

Public-private Partnership and Economic Development Implication

Carmen Nastase

Mariana Lupan

Mihai Popescu

"Stefan cel Mare" University of Suceava, Romania

carmen.nastase@usm.ro

mariana.lupan@usm.ro

mihai.popescu@usm.ro

Abstract

Starting from the idea that the public-private partnership will become in the near future one of the main ways to finance major infrastructure works in Romania, nationally - regionally - locally, this article aims to verify this hypothesis by analyzing the importance of the concept of public-private partnership at the international and national level. The analysis performed in this article takes into consideration the degree to which it integrates the needs of the community and the interest of the private entities for partnership with public administration. In implementing their economic development plans, the governments of the countries face many challenges starting from the construction of the architecture of those infrastructure investments, continuing with their operationalization and last but not least regarding the securing of financing for the completion and for the project operation.

Key words: public-private partnership, economic development implication, globalization

J.E.L. classification: O18, O 44

1. Introduction

The concept of public and private partnership (PPP) is a relatively new one worldwide, being implemented in the legislation of several developed countries in the late 80s and early 90s of the twentieth century. The main idea on which the concept of public-private partnership is based is that of contractual collaboration between at least two entities (one public and one private) in order to implement and operate infrastructure or service projects addressed to the population. The oldest form of public-private partnership belongs to the United States of America, which since the second half of the 19th century has implemented principles that are still the basis of PPP, especially in the realization of large railway infrastructure projects, which led to the development of transport, goods and people from the east to the west, making a decisive contribution to the development of the American nation. To implement the public and private partnership can be considered innovative solutions to strengthen social and economic competitiveness.

2. Theoretical background

Related to European Commission, "public private partnerships (PPP) are agreements between government and the private sector for the purpose of providing public infrastructure, community facilities and related services" (Green paper, 2004). There is considered that "PPP concept has been predominantly associated with contracts that leverage the private sector's capital and innovation capacity to finance and maintain long-term infrastructure projects, in response to a concern over efficiency" (ETF, 2020). The syntagm is currently in use with a variety of meanings, whereas a concrete and universal definition is difficult to underline. Literature provides us with a multitude of definitions for what we call public private partnership.

PPP is an long-term contract signed between a public authority and a private entity, under which the private entity provides and finances public services using a fixed asset, with the associated risk-sharing (OCDE,2012).

PPPs should not be confused with privatization because in the case of PPPs there is no transfer of ownership and the public sector remains responsible for providing that public service, while in the case of privatization the responsibility shifts to the private partner.

Although within PPP private partners are designated following a public procurement procedure, PPP projects should not be confused with a public procurement itself, primarily due to the contractual duration which is a long period of time, usually over 30 years and also due to the fact that the operations underlying a PPP project are complex involving design, logistics, construction, maintenance and everything related to the monitoring and operationalization of the investment.

With the globalization of the world economy, amid rising living conditions, the world's population has doubled in the last 50 years (World Bank Open Data, 2020) which has made most countries, whether developed or developing, know a real the infrastructure crisis, regardless of the field of activity, due to the fact that this infrastructure must keep up with the needs of this demographic explosion. For this reason, PPP projects have emerged as a natural solution for those economies to respond effectively to this "infrastructure deficit", whether we are talking here about transport infrastructure (road, rail, airport or port), social infrastructure (schools, hospitals, etc.) or the utilitarian one (water treatment plants, water / sewerage distribution networks, gas, etc.). In general, the design of an infrastructure objective, regardless of the field, before the 1970s did not take into account the demographic explosion that would occur in the next period, because statistical data at that time indicated a slow and steady population growth. For this reason, starting with the 1990s, all this infrastructure began to be completely outdated, it had to be either modernized or replaced with another that meets the needs.

This has happened in almost all social fields, even at the level of tourism because this economic activity has undergone spectacular transformations in the last 30 years. According to statistics provided by the World Tourism Organization (UNWTO, 2019), the total number of tourists globally reached 1,460 million, compared to 438 million in 1990. The increase is significant, 333% in the last 30 years and it is manifested by a pressure felt on the whole chain of tourist services, starting from the road, railway, airport infrastructure and ending with the infrastructure of tourist accommodation and tourist leisure spaces.

These are also the areas that have close connectivity with other aspects of social life globally and for this reason the PPP projects in the field of tourism aimed at modernizing these outdated infrastructures or developing new ones.

The decision of the governments to focus on domestic economic resources and encourage PPP projects was taken due to the fact that they were aware of the situation where only from taxes and fees the development of infrastructure projects is not possible at the level of applications, and the variant of external loans is an expensive one affecting the economic deficit.

Through PPP projects, the public side accesses private capital, managing to carry out at the same time a whole series of necessary investment projects, which in other conditions could not be implemented. Also, the public part benefits from the know-how of the private party, often the solutions found within a PPP project having an important innovative character, the implemented solutions leading to a sustainable development of the local communities involved.

PPP projects differ from other types of financing by two important characteristics, which belong to the private party within the PPP project: investment delivery in time; framing in the allocated budget.

Both characteristics are important because these two indicators can be easily exceeded, the respective risk being taken over by the private party which has all the determination to complete the investment on time and within the budget in order to move to its operationalization in optimal conditions.

When deciding to launch a PPP project, the analysis prior to this decision must take into account three indicators:

- the way in which the public party obtains as a result of the PPP project lower costs of providing the respective services to the population;

- the way in which the public part obtains as a result of the PPP project higher levels of the services provided to the population
- the way in which the public party manages to diminish the risks assumed in the implementation of the PPP project, the respective risks being taken over by the private party.

3. Research methodology

In this paper we used the qualitative method of analysis and interpretation of the international experience related to the implementation of public-private partnerships and subsequently with applicability in Romania. The methodology suited the purpose of exploring the characteristics of PPPs as a collaborative endeavor, the role of various actors, the underpinning governance arrangements and the conditions that support PPPs' development and progress.

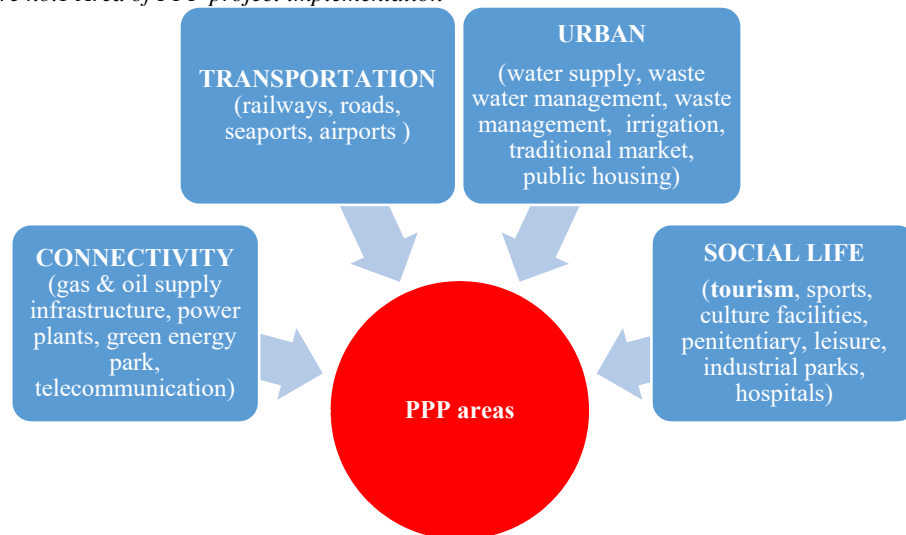
3.1. Public Private Partnership on the international level analyses

The governments around the world are constantly concerned with achieving a level of development of their economies that will enable them to achieve a level of global competitiveness. In this context, given the limited expertise in government know-how and the fact that there are constraints on the level of budget deficit of countries when accessing external financing through loans from various international financial institutions, governments have turned their attention on the resources of the internal environment, in this case on local private sector.

In some countries, the private sector has become an important force in the economy, with know-how acquired and certified over time in its activities and significant financial capital. This private sector is characterized by a specific dynamic and a permanent search for new investment opportunities.

Although from the concept point of view, the public-private partnership is not a new one (incipient forms can be identified in the second half of the 19th century in the USA, where the development of the railways connecting East coast to West coast was achieved through a tool that can be considered as a public-private partnership), the application of PPP has encounter impressive growth since the early 1990s. The pioneering countries in the implementation of PPP projects are Japan, Great Britain and USA. They were immediately followed by Australia, New Zealand, South Africa, Germany, the Netherlands and Canada. Currently, PPP projects are implemented by a large number of countries, because they come to solve a common problem of nowadays economies: infrastructure development by facilitating the access of the private capital in various economic areas and social life, especially in infrastructure and services.

Figure no.1 Area of PPP project implementation



Source: adapted after (OCDE, 2012)

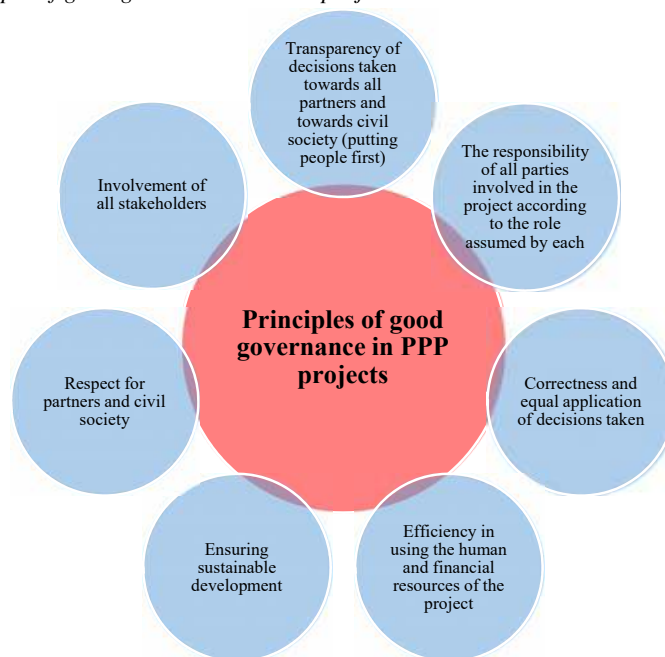
Through public-private partnerships (PPP), governments take advantage of the opportunity to implement new economic infrastructure projects by co-opting private partners. This trend has seen a pronounced accent, increasing on global level during the last 30 years.

According to recent analyzes (Thomas S. Konrad, 2018) there are a number of countries that in the last decade have taken important steps in implementing PPP projects and that come mainly from BRIC countries (Brazil, Russia, India, China). It is no coincidence that these countries are at the top of the list of countries where the needs for private investment are highest in the world. Those countries have climbed one step, being in 2018 in the second phase both in terms of complexity of PPP projects approached, but especially in terms of number of projects implemented or being implemented.

Both the governmental / public side and the private side have well-defined, complementary roles within the public-private partnership. One of the most important roles of the government party in the PPP project is to initiate the project, and this approach is vital for the project that is born.

At the international level (UNECE, 2008) there is a concept of good government practices regarding PPP projects, a concept shared by most states. That concept defines a series of principles and objectives of governance within a PPP project.

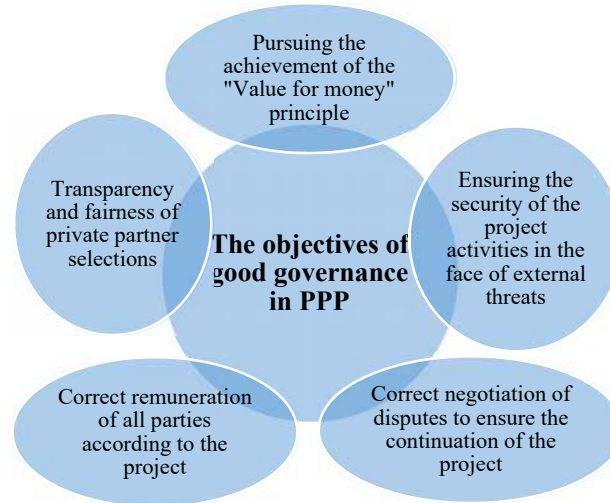
Figure no. 2 Principle of good governance in PPP projects



Source: adapted after (OCDE, 2012)

The 7 principles of good governance in PPP projects can be summarized as follows: in order to have a successful PPP project, you need partners who respect each other, being respectful, correct and transparent about the decisions taken, so that by involving of all stockholders to use efficiently all the resources (financial, human) will be obtained sustainable results in time. In our opinion the stakeholder analysis is very important, as a process of systematically gathering and analyzing qualitative information to determine whose interests should be taken into account when developing and/or implementing a policy or program. Next figure will show the objective of good governance in PPP projects:

Figure no. 3 Objectives of good governance in PPP

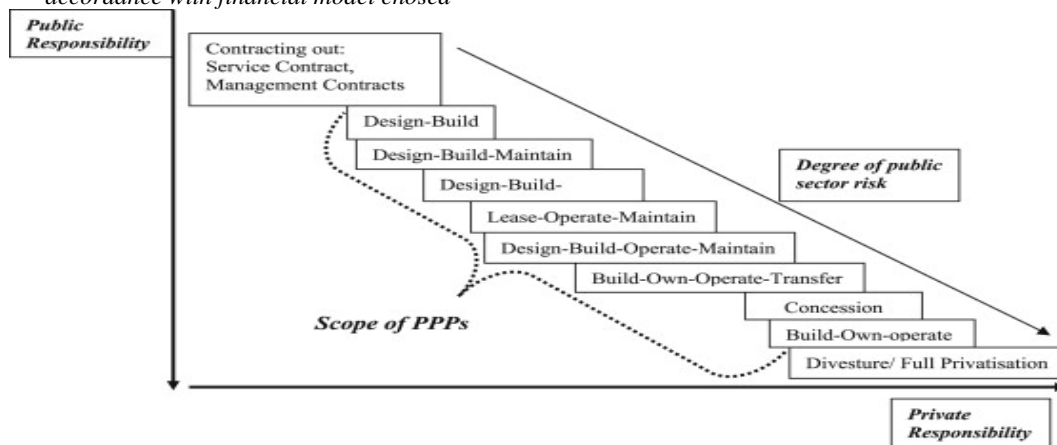


Source: adapted after (UNECE, 2008)

A very important aspect within the PPP projects is the assumption of the risks of the activities within the project. In general, within PPP projects, the assumption of risks is mostly the responsibility of the private party.

The next chart will define the relation of the level of risk transfer between public and private partners in accordance with the model of the PPPs contract.

Figure no. 4 Responsibility and risk transfer between public and private partners inside the PPP, in accordance with financial model chosed



Source: Roehrich, J.K.; Lewis, M.A. and George, G. (2014)

As already stated in the practice of PPP project implementations, the transfer of responsibilities and risks between public and private partners within the project defines the type of association that can be:

- Build-Finance (BF)
- Build-Operate-Transfer (BOT)
- Build-own-operate-transfer (BOOT)
- Build-own-operate (BOO)
- Build-lease-transfer (BLT)
- Design-Build-Finance-Maintain (DBFM)
- Design-build-finance-maintain-operate (DBFMO)
- Design-build-operate-transfer (DBOT)
- Design-construct-manage-finance (DCMF)

3.2. PPP's legislation in Romania. Comparative aspects inside national framework legislation. Economic development implication.

The concept of public-private partnership, in its modern sense, has been implemented worldwide for more than 30 years. The Green Paper ("Green Paper on Public-Private Partnerships and Community Law on Public Contracts and Concessions", 2004) is about public-private and Community-wide partnership on public contracts and concessions. This document is the basis for the implementation of the public-private partnership at the level of the European Union, presenting regulations that can take into account the small topics about the national legislation in which that harmonized information existed.

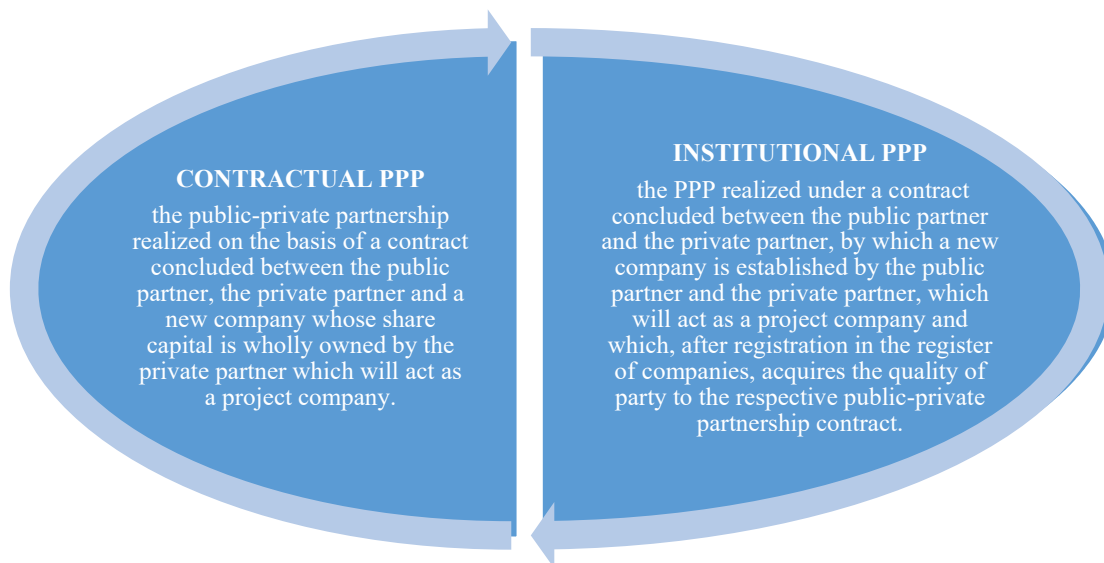
Since 2006 and until now in Romania there have been various intentions of PPP projects regarding the construction of airports, subway lines, hospitals, public parking lots, but also more daring project ideas such as the construction of tourist resorts in Padina and Ciucaș or a Formula 1 circuit in Brasov. Most of these project proposals remained in the early stages for various reasons. Among them we can mention the limitations imposed by the legislation imposed by the Law on public-private partnership no. 178/2010 in the matter of PPP in Romania. This law was intended to provide the general framework to allow the implementation of PPP projects in Romania, trying to harmonize the PPP principles of European legislation with the Romanian economic and political realities.

One of the disadvantages of the law was that private partners did not have access to bank financing to allow a large-scale project and the complexity of PPP projects. Thus, the list of potential private partners who were interested in entering into a public-private partnership was very narrow, the few projects implemented in the end having as private partners strong companies that could provide the cash flow needed to implement the project.

Moreover, some provisions contained in Law 178/2010 overlapped with the previous regulations in the legislation on public procurement and concessions. All these factors led to a modest result regarding the number of projects implemented in the period 2010-2017 when the respective law was abrogated by the provisions of Law 100/2016 on works and services concessions. Following this fact, Law no. 233/2016 on public-private partnership appeared, which was also repealed, leaving the place of a new legislation approved by Government Emergency Ordinance (GEO) no. 39/2018. This is now the normative act that regulates the implementation of projects in public-private partnership in Romania.

The new regulations (GEO 39/2018) refer to two companies that can wear PPPs:

Figure no. 5 Types of PPP under Romanian legislation



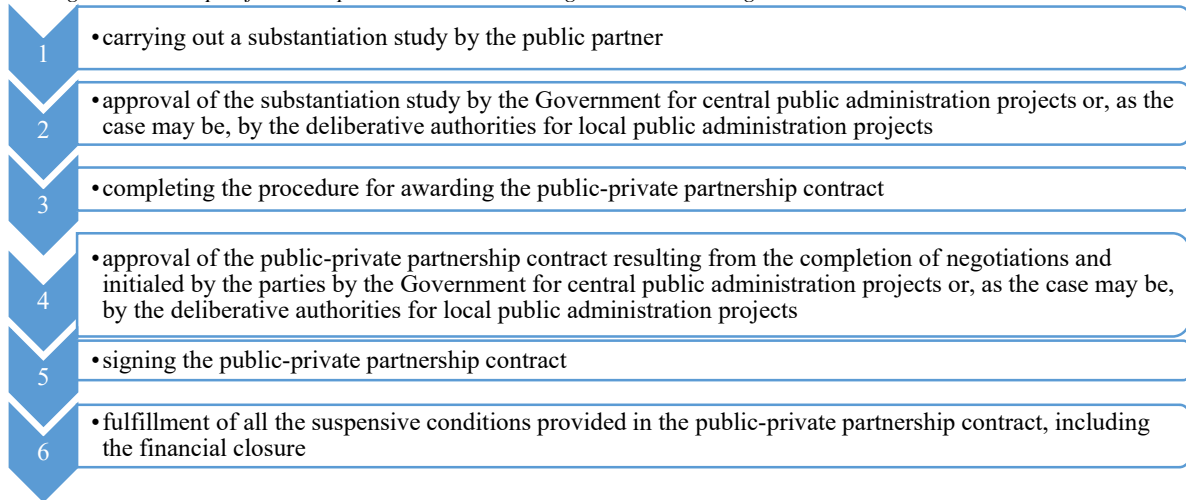
Source: GEO 39/2018

4. Findings - implementing PPP projects in Romania

According to the new law, the awarding of public-private partnership contracts is done through transparent and competitive procedures through public tenders. According to the Law no. 98/2016 which regulates the manner of public procurement, the procedures for awarding public procurement contracts and organizing competitions for solutions, in Article 6 paragraph (2) letter (b) under the incidence of these regulations also enter construction works for hospitals, facilities for sports, recreational and leisure activities, buildings of pre-university and university educational institutions and buildings for administrative use.

Carrying out a project in public-private partnership according to the current legislative regulations includes the following steps:

Figure no. 6 Steps of PPP implementation according to Romanian Legislation



Source: European Commission, 2003

The Romanian Government strategy for the period between 2016-2019, included a series of strategic projects at national level, established by the NCSF (National Commission for Strategy and Forecast). These strategic PPP investment projects, which had been scheduled to be launched after 2019, were established by Government Decision no. 357/2018, were:

- in the field of road infrastructure: Ploiești - Brașov Highway; Bucharest - Craiova - Calafat – Drobeta - Turnu Severin - Lugoj highway and Târgu - Neamț - Iași highway;
- in the field of health "Carol Davila" Medical Complex.

By Government Decision no. 643/2018 the list of the above mentioned projects was completed by a new list of strategic investment projects as follows:

- Bucharest-Craiova / Sofia and Timisoara / Belgrade-Cluj / Budapest high-speed railway;
- Extension of the metro network by building the M7 highway;
- Construction of Bucharest South Airport;
- Moles no. 3 and 4 from the Port of Constanța Sud;
- Completion of the Siret-Bărăgan highway;
- Arrangement of the Argeș river for navigation;
- Turnu Măgurele-Nicopole hydro technical complex on the Danube river;
- Hydroelectric power plant with Tarnița-Lăpușești lake;
- Construction of a factory of electric means of transport;
- Construction of a system of luxury resorts on the Black Sea - New Costinesti;
- A new tourist complex for skiing in the Făgăraș massif;
- Construction and operation of a national bank of blood, human plasma and stem cells;
- Timișoara Regional Hospital, Brăila-Galați Regional Hospital, Târgu-Mureș Regional Hospital.

It can be easily seen that the Romanian Government PPP strategy between 2016 and 2019, was to start implementing PPP projects in Romania based on the new legislation which was harmonized with the European legislation, through large infrastructure projects, despite the fact that administrative capacity and experience of our country in PPP projects was underdeveloped. Through this strategy of the PPP megaprojects, the infrastructure projects on local and regional level with a lower complexity and which could attract a multitude of private partners were completely neglected and left aside.

At the end of 2019, all this new architecture of the public-private partnership did not produce any effects, the Government of that time recognizing the fact that no contract was concluded due to the lack of application norms. Meanwhile, in December 2019, the Government that initiated the legislative package to regulate the PPP, lost the confidence of Parliament and was changed. In the current conditions of the Romanian political landscape, a recalibration of the public-private partnership cannot be done faster by the new elections in September 2020.

In all this time elapsed since the early 2000s and until now, it can be concluded that the PPP in Romania has had very few achievements at the national level, although it has been used intensively and with notable results in other countries, that have had the same start as Romania, as the main vector for the development of major infrastructure projects in those countries.

The causes of this state of affairs are multiple, their analysis invariably showing that our country has not prepared in detail the appropriate legislative framework (which in some places has been ambiguous and deficient) and at the same time has not taken concrete steps to develop on central and regional/local administrative capacity to ensure the success of the launching and implementation of such PPP projects.

The political changes at the national level that take place once every 4 years or earlier, have even led to a lack of a continued strategy at the national level to boost the PPP, each political entity coming to power having its own vision on the implementation of the PPP. All of this happens to overlap with the insufficient level of Governmental and European funding which are insufficient to cover the current needs of investment in our country.

5. Conclusions

The PPP, in its modern form, first appeared in Europe in the early 1990s in Great Britain, where in 1992 the legislative package on the adoption of measures to reduce the public deficit on government loans was adopted, practically putting the legislative bases for the implementation of the public-private partnership. Over the last 20 years, following the example of the United Kingdom, a number of countries globally have adopted legislation to introduce public-private partnerships as a strategic element to enable the implementation of major projects with social impact at their national level. It is interesting to note that Japan has a tradition of public-private partnership since the early 1980s in the operation of public transport lines in rural areas.

In Romania, since the mid-2000s, the public-private partnership has been defined as an alternative to the classic solutions regarding the allocations from government funds. In this sense, the concept of PPP in Romania has taken shape as a national response expressed to the interest expressed at European level on this alternative, through a series of normative acts transposing at national level the recommendations made in 2004 by the Commission's Green Paper European ("Green Paper on public-private partnerships and Community law on public contracts and concessions"). During the over 15 years of preoccupations in order to implement the principles of public-private partnership in Romania, there were several normative acts, among the most important being able to be mentioned:

- the Law of public-private partnership no. 178/2010 (repealed in 2016)
- the GEO (Government Emergency Ordinance) no. 39/2018 which currently regulates the institution of public-private partnership in Romania.

Starting with 2006 and until now, a whole series of projects for the development of various infrastructures such as the construction of airports, metro lines, hospitals, new tourist resorts (in Padina and Ciucaş) have been initiated, with the intention of being carried out in public-private partnership. Although the Law on public-private partnership no. 178/2010 created positive premises for the implementation of the public-private partnership in Romania, most of these projects remained either only at the stage of proposals/project ideas, or in early stages, the amendment of legislation in

2016 and the low level of interest of the private entities involved in these PPP projects making the results modest overall.

The change of legislation in 2018 also failed to bring a new impetus to large investments in the field, especially since it aimed to create a special legislative framework for implementing PPP mechanisms for major road infrastructure projects in Romania. Despite all these shortcomings regarding the architecture and implementation of PPP projects at national level, this type of public-private partnership is the only way in which large infrastructure projects can be successfully implemented, as the involvement of the private entities in such a project is a guarantee of the fact that the project is valuable; the economic principles with which the private entity decides to get involved in such a project as long as it bases its decision on criteria such as "value for money" or "return of investment".

The actual economic context are key factors in building and involving public and private stakeholders in the shaping of joint solutions to meet the need for a better skilled workforce to increase productivity and competitiveness and pave the way for economic growth.

Public-private partnership projects will continue to be the only opportunity for various infrastructure or service development projects at local/regional level, as long as governmental and international funds have limitations in the amount and level of funding areas that will be analyzed according to priority.

The conclusion of this analyses will bring the fact that Governmental or European funds cannot provide the necessary funds for all of this infrastructure needs in tourism on the local and regional level.

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