

PUBLIC & PRIVATE PARTNERSHIPS IN GREECE

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The legal framework

The implementation of Public & Private Partnerships (PPPs) in Greece is an important reform towards the construction of public infrastructure and the provision of qualitative services to citizens. By using PPPs as a complementary procurement method to traditional ones, the Greek State aims at providing infrastructure faster and more efficiently, leveraging these effects on the productivity of the economy and the everyday lives of citizens.

The new legal framework (Law 3389/2005) regulating the implementation of PPPs in Greece was ratified by the Greek Parliament in September 2005. This law lays the ground for the wider implementation of PPPs in Greece, since it abolishes the requirement for parliamentary ratification of PPP contracts, as was the case in the past for all concession agreements.

Law 3389/2005 takes into consideration the experience gained from the three concession agreements successfully awarded and implemented in Greece. These projects are the Attiki Odos motorway, Athens International Airport and the Rion-Antirion bridge. Their main common feature is that the private entities that constructed and now operate them are being reimbursed by way of fees (e.g. tolls) that end-users pay when making use of the services they provide. The new law also takes into consideration lessons learnt from various attempts in the past to implement PPPs, which were, however, unsuccessful. Greece now has a stable legal framework that overcomes obstacles such as the inadequate preparation of contracting authorities, the incomplete business justification or the unrealistic estimation of feasibility of PPP projects.

The main innovation brought about by this legal framework is that the State now also has the opportunity to implement more flexible structures, such as projects based on availability payments. Projects such as schools, hospitals, prisons and many others can now be built and maintained by

private entities, even if these entities do not charge the end-users for the use of the services they provide. In such cases, the State assumes the responsibility to pay off invested private funding over a specified period via yearly payments, which are directly related to the fulfillment of the contractual obligations undertaken by the private entities.

The new law codifies the concepts related to PPPs, regulates the implementation of PPP projects and defines the public entities (Central Administration, local government organizations, legal entities under public law) that can implement partnership contracts with private entities, in areas falling within the scope of their competence. The private sector undertakes a significant part of the risk related to financing, construction and provision of infrastructure or services. Activities that are the direct and exclusive province of the State, under the terms of the Constitution of the Hellenic Republic, such as national defense, police work, justice, and the execution of judicially imposed penalties and sentences, cannot be the object of PPP agreements. In order to ensure the interest of the private sector, the new law also provides incentives which offer substantial security to entrepreneurs engaged in long-term contracts with public authorities. It defines the minimum content of a PPP contract and deals, in a manner consistent with international practices, with issues such as taxation, granting of permits and licenses, protection of the environment, treatment of archaeological findings, expropriations and other critical issues for the success of

PPP deals. Moreover, legal issues related to these partnerships, such as the transfer of claims, validity of security granted to banks and bankruptcy, and resolution of disputes are clearly defined.

Finally, the procurement procedures are in line with EC Directive 2004/18, aiming at the customization of relevant procedures and the improvement of the efficiency of public administration, thus creating conditions of transparency and increased competition, which are the main drivers for achieving value for money in PPP deals.

THE MAIN ADMINISTRATIVE BODIES

Law 3389/2005 has established two new administrative bodies, the Interministerial PPP Committee and the Special Secretariat for PPPs, which are responsible for the specialization of PPP policy and the monitoring of the implementation of the PPP projects.

The Interministerial PPP Committee (IM PPP Committee) is a collective governmental body that formulates PPP policy and is responsible for approving PPP projects that fall under the provisions of Law 3385/2005. The IM PPP Committee comprises as regular members the Minister of Economy and Finance, the Minister of Development, and the Minister of the Environment, Planning and Public Works and, as special members, the Minister or Ministers supervising each of the public entities participating in a partnership. This ensures unanimity, even if many Ministries are involved in a specific project. The IM PPP Committee

also approves the inclusion in the Public Investment Program of the contractual fee (availability payment) to be paid to the private entities, and has the power to rescind approval decisions, in case a contracting authority does not abide by its obligations.

The other administrative body is the Special Secretariat for Public & Private Partnerships (PPP Unit). This Unit has been established within the Ministry of Economy and Finance, assisting the IM PPP Committee. The PPP Unit is responsible, among others, to identify projects that can be delivered via a PPP scheme, coordinate the communication between public authorities and private entities in the context of PPP deals, and to facilitate and support contracting authorities in implementing PPP projects.

One of major responsibilities of the PPP Unit is the promotion of the implementation of PPPs and the diffusion of knowledge and expertise to all involved stakeholders. For that reason, the PPP Unit has launched a website (www.ppp.mnec.gr/en) in both Greek and English with useful information regarding PPPs. This website contains information on procedures, approved projects, tenders, sector-specific information for the implementation of PPPs, an information corner with useful informative material, legislation and FAQs, and a Press-Office corner with all the latest news, press releases, presentations and interviews. The PPP Unit has also published two manuals, which can be found on its website, that cover a range of topics related

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to the nature of PPP schemes, the underlying legal framework, the funding structures and mechanisms of PPP projects, and the procedures that should be followed for the inclusion of such schemes under the provisions of Law 3389/2005.

APPROVED PROJECTS

Since its ratification the response of the public sector to this new legal framework has been very positive, since more than 28 projects have been submitted for evaluation to the PPP Unit, with a total budget of more than 2.4 billion euros. Since March 2007, the IM PPP Committee has approved the following 15 projects, which fall under the sectors of education, accommodation of the public sector, justice and culture:

- Construction, renovation and maintenance of 27 new school buildings in the region of Attica. Contracting authority: Organization of School Buildings
- Construction and maintenance of 31 new school buildings in the region of Central Macedonia. Contracting authority: Organization of School Buildings
- Construction and maintenance of 23 new school buildings in the regions of East Macedonia and Thrace, West Macedonia, Epirus and the Ionian Islands. Contracting authority: Organization of School Buildings
- Construction and maintenance of six new buildings for the University of the Peloponnese. Contracting authority: University of the Peloponnese
- Construction of an International Conference Center in the Faliro Pavilion (Tae-Kwon-Do Stadium). Contracting authority: General Secretariat for the Olympic Utilization
- Construction and maintenance of seven new fire stations. Contracting authority: Hellenic Public Real Estate Corporation
- Facility management of four buildings of the Hellenic Police. Contracting authority: Hellenic Public Real Estate Corporation
- Construction and facility management of 11 new buildings of the Hellenic Police. Contracting authority: Hellenic Public Real Estate Corporation
- Construction and maintenance of two new courts of justice. Contracting authority: Themis Kataskeuastiki SA
- Construction and maintenance of three new prisons. Contracting





authority: Themis Kataskeuastiki SA

Contracting authority: Ministry of Mercantile Marine

- Reconstruction and facility management of the “Domboli” building complex for the accommodation of the services of the Periphery of Epirus. Contracting authority: Periphery of Epirus
- Construction and facility management of a Government House for the Prefecture of Achaia. Contracting authority: Prefecture of Achaia
- Construction and facility management of a Government House for the Prefecture of Fthiotida. Contracting authority: Prefecture of Fthiotida
- Construction and facility management of a Government House for the Prefecture of Trikala. Contracting authority: Prefecture of Trikala
- Installation and operation of security systems in 12 Greek ports.

The contracting authorities of these pilot PPP projects are mainly central administration organizations that already possess the critical know-how and resources to implement them. It is in the PPP Unit’s intentions to build on the expertise gained from the implementation of these projects and to gradually extend the PPP pipeline in other sectors, such as health, waste management, IT, etc.

THE WAY FORWARD

Modernizing a country’s infrastructure and public services is an important challenge in several ways. PPPs are now generally accepted as a viable means of procuring and delivering the infrastructure and services needed. PPPs yield important benefits for all involved stakeholders: the public sector, the country’s citizens and the private sector, which now gains access to a new expanding market. This is the reason why PPPs are consid-

ered an important reform and a fundamental pillar for the development of Greece.

With the implementation of PPPs, a new boost will be given to the development of the Greek economy, prompt and efficient delivery of necessary infrastructure will be guaranteed, while more public funds will be made available for social purposes and priorities. With the mobilization of private funds, Greece will obtain, in a significantly shorter time span, modern and reliable infrastructure, which the public sector could not fund on its own and which is of great importance and priority. At the same time, PPPs will give an important boost to entrepreneurship and will create new and important investment opportunities.

Today, the call for collaboration between the public and the private sector is more than evident. Based on the new legal framework, regulating the implementation of PPPs in Greece, the basic target of the Greek Government is the promotion of partnerships and synergies between the public and private sectors, as well as the coordination of projects that can be delivered via feasible PPP schemes, so as to help public authorities make use of this new complementary financial tool and meet their strategic plan and targets. The accumulation of expertise and resources from the first pilot projects, the continuous communication

with stakeholders that are actively involved with PPP projects abroad, and the intensification of efforts to disseminate knowledge and know-how, are the pillars upon which the wider implementation of PPPs in Greece will be based, so as to extend the pipeline of projects in other sectors.

Furthermore, the development of the institution of PPPs in Europe and internationally clearly indicates the continuous growth of the market of PPP projects, a fact that creates significant opportunities for the private sector. The rapid pace and consistency that have characterized the implementation of PPPs in Greece have helped towards rendering Greece a focal point on the map of PPPs in Europe. On the one hand, this gives to the Greek private sector that will be actively involved in the domestic PPP projects the opportunity to export resources and expertise to neighboring countries that are now starting the process of implementing PPPs. On the other hand, Greece is a new expanding PPP market that has got what it takes to attract foreign investments, in a secure, transparent, stable and competitive environment.

USEFUL LINKS

Ministry of Economy and Finance
www.mnec.gr

Special Secretariat for Public and Private Partnerships
www.sdit.mnec.gr