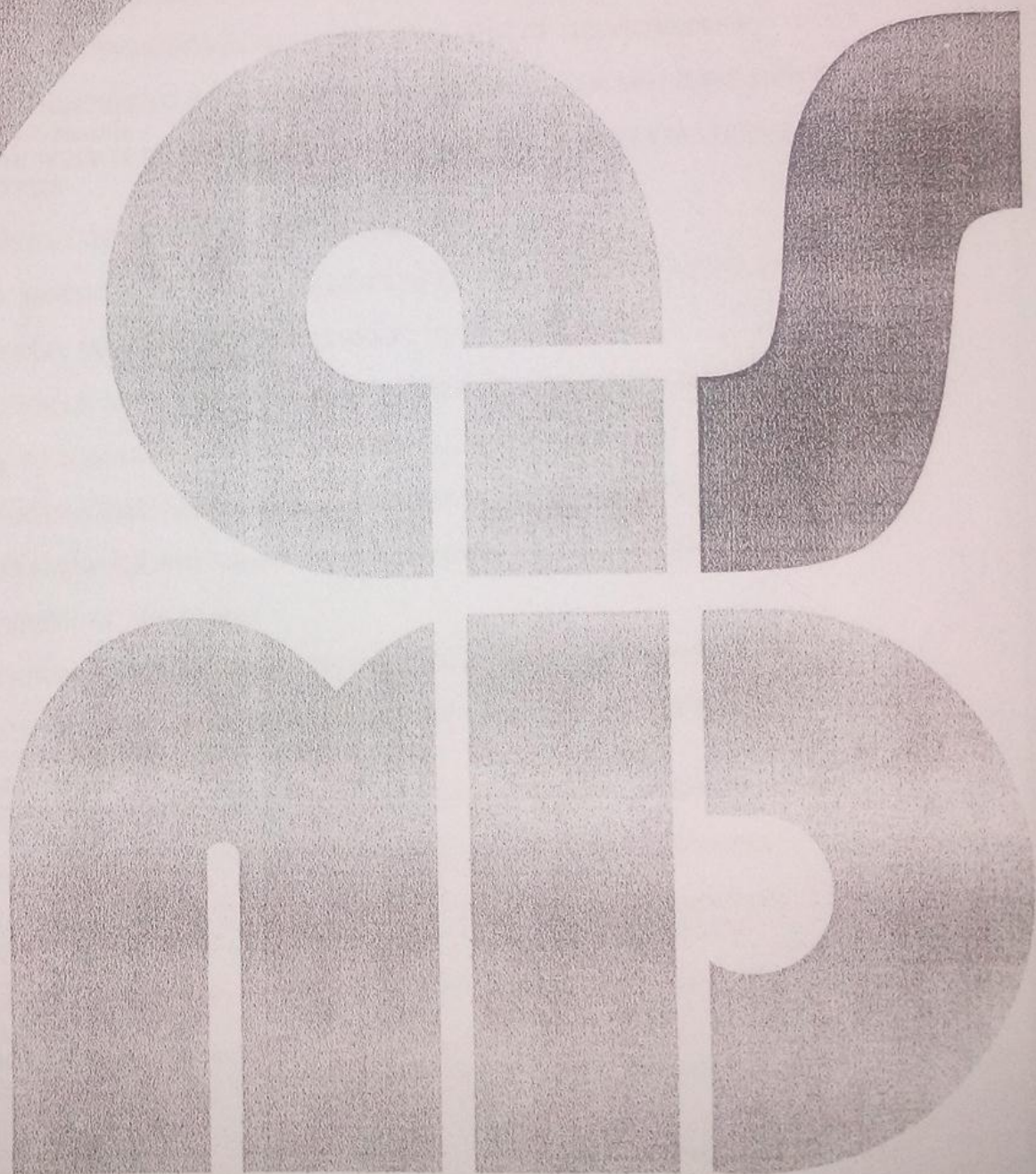


SCIENTIFIC LETTERS
OF ACADEMIC SOCIETY OF MICHAL BALUDANSKY



- 102 **Matovka Tatiana**
BACKGROUND OF FORMING REGIONAL CLUSTERS IN THE LIVESTOCK FIELD OF AGRICULTURE
- 108 **Mishenina Galyna, Mashyna Yuliya, Samodai Valentyna**
ECONOMIC ESSENCE AND PERSPECTIVE DIRECTIONS OF PUBLIC-PRIVATE PARTNERSHIP
INSTITUTIONALIZATION IN UKRAINE
- 112 **Motren Sviatoslav**
SPECIFICITIES OF MEDIA-DISOURSE AND POLITICAL PR PATTERNS RECENTLY CONSTRUCTED
IN MODERN RUSSIA
- 119 **Nakonechna Olga**
THE MODERN MAN'S LIFE-WORLD: PHILOSOPHICAL DIMENSION
- 122 **Nazarenko Olga**
EFFECTIVE APPROACHES TO TEACHING ESP TO TELECOMMUNICATIONS SPECIALISTS
- 126 **Opalenko Alla**
CONCEPTUAL STAGES OF DETERMINATING THE STRUCTURAL RISK OF THE ENTERPRISE
- 132 **Pahomovska Maryna**
METHODOLOGICAL APPROACHES TO EVALUATION AND FORECASTING THE EFFECTIVE EMPLOYMENT
- 136 **Peresadko Vilina, Popovych Nataliia**
CARTOGRAPHIC METHOD USE IN STUDYING OF SUSTAINABLE DEVELOPMENT STRATEGIES
OF EUROPEAN COUNTRIES
- 140 **Prokhorchuk Svetlana**
NATIONAL INNOVATIVE SYSTEMS: INTERNATIONAL PRACTICE
- 143 **Pykaliuk Roman**
GENRE OF SCIENTIFIC MONOGRAPH IN THE REPERTORY OF CURRENT UKRAINIAN PUBLISHING HOUSES
- 146 **Rachynska Iryna**
INTELLECTUAL PROPERTY PROTECTION IN THE CONTEXT OF GLOBALIZATION
- 149 **Sakun Alina**
MARKET CONFIRMATION OF DEVELOPMENT OF SYSTEM SALES OF AGRICULTURAL ENTERPRISES
- 152 **Sakun Ekaterina**
RELEVANCE OF LOGISTICS IN AGRICULTURAL BUSINESS SALES ACTIVITY
- 155 **Skrypnyk Svitlana**
THE DEVELOPMENT OF ORGANIC COMPONENT OF AGRICULTURAL PRODUCTION IN UKRAINE
- 160 **Skyba Maryna**
THE THEORETICAL FRAMEWORK FOR THE STUDY OF THE ESSENCE OF INSTITUTE OF EDUCATION
- 164 **Studinska Galyna**
INTEGRATION PROPERTIES OF THE BRAND
- 168 **Tikan Iana**
INCLUSIVE EDUCATION IN FUTURE TEACHERS TRAINING IN EUROPEAN UNIVERSITIES
- 171 **Tkachenko Kateryna**
CONCEPTUALIZATION OF LEGAL ETHICS PRINCIPLES IN XIX CENTURY: THE OVERVIEW OF THE LIMITS
OF CLIENT – LAWYER PRIVILEGE
- 174 **Tsyganov Sergiy, Bilyk Ruslana**
THE INNOVATIVE COMPETITIVENESS OF NATIONAL ECONOMY AND WAYS TO ENSURING
- 179 **Tsyganova Nadiia**
BANKS CONSOLIDATION IN UKRAINE: FINANCIAL BACKGROUND AND CONSEQUENCES
- 184 **Tsymbal Svetlana**
ABOUT SYNERGISTIC EFFECT OF PSYCHOTHERAPY AND PSYCHOLOGICAL CORRECTION
IN THE APPLICATION OF PSYCHOLOGICAL TRAINING IN TEACHING FOREIGN SPEECH
- 188 **Voloshchuk Irina**
ACTUALIZATION OF GENDER IDENTITY IN POLITICAL SPEECHES BY LINGUISTICS MEANS: COGNITIVE
AND PRAGMATIC ASPECTS
- 193 **Zherlitsyn Dmytro, Kravchenko Volodymyr**
SUPPLY CHAIN RESILIENCE THROUGH OPERATIONS AND FINANCE MANAGEMENT
- 198 **ASMIBA**

ECONOMIC ESSENCE AND PERSPECTIVE DIRECTIONS OF PUBLIC-PRIVATE PARTNERSHIP INSTITUTIONALIZATION IN UKRAINE

Mishenina Galyna, Mashyna Yuliya, Samodai Valentyna

Annotation

The article deals with the main directions of public-private partnership (PPP) development institutional implementation, determining organizational and economic basis of the consolidation of the resources and efforts in public and private sectors. The peculiarities of economic and legal model of partnerships between state and business in frames of PPP are outlined. The necessity of active formation of PPP relations in Ukraine is grounded, and based on this, priority areas for PPP model application are determined. The modern state of normative and legal framework of PPP projects regulation is analyzed. Keywords: public-private partnership, business, public partner, economic partnership

ПЕРСПЕКТИВНІ НАПРЯМКИ ІНСТИТУЦІОНАЛІЗАЦІЇ ДЕРЖАВНО-ПРИВАТНОГО ПАРТНЕРСТВА В УКРАЇНІ

Мішеніна Галина, Машина Юлія, Самодай Валентина

Анотація

У статті висвітлено основні напрямки інституціональної організації розвитку державно-приватного партнерства (ГЧП), що визначають організаційно-економічну основу консолідації ресурсів та зусиль публічного та приватного секторів. Окреслено особливості формування економічної та юридичної моделі партнерських відносин держави та бізнесу в рамках ГЧП-партнерства. Обґрунтовано необхідність в активному формуванні ГЧП-відносин в Україні, на основі чого визначені пріоритетні сфери для застосування моделей ГЧП. Проаналізовано сучасний стан нормативно-правового поля регулювання проектів державно-приватного партнерства. Ключові слова: державно-приватне партнерство, бізнес, державний партнер, економічне партнерство

Objective statement

In modern conditions, country's and its territories' competitiveness and their sustainable development are based on the consolidation of state authorities and business community. Aware of that, the governments of many countries, including Ukrainian one, bet on innovative approaches to the management of the relations between state and business. The matter concerns economic partnership of public (state) and private sectors – public-private partnership (PPP).

The basic material

Today, the principle of public-private partnership in general is applied for large-scale infrastructure projects implementation, but it is next in turn to use it for clustered economics formation and harness the opportunities of state scientific organizations, innovative and ecological entrepreneurship [5, 6]. The target aim of such transformations will permit to transform decision-making process from traditional into more efficient and consistent one (fig. 1).

Objectives interdependency rate between public and private partner is of great importance. Thus, in respect of PPP, state sector pursues both internal and external objectives. In the wide sense, external result serves the interests of the community, which are determined at political and administrative levels. In order to achieve this goal, state sector in frames of PPP structure aims to improve its financial state, restore retrogressive or depressive territories, promote investments, improve competitive positions of the region, create jobs, etc. At the internal level, state authorities institutions in general try to benefit from the market knowledge and private sector business competence.

On the other hand, the aim of private business partners in frames of public-private partnership is increase or support of profit perspectives. Besides, they seek to stay competitive and to expand business, at that, still searching for possibilities to spread or reduce risks. Private business seeks to strengthen relations with state institutions and participate in local development, promoting improvement of business image.

As opposed to economic model, legal (treaty and jural) model of partnerships between state and business in frames of public-private partnership fundamentally cannot be reduced

to type sample, as it should be adapted to the appropriate type of legal system of concrete state.

Thus, legal institutionalization of forms and models of public-private partnership variety in Ukraine is based on the number of laws and legislative acts, regulating rights and responsibilities of partners. Here are the main ones:

- Law “On of public-private partnership” (2010);
- Laws on concessions, on financial leasing (1998), on production sharing agreements (1999), on concessions peculiarities of road construction (2000), on lease and concession of the objects of centralized water supply, heat supply and wastewater disposal (2010), etc.;
- Normative acts on PPP implementation in Ukraine (budgetary support, PPP efficiency analysis, order of PPP competitions, etc. (2010)).

It is necessary to mention, that in economically developed countries, in general, there are two different forms of public-private partnership legal institutionalization (fig. 2).

In Europe, for example, the difference between agreements on the state works and concessions for the state works are interpreted as follows. EU policy papers witness, that the main difference of concession for state works consists in the fact, that concessionaire has a right to use and is responsible for considerably higher percent of the involved risk. Only concessions for state works, the price of which is over €5 billion, comply with special legislation. Other forms of PPP in the sector of public works and services on water supply, power engineering, transport and telecommunications are not subject to conditions of the so-called “directives on public purchases” [4].

In Ukraine, according to the exiting normative and legal framework, PPP projects regulations, reportedly including the Law of Ukraine “On public-private partnership” (2010) [2], such kinds of agreements can be applied:

- agreement on cooperation;
- agreement on management of the company;
- agreement on realization;
- agreement on production sharing;
- lease agreement;
- agreement on abatement (concession) – the most modern form of PPP.

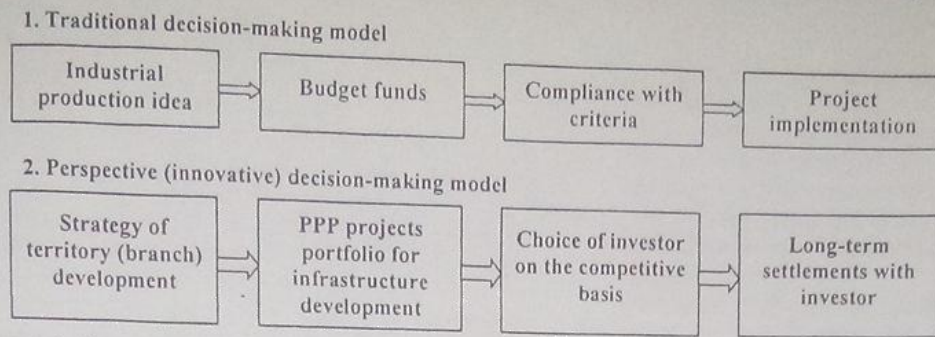


Fig. 1. Differences in the system of decision-making according to traditional scheme and public-private partnership scheme

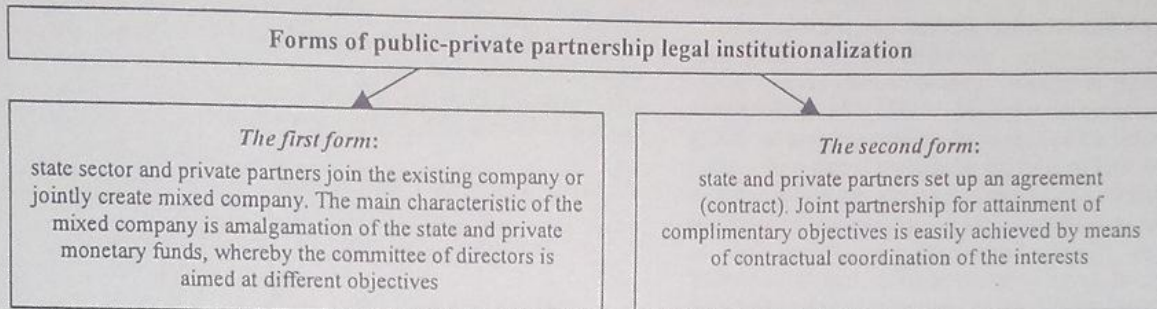


Fig. 2. The main legal forms of public-private partnership

Source: developed on the basis of [4]

Classification of the agreements and schemes of public-private partnership is developed, primarily, for the needs of tax legislation, as projects, as a rule, imply complex accounts between budget and entrepreneur, as well as direct tax remissions and subventions.

Public-private partnership is a legal mechanism of interests reconciliation and provision of equal interaction between state and business in frames of economic projects implementation, aimed, first of all, at achieving the goals of public administration. The essence of interaction consists in reconciliation of interests, and, from the point of view of management processes, PPP formation in each project undergoes such stages [1]:

1. Primary reconciliation of interests, priority agenda setting.
2. Priorities fixing in the policy documents. It should be strategic, long-lasting (3–5 years and more), and it shouldn't change cardinally. It should contain information on time constraints and responsible authorities. It should be confirmed by a range of sublegislative standing orders with strict sequence of implementation.
3. Formation of concrete projects on the basis of the programme, but in full compliance with the law, which also establishes competition terms, etc.
4. Fixing of the results in the agreements with specific legal protection.

At that, the choice of projects should be determined by such conditions as:

1. Availability for the state (from the point of view of budgetary benefits/damage).
2. Projects should meet real infrastructure needs, increase availability and quality of services for population.
3. Projects should be attractive for operators/investors.
4. Pilot projects should have positive demonstrative effect.

In general, world practice of public-private partnership models implementation witnesses, that successful projects are characterized by: transparent tender process, involving leading international investors; balanced allocation of project risks in the agreement; control activity of the state in the field of services quality provision, not the ways of their provision.

It is necessary to mention, that PPP mechanism implementation is just beginning to form in Ukraine, and the role of private sector in the field of infrastructure and state service becomes more and more important for technical and financial reasons. PPP projects are of special importance at the level of local self-government, as it is here that the main tasks on many projects implementation of social scale are solved. At that, the main problem of municipal authorities is financial resources constraints.

The necessity of active formation of such kind of relations as public-private partnership in Ukraine is characterized by such factors [3]:

1. Insufficient funding of the development and support of municipal infrastructure for a long time.
2. Municipal infrastructure wear is 50 to 70% according to different estimates.
3. Necessity to attract private investors, creditors, including international ones.
4. The main focus at municipal level is directed at the projects in the field of housing and communal services.

One more proof of PPP development expediency in Ukraine is that Ukraine owns rather high share of state sector in GDP (37%), while in such countries as Canada, England, and Italy this index is 15%, in the USA – 20%, in Poland – 25% [7].

Taking into account evaluation of the readiness to the implementation of such forms of partnership, the priority areas of PPP models implementation in Ukraine are [3, 5]:

1. Construction and improvement of infrastructure facilities:
 - roads, railways, airports, ports;
 - housing and communal infrastructure (systems of centralized heat supply, water supply and wastewater disposal, domestic waste treatment);
 - building of health care, culture and sports facilities.
2. Integration into economic circulation of national cultural heritage objects.
3. Public services provision (issue of different inquiries, subsidies execution, medical institutions management, education, culture and sports, etc.).

4. Formation and development of ecological infrastructure.

5. Scientific and innovative activity.

Thus, some implemented in Ukraine projects are an example of efficient combination of public and private partners' interests in frames of PPP (table 1).

During construction of the roadway Lviv-Krakovets, and large circumferential road round Kyiv, there was also a successful PPP mechanisms implementation.

Yet, along with superiority of public-private partnership over some forms of relations between state and private business, for now, in the regions of Ukraine there is no final, positive opinion about it. The state often perceives PPP exceptionally as financial source for infrastructure projects implementation and places too high expectations in private partners. Other reasons, impeding successful implementation of wide range of relations business models between public and private sectors, are:

- imperfect regulatory policy (taxation, tariffs, supervisory authorities, opaqueness, etc.);
- overregulation of PPP implementation by state authorities;
- absence of appropriate institutional infrastructure (preparation, selection, monitoring of PPP);
- weakness in the national capital markets;
- modest purchasing power of PPP potential users;

- insufficient professionalism of state authorities (system of state support, project selection criteria, suggestions assessment, underdeveloped state of the mechanisms and contractual framework, etc.);
- political instability, absence of legal succession;
- negative attitude of state authorities and population to the private sector and its participation in infrastructure projects.

World experience and poor practice of these mechanisms application in Ukraine show that fundamental factors of successful institutionalization development of public-private partnership are (fig. 3):

An important step towards formation and active practical application of public-private partnership management mechanisms in Ukraine became initiative of the academician, vice-president of NASU V. M. Geyts on creation of "Public-private partnership centre". By means of the network of such centres, best global practice in the field of PPP is spread, the best specialists are attracted, analysis and evaluation of the readiness of the country, regions, and districts to participate in the projects are performed, legal, organizational, informational and methodological support is provided for both state and private partners of the PPP projects [8].

Table 1 Examples of PPP projects implementation in Ukraine

	Name of project	Public partner	Private partner
1	Construction of new railway station "Darnytsya", Kyiv	State territorial branch "South-Western railway"	PJSC * "SPF "RELE"
2	Reconstruction of the water treatment plants on the left bank of Dnipro, Zaporizhzhya	Local self-government bodies, Zaporizhzhya	Turkish building company "Dogus Insaat"
3	Complex building of the prosp. Obolonsky in Kyiv (Dream Town)	Obolon district state administration	PJSC "VitaVeritas"
4	Development of the detailed plan of the territory (zoning) of bay Laspi (Sevastopol)**	Sevastopol city state administration	PJSC "SPF "RELE"

* PJSC – Public Joint-Stock Company

**For works fulfilment, the developer got a right to rent or own 10% of the named building land, according to the developed plan

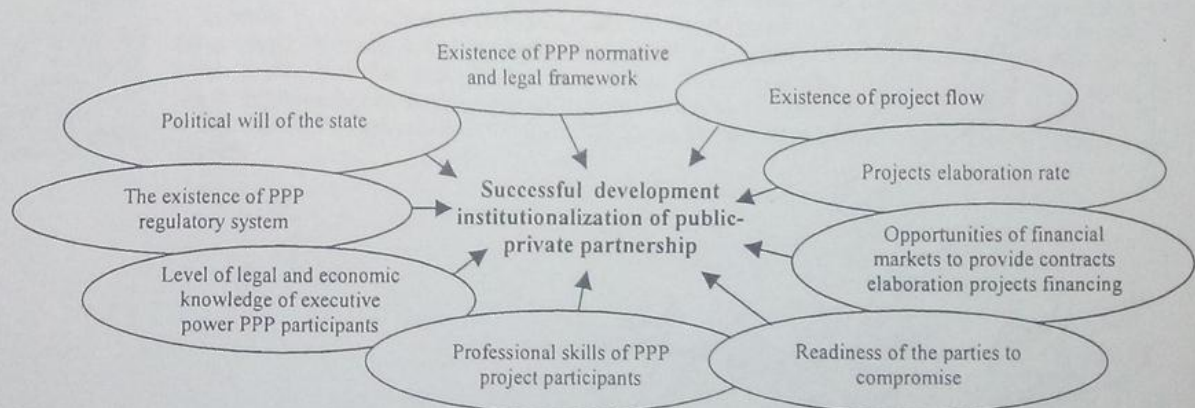


Fig. 3. The main factors of successful development institutionalization of public-private partnership

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