

## THE DEVELOPMENT OF THE MECHANISM OF PUBLIC-PRIVATE PARTNERSHIP IN RUSSIAN FEDERATION

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**Key words:** public-private partnership, the mechanism of public-private partnership, economic mechanism, infrastructure, public sector of economy, private sector of economy, economic institute, institutional circumstances, regulate (control) executive, ministry, agency, system of recurrent auction, concession, semi-privatization form of economic, control regulating function, private investor.

The article is devoted to the analysis of the questions of the formation and the development of effective public-private partnership mechanism. The conditions which are necessary for the attraction of private capital and the supposed spheres of partnership are described. Much attention is paid to the structural elements of the mechanism of the public-private partnership and the organisational basis of its functioning. Having taken into consideration Russian realities the author offers a model of the formation of an organizational basis of the partnership mechanism which presupposes the creation of special agencies responsible for the public-private partnership in the system of government.

The modern tendencies of the world development put out the tasks which are very difficult to solve within the limits of traditional approaches. Scarce resources, toughening of competitive struggle and the switch to the strategy of innovative development demand the intensification of the whole economic potential, which requires first of all the increase in the effectiveness of the functioning of companies related to the sphere of the infrastructure and the public sector of economy. The world experience shows that public-private partnership (the PPP) is one of the most perspective ways to deal with such tasks.

In their essence, the relationship of the business and the government can be viewed as partnership when they contribute to the mutual growth of the effectiveness of sectors of economy which is of fundamental importance for the development in the modern world.

In Russian literature the PPP is seen mainly as an instrument of the territorial development or the means of the realisation of certain economic projects and at the same time it is stated that the partnership is only temporary within each definite project.

Such an interpretation of partnership as a notion, reflecting the economic interests of the government and private investors, is extremely narrow because it doesn't take into account different external effects which are not only of the economic character.

It is reasonable to apply the mechanisms which function on the basis of public-private partnership in the cases when, on the one hand,

it is impossible to make a company private property due to some reasons and, on the other hand, the government can't entirely finance the activity of such companies (or the private finance turns out to be more profitable).

The main sphere of the existence and development of the PPP is projects with a high level of external effects (externals) accompanying them. In their economic essence the PPP are a semi-privatization form of management: considering the conceptual basis of the PPP in the countries of the European Union a well-known specialist Varnavsky V.G. states that in this case: "the government remains the proprietor of the infrastructure establishments preserving them at their disposal."

Proceeding from the economic essence of the PPP to the consideration of the mechanism itself, it's necessary to point out that the latter is a particular case of an economic mechanism though it has a number of specific peculiarities determined by the problems of partnership as a special form of the relationship of the government and businesses. Accordingly, the elements of the mechanism of the PPP which influence its form and the effectiveness of its functioning are:

A. Institutional circumstances consist of a system of formal institutions presented by legal institutions and public authority, as well as a number of informal institutions. Adequate institutional circumstances are one of the key elements of the formation of effective economic mechanisms. The legal basis of the effective functioning of the mechanism of the PPP lies in

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a clear-cut definition and differentiation between the private, federal and municipal property and the formation of an effective legislation in the sphere of the management of the state property and the public-private partnership. It is essential to state, that there is practically no adequate reflection of the term “public – private partnership” in the Russian law nowadays. There is no legal basis reflecting the specific character of the formation and functioning of the PPP mechanism in separate economic branches either.

B. A number of levers and stimuli with the help of which the concordance of economic interests in the process of the realisation of the PPP projects must be provided.

C. The government policy intended to support joint projects. At the same time a concrete form of the participation of the government in the support of a project must be adequate for its complexity, social, economic, political, military-strategic and ecological importance, certain conditions in the area of its realisation, the macroeconomic situation in the country and the world tendencies.

Passing on from the form of the mechanism of the PPP to the organisational basis of its functioning, it's necessary to state that the design of concrete mechanisms of the PPP is formed due to the aims of the partnership and the characteristics of the milieu. Since nowadays it seems to be reasonable to consider the PPP in the sphere of the infrastructure as an alternative of the government regulation of the economy (the GRE) the aims pursued must be analogous to the main aims of the GRE:

1. The provision of the effectiveness of the distribution of limited resources.
2. The provision of the stable and effective functioning of the managing subject.
3. The provision of social justice.

According to the author, it is necessary to deal with the problem of the effective mechanism of the PPP as consisting of institutional and organisational aspects. In this article mainly organisational aspects will be considered.

In an effort to carry out an effective government policy in the sphere of public-private partnership the world practice provides the execution of a number of supervisory and control-regulating functions of special institutions. There exist the following approaches:

1. The creation of a unified agency dealing with public-private partnership in all the sectors of the economy (or the majority of them).

2. The creation of special institutions for the groups of connected sectors of the economy.

3. The creation of a separate institution for each sector of the economy (branch of national economy).

The first approach was typical of our country in the period of NEP (New Economic Policy) – all the activity of the concessions was controlled by the Chief Concessive Committee. [3-4] In the economic practice of the developed countries the most widely spread approach was the second one, which was flexible and took into account the situation in concrete branches with minimal expenses on the managerial staff and with the synergetic effect of the informative- regulatory “stream” flowing to a unified centre.

Due to the two-level structure “ministry-agency” which has formed in our country it is reasonable to create government agencies for public-private partnership (the APPP). The APPP are to deal with the following tasks:

1. To analyse the activity of economic institutions of different branches and to choose the most prospective objects to realise the PPP-projects.

2. To choose the representatives of private stock (private investors) who satisfy best the demands made (the list of the demands is to be formed according to the specifics of the branch and the situation in the area of the realisation of the project).

3. To organise the achievement of the agreements on the realisation of the PPP-projects in reasonably short periods of time on conditions maximally favourable for society.

4. To control the realisation of joint projects and provide the fulfilment of the agreements achieved (including the control of the tariffs and the quality of the service provided).

The tasks mentioned above determine such main characteristics of the APPP as independence (of the correspondent sectoral ministries and from the companies under control) and the range of the authority which is necessary to deal with these tasks successfully. The range of the authority of the APPP must include the right to regulate the tariffs and to control the quality of the goods produced (services provided), the right

to control amalgamations and absorptions and the right to work out the general rules of the functioning of corresponding sectoral markets.

The greatest difficulty presents the solution to the problem of the ensuring the independence of the regulate executive – it must be independent of the political and administrative pressure from the government including correspondent ministries so as to minimise the risk of lobbying of the institutional interests infringing upon the interests of society. At the same time it's necessary to provide the access to the information and the sufficient level of the competence of such a structure to enable it to work out and to take well-grounded and effective decisions.

In the world practice the following types of the APPP are singled out:

A. Those which are included in the structure of a corresponding ministry

B. Those which have actual independence

C. Those which have a different degree of autonomy from the corresponding ministries

The previous statement actually denies the possibility of the effective functioning of the first variant. Still, the structures of the kind can be found in electric-power industry in Japan, the German Federal Republic and the Czech Republic. [5]

The second variant is used in electric-power industry in the USA, France, Canada, Sweden, Finland, the UK and Austria. [5] The analysis of the effectiveness of the work of the above mentioned branch in the UK and the USA, especially of the "success" in the regulation of the activity of private companies working on the basis of concessions in the spheres of generation and net infrastructure which make up the basis of the American power system, gives rise to doubts about the expediency of the application of this scheme. [6-9] One more ground for doubts is the practice of the financing of regulate executives by means of money deducted from the regulated companies existing in these countries. In our opinion such a scheme of the APPP decreases the level of objectiveness to the regulated subject because there actually exists a certain dependence of the amounts of the finance of an agency on the activity indexes of a private company.

The most effective seems to be the third variant of the functioning of the APPP which

allows to combine a certain level of independence from public institutions with the protection from the pressure of the companies regulated.

Next aspect of the problem is the level of functioning of the APPP. The analysis of the world practice shows that, as a rule, the correspondent institutions for the countries with the unitary arrangement are created on the national level, for the federal countries the two-level system of regulate executives - federal and regional - is typical.

The analysis of the functions of the GRE and the tasks which are carried out by the state regulate executives of investment and concession projects allowed to single out a number of functions which an APPP should carry out as applied to all the kinds of partnership:

1. The control (and regulation) of the tariff policy of an operating firm

2. The control of the fulfilment of the conditions of the agreements achieved by the participants-the representatives of private capital

3. The control of the fulfilment of their production obligations (the quality of the service provided, the observance of the work schedule) by the private side

4. The control of the fulfilment of social demands

5. The control of the observance of ecological standards

The APPP mustn't realize all the mentioned functions on its own. To economize on resources it is necessary to provide a mechanism of the delegation of part of the functions (and, correspondingly part of authority) to special institutions and organizations – for example, it seems to be reasonable to delegate the function of the control of the observance of ecological standards and demands to corresponding state institutions and public pro-environmental organizations. Analogously, it's necessary to involve trade union organizations and public organizations in the control of the observance of social demands of the participants of partnerships - in particular, of the providing of full employment, compensations to the residential population having suffered as a result of economic activity and so on.

Giving the APPP corresponding authority, it is also necessary to work out a number of restrictions on the activity of these agencies:

First, giving a regulate executive the right to impose fines, it is necessary to provide a clear-cut connection between the amount of the fine with the amount of damage caused.

Second, it is imperative to limit the authority of the control executives by means of the conditions of the agreements achieved and by general legislation.

Third, regulate executives must be given the right to abrogate an agreement if the corresponding organs find out about violations of the terms of the agreements achieved on the part of a private investor. Moreover, the private investor must have an opportunity to lodge a complaint in court.

Fourth, regulate executives must have the right to determine the compensation to the private investor in case of default on the part of the government.

Analogously to the GRE, in the system of the PPP the effectiveness of the usage of concrete instruments depends on the information obtained. According to E.B. Atkinson, - "the number of the instruments available to the government depends on the index it can observe" [10, c.488]. As a solution to this problem it is necessary to work out a system of indicators which must be used when the work of private operators is assessed.

The mechanism of the PPP, analogously to other economic mechanisms, must determine the form of the auction of different kinds of assets. Besides, as the researchers of the problems of the functioning of economic mechanisms state, "in the situation when the sale of some objects is considered there is not any natural market for some of them, for example for a large privatized company, for the assets of a bankrupt holding company or for some amount of mobile or radio spectrum the question of the sale becomes paramount" [11, c.11]. Here the problem of asymmetric information becomes top-significant: "the exact information about the quantity of potential purchasers, ready to pay for your goods, is absent" [11, c.11]. A theoretical solution to this problem doesn't exist but the world practice shows that in real conditions the problem can be solved in an empirical way.

The analysis of the world practice of the PPP in the form of concessions shows that the choice of an optimal private partner can be pro-

vided by means of an open auction. The most characteristic feature of this type of auctions as applied to concessions is their periodicity which is mainly due to the necessity to restrict the usage of the privileges connected with the assets got (especially in the cases when the latter relate to the category of natural monopolies) by the concessionaire.

The system of recurrent auctions (the auctions of Chedwik - Demsez) is most effective in case of unspecific character of the assets. Still, the peculiarity of the majority of joint projects is a high level of specialization created in the process of the investment of the assets. Correspondingly two problems arise. In case of the transmission of the assets to the winner of the recurrent auction the previous concessionaire either has no motivation for the investments and modernization of the assets handed over or there should be a scheme of the compensation of expenses suffered by the previous concessionaire. The application of compensatory schemes complicates recurrent auctions greatly and, depending on the amount of the compensation, limits the effectiveness of the PPP. In case when the assets can't be transmitted the concessionaire gets the absolute benefit during the recurrent auction.

The organization of an auction is connected to the main criteria of the selection of concessionaires. In the world practice the minimal level of tariffs, the highest concession payments (the minimal state grants) and the duration of the concession are used as such criteria. At the same time there are significant regional differences: in the countries of the European Union the indexes of the quality of the potential concessionaire's work play an important role alongside with the criteria mentioned above [12].

In the world practice a two-step procedure of competitive selection formed in the sphere of complicated and expensive projects.

According to the recommendations of the World Bank and the habitual practice the first step presupposes a preliminary qualification selection of potential concessionaires (it is widely spread in the UK, the USA, France, Japan and the German Federal Republic).

The second step of the auction presupposes the analysis of financial aspects of the project in the light of the results of the activity and the potentials of potential concessionaires.

The practice of the PPP in the form of concessions shows that the agreements which have already been achieved are reconsidered very often. Correspondingly, the mechanism of the PPP must include the limitations preventing its ungrounded reconsideration (as the reconsideration of a concession agreement proves its ineffectiveness), as well as the points contributing to the correction of an agreement or its abrogation and the setting up of a new auction (or the return to the public exploitation).

In conclusion, it is necessary to point out that economic mechanisms functioning on the basis of public-private partnership present one of the most perspective trends of the development of infrastructural and socially significant economic branches. But for their successful development in Russia it is necessary to carry out the public policy, which will presuppose the creation of adequate institutional structure and organisational provision.

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