

Public-private Partnership: What Comes after the Law?

To create a sustainable institution of public-private partnership it is necessary to determine its purpose and place in the system of partnership between the state and business as well as create a model for PPP and for the interaction between all its components.

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The notion of "public-private partnership" is increasingly being used in governmental documents and analytical articles as a reference to the promising tool which will help to address many issues faced by the Belarusian state, for example a lack of public funds, the need to finance a large number of infrastructure projects, and attracting investment capital. The creation of public-private partnerships (PPP) is being considered by Belarusian authorities as a direction of state activities which will help to achieve the objective of "ensuring sustainable economic growth" and "increasing investment and the share of innovative products" (see Action Program of the Government of the Republic of Belarus for 2011 - 2015).

The legal basis of this mechanism should be preparing for the adoption of the law on public-private partnerships. In our opinion, this law could be one of the key methods of promoting entrepreneurship in Belarus, and as such warrants detailed examination from various points of view. An attempt to analyze the strengths and weaknesses of the law as a starting point for further development of the PPP is conducted in this analysis.

PROBLEM

We believe that the draft law does not sufficiently consider many aspects of the implementation of the PPP and does not lay the groundwork for the formation of PPP as an institution. We recommend to more fully develop key aspects of the implementation and realization of PPP, including those to which we draw attention in our recommendations. At the same time, as many significant aspects remain unexamined, the government's decision to already start recruiting staff responsible for the implementation of PPP at the national level seems to be somewhat premature.

We also believe that the law in its current form would require significant additional time for the development of sector-specific legislation for the formation of procedures at each stage of a PPP project, which would almost certainly lead to major setbacks in the first steps in the implementation phase of the PPP.

Improving existing legislation, amending the draft law, and involving the community of experts in this work, on the other hand, would create favorable conditions for the establishing the institution of public-private partnership.

RECOMMENDATIONS

1. A clear statement of the purpose of development of the institution of public-private partnership is needed. Building on this, it would be possible to determine a model of interaction between business and the state.
2. It is necessary to create and develop the institutional environment for public-private partnerships, including designing a model for its functioning and for the interaction of all its elements.
3. Development of legislation that would regulate the entire system of social relations that are part of the PPP process is required. In particular, it is necessary to:
 - adjust the draft law "On public-private partnership," including the expansion of declarative rules through the fixing of specific mechanisms of work of PPP projects; regulatory gaps; revision of the law in accordance with accepted international practice in the field of PPPs;
 - develop or amend the legislative acts that form the basis of the draft law;
 - strengthen the draft law as the basis of the institutional environment for the implementation of the PPP;
 - strengthen the legislative guarantees for investors and private partners;
 - Expand the scope of the PPP.
4. The law on PPP should be considered only a starting point in the development of the institution of PPP, which in itself cannot be a solution for all problems of interaction between the government and private business.

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