

Public-private partnership: between legal requirements and the real needs

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Abstract

The overview image of the public-private partnership is represented by cooperation between the public and private actors to carry out the activities of public interest, cooperation based on the capacities of each partner to allocate properly the resources, risks and benefits. The main elements of the institutional framework are established by the national legislation. The traditional domains for the development of the partnerships are necessary at the national level and for infrastructure. The increasing tendency toward decentralization of the provision of services introduces a lot of public-private opportunities like health, education and other social services in the non-traditional areas, as well. The study analysis presents the idea of partnership as a means of solving the problem of more and more limited resources which are at the disposal of public administration. The quality of legal framework and government policies for the development of partnerships gives to this way of cooperation, either the quality of strategy in the public policies, which purpose is to obtain greater benefits by combining the resources of those two sectors, or the limited solution to the re-launch of the economy and to meet the general interest.

Keywords: *public-private partnership, recipient, public interest, public services, capabilities, resources, risks and policies.*

JEL Classification: K23

Socio-economic conditions of the XXI century imposed both diversify and find new forms of organization and delivery of services to meet the public interest. Peter Thomas's thesis that the service is provided in a competition with time,³ is confirmed by the behavior of service users, more responsive to technical and scientific progress, and at the same time, demand-driven services and use their welfare benefits. Over the last decade of the twentieth century, more and more countries – both inside and outside the OECD area – began using public-private partnerships in public service. In this new perspective, "public services are no longer confined to the state, which the government has the organization and functioning"⁴. Professor Ioan Alexandru believes that the administration used to create partnership with the private sector in an effort to deepen the meaning of the

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⁴ Ioan Alexandru, *Theoretical considerations of public-private partnership*, in "Public Law Journal", no. 1, 2004, All Beck Publishing House, Bucharest, p. 29.

term general interest or even replace this concept with the efficiency, effectiveness and price, as things happen in the private sector. This behavior reflects the administrative authority, in fact, tend objective of moving the center of gravity of activity detrimental to performance management and control activities, which explains the tendency approach between public law and private law, given that the administration, seeking agreement partners, accepting the need for cost effectiveness, and in some cases, there is competition, placing their intervention into the market economy.⁵

Although the issue of public – private partnership held the attention of many authors, a uniform definition for this concept still exists, even in similar economic markets such as the European Union.⁶ Attempts to clarify the concept led to conclude that it is a generic term, versatile,⁷ why not impose a standard definition.⁸

In general, the term "public-private partnership" is used to describe the relationship between the public and private sector and the relationship between public sector and non-profit, volunteer, basic components of relationship resumed to three factors:

1. Voluntary willingness of actors to work (no party should not act under duress, even if they are not equal partners);
2. A truly public purpose (not merely desire to increase private profits at the expense of public funds);
3. Partners' ability to achieve something together, something that can not be done as well, or at all, acting separately⁹.

In literature the phenomenon of public-private partnership is perceived differently depending on the perspective from which it is treated. From the perspective of American and Anglo-Saxon public-private partnership is an agreement between public and private services from which they are made public, the essential feature of such a partnership is sharing investment risks, responsibilities and benefits between the partners. In French doctrine of public-private partnership is seen as a new form of public entities and private partnership, association created to operate and invest in public services. Under the influence of French and American tradition, the practice continues a partnership is increasingly

⁵ *Ibidem*.

⁶ Heiko Frank, *Final Recommendations regarding public-private partnership in Moldova: policy, legal, institutional and regulatory framework*. The document is available online at <http://www.pppmoldova.md>, last access: 01.09.2012.

⁷ Luiza Manolea, "Public private partnership: a possible solution in the development of services and public investment", published in journal "Constructive", no. 95, from January-February, 2011.

⁸ Coord. Ana Ghinea, *Public-private partnership: solution for better management of local communities in Romania. Practical Guide for county councils*, Institute for Public Policy, Bucharest, 2004, p. 15.

⁹ Graham Finney, David A. Grossman, *Partnerships between the public and private sectors in the XXI century*, in Frederick, S Lane, *Current Issues of Public Administration*, Epigraph Publishing SRL, Chisinau, 2006, p. 446.

required to become a *fashion institution*.¹⁰ In various forms, and in the most diverse fields, increasingly more people, individuals, governments, consumers, in other words, a lot of individuals and businesses, aimed to be directly associated with the activity state.¹¹ Field researchers invoke reasons for this practice spreads, namely:

1. Alternatives to fulfill the main tasks are more aware appreciated by the public sector;
2. The public sector is determined to seek ways to ease the burden caused by increased costs for providing services, especially in areas where assumed greater responsibility;
3. Private sector becomes more interested, especially in its non-profit component, to become the main provider of services and common goods, financed, where possible, by public funds¹².

At Community level, interest legislate aspects of public-private partnership is supported by providing a framework of principles and procedures that governments could transpose them into national law. The European Commission published in 2004 a "Green Paper on public-private partnership" and in November 2009 adopted a Communication on public-private partnership operation. In this document the Commission establishes a framework for encouraging the use of public-private partnership to meet current and future investment in public services, infrastructure and research in Europe. European Commission notes that public-private partnership that includes public contracts or concessions, is subject to European directives on public contracts and secondary legislation on concessions and public-private partnerships absolutely all must respect the principles of transparency, equal treatment, proportionality and mutual recognition.¹³

Legal regulation of public-private partnership is supported by two conceptual approaches. The first concept is based on the need to adopt a special law on public-private partnership; the second concept is based on adjusting existing legal framework without adopting a separate law. Moldovan legislature chose the first strategy conceptual regulating public-private partnership through a separate law. Substantive question that deserves consideration is whether this new regulation carries out the purpose for which it was adopted, and if it was really needed a new regulation, or would have been enough just adjust the existing legal framework.

Given the importance of context in solving problems, we adopted a methodological route will follow an overview of the four key issues: the policy, legal, institutional, and regulatory framework for private-public partnership in Moldova.

¹⁰ Dana Apostol Tofan, *Administrative Law*, Volume II, Second edition, C. H. Beck Publishing House, Bucharest, 2010, p. 177.

¹¹ Ioan Alexandru, *work cited*, p. 28

¹² Graham Finney, David A. Grossman, *work cited*, p. 446.

¹³ The document is available online at http://ec.europa.eu/romania/news/parteneriat_public_privat_ro.htm, last access: 01.09.2012

1. Policy Framework

In general, the term "policy" refers to decisions made for the good of the city and/or state. If private-public partnership can be distinguished at least four different aspects related to the decision-making process:

- 1) How are decisions taken and by whom?
- 2) Will it be supported by a majority decision today tomorrow?
- 3) Will the Government's decisions in favor of partnership - private public and practical way to implement the concept which is well received by the private sector (partners want)?
- 4) Will it be a private-public partnership interested in the private circumstances?¹⁴

In Republic of Moldova essential role in making decisions about public-private partnership mechanism capitalizes the Government. In the Government's view, achieving this goal requires actions to promote public-private partnership:

- a) the implementation of regional projects, economic, social, and infrastructure
- b) to establish a network of public-private partnership government that would allow coordination of all activities in the field, between the central government,
- c) the promoting public-private partnerships in the rehabilitation, modernization, construction, and maintenance of transport infrastructure
- d) the implementation of public-private partnerships for e-government and attracting local and foreign investments etc.¹⁵

Sectors and public infrastructure projects of national interest proposed for development through public-private partnership are approved by government decision and locally - by local authorities of level I and II, and the autonomous territorial unit with special legal status.¹⁶ In the two annexes to the Decision no. 419 of 18.06.2012 on approval of property belonging to the state and to public works and services proposed national public-private partnerships¹⁷ are given the list of state-owned assets and list of public works and services proposed national public-private partnership.

Property owned by the state of national interest proposed public-private partnership

Table 1

Assets	Objectives
- Land (managed by the Ministry of Defense)	- Construction and operation of heavy vehicle parking - Housing construction and operation objectives of social and cultural

¹⁴ Heiko Frank, *work cited*.

¹⁵ The document is available online at <http://www.mec.gov.md/parteneriatul-public-privat>, last access: 05.09.2012

¹⁶ Article 15 of Law no. 179 of 10.07.2008 on Public Private Partnership, published in the Official Gazette, no. 165-166, from 02.09.2008.

¹⁷ Published in the Official Gazette. 126-129 of 22.06.2012.

<ul style="list-style-type: none"> - National Road M3 Chisinau - Giurgiulesti - Bypass road village Slobozia Mare, ICFTU-Prut, Giurgiulesti - Balti International Airport 	<ul style="list-style-type: none"> - Reduce transport costs for road users, avoid heavy traffic in residential areas, improving road conditions - Improving aviation services Balti International Airport
<ul style="list-style-type: none"> - Land and buildings (managed by the Academy of Sciences) Construction neighborhood housing, social facilities 	<ul style="list-style-type: none"> - Repair facilities and dosimeter microbiology laboratories and administrative areas of Ionizing Technologies Center - Reconstruction, restoration building (architectural monument)

Public works and national public services

Table 2

Name of the service - work	Public partner
<ul style="list-style-type: none"> - Diagnostic and laboratory services - Medical imaging and radiology services - Hem dialysis service - Rehabilitation Service 	Ministry of Health
<ul style="list-style-type: none"> - Design and construction Republican Stadium 	Ministry of Regional Development and Construction
<ul style="list-style-type: none"> - Services State Enterprise "Train and auto stations" 	Ministry of Transport and Road Infrastructure
<ul style="list-style-type: none"> - Creating information Technology Park and its subsequent transformation into the "City Smart" (Smart City) - Creating a national data-center technology based "cloud" (Cloud) - Implementing automated information system intelligent traffic monitoring Ministry of Information and Communication Technology 	Ministry of Information and Communication Technology

Summary analysis of the policy framework presented in the tables above show that space to implement public-private partnership is quite limited. It covers three areas – health, infrastructure and information technology, for which the Government has identified only five public partners – Ministry of Defense, Ministry of Health, Ministry of Regional Development and Construction, Ministry of Transport and Road Infrastructure, Ministry of Communications and Information Technology. Privileged position returns Ministry of Defense and Ministry of Transport and Road Infrastructure. As stated purpose of the Law no. 179 of 10.07.2008 on public-private partnership¹⁸ is to contribute to "attract private investment for public projects, increasing efficiency and quality of services, public works and other public interest activities and efficient use of property public and public money "government option for certain areas and certain public partners will always be a fair and legal, because all the purposes of this Act, the public interest is

¹⁸ Published in the Official Gazette, no. 165-166 of 02.09.2008.

considered" any benefit, the form and amount as determined by the Decision public partner obtained the benefit of the public partner, persons living and / or working in the Republic of Moldova"¹⁹. It seems that the Ministry of Defense was most convincing to assume the role of an actor in a public-private partnership, partnership is to increase the efficiency of use of public assets managed by the company and providing employees with housing MIA service. This approach suits and private sector capacity to meet that transparent rules of the game and cooperate in mutually beneficial manner with the public sector is low. The rule is created for specific interests, and the private sector use of influence trafficking is one of the main "skills" managerial.²⁰

2. The legal framework

The legal framework applies to all laws, ordinances, statutes and acts in a specific sector and / or project. The importance of the legal framework lies in two things:

- A solid legal framework serves as a basic premise under which actors – public and private – can act. In this context, the boundaries (roles, responsibilities and obligations) between the public and private sectors have to be redefined. Inconsistent legal framework is not adopted in practice.²¹

- providing a basis for cooperation between private and public partners, and a basis for promoting such partnerships by building trust private partners (potential) in the system.

The idea of adopting the PPP concept in Moldova has enjoyed broad political support. In 2007 the Ministry of Economy developed "Concept Paper on Public Private Partnership in Moldova". I mentioned earlier that the Moldovan legislature chose to regulate public-private partnerships in a separate law. However, the conclusions of anticorruption expertise of draft law on public-private partnerships²² are as rash enough to appreciate this approach. Policy makers and strategy in Moldova has a strong interest for the creation of legal basis, even in conditions where they exist.

First, the arguments set out in the briefing summary of the project were presented in terms of a short history of public-private partnership system in a number of European countries, without reasons, which would include any estimate project costs. Legal briefing should present arguments relating to the conditions imposed draft, including the need for harmonization of the legislation with Community law regulations, the aims pursued by implementing new regulations

¹⁹ Article 1, Law no. 179 of 10.07.2008 on Public Private Partnership, published in the Official Gazette no. 165-166 of 02.09.2008.

²⁰ Dumitru Budianschi, "Risks of public-private partnership projects in Moldova", in "Express-analysis" no. 81, January 23, 2012. The document is available online at <http://www.expert-grup.org/>, last access: 29.08.2012.

²¹ Heiko Frank, *work cited*.

²² Report of the anticorruption expertise of draftlaw on public-private partnership. The document is available online at: <http://www.cccec.md/>, last access: 12.09.2012.

place the document into the legislation, highlighting new elements, the effect of social, economic and other of its implementation²³.

Secondly, relevant legislation was not in so bad, that you feel an acute need for such a project. Double draft text for a series of the Civil Code, Law on Public Procurement, Law on Concessions and other legislative and normative acts in the field.

Law on public-private partnership was adopted in 2008. It was felt that existing legislation allowing the implementation of a number of forms of public-private partnership does not regulate two aspects: the mechanism for achieving public-private partnership between government and business and risk division mechanism may occur in implementation of public-private partnership. Constitutional norms by which recognition is private property, Economics institutionalization of the market economy as a system, international commitments of the Republic of Moldova were the premises of this legislation. Dipper institutional standard procedures and conditions for selection of the private partner are clarified at a distance of four years by 3 government decisions. The adoption of the law leads to the changes resulted in 11 law acts.²⁴

Reasoning set for regulation by a special law were related largely to the fact that defining of the concept of public-private partnership principles are formulated specific implementation mechanisms are regulated and regulating-private partnership risks. On the other hand, the adoption of a law (in this case without repealing others) can be described as "intake" legislative inflation increase. Council of Europe Parliamentary Assembly Resolution 1572 on the honoring of obligations and commitments by Moldova states that certain laws passed can be further improved, taking into account the Council of Europe standards and recommendations of experts. In this respect, the Moldovan authorities are invited to explore the implications of implementing the new regulatory framework, including subordinate legal acts ensure that all laws and regulations necessary to harmonize existing legislation and new laws enacted to carry out any other measures aimed at increasing the capacity of officials to work with the new laws. Moreover, the declarative nature of laws and problems in the actual implementation are demonstrated in various studies and surveys conducted by NGOs and experts from Republic of Moldova²⁵.

²³ Conditions regarding the content of informative note are provided by art. 20 of Law no. 780-XV of 27.12.2001 on legislative acts and art. 37 of Law no. 317-XV of 18.07.2003 regarding the laws of the Government and other authorities of central and local government.

²⁴ 1. Government Decision no. 245 of 19 April 2012 on the National Council for Public-Private Partnership, the Official Gazette, no. 82-84, of 27.04.2012;
2. Government Decision no. 419 of 18.06.2012 on the approval of the list on the state property goods and on the works and services of public national interest propused to public-private partnership, published in the Official Gazette, no. 126-129 of 22.06.2012;
3. Government Decision no. 476 of 04.07.2012 approving the Regulation on standard procedures and conditions for selecting private partner, published the Official Gazette, no. 143-148 of 13.07.2012.

²⁵ Igor Beschieru, Viorel Furdui, *Law implementation in Moldova – current problems*. Institute for Development and Social Initiatives IDIS "Viitorul", Chisinau, 2008, pp. 8-9.

Concerns the analysis of the current legal framework are summarized. Few reports of the round tables and conferences highlight its permissive nature without too many critical barriers to initiate public-private partnership projects. Need some technical improvements (initiation and procurement procedures), clarification of the relationship between the law on public-private partnerships and other laws, especially the Law on concessions²⁶.

3. The Institutional framework

The main elements of the institutional framework are established by Law no. 179 of 10.07.2008 on public-private partnership.²⁷ Their development is slow but one marked by the inability of government to assume full responsibility. Some critical remarks are on the necessity of institutional design of the PPP in Moldova.

a. Acting as a promoter of public-private partnership: Ministry of Economy and Ministry of Finance? In Republic of Moldova this role is the Ministry of Economy, through a central specialized body – Public Property Agency, which was established in the Directorate for Public Private Partnership and an advisory body without legal personality, established to strengthen efforts in organizing effective partnership Public-private. Experts believe that for a short period of time, with good collaboration with the Ministry of Finance this was an acceptable solution. But then this role should belong to the Ministry of Finance, given that public-private partnership is a public management tool, and primarily major risk for local or central government finances.²⁸ According to current regulations, regulatory and legislative creative activity belongs to the Ministry of Economy, Ministry of Finance will consider proposals on state budget participation in projects of public-private partnership initiated and approved by the Government and monitor the execution of expenditure from the public partner budget for implementation of PPP projects of national interest.²⁹

b. Capacity and expertise. Implementation of PPP projects is a complex process that requires adequate financial, human resources and time, as well as various regulatory documents and procedures. Significant role is Public Property Agency Directorate PPP. One of the most severe criticisms mechanisms to implement PPP projects (in addition to impediments created by the Law on Concessions of 13.07.1995, lower degree of transparency in the selection and implementation of projects etc.) was the lack of authorized body responsible for

²⁶ Dumitru Budianschi, "Public infrastructure development through public-private partnership: analytical vision". The Paper presented within the International Conference "Public Private Partnership" on June 12, 2012. The document is available online at: <http://www.app.gov.md/>, last access: 29.08.2012.

²⁷ Published in the Official Gazette, no. 165-166 of 02.09.2008.

²⁸ Dumitru Budianschi, "Risks of public-private partnership projects in Moldova", in "Express-analysis" no. 81, January 23, 2012. The document is available online at <http://www.expert-grup.org/>, last access: 29.08.2012.

²⁹ Article 13, Law no. 179 of 10.07.2008 on Public Private Partnership, published in the Official Gazette, no. 165-166 of 02.09.2008.

identifying and promoting infrastructure development strategic priorities of national interest.³⁰ In April, 2012, by Government Decision no. 245³¹ is created National Council for Public-Private Partnership. The main responsibilities of the board are:

- 1) to define priorities and implementation strategies of public-private partnerships and to monitor its implementation;
- 2) to evaluate of state policy on public-private partnerships, promote and develop recommendations for improvement;
- 3) to contribute to creating a favorable climate for attracting private investment and mobilizing their public-private partnership projects of national interest;
- 4) to coordinate public-private partnership projects of national interest;
- 5) to performance evaluation public-private partnership;
- 6) to facilitate institutional cooperation in public-private partnership;
- 7) to submit recommendations and proposals for the development of laws and regulations, which aim to establish and promote industry priorities.

Investing in skills and responsibilities of institutions ensuring implementation of these partnerships, in fact, the logic of specialization (Table 3) with a small note – a structure with an advisory unincorporated performance evaluation is assigned public-private partnership, but in the absence of predetermined criteria and indicators.

Responsibility for implementing public-private partnership

Table 3

Responsibility for drafting policies, projects every normative implementation of PPP projects of national interest.	Ministry of Economy
Responsibility for execution by the public partner spending from the state budget for projects of national interest.	Ministry of Finance
Responsibilities Partner selection procedures	Public Property Agency
Performance evaluation of public-private partnership; Coordination of public-private partnership projects of national interest.	National Council for Public-Private Partnership

4. The regulatory framework

Most studies have regulations as rules limiting business operations in order to achieve government goals. Regulation is a complicated network of restrictions affecting all aspects of business and a specific approach to balancing public and private interests. Regulation is necessary to prevent failure pricing mechanism. In some areas, prices are not an accurate indicator of the true cost of doing business. For example, some businesses are regulated, because their operations pollute the

³⁰ Corina Voda, "Public-private partnership and other stories of the BermudaTriangle". The document is available online at: <http://www.eco.md/>, last access: 01.09.2012.

³¹ Published in the Official Gazette, no. 82-84 of 04/27/2012.

environment and the market prices of these business products do not include the entire social cost of pollution.³²

If public-private partnerships regulatory framework defines processes for:

- Develop public-private partnership projects.
- Regulation of tariffs during project implementation³³.

Whether the fees for setting and adjusting prices or customer protection in general, the regulatory framework should aim not only to create a mutually beneficial situation for the project, but also to maintain this mutually beneficial situation, even if circumstances change on during project implementation.

In Moldova standard procedures and conditions for selecting the private partner are provided by a regulation approved by government decision³⁴. The main provisions of the Regulation include:

- General principles for selection of private partners in the competition procedure.
- Commission Regulation of public-private partner selection.
- Procedures for awarding PPP contracts.
- The conditions for the application of competition for selection of the private partner through competition with prequalification.
- Procedure for the award of public-private partnership.
- Monitoring, control and record public-power.

Regulations of the existing public-private partnerships in Moldova are often confusing and contradictory, which are obstacles rather than tools. A contract of public-private partnership is needed perfecting of 16 standard documents. Responsibilities concerning the division of risks between the public partner and the private partner, management and control are not clearly defined - who decides how to distribute: Ministry of Economy and partners? Article 35 of Law no. 179 of 10.07.2008 on public-private stipulates that the study feasibility process, the public partner is required to identify the risks involved in developing public-private partnerships, but the main types of risks and how their distribution is approved by the Ministry of Economy. Obviously, they will be included in the feasibility study, to be approved by the Public Property Agency.³⁵ Meanwhile, the Regulation provides for the inclusion in the PPP contract clauses which determine explicitly the distribution of risk throughout it.³⁶ Unfortunately, there are projects where the project risks incumbent bidders only. During the process of development and

³² Richard Lehne, *Reason of the government regulation* in Frederick S Lane, *Current Issues Administration*, Epigraph Publishing SRL, Chisinau, 2006, pp. 408-409.

³³ Heiko Frank, *work cited*.

³⁴ Government Decision no. 476 of 04.07.2012 approving the Regulation on standard procedures and conditions for selecting the private partner, published in the Official Gazette, no. 143-148 of 13.07.2012.

³⁵ Article 121 of the Government Decision no. 476 of 04.07.2012 approving the Regulation on standard procedures and conditions for selecting the private partner, published in the Official Gazette no. 143-148 of 13.07.2012.

³⁶ See Public-Private Partnership Project "Multi-level parking" of the SE "Chisinau International Airport". The document is available online at: <http://www.app.gov.md/> last access: 29.08.2012.

approval of PPP projects insufficient attention is given to projects supporting evidence. An example of this is the approval of feasibility studies. By law, the deadline for approval of feasibility studies for public-private partnerships is 30 days after receipt by the Agency addressing public authority. If the public authority does not receive a reply within the prescribed period is considered positive opinion.³⁷ Another example is the fact that the draft PPP Contract is known only by selecting the winning bidder. Thus, the private partner tendered without knowing what he undertakes.

The regulatory framework regarding charges is also appreciated by international experts as less developed compared to other countries. In Moldova, over the past two decades, rates were increasing, but this increase did not involve charges and a significant improvement in service quality.³⁸

The development of the policy in Republic of Moldova, of the legal framework, institutional framework, (less the regulators) are the results of external assistance, the project "Development of public-private partnership", implemented in 2007-2009, with a total value of U.S. \$ 396,400 provided by UNDP. The benefits of this project aimed announced and: a) dissemination of information on awareness in society of public-private partnership, b) facilitate the participation of citizens and communities of experts debates on public projects, c) facilitating a dialogue between authorities private sector and civil society on issues governing the provision of public services, d) utilities, public services and infrastructure quality.³⁹ External assistance, however, was not fully justified. There is little public-private partnership initiatives. Of 15 projects in 2010, 10 projects aimed sanitation targets, 2 ICT projects, project health, Social Construction Project 1, and 1 project in the field of culture⁴⁰. Transparency and monitoring of public-private partnership is "secured" by only 4 provided on workflows choice of private partners, no annual report or a list of projects in preparation, development and financing.⁴¹ It is difficult to describe possible scenarios for the future of public-private partnership in Republic of Moldova. There are few scattered evidence and examples that demonstrate that relations between sectors will materialize into a viable partnership. Conversely, there are risks of using public-private partnership projects to promote access to certain assets (ex. land), avoiding the auction them to initiate projects identified contingent liabilities for central government, spilling confidential information and project implementation risk with "any price" initiated

³⁷ Art. 14 al. (3) Parliament introduced by Law No. 181 of 15.07.10, published in the Official Gazette, no. 155-158 of 09/03/10.

³⁸ Frank, Heiko, *work cited*.

³⁹ See the website of the Public Property Agency <http://www.app.gov.md>.

⁴⁰ Ion Potlog, "*Public-private partnership situation projects in Moldova: prospects for development*", Paper presented within the International Conference "Public Private Partnership" on June 12, 2012. The document is available online at: <http://www.app.gov.md>, last access: 29.08.2012.

⁴¹ See the website of the Public property Agency <http://www.app.gov.md>, last access: on Sept. 10, 2012.

exclusively political reasons.⁴² For some areas of public-private partnership will be saving solution, but without a significant impact on economic recovery. Studies conducted by independent experts, various reports describe a context data and feeds negative pessimistic attitude to develop public-private partnerships. Data to the latest Global Competitiveness Report of Moldova is on 87th place of 144. According to *The Report*, corruption (17.9%), political instability (12.6%) and bureaucracy (10.3%) are factors negatively influenced.⁴³ A specific feature of the Moldovan political class is concern for redistribution of spheres of interest and control of public financial flows.⁴⁴ Formalizing a relationship with the private sector can be a "win-win", but not in the general interest meeting, instead of group interests. As public partner, most will come with the offer undervalued assets and private partners to ensure costs expected profits.

An optimistic scenario assumes improved public sector management systems, but perhaps more, professionalism and ethics, to gain a better image and confidence of service users. Private sector recovery options are diverse - from collection of waste by contracting private management for Educational establishment. Important institution is intended to serve the general interest. It is an aspect ignored academic discussions focusing mainly on clarifying the legal confusion. Defrauding the public interest can be avoided by critical evaluation of real problems, regardless of the level at which they are located - latent potential open or centrality. A diagnostic analysis of constraints to growth highlights critical issues, are problems that Republic of Moldova is the most powerful surpassed by comparable countries. In this way and as a result have public consultations identified seven critical issues. Translated in terms of long-term strategic objectives, the National Development Strategy "Moldova 2020" is built on the following development priorities:

1. Connecting education system to labor market requirements in order to increase labor productivity and increase the employment rate in the economy.
2. Public investment in infrastructure and local roads in order to reduce transport costs and increase access speed.
3. Reducing financing costs by increasing competition in the financial sector and the development of risk management tools.
4. Improving the business climate by improving the regulatory framework and applying information technologies in public services for businesses and citizens.

⁴² Dumitru Budianschi, "*Risks of public-private partnership projects in Moldova*", in "Express-analysis" no. 81, January 23, 2012. The document is available online at <http://www.expert-grup.org/>, last access: 29.08.2012.

⁴³ The Global Competitiveness Report 2012-2013, World Economic Forum Geneva, 2012, p. 258. The document is available online at: www.weforum.org/ GCR, last access: 10.09.2012.

⁴⁴ Ana Popa (eds.), Valeriu Prohntichi, Alex Oprunenco [et al.] *MEGA: Moldova Economic Growth Analysis*, Independent Analytical Center "Expert Group". Chisinau, 2011, p. 6.

5. Reducing energy consumption by increasing energy efficiency and use of renewable energy.
6. Financial sustainability of the pension system in order to ensure an appropriate rate of wage replacement.
7. Improve the quality and efficiency of justice and fight corruption in order to ensure fairness for all citizens⁴⁵.

Some of these issues are already included in administrative agenda. Essential criteria to be considered when identifying potential public-private partnerships and their targets, is certainly the group interest. As the concept refers to a number of variants, some of which are mutually exclusive, so policymakers have mission to select among alternatives that meet their political vision and wishes of the electorate, or to create new variants. The Public Administration actions are focused on the group's general interest, especially for solving general public interests, calculating, "approximating" the public interest in information about particular interests. In this regard, setting priorities for public-private partnerships will be achieved while taking into account the number of users of goods and services.

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7. Tofan Apostol, Dana, *Administrative Law*, Volume II, Second edition, C. H. Beck Publishing House, Bucharest, 2010.

⁴⁵ National Strategy of Development of the Republic of Moldova 2012-2020. The document is available online at: <http://particip.gov.md/public/>, last access: 01.09.2012.