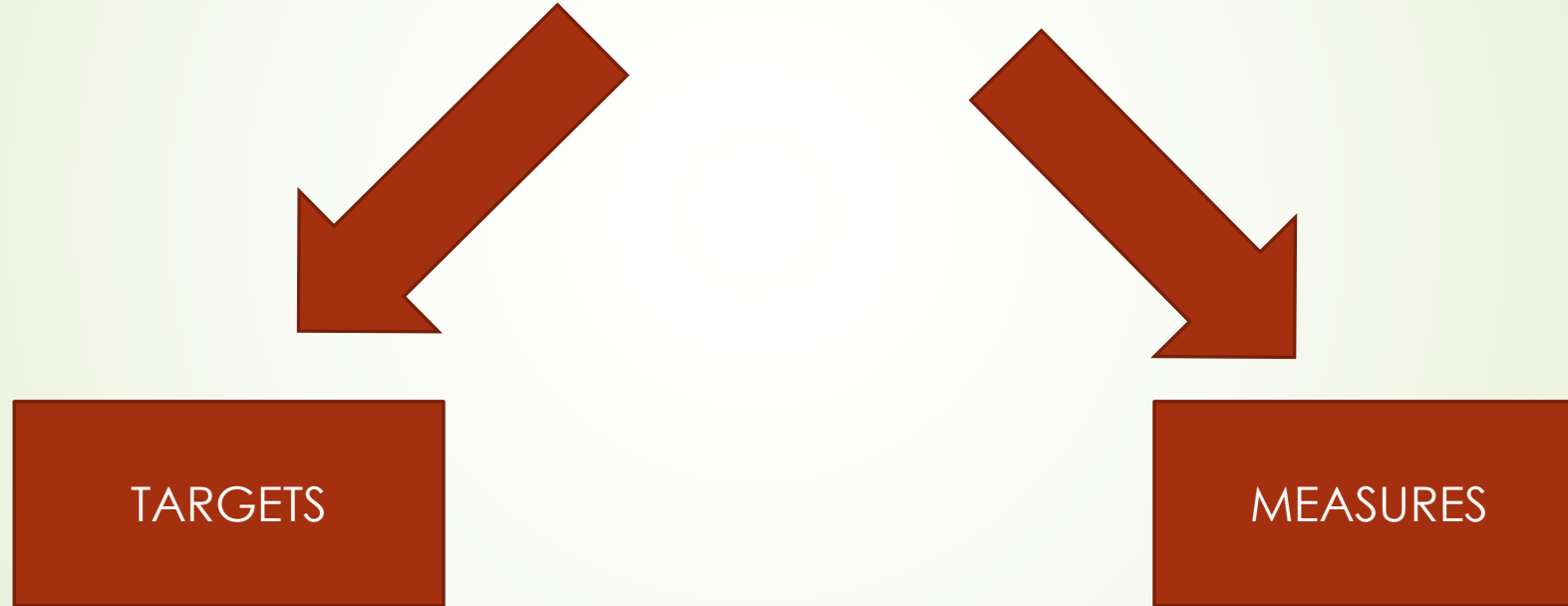
2-UPCOMING HIGHWAY PROJECTS WITH THE CONSTRUCTION OPERATION TRANSFER MODEL IN THE APPROVAL PROCESS OF THE MINISTRY OF DEVELOPMENT

- *Ankara - Kırıkkale - Delice Highway Project:*
- *Çiğli - Aliağa - Çandarlı Highway Project:*
- *Kınalı - Tekirdağ - Çanakkale - Balıkesir Highway Project:*

HIGHWAY PROJECTS AIMED TO BE BUILT WITH THE BUILD-OPERATE-TRANSFER MODEL IN THE VISION OF 2023

- Yalova – Izmit Highway Project (91 km)
- Antalya – Alanya Highway Project (187 km)
- Ankara – Sivrihisar Highway Project (164 km)
- Mersin – Silifke (Taşucu) Highway Project (98 km)
- Şanlıurfa – Diyarbakır – Habur Highway Project (454 km)
- Aydın – Denizli – Burdur Highway Project (315 km)
- Delice – Samsun Highway Project (447 km)
- Sivrihisar – İzmir Highway Project (408 km)
- Afyonkarahisar – Burdur – Antalya Highway Project (350 km)
- Sivrihisar – Bursa Highway Project (231 km)
- Gerede – Merzifon Highway Project (336 km)
- Merzifon – Gürbulak Highway Project (919 km)

Policies Regarding Turkey's Medium-Term Program on Public Private Partnership (2019-2021)



TARGETS

- The main objective is to direct public investments to priority infrastructure areas that will support the private sector's innovative and productive investments and trade, and increase the well-being and happiness of our citizens.
- Economic and social infrastructure investments supporting the development potential will be prioritized while maximum savings are made from public investment expenditures.
- Public infrastructure investments; It will be planned and executed in a way to support the reduction of production costs in the private sector, the creation of new production capacities, and thus the innovative and competitive development of production.
- Planning, implementation, monitoring of public investment projects and evaluation process will be strengthened and capacities of public institutions and organizations will be improved accordingly.

MEASURES

- Monitoring the PPP projects to build a stronger relationship with the budget evaluation system will be strengthened.
- Capacity building project covering public institutions operating in PPP field will be completed.
- Framework legislation preparations for PPP applications will be made.

PPP PROJECTS IN THE EUROPEAN UNION

Yaygın eksiklikler ve sınırlı faydalar

- Public-private partnership projects (PPP) mobilize both public and private sectors to supply goods and services traditionally provided by the public sector.
- A different aspect that make PPP's much more attractive is that it eases the budgetary constraints that public expenditures are subject to.
- Since the 1990s, 1,749 PPPs with a total value of € 336 billion have been completed in the EU.
- In the year 2016, PPP's in the transportation sector accounted one thirds of the investments which was followed by health and education PPPs.

- The European Commission's policy is supporting, for several years, the gravitation towards PPP projects which is thought to be an effective tool in carrying out projects effectively.
- In accordance with the above fact and as an example, PPP projects are designated as a part of Europe's 2020 strategies.
- Despite this, 84 PPP projects with a total cost of € 29.2 billion in the 2000-2014 period received only € 5.6 billion of EU funding.

NECESSARY CHARACTERISTICS FOR SUCCESSFUL PPP PROJECTS

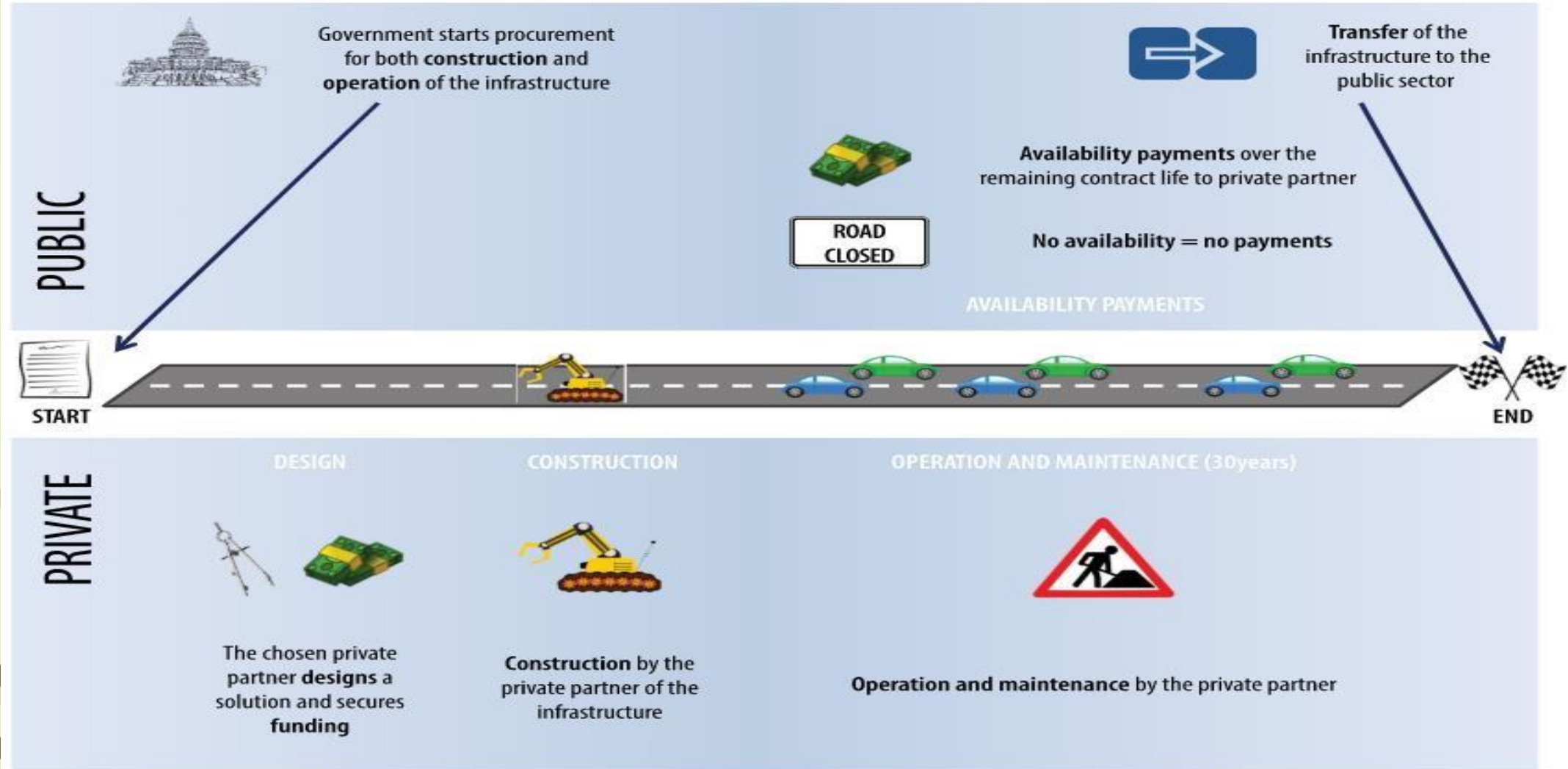
- Appropriate institutional and legal frameworks are required in the country that will be implement PPP projects
- Important administrative capabilities: These important administrative capabilities can only be achieved with long term experience
- A very limited number of European countries have these characteristics.
- As a result of the limited number of countries where the necessary characteristics are available, prevents EU from using more funds for PPPs.

- The difference between PPP projects and other projects is the risk sharing between the private sector and the public sector.
- Generally private person is responsible for the risks in the design, construction, financing, operation and maintenance areas of the project for a period of time.
- Public personality, on the other hand, carries political and legal risks.

PPP MODELS USED IN THE EUROPEAN UNION

- The most known PPP model and the most used PPP model is not the same.
- The most known PPP model is **Build-Operate-Transfer**.
- In practice the most used PPP model in EU is **DBFMO**. Which is short for Design, Build, Finance, Maintain, Operate.
- With DBFMO, the private actor plays an active role in all stages from the design of the project to the financing search.

Scheme of a typical DBFMO availability-based⁵ PPP



WHY ARE PUBLIC ACTORS INTERESTED IN IMPLEMENTING PPPs?

- PPPs provide faster completion because generally their budgets are higher.
- The fast completion causes an increase in productivity.
- Risk sharing between the private and public sector.
- Optimizing the expenditure.
- The possibility of better maintenance and service levels than traditional projects through a whole life approach.
- PPPs ensure the best way of utilizing both public and private sector's expertise and experience.

BLENDED / KARMA PPPS

- Blended PPPs are the given name for the usage of both EU funds and private sector funds.
- With the contribution of blended PPPs the public sector can do better economic projects because part of the financing is made by the EU

EUROPEAN UNION FUNDS GIVEN IN FAVOR OF PPPS IN THE EU BETWEEN 2000-2014

Most of the funds are used in transport and information & communications technology PPP projects.

Funds allocated to EU-supported PPP projects for the period 2000-2014, in million euro, by sector

Sectors	Number of projects	Total cost	%	EU contribution	%
Transport	24	25 538	87	4 555	81
ICT	28	1 740	6	472	8
All other sectors	32	1 964	7	613	11
Total	84	29 242	100	5 640	100

Source: ECA on the basis of data provided by the Commission, EPEC and selected Member States.

PROJECTS ARE COMPLETED MUCH FASTER WITH PPPs

- In the usual project execution, the public sector needs to provide a large amount of financing in a short time. Due to insufficient budget, the project has to be shared between many public legal entities, which makes the procedures quite difficult.
- With PPPs, the projects are starting and completing much faster, because the number of interlocutors are decreasing and the financing problem has been eliminated.

PPPS EFFECTS ON UNFAIR COMPETITION

- In order to fulfill PPP projects, the private sector legal entity must have the power to provide high financing and also have a lot of capabilities such as design, repair and maintenance, operation capability, construction capability.
- The number of companies that can be candidates for PPP projects is quite low, as it requires versatile skills above the private sector.
- Private sector legal entities are generally provided with high amounts of incentives for the project to be completed on time and for individuals to benefit from the services as soon as possible. This enables the already strong company to do business with a higher profit at a more affordable price. Despite these incentives, PPP projects are generally not completed on time.

THE NECESSARY INSTITUTIONAL AND LEGAL FRAMEWORKS ARE NOT ESTABLISHED IN MOST OF THE EU COUNTRIES

- ▶ FRANCE: PPPs are used for only a few types of contracts at the central level. In France, the main purpose of PPP use has not been determined, but with a few incentives such contracts have been put forward. IRELAND: Public Private partnerships are used for only a few types of contracts at the central level. PPP contracts are generally seen as a form of supplementary financing.
- ▶ GREECE: PPP regulations apply only to projects with a construction cost of less than 500 million Euros. For this reason, mandatory evaluations foreseen in higher cost projects are not made. PPP contracts are generally seen as a form of supplementary financing.
- ▶ SPAIN: There is no unit that handles PPP agreements and is responsible for their implementation. For this reason, they do not benefit from the existing standardized contracts and other subsidiary tools.
- ▶ In general, a clear policy and way of operation regarding PPPs has not yet been determined in most countries.

WHY ARE PPPS NOT COMMON ENOUGH IN EUROPE?

- In a 2018 report of the EU Court of Accounts, 12 PPPs made in several different countries in Europe were examined and it was reported that their agreements did not actually provide the necessary benefit.
- According to this report, PPPs have serious productivity problems, which mean delays in construction and an increase in project prices.
- Of the 9 PPPs completed, 7 had delays between 2 and 52 months.
- These efficiency and latency problems also make PPPs less interesting.

- Some international organizations criticize PPPs and according to this criticism, it is actually a tool that states use to cover and hide PPPs on public debts. Thus, instead of borrowing directly by themselves, it causes the debts that will be borrowed by private persons and normally written to the state treasury to appear to be on private persons.
- The founder, David Hall, Greenwich University International Public Services Research Unit (PSIRU-Unité de recherche internationale sur les services publics) published wide spread report on this topic. This report was requested by the International Public Service (l'Internationale des services publics (ISP)).
- There are criticisms that the projects are more expensive to do with PPP than when the project is directly controlled by the public personality.
- The conclusion that can be drawn from the report is that it is more favourable for the public to provide public financing on its own.

OTHER CRITICISMS

- There are also criticisms that PPPs put the public side at uncertain debts and uncertain risks. According to these criticisms, there is always a risk that the private party will go bankrupt or fail to fulfill its debts.
- There are criticisms that projects carried out with PPP may prevent the most environmentally optimal working methods. This, in fact, prevents other incentives that can be received in terms of the environment, and creates situations where many countries will conflict with the clean environment efforts they have committed.

The report "Comment les partenariats publicprivé échouent-ils" dated October 2018, ordered by Eurodad, discussed why PPPs failed.

- **The European Debt and Development Network (EURODAD) is a civil society network that advocates democratically controlled financial and economic systems based on gender justice and human rights.**
- It is a report made by examining 10 PPP projects in 4 continents. These criticisms should be taken into account with an international perspective, as the countries examined are not only European countries but will be useful for understanding the criticisms made about PPPs. Countries investigated: Colombia, Spain, France, India, Indonesia, Lesotho, Liberia, Peru and Sweden. Sectors in which PPPs are made are education, energy, health, transportation, water and sanitation.
- In the report, it was determined that PPPs were applied to eliminate the restrictions on the public budget of the projects and to delay the financial burden in terms of tax. Here, as we have seen before, it is criticized that it is a process that governments take to keep the project cost off balance sheet with the method of accounting practices.

https://d3n8a8pro7vhmx.cloudfront.net/eurodad/pages/508/attachments/original/1590679733/Comment_les_partenariats_publicprive%CC%81_e%CC%81chouent-ils.pdf?1590679733

- The common conclusions about the PPPs are as follows:
 - These projects create a high burden for public finance.
 - Creates an extreme risk to the public
 - As a result PPPs are a high burden on citizens.
- For example is Sweden's Nya Karoinska Solna (NKS hospital), which was built at a cost of 2.4 billion euros, while the initial cost was 1.4 billion euros, and it was also noted that there were many technical problems in the hospital. This hospital has been given the title of the most expensive hospital in the world.
- Each PPP examined was more burdensome for the public because, in unexpected situations, the articles in which the financial burden was provided by the public were included in the contract.

- ▶ Another example is a study of 2 PPPs in Indonesia, about public service. In 2011, a loss of 18 million US dollars was calculated on behalf of the public, and if the project continues until 2022, as predicted, the total loss of the state is expected to be 2.4 million US dollars.
- ▶ There are also heavier criticisms and determinations. We have mentioned that unexpected financial burdens may arise for the Public side due to PPPs, but with examples, what this actually means has been clearly demonstrated. It has been shown that due to the problems experienced in PPPs, the situation of people who are not rich can deteriorate.
 - ▶ In the construction of the Queen Mamohato hospital in Lesotho, an unexpected and constant increase in financial losses were encountered, which caused the public's inability to make investments for primary and secondary health services in rural areas. It was also noted that in these rural areas $\frac{3}{4}$ of the people live and there is a rising mortality rate.
 - ▶ In Jakarta, it has been found that a private company delivers water, and many families are no longer able to pay their water bills due to the excessive distribution.

- It has been determined by this study that PPPs may have negative effects on the environment. As an example, after a thermal power plant built in Mundra / Gujarat, India, it was determined that there were degradation in water and fish quality.
- Criticisms were made to the PPPs in terms of democracy, and it was determined that the local people were not consulted and sometimes even information was not provided.
- He criticized the PPPs for the complexity of the negotiations of the projects and the risk of not concluding afterwards. Castor Project example is given. This project stopped after the start of the biggest marine gas storage area project in Spain because it caused approximately 1000 earthquakes, but until that stage an expenditure of 3.28 billion Euros was made. At that time, it was expected that these expenditures would be reflected as an increase in gas bills.

PPPs IN FRANCE

GENERAL CONSIDERATIONS

- Even if PPP is known, Partenariats Public Prive was never used as a word in the law until 2015. Instead, formulas such as privately financed long-term contracts or deferred public payments were used.
- Minimum cost of projects: According to the regulation numbered 2018-1075 dated December 3, 2018, it is possible for projects whose PPP value exceeds 20 million. However, other special laws and regulations make PPPs possible for projects between 2 and 10 million according to the nature of the project.
- Before deciding to carry out a PPP project, the private sector should evaluate how this project can be implemented otherwise. The person who will make the project (private sector) should make a proof study that it will be more profitable to make the project as a PPP rather than a contract of another style. This would be more financially profitable, and it would benefit from the difficulties encountered in similar projects where the public legal entity conducts this project alone.

REPEALED REGULATION NO. 17 JUNE 2004, 2004-559

- ▶ This regulation is now repealed.
- ▶ According to this regulation, both of the following conditions must be met at the same time.
 - ▶ 1. Deficiency condition: The public person must have at least one of the 3 deficiencies to be counted:
 - ▶ 1.Lack of capacity to identify technical needs alone and in advance
 - ▶ 2. Lack of capacity to solve the financial or legal aspects of the project alone
 - ▶ 3. Failure alone due to the urgency of the Project
 - ▶ 2nd condition: Another condition is that the private public partnership should be more beneficial due to economic, financial, legal and administrative reasons of the project. It should be evaluated whether it would be beneficial to consider this project as PPP by considering factors such as price and risk sharing comparatively.

PUBLIC PROCUREMENT LAW OF 1 APRIL 2019

- ▶ Article L 1112-1 of this law explained PPP as follows: A partnership agreement is a public agreement whose purpose is to entrust a global mission to an economic operator or a group of economic operators; its purpose is to build, transform, renovate, disassemble or destroy. Works, equipment or intangible goods necessary for the public service or for the performance of the mission of general interest and for all or part of their financing.
- ▶ The owner of the partnership agreement is responsible for the project management of the operation to be carried out.
- ▶ This global mission can also include:
 - ▶ 1 ° Design of all or part of works, equipment or intangible property,
 - ▶ 2 ° the development, maintenance, management or operation of works, equipment or intangible property or a combination of these elements;
 - ▶ 3 ° Providing services that contribute to the management of a civil service mission or to the public agency's implementation of the public service mission for which it is responsible.

- In French Law the authority to sign PPP Project does not lie with all public enterprises. Article L 2211-1 of the public procurement law provides information about institutions subject to this restriction.
- According to the article L 2211-6 of the same law, there are provisions regarding the justification of PPPs as in the abolished regulation. According to this article, it is not proved that it is much more advantageous to carry out this project in the form of PPPs, taking into account the characteristics of the envisaged project, the public service requirements or the characteristics of the project, public service requirements, and the general interest mission. Financial advantages are important in bringing this proof. The chance of payment by default does not justify the application to PPPs.

PRINCIPLES WHICH SHOULD BE RESPECTED

- ▶ Open access
- ▶ Equal treatment of candidates
- ▶ The objectivity of procedures
- ▶ Prior publicity to permit

WHY ARE PPPS NOT COMMON ENOUGH IN FRANCE?

- Several important PPPs have recently been signed in France, such as the Paris courthouse. However, it is possible to say that PPPs are not common enough in France in general.
- First of all, the biggest obstacle is the need to obtain permission and approval reports from different experts and institutions to apply to PPPs. These procedures can reduce the attractiveness of PPPs.
- The French Court of Accounts (Cour des Comptes) criticized these partnerships in its 2015 report. These criticisms were about their prices being exorbitant and uncertain. In addition, the institution criticized the local government units sometimes not showing the borrowing brought by these contracts correctly in the debt reservoir of their regions' accounts.

- The French Court of Accounts also criticized that applying to PPPs brought along projects that are far above the budgets of regional public units.
- In a Senate report dated July 16, 2014, two senators said these PPPs are time bombs in terms of budget for future generations.
- The French Court of Accounts also gave a few examples for the failure of PPPs. For example, in June 2014, an ecotax for heavy vehicles was envisaged and later postponed by the state at the last minute or for the Vincennes zoo regeneration project, the dangerousness and uncertainty of the project financially underlined.

- ▶ When a decision for the application of the PPP model is taken, it is seen that the respective courts make decisions against the PPPs.
 - ▶ As an example a file at the court of appeal at the end of 2019 can be given. A decision for the destruction of 31 schools in Marseille and 34 schools to be built with the PPP model was taken on 16.10.2017. Marseille administrative court decided to annul this decision but it was taken to the court of appeal.
 - ▶ In addition, Conseil d'Etat also filed a lawsuit in 2016 regarding the compliance of an arbitration decision taken after a PPP established between a French public person and a foreign legal entity.

PPPs AFTER COVID - 19

INSIGHTS FROM THE INDUSTRY

- ▶ Last year, in Turkey, in the fields of energy and infrastructure investment were considered to be generally successful. State guaranteed PPPs were especially intensive.
- ▶ Since 2019, with Covid 19, much less activity has been observed in the project market.
- ▶ The scarcity of projects does not mean that PPPs are off the market for good, The confidence of both the private sector and the public in the economy continues:: For example,
 - ▶ Two highway projects were put out to tender: Aydın - Denizli and Nakkaş - Başakşehir.
 - ▶ High speed train project.

- 
- Both Turkish and foreign companies continue to show interest in these projects.
 - One suggestion for the project development phase is that more time should be spent developing the potential risks of the project. Possible risks should be evaluated from a broad perspective.
 - Just as there is a need for more communication between public and private actors, their rights must also be transparently handed over to the private sector.
 - Insurance contracts will play a bigger role from now on.

PROFITABILITY OF INFRASTRUCTURE INVESTMENTS IN TURKEY

- ▶ There has been a great improvement in the size and quality of the projects in the last 10 years.
- ▶ There is a shift towards EPC + F projects instead of PPPs, although the interest towards PPPs continue.
- ▶ EPC + F projects mean that the contractor company undertakes all engineering, production, delivery and assembly processes in the energy sector.
- ▶ However, it cannot be said that PPPs will be lost due to EPC + F projects. This is because the two conventions are different. The PPP culture and custom exist which makes PPPs popular. In addition, it should not be forgotten that PPPs are made in a tender procedure and that the tender procedure works are appropriate in terms of administrative law.

- ▶ International actors expect a strong return in the PPP sector due to state guarantees and the state's compliance with these guarantees.
- ▶ Turkey also is expecting to deal with foreign firms active in the project business. For instance, in China, there are many business firms and they are looking for a new market.
- ▶ First generation PPPs were made by Turkish construction companies, but these companies do not have much experience in operation.
- ▶ One of the reasons for the slowdown in PPP projects is not that the profitability of these projects will decrease due to the quarantine, contrary to what is thought, the financial shortage. The absence of face-to-face interviews spreads the talks over longer periods.

PPP OPPORTUNITIES IN TURKEY

- ▶ Turkey has 30 years of experience in PPPs.
- ▶ According to information received in the Webinar nearly 252 contracts in Turkey are signed , it's investment value is 78 billion US dollars and the contract value is USD 158 billion.
- ▶ PPP projects in Turkey, which has been successful because the projects usually end on the set time and are operated without any problems.
- ▶ Areas that can provide opportunities for development: soft and digital infrastructures, education.

NEED FOR OTHER FINANCING TOOLS

- ▶ Turkey have been heavily involved in the hospital PPP projects and ERBD financed 8 of them and they also were in the improvement of the project agreements used in the hospital PPP models. This showed that institutional capacity and prioritization of authorization is key for success.
- ▶ 12-13 of 20 hospital projects could be financed through international means such as IFI's and international commercial banks.
- ▶ In fact, there are many financiers waiting for the right opportunity to finance well thought projects.

CURRENT BARRIERS TO PROJECTS

- The biggest problem experienced during the pandemic period is related to the due date of projects. Because of crowded work environments workers' health is endangered.
- Another problem created by this pandemic is that paperwork has slowed down due to illness or absenteeism.
- COVID-19 has caused some problems in the workforce, expert allocation, supervisor planning.
- Not being able to meet face to face is also a big problem.

FUTURE OF HEALTHCARE AND INFRASTRUCTURE INVESTING

- EBRD is especially financing hospital projects because they have seen the PPP model being profitable.
- Turkey is in the need for hospital beds and other healthcare products in order to take care of the current situation. EBRD has provided 130 million Euros to the ministry of health to purchase Covid equipment. AIB provided 70 million together with EBRD and the World Bank has provided 100 million Dollars. As it can be seen investments are continuing.
- ICBC have participated in 5 hospital PPP's.
- Currently the government shifted from PPP method to public procurement for new hospitals in order to help the pandemic.
- It has recently been observed that minister of health might not have the intention to continue in hospital PPP's for a while in the future

OPINION PLATFORM OPENED BY THE WORLD BANK ON PPPs AFTER COVID

- The aim was to obtain opinions from the actors of the sector.
- According to the world bank, new budgets will be more limited due to the income reductions in the budgets of states after the coronavirus pandemic, so it is extremely important to work with the private sector.
- The aim is to assist countries in obtaining financing from the private sector and to support them in signing long-term projects.

EXPECTED EFFECTS BY THE WORLD BANK ACTORS

- In the first stage, there is positive damage experienced due to the delay of the projects. The positive damage is the damage incurred by the creditor due to the debtor's failure to fulfill his contractual debt at all or properly.
- Expected effects in the medium term: decrease in revenues from existing projects, difficulties in accessing finance, and extension of existing work plans over a longer term.

ITS EFFECT TO CURRENT PROJECTS

- The loss will be less than expected thanks to short-term losses, existing capital reserves and fixed payments.
- Fixed payments are available for projects involving long-term service and production sales.
- Projects that are not essential and can be delayed will be slowed down.
- In cases stipulated in the contract, for the projects whose delivery is on schedule, it will be possible to rearrange the schedule through negotiations and thus, penalty clauses etc. will not be paid due to delay.
- If the articles of the contract allow this, it can be mitigated by decisions such as financing changes, capital injection, renegotiation of the main project parameters, loosening the regulations on performance indicators for the unexpected situation experienced.

- It is necessary for countries to determine the risky sectors within their own structure and to eliminate the problems experienced in that sector and to make improvements in their contracts to ensure the continuity of the public service.
- In the short and medium term, the state must provide financing to companies.
- The flexibility required for the articles that make the private party difficult in the contracts should be provided.

- To assist states, The Public - Private Infrastructure Advisory Facility has launched a program for states to identify the particular difficulties experienced in their countries.
- Within the scope of this program, the needs of the country will be determined in the following ways:
 - General review of contracts,
 - Studies on the necessary infrastructure for funding and assistance
 - Determining ineffective projects
 - Performing resistance tests on PPP structures



IMF'S RECOMMENDATIONS

Easy judgement board	Postdate	Cancelling
Project approved, not started	Yes	Yes
Project started, less than 10% of expenses incurred	Yes	No
Ongoing project, benefit-cost ratio of completion > 1.5	No	No
Ongoing project, benefit-cost ratio of completion < 1.5	Yes	No
Ongoing project, benefit-cost ratio of completion < 1	Yes	Yes
The project will create a lot of work	No	No
High synergy with different projects	Yes	No
High cost of canceling the project (beyond the benefit-cost ratio)	Yes	No

PPP PROJECTS IN AFRICA

- State financing of infrastructures, hospitals and airports through borrowing is more common in Africa.
- In this context, state budgets in Africa decreased significantly after Covid and became the country that borrowed too much in the covid process.
- It brings PPPs to the agenda as a way to be evaluated for infrastructure financing as the state will have difficulty in undertaking infrastructure financing.
- In other words, while PPPs are expected to decline in countries that use PPPs a lot, new markets that do not use PPPs as much can be expected to be interested in PPPs, especially in African countries (New Guinea, Nigeria, Morocco, Ethiopia, Egypt, Ghana, etc.).

CONCLUSION

- PPP projects are originated from the need for additional finance under the ongoing economic program. Through this method, implementation of the projects is conducted much faster, operation and construction costs would reduce and enhanced public management system is provided. Additionally, private sector's managerial skill is transferring to public services.
- PPP method is also criticized since the capacity of the state in delivering services decreases, public funding are wasted and all these result in a sort of reduction of confidence of the society against the government. PPP method is sometimes is interpreted by the society as an alternative and allure way of privatization. However, it is also argued that these prejudices are resulting from uncertainty about the outcomes of PPP projects. Currently there is not any completed PPP project which would decrease people's concern.

- The fundamental problem of the PPP applications in Turkey is that it lacks central administrative structure for the PPP projects.
- Previously PPP projects in the health sector were governed by the Supplemental Article 7 of the Health Services Law No. 3359 and the Regulation on the Construction of Health Facilities in Return for Lease and the Renovation of Health Facilities in return for Management of Non-Medical Services and Areas. Since this Law were not detailed enough, the Law on “Building and Renewal of Facilities and Procurement of Services through Public Private Partnership Mode” No. 6428 has been enacted and came into force. However, it only covers the PPP projects for healthcare facilities.
- It can be suggested that, enacting a new comprehensive PPP law in order to extend the scope in terms of the applicable PPP models and sectors and establishing a central public body responsible for coordinating the PPP process, policy setting and improving the institutional capacity of the implementing organizations would resolve people’s concerns about PPP and assist to carry out the PPP projects more secure.