

Public and Private Partnerships: the Case of Mazeikiai District

Teodoras Tamosiunas, Violeta Zilakauskyste

Siauliai University

Architektu str. 1, LT-78366 Siauliai, Lithuania

E-mail: teodoras@cr.su.lt, viool@yandex.ru

Abstract

The article presents the forms of partnerships, describes their formation processes and risk sharing. The key changes in the Lithuanian legal basis in this sphere are analysed. The forms of partnerships in Mazeikiai district (in Lithuania), their principles and strategies are examined, the implementation of partnership projects, their demand and risks are assessed. In the discussion part, partnership management development guidelines are considered.

Keywords: public and private partnerships (PPP), projects, public service, concession, risk sharing.

Introduction

The relevance and key issues of the research.

Public and private partnerships (further referred to as PPP) are popular in Western European countries; the state sector in Europe attempts more and more to use private capital to provide public services and to create necessary infrastructure. PPP trends, opportunities, advantages and other key features are widely discussed in Lithuanian and foreign research literature.

Researchers analyse essential differences between public and private sectors (Jewel, 2000; Lane, 2001; Parsons, 2001; Guy Peters, 2002), define the demand for partnership (Sedjari, 2004), and emphasise the advantages of PPP (Wilson, 2002; Zarco-Jasso, 2005). The key success factors of partnership have been determined as follows: strategy implementation and monitoring (Hill, Jones, 2004), general vision (Jacobson, Choi, 2008), aims (Thompson, Strickland, 1990), values (Trafford, Proctor, 2006), communication (Diamond, 2006; Skietrys, Raipa, Bartkus, 2008). An important issue of risk sharing between public and private sectors has also been widely discussed (Zarso-Jasso, 2005; Savas, 2000; Puisys, 2009).

In Lithuania, the activities of PPP are regulated, the legal basis has been created. In 2009, the concept of PPP was defined and legalised, the forms of partnerships were described. In 2010, a programme promoting PPP for the period of 2010-2012 was approved. The government endorsed rules of writing and implementing PPP projects became effective in 2010.

However, the government has no strategy for collaboration between public and private sectors, there is no clear distribution of competences among the state institutions of this sphere, no individual has been appointed to provide professional consultancy and methodological support, to analyse and disseminate the practice of partnership agreements. This individual should create a methodology for project risk assessment and sharing between the parties, which would help to design new and review the already existing project agreements, to create typical partnership agreement forms and promote their usage. Nowadays it is necessary to join the potential of public and private sectors in looking for suitable solutions in the sphere of social and engineering infrastructure. The state, just as business and society, is not able to solve all these problems alone and find the resources to implement all the necessary projects. Attracting the private capital by applying the public and private partnership model is also one of the alternatives in order to increase the efficiency of the economy of Mazeikiai district.

The successful implementation of PPP projects depends on numerous factors: the form of partnership, economic, legal, political and cultural environment, coordination of interests of public and private partners, management of risk sharing and agreement between public and private sectors. Mistakes in these processes can determine poor results of the PPP projects; that is why an analytical attitude toward this issue is necessary.

The research subject: public and private partnerships.

The research aim: to substantiate the development opportunities for public and private partnerships in Mazeikiai district.

Research objectives: to analyse the main theoretical aspects of public and private partnerships; to describe legal changes in the Republic of Lithuania in the sphere of public and private partnerships; to analyse the forms, principles and strategies of partnerships applied in Mazeikiai district.

Research methods: qualitative content analysis, generalisation and systemisation of the 27 theoretical sources about PPP; an analysis of the 6 EU and Lithuanian laws, projects and state documents associated with PPP; an empirical analysis of about 20 documents of Mazeikiai district administration and PPP projects that are being written or finished.

Theoretical aspects of public and private partnerships

Public and private partnerships are considered to be an ever increasing factor in the economy of every country. “*Public and private partnership*”, or an easily remembered acronym PPP, means an agreement between public and private sectors in developing public infrastructure, in meeting the vital needs of the community or in providing other related services.

Jewel (2000) describes *the state sector* as activities carried out by the state and its companies, the aim of which is to provide services rather than to generate profit. For instance, governmental and local authorities institutions, state hospitals, state institutions of higher or secondary education. However, the need in the activities of civil servants and representatives of other state sector for collaboration with private sector has been recently noticed (Tamosiunas, Salkauskaitė, 2010). Lane (2001) distinguishes the following key characteristics of *the public sector*: bureaucracy, authority, public display of resources and distribution of income, public ownership. *The private sector* is dominated by business organisations that sell goods and services in order to generate profit (e.g., industrial and business companies, partnerships). In order to make a positive impact on the society, the private sector can expect state support (Tamosiunas, Lukosius, 2009).

Research literature provides numerous features *distinguishing public sector from the private one*:

the former deals with complicated and one-to-many tasks; it has more problems in implementing its solutions; it attracts more people with wider motivation; it pays more attention to guarantees; it strives to eliminate the shortcomings of the market; it pays more attention to symbolic activities; it maintains greater loyalty and legal standards; it bases its activities on the public interests; it has to be supported by the public more than it is necessary in the private sector. PPP is taking place in a lot of political spheres: in the development of infrastructure, in city renovation, in education and environmental spheres (Parsons, 2001).

According to Guy Peters (2002), the boundaries between public and private matters gradually disappear. The public sector has to know the differences and coordinate its activities with those of private businesses, to have the latest administrative knowledge and technologies and apply them in activities.

Sedjari (2004) argues that the term ‘partnership’ itself encompasses the triple definition of the need: the need to use a more varied form; the need to review the ways of collaboration with regard to the existing and potential participants of the process; the need to reach a balance by developing vertical and horizontal relationships, based on partnership. The need is one of the essential factors of an efficient partnership, that is why it is analysed how private capital, the more efficient methods of activities and other resources could be used in providing public services, in building and maintaining the objects of public infrastructure.

Figure 1 illustrates the impact of the Soviet and modern society on the public and private partnership. The first triangle shows the domination of the state authorities, while the freedom of activities of individuals or groups was limited. Besides, all public life was regulated by the regime. To create a western type society, it is necessary to abolish the soviet public system, its ways of thinking and its activities.

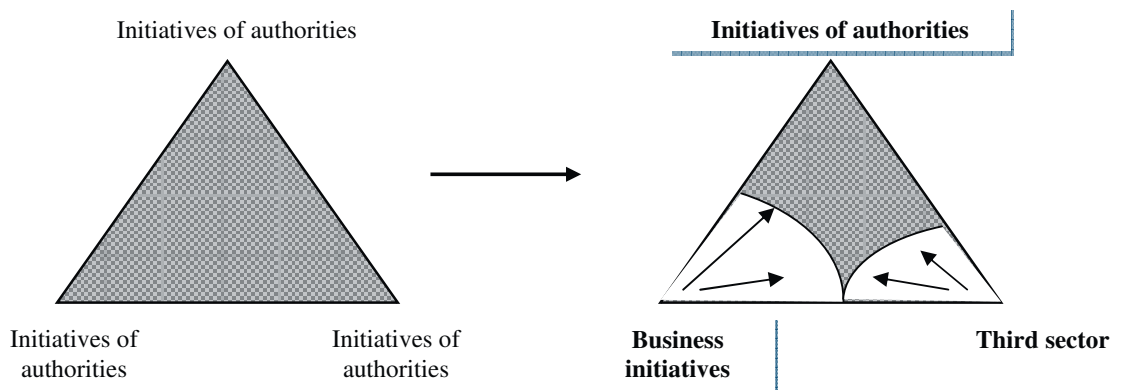


Fig. 1. The transformation of public attitudes towards PPP

Source: Kucikas, 2001.

Modern society is depicted in the second triangle, the angles of which are the interrelated sectors communicating among themselves while providing their services. In international language non-governmental organisations are referred to as 'third sector'. These institutions encourage citizens to join into associations, to solve their problems efficiently and to provide qualified services. The experiences of modern countries and the logic show that by joining the resources of the three sectors it is possible to create an efficient social infrastructure, to overcome economic crises, to improve people's life (Wilson, 2002).

Zarco-Jasso (2005) considers collaboration the main element of PPP. He analyses the concept of ownership from the aspects of its type, contribution and control. Ownership is linked with the joint investment of the resources of the participants of all types of ownership. Contribution is related to risk sharing, while the balance, which is considered the most important element of partnership, should be sought through the sharing of management. PPP is one of the key sources of innovative technologies.

The concepts of social, institutional and local partnership are most often analysed in research sources. *Social partnership* is described as an interaction and collaboration between the state, employers and employees, municipal organisations and governmental institutions. *Institutional partnership* is understood as a formal structure of an organisation, meant to approve and implement such policy that includes an extensive programme of action to overcome social seclusion and to stimulate social involvement. *Local partnership* encompasses the formation of a system of interpersonal relationships and unity on the regional level (New Public Management, 2007).

It is possible to distinguish between the three types of local partnership: *created by persons*, most often by the local community leaders, who would like to take an active part in the economic, social and cultural activities; *created by businessmen or professional organisations*, demanding an exceptional position in making economic solutions; *created by local authorities* responsible for the meeting of general needs, for the initiative, compensating for the lack of private initiatives in problem regions (Partnership Principles, 2008).

Local partnership on the regional level depends on the level of economic and social development of the region (Nauseda, Tamosiunas, 2008), and on the cohesion of the regional development (Tamosiunas, 2009). A lot depends on the EU regional policy and that of separate member states (Nauseda, Tamosiunas, 2009).

The forms of partnership. Every state has different forms of partnership. European Commission

has divided the forms of PPP in its member states into two groups: PPP implemented exclusively on the basis of contracts (*Purely Contractual PPP*), when collaboration between the public and private sectors is carried out by concluding a public agreement (for activities, goods or services) or a public concession (activities, services); and officially approved PPP (*Institutionalised PPP*), when collaboration takes place in the form of an independent legal entity and a new mixed capital company is established or a public company is taken over to manage by the private sector (State Audit Report, 2008).

The International Organisation of Supreme Audit Institutions (INTOSAI) distinguishes between the following forms of PPP: franchise, concessions, privately financed projects, privatisation. Such forms reflect the structured practice of various states (State Audit Report, 2008). In order to revitalise or strengthen partnership, one has to deal with a variety of complex problems: a long period of public tenders, which may cause greater expenses for the public sector; the lack of experience and competence of the public project group in the sphere of PPP; high costs of consultancies; rigid contracts; inappropriate risk transfer; provisions of agreements lacking details regarding consumer protection; possible limitations of competitiveness in making PPP agreements; potential lack of control of the implementation of PPP agreements; fewer opportunities to assess the usefulness of a PPP project (State Audit Report, 2008).

The creation of partnership. It is emphasised that PPP is not only an efficient means of meeting social needs; it generates surplus value in comparison with the public tender (Skietrys, Raipa, 2009).

While acquiring goods or services, public sector institutions have to follow the set regulations for public tender and carry out those publicly. The order of the public tender is set in the Law on Public Tender and other legal documents related to this law. The process of the public tender in the case of PPP is rather complicated (see Fig. 2), that is why it does not suit all the public infrastructures (planning, construction, restoration, renovation, management, maintenance and provision of public services) to solve their problems. However, by applying this partnership it is possible to prevent obstacles typical of traditional public tenders, i.e. an insufficient efficiency and transparency of public tenders, also their orientation towards contributions and price (PPP and the Use of EU Structural Funds, 2005). Essential differences are not only these obstacles, it is also the difference in time while implementing projects. For instance, a research carried out in the UK has demonstrated that project preparation work can take up to 34 months on average (State Audit Report, 2008). Diffe-

rently from traditional public tenders, PPP includes a more intensive maintenance of relationships between these sectors. Usually, a private sector company hires construction companies to carry out construction or restoration work. It establishes special enterprises to operate public infrastructure. Besides, to finance PPP projects, banks or investors are attracted, most often through the private sector partner (PPP and the use of EU Structural Funds, 2005). Partnership invol-

ves a wide range of forms of interaction between different institutions and interest groups. In difference from making traditional agreements, public and private sectors have to have a common vision and aims to achieve efficient outcomes. It is necessary to assess the performance of tasks, to observe the changes in the environment, to follow the feedback information, to redistribute resources in time, to adjust and change the strategy (Hill, Jones, 2004).

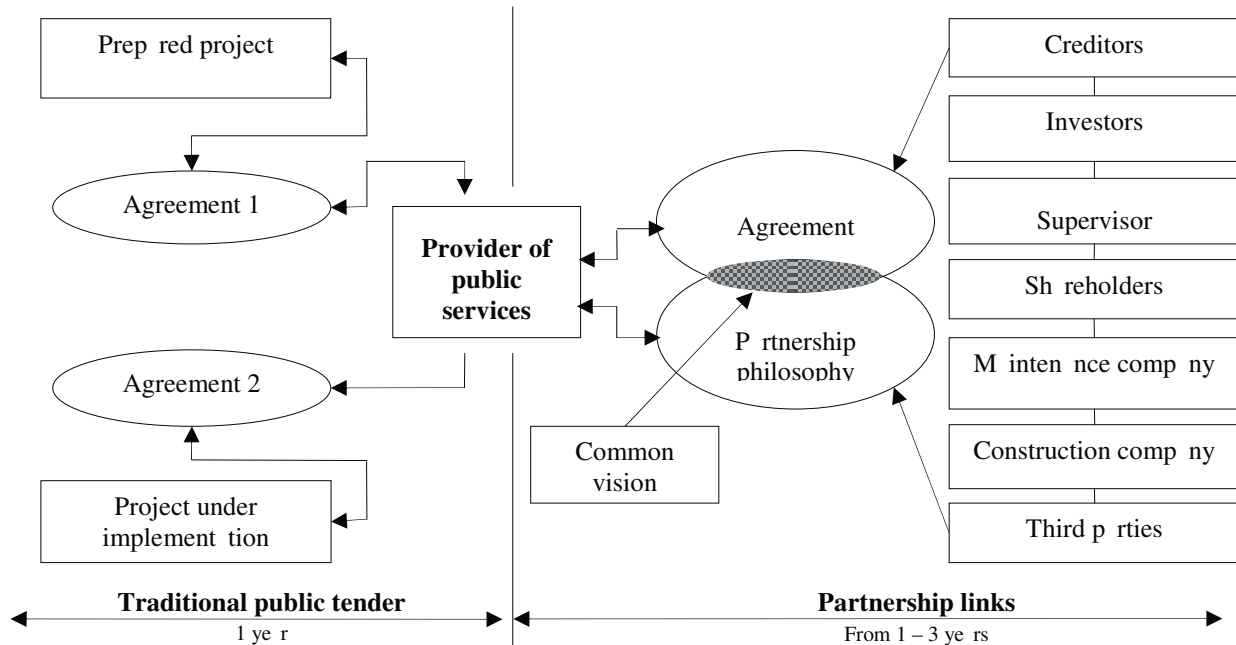


Fig. 2. The differences between public tenders and partnership implementation

Source: Skietrys, Raipa, 2009.

According to Jacobson and Choi (2008), the first step in partnership has to be the creation of a joint vision in the agreement by discussing common aims and the deadlines for their implementation. Partnership has to be based on the following: *openness and flexibility; listening; respect and trust, mutual recognition, understanding and responsiveness; transparency and the need to communicate; obligatory strong incentives, etc.* (Kundrotiene, Rekerta, 2002).

Thompson and Strickland (1990) demand defining the aims in a very concrete way: aims are tasks that can be measured by qualitative and quantitative indicators and can be implemented within the set time limits.

The main factors determining the success of PPP can be arranged into three groups: *institutional environment* (legal and organisational institution development level); *organisational aspects* (maintaining relationships, planning, values, common vision, community participation, leadership) and *human resources* (their characteristics, competence, responsibility, knowledge management). Trafford and Proctor (2006), while analysing the main PPP success fac-

tors, distinguished communication, planning, openness and values as the most important ones. If communication is based on openness, mutual understanding and trust, all interested parties will take part in decision making. It is trust that is very important in finding a compromise between partners. Innovation and collaboration projects are most successful when public and private sectors are not separated by great distances and when their “face to face” contact is possible (Diamond, 2006).

In providing public services, *personal qualities of the staff members and their competence* are important (Jacobson, Choi, 2008; Trafford, Proctor, 2006). Trafford and Proctor (2006) emphasise that leaders of the public sector make a decisive impact. Their participation should not be exclusively limited by the formulation of strategic aims of partnership. Leaders should not only point out problems but also find solutions to them. However, there are quite a few state and municipal institutions that are lagging far behind in this sphere from private companies.

Opportunities of partnership participants are limited by certain restrictions: *bureaucratic limita-*

tions (every stage of the project implementation requires an endorsement of numerous persons in charge); *legal procedures* (they slow down the implementation of projects or programmes); *differences in status conception* (although partners are equal and none of them can achieve their own and common aims without the agreement and support of the other, state institutions tend to dominate partnership relationships); *lack of collaboration skills* (lack of specialist knowledge and experience in making solutions necessary for successful partnership); *great time input* (a lot of time is required for negotiations, for ensuring consistency in writing projects) (Social and Political Efficiency of Municipal Institutions, 2006).

Skietrys, Raipa and Bartkus (2008) distinguish three main *factors of efficient management of PPP*: 1) *the need*; 2) *political, legal and administrative environment*; 3) *communication*. Partnerships should be created with regard to the development needs (problems). The second factor deals with the legalisation of project forms, a purposeful and stable policy, institution founding and maintenance. Project implementation also depends a lot on communication. (Karlavicius, Karlaviciene, 2004).

Risk sharing. Gudelis and Rozenbergaite (2004) state that one of the arguments why PPP is more advantageous than traditional ways of providing public services is the fact that this partnership offers an opportunity to share risks between the public and private sectors. There are a lot of classifications of risk; however, the common risk for both sectors is inflation, demand, legal matters and Force Majeur (Puisys, 2009; Gudelis, Rozenbergaite, 2004). Additional risk can be caused by unexpected circumstances having an influence on the implementation of a PPP project. PPP is more profitable if risk is allocated to the parties that best know how to deal with it. Often the private sector does the planning, construction, manages and maintains an object, which at the end of the project is returned to the public sector. A certain amount of risk is transferred to the private sector in order to ensure maximal economic gain and efficiency. Puisys (2009) distinguishes between the following criteria of economic gain: a decrease in expenditure and improvement in quality, attraction of the capital

for other projects, stimulation of innovations. Private sector assumes the largest amount of risk by accepting *construction risk* and one of the two risks – *suitability or demand*, which are attributed to the key risk categories. The lowest degree of risk for the private sector is in *management* and *rent* type partnerships (Zarso-Jasso, 2005). It is necessary to evaluate risk-related obstacles and to distribute the degree of risk from public to private sector or vice versa by compiling a *risk evaluation matrix*. The risk sharing matrix enumerates potential risks and suggests sharing them between the parties. While making an agreement, risk should be shared at certain stages of the project; it should be evaluated, its value has to be established, the probability of risk and its duration should be determined, etc. Concrete risk depends on the choice of the form of partnership. For instance, public institutions should choose the form of rent, activities and management when:

$$R+P+V-K-S > 0.$$

Here R stands for the risk input transferred to the private sector; P is variation of the created gain; V is variation of management expenditure; K is variation of transaction expenditure; S is the difference between the interest set for the loans for public and private institutions. (Gudelis, Rozenbergaite, 2004).

Every democratic society bases its development on the principle of *the three whales*. The members of society on the local level demand from all the three sectors – authorities, businesses and institutions of the third sector – to assume responsibility for the solution of their problems (Kucikas, 2001). Savas (2000) argues that organisation, financing and control of service provision and infrastructure development as well as responsibility for the whole process fall almost exclusively on the private sector. Together with responsibility, private sector also assumes risk.

Optimal risk sharing and the variety of types of PPP are often characterised by a different level of integration of the subjects. PPP becomes a strategic necessity (UN ESC, 2002). The main advantage of the PPP model is its *synergy effect*. Figure 3 presents risk sharing in PPP between public and private sectors.

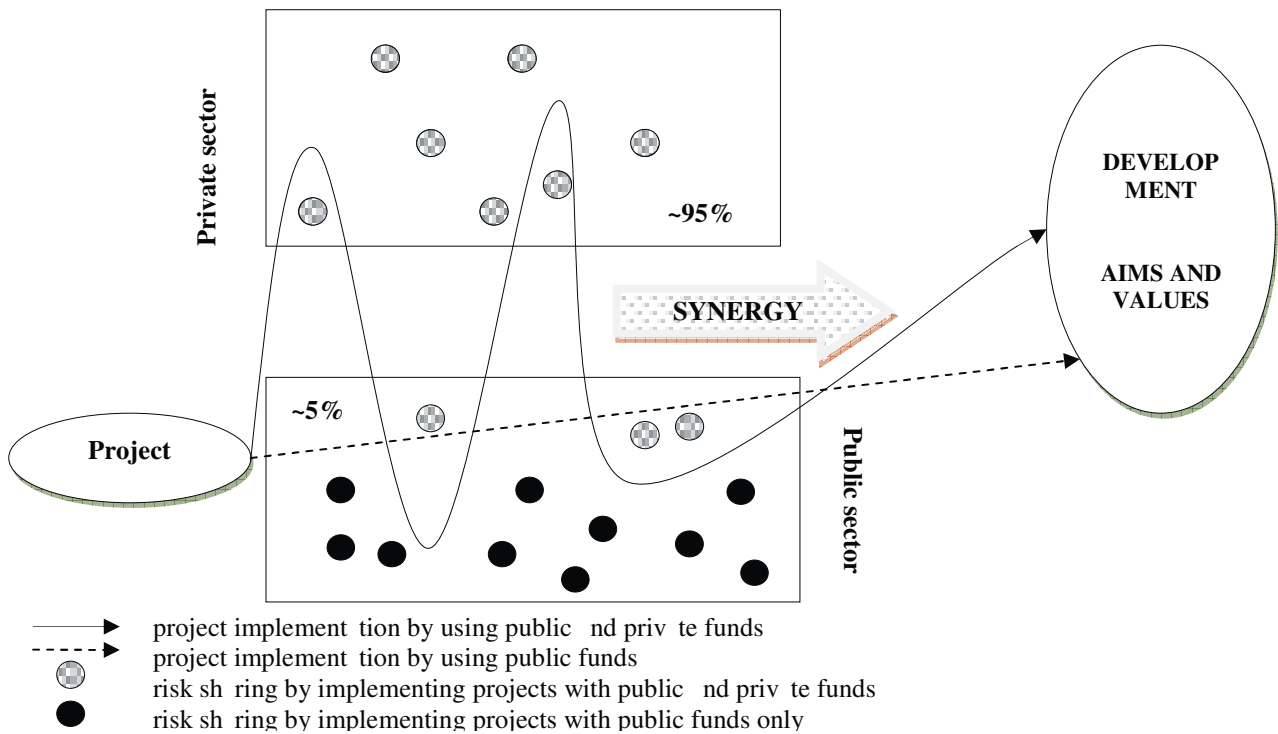


Fig. 3. Synergy effect by sharing risk in public and private partnerships

Source: Gecas, Jakubavicius, Vijeikis, 2004.

As it can be seen from Figure 3, the risk of the public sector in combination with the private sector (construction, operation companies, banks or investors) would decrease almost three times. The private subject with its own or borrowed funds would carry out restoration work and further maintenance and keeping of the project and property for the period of the project.

Partnership is regulated by strict deadlines, because preparation of a large PPP project and implementation of a tender takes at least 2 years, and often longer (Venckus, 2009). The traditional model (when the public sector assumes all the risk of the project) to restore, build or equip a school/a community block of flats having been chosen it is necessary to conclude a few separate public tender agreements (planning, financing, necessary equipment, operation); these procedures demand a lot of time, expenditure (implementation, administration) and project related risks.

There is a lack of mutual trust between public and private sectors. Public sector institutions while planning projects should make a project risk matrix and accumulate information about financing opportunities. The private sector, in turn, should show some initiative in order to increase trust and assess risk transfer.

Legal changes in the Republic of Lithuania in the public and private partnerships

The activities of public and private partnerships are regulated, i.e. there exists a separate legal base. The main legal acts that make it possible for the private sector to provide public services have been passed. However, the Law on Concessions, which regulates PPP and on the basis of which projects are initiated and implemented, does not have an unambiguous identification, assessment and risk sharing policy (State Audit Report, 2008). A project risk assessment and risk sharing methodology has to be designed, which would help to review draft agreements or typical partnership agreements and would stimulate their usage.

In spring 2010, a Public and Private Partnerships Stimulation Programme for 2010-2012 was approved (LR Government Decree “Re Approval of the Programme for Stimulating Public and Private Partnerships in 2010-2012”, 2010). The programme presents the analysis of the situation, the aims and objectives of the stimulation, the means of implementing the programme and indicators as well as their assessment criteria.

In order for the PPP to bring definite profit to the state, it is necessary to provide potential PPP par-

ticipants with legal, methodological and consultancy support. In 2009, Lithuanian Government in order to promote investment and make collaboration between the public and private sector more active, endorsed the amendments proposed by the Ministry of Finance and introduced in the Law on Investment and related documents. These amendments defined and legalised the concept of PPP, which until then has not been made legal by any valid legal act. The amendments also defined and regulated the forms of partnerships. The provisions of the Law on Investment, regulating the public and private partnerships as well as partnership between the authorities and private individuals, became effective as of 1st January 2010.

The present legal base makes it possible to apply the following forms of public and private partnerships: **1) concession**, on the basis of provisions of the Law on Concessions (Law on Concessions, 2006; The Law on Amending Article 28¹ of the Law on Concessions, 2009), which enumerates institutions responsible for concluding and implementing concession agreements, and their functions; **2) partnerships between authorities and private individuals** (Law on Investments, 2009); **3) establishment of mixed economy capital companies** on the basis of provisions of the Law on Management, Use and Disposal of State and Municipal Assets (2009). Every EU member state can choose the system of regulating public and private partnerships which suits their needs best. Although legal acts of different states distinguish numerous kinds of PPP, at present only the three above-mentioned forms of partnership can be used in Lithuania.

On 1st January 2010, a Government Decree "Re Public and Private Partnerships" came into force. By this the Government approved the rules of writing and implementing PPP projects, which is aimed at stimulating the partnership process and ensuring the implementation of PPP projects.

Since 1st September 2009, amendments to the law on Public Tender came into effect; now society can observe all the process of public tender. This helps to ensure a greater transparency of public tenders and decrease corruption. These amendments to the law without any doubt increased competitiveness and decreased prices.

It is necessary to rely on the good experiences of other countries in order to develop legal base for the expansion of PPP. In the UK there are more than 40 modern hospitals, the construction and equipping of which with the most modern diagnostic equipment was possible only due to PPP. Portugal and Spain are extensively using PPP in the sphere of transport. Ireland, Poland, Germany, Scandinavian countries and Italy are employing a lot of EU Structural Funds to stimulate the development of human resources, they

also pay a lot of attention to environmental protection (Experience with PPP..., 2006).

The main forms, principles and strategies of partnerships in Mazeikiai district

One of the key factors of efficient PPP is *the needs*. With the increase in the needs of society, the supply of services also grows, thus increasing the satisfaction of the society. In many cases the needs are presented in strategic documents. The Strategic Development Plan for Mazeikiai District for years 2008-2013 postulates the need to increase competitiveness of the region, linked with the qualitative and quantitative development of infrastructure, human resources and other spheres.

Most often **PPP in Mazeikiai district** are implemented on the basis of agreements or in accordance with the independent legal entity: *public tenders* (public tender agreements on activities, goods and services); *property acquisition/privatisation*; *property renting/lending agreement*.

Most PPP projects initiated by Mazeikiai district municipality administration are implemented via public tenders, while preparation for project implementation is going according to the diagram shown in Figure 4.

A PPP project implementation cycle consists of *project initiation*, *project approval* (making a draft agreement), *tender organisation*, *adjusting the agreement* and *project implementation*. The state or a municipality, business or community can take part in the implementation of PPP projects. During public tenders, negotiations take place between project writers and potential implementers regarding the execution of foreseen activities or provision of services. A signed purchase agreement regulates project implementation activities. The agreement contains not only project expenditure but also expected outcomes. For the process of public tender, a transparent and competitive tender with flexible purchasing conditions and correct risk sharing with regard to the interests of the private sector are necessary. PPP project partners' experience in similar projects is also important, as well as in depth understanding of obligations and adequate privity of the interested parties. Consistency and accuracy, concreteness of the expected outcomes, clear motives, and high quality of administration are necessary for the project planning and implementation. In the project model, it is necessary to foresee a strategy, in which the suitability, attractiveness, risk and the buy off of the project should be evaluated. The main obstacles in PPP designing are the lack of communication skills, the instability of legal procedures, bureaucracy, unpredictable political and personal solutions.

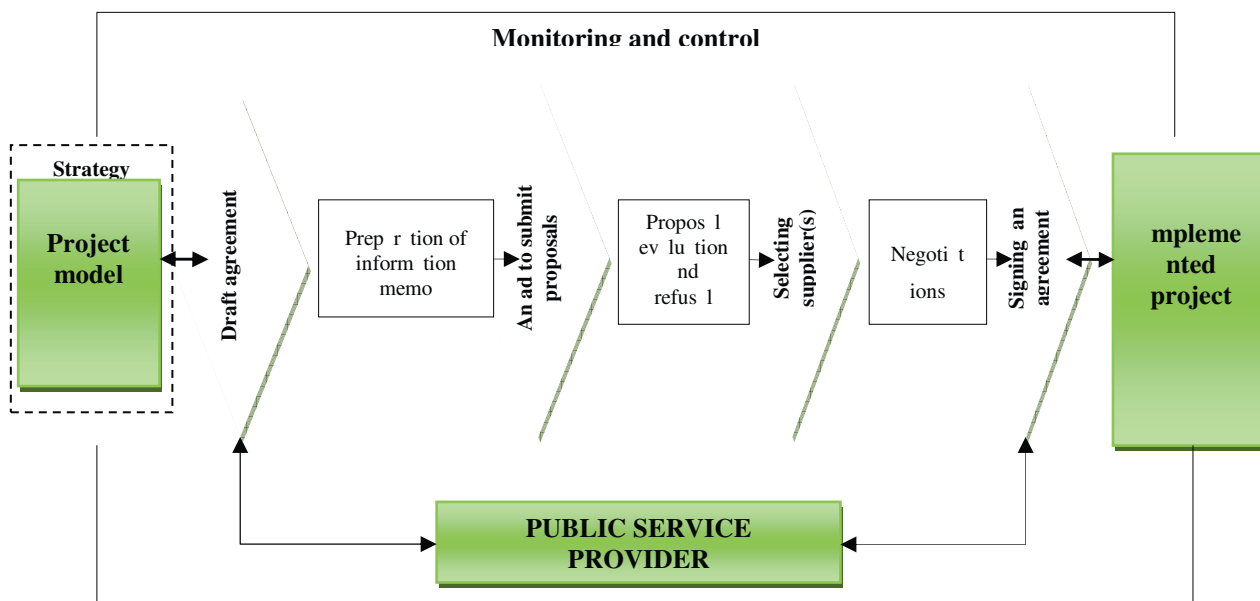


Fig. 4. Preparation for the implementation of a PPP project in Mazeikiai district municipality (a public tender)

Source: designed by the authors of the paper.

Mazeikiai District Municipality Administration Plan for Public Tenders for Year 2010 foresees buying 22 goods, providing 144 services and carrying out 61 tasks, the majority of which are going to be performed by public sector institutions (Mazeikiai District Municipality Administration Plan for Public Tenders for Year 2010, 2010). According to the Public Tender Plan for Year 2009, the administration acquired 16 goods, received 98 services and had 45 tasks completed. The analysis of the public tender agreement plans for the five years has shown a significant change in their number. The biggest number of public tender agreements was signed in 2008 and there were 245 of them (Mazeikiai District Municipality Administration Plan for Public Tenders for Years 2006-2010, 2006-2010). *A list of objects for privatisation* is not long in Mazeikiai region. In 2008, four buildings were privatised. In 2009, 7 objects were on the privatisation list, however, only 2 became private. In 2010, only one object was offered for privatisation in the database (State Property Fund, 2010). Lending agreements are mostly signed in the region, when the recipient can temporarily manage and use the owner's property free of charge. In 2009, 5 such agreements were signed.

The analysis of various agreements signed at the district municipality or projects implemented there has shown that the private sector is little involved in the service provision or project activities, implemented by the public sector. *The participation principle* is clearly ignored when the implemented pro-

jects deal with hiring services and provision of public services. This is the main problem of the public sector. When implementing the projects or making decisions, public sector institutions do not pay attention to the opinion of social partners. For example, in February 2010, a decree of the Minister of Internal Affairs allocated funds to the Mazeikiai district municipality administration project "The Development of Community Housing in Mazeikiai District". The need for community flats in the district is obvious, i.e. the number of families waiting for this type of housing is increasing. The number of families that were offered an opportunity to rent accommodation is much smaller than the actual demand. The project cost is projected at more than 3,676,000 LTL (slightly over 1 million EUR). EU structural funds are going to supply 3,124,000 LTL, the rest has to be provided by Mazeikiai district municipality. However, already now there is some disagreement between the municipality and the residents regarding building the house on the children's playground. That is why the beginning of construction is delayed. To reach an agreement it is necessary to make every effort to achieve trust between society and authorities, otherwise the project is doomed.

Essential features of partnerships are flexibility, participation and mutual trust. In Mazeikiai district, while implementing projects with some PPP features, the lack of adherence to these principles is felt. For instance, in carrying out public tenders, the *rationality principle* is observed, i.e. according to the

public sector institutions, their decisions are well considered, correct, and other social groups do not have a major influence on them. The example presented above about the development of community housing shows that local municipal institutions apply a *support strategy*, the community is informed about the projects or programmes that have been confirmed or started to be implemented.

In Mazeikiai district partnerships are often created on the initiative of local businessmen and NGOs. This shows that the development of partnerships is partly based on *the principle of three whales*. However, the public sector is not inclined to give the initiative to the private sector in carrying out projects or in providing public services. Mazeikiai district municipality argues that the private sector is not flexible enough, that more funds are spent, often their services are not good enough, etc. However, the initiative of businessmen tends to grow. For instance, they suggest draft projects to improve infrastructure.

Empowerment strategies are also being employed. In 2009, 40 NGOs were operating in Mazeikiai district, the main one of which was Mazeikiai NGOs Association. The aim of the Association is to collaborate and provide support for organisations, to present projects that received financial support from various funds to the community, etc. Collaboration among these institutions produces good and obvious results.

Mazeikiai district demand for partnership projects and risks

In Lithuania most often those PPP projects are implemented, in which it is not the end user who pays for the provided services, but the public sector, i.e. the government, the municipality or EU financial support. It is important for the public sector that at the stage of project preparation, financial alternatives and the efficiency of proposals are assessed and compared. For the private investor it is important to assess project risk and to analyse its attractiveness as well as investment opportunities. PPP is a means of stimulating economy, however, risk is one of the main obstacles of PPP projects; investors look at participation in PPP projects with caution. Risk sharing among the parties is most often the basis on which a PPP agreement is modelled.

In 2010, 3 houses are being renovated in Mazeikiai district municipality. The value of the project is 3 million LTL; about 500,000 LTL is going to be provided by the municipality, the rest comes from the EU funds. Besides, the renovation of educational institutions in Mazeikiai district is foreseen (the municipality is expected to cover 25% of the costs), as well as other projects. While carrying out these projects, private investors could be involved. That would allow not only sharing risk, but also decreasing the ne-

ed for the state/municipal funds. It is difficult to attract foreign investors; they are attracted only by large scale projects. However, local businessmen could get profit from their investment in various infrastructure projects.

The application of PPP projects in various regions of the country depends a lot on the general policy of the country and its strategic aims in assimilating the EU financial support. For instance, on the 1st of November 2009, in Mazeikiai district most EU structural support funds in 2007-2009 were used to stimulate business (39.91 million LTL); then followed regional and social cohesion projects (37.78 million LTL); increasing employment and social opportunities (29.29 million LTL), the development of research and technologies (28.57 million LTL) and transport (26.82 million LTL). While in the UK most EU funds in 2005 were used for health services (21%), transport (18%), defence and education (Public Private Partnerships in the Baltics and Europe, 2006).

Conclusions

As it has been demonstrated by the analysis of the research sources, Lithuanian and foreign states' document analysis, PPPs take place in many spheres of activities: in the development of infrastructure, education, training and environmental sphere. According to the type of activities, PPPs are most efficient in planning, construction, financing, and operating spheres. Both risk sharing and the variety of the types of PPPs are characterised by a different level of integration of the participants.

Partnerships are caused by the lack of financing or resources, limited facilities, need for synergy, inefficiency of the public sector, implementation of the new standards. PPPs are more characteristic of the cities, where stronger political support and interests are felt.

PPP is based on the principle of *the three whales*, represented by the business sector, governmental institutions and voluntary citizen institutions (NGOs). These three sectors act in different ways. Governmental and non-governmental organisations have joint projects, they realise the society's interests, organise various events and training. Business structures are more engaged in infrastructure development projects.

Flexibility, participation and mutual trust are considered to be the essential features of partnerships. The main factors determining successful PPP are as follows: *institutional environment* (legal and organisational level of development of an institution); *organisational aspects* (maintaining relationships, planning, values, joint vision, community participation, leadership) and *human resources* (competence, responsibility, knowledge management).

The main obstacle for partnerships is the unwillingness on the part of the public sector to transfer to the private sector the initiative in carrying out projects and in providing public services. It is claimed that the private sector is not flexible enough, that it spends a lot of funds, and often its services lack quality. Ignoring of *the principle of participation* was obvious. While implementing projects having PPP features essential partnership principles are not always adhered to. According to the public sector institutions, their decisions are well-considered, correct and other social groups do not have a major influence on them. The involvement of the private sector in the PPP is limited by the lack of experience to initiate projects, complex procedures, the lack of methodological information, and bureaucracy. PPP activities are subject to a rather strict control, which makes them less attractive for the private sector.

For successful PPP, a reliable and stable legal basis, project supervision, control and efficiency assessment mechanisms are necessary, because reliable regulation gives the private sector guarantees of return on their investment. Intensive participation of the representatives of most ministries and governmental institutions is necessary in the creation of PPP, political and public support is also important.

In order to achieve a balance between public and private partners' interests it is necessary for the public institutions to formulate very concrete and clear aims and means to achieve them, to have a common vision, to choose the appropriate way of service provision, to disseminate public information and to flexibly administer the process of partnership.

While modelling a PPP agreement, it is very important to coordinate the Risk Assessment Matrix, which helps to evaluate risk and reflects the suitability and attractiveness of the project.

Every EU member state has a right to choose the most suitable form of PPP. Although much effort has been made to create a common partnership administration system in Lithuania, the instability of political, legal and administrative environment so far has prevented the development of partnerships both in Lithuania and in Mazeikiai district.

Most projects carried out in Mazeikiai district can be considered as having features of PPP; however, in most cases they are implemented with orientation towards public tender practice. Collaboration is done in the form of an independent legal entity or on the basis of agreements: *public tenders* (public agreements to perform some activities, to buy goods or services); *property acquisition or privatisation* and *property renting or lending agreements*. The district municipality administration should make a better use of concession agreements in providing public services, in economic activities related to the operation of the

objects of infrastructure, in managing or using municipality or state property.

The analysis of the projects carried out in Mazeikiai district has shown that the public sector is applying the *empowerment strategy* in respect of private organisations and NGOs. The public sector also employs the *support strategy*; the members of society are being informed about the financed or implemented projects or programmes, representatives of the community often become members of working groups or beneficiaries.

Discussion

The analysis of research sources, EU and Lithuanian legal bases and PPP projects carried out by Mazeikiai district municipality administration revealed a few debatable issues, the deeper exploration of which requires additional research. In the discussion that follows a few attitudes of the authors of this article are presented. They point out the issues requiring extra attention, the links of the public and private partnerships that should be developed.

The present conditions of employing EU support funds in Lithuania are not favourable for PPP projects, because usually the funds are allocated separately to either public or private sector projects. To make PPP more efficient, it is necessary to solve the problem of joint financing for both public and private projects.

It is also necessary to increase awareness of public and private partnerships; a greater number of specialists should acquire practical and theoretical knowledge about legal, financial and organisational aspects of PPP projects (e.g. special training should be organised in order to up-date the qualifications of the members of buying organisations). The lack of experience and competences is a major obstacle for the development of PPP projects.

The public opinion about the public and private partnerships is not satisfactory. It is necessary to increase trust, to destroy communication barriers, to organise meetings with various social groups, to increase the transparency of PPP projects and to inform society better. Information dissemination and accessibility would benefit a lot from a publicly accessible information accumulation system (an internet site, a virtual database), which would provide extensive information about the prospective and actual projects.

Tougher measures are necessary in fighting corruption. Municipal administrations draw up plans of fighting corruption every year; however, so far they have not had any influence on either prevention of corruption or its image. This issue is especially urgent in those PPP project preparation and implementation spheres where the risk of corruption is the greatest. People with excellent reputation and high mora-

lity, trusted by colleagues and the society, able to engage in corruption prevention activities should be employed in those positions.

In Lithuania, a tradition is being established to involve big companies in PPP projects, and the projects themselves are often large, infrastructural. Small and medium size enterprises should be encouraged to take a more active part in PPP projects in municipalities, state infrastructure and in the sphere of services.

Probably the most controversial issue in Lithuania in terms of public and private partnerships is the question of PPP project execution in the form of a concession agreement. The Law on Concessions has been in force since 1996, there are appropriate regulations and other legal documents. However, there is no experience, no skills, the lack of competences to organise activities on the basis of a concession agreement, and often there is no motivation. A more detailed and more extensive dissemination of experiences of other countries would be useful.

In Mazeikiai district there is no tradition of public and private partnerships and the experiences are limited, that is why the initiative of municipal administration staff members or individual businessmen is not enough for the development of PPPs. A much higher degree of activity on the part of the private sector is necessary, an efficient involvement of NGOs and members of community and positive attitudes are required. An intensive participation of most of the ministries and representatives of governmental institutions in the creation of this partnership and their support are of paramount importance. Only by a joint effort PPPs can be strengthened and their efficiency increased in Mazeikiai district and in Lithuania.

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Tamošiūnas T., Žilakauskytė V.

Viešojo ir privataus sektorių partnerystė: Mažeikių rajono atvejis

Santrauka

Tyrimo aktualumas ir problematika. Viešojo ir privataus sektoriaus partnerystė (toliau – VPSP) yra paplitusi Vakarų Europos šalyse. VPSP formos, galimybės, nauda plačiai nagrinėjami užsienio ir Lietuvos mokslo literatūroje.

Mokslinėje literatūroje išsamiai išanalizuoti pagrindiniai skirtumai tarp viešojo ir privataus sektoriaus (Jewel, 2000; Lane, 2001; Parsons, 2001; Guy Peters, 2002), nusakyti partnerystės poreikiai (Sedjari, 2004), akcentuota PPP nauda (Wilson, 2002; Zarco-Jasso, 2005). Apibrėžti pagrindiniai partnerystės sėkmės veiksniai: strategijos įgyvendinimas ir stebėseną (Hill, Jones, 2004), bendra vizija (Jacobson, Choi, 2008), tikslai (Thompson, Strickland, 1990), vertybės (Trafford, Proctor, 2006), komunikacija (Diamond, 2006; Skietrys, Raipa, Bartkus, 2008). Daug nagrinėtas opus klausimas – rizikos pasiskirstymas tarp viešojo ir privataus sektorių (Zarco-Jasso, 2005; Savas, 2000; Puišys, 2009; Gudelis, Rozenbergaitė, 2004; Kučikas, 2001).

Lietuvoje VPSP veikla reglamentuota, sukurta teisinė bazė. 2009 metais nustatyta ir įteisinta VPSP sąvoka, reglamentuotos šios partnerystės formos. 2010 m. patvir-

tinta VPSP skatinimo 2010–2012 metų programa. 2010 metais įsigaliojo Vyriausybės patvirtintos VPSP projektų rengimo ir įgyvendinimo taisyklės.

Tačiau Vyriausybė nėra parengusi viešojo ir privataus sektorių bendradarbiavimo strategijos, tarp valstybinių įstaigų nėra aiškaus kompetencijos pasiskirstymo, nėra paskirto subjekto, kuris teiktų konsultacinę ir metodinę pagalbą, analizuotų ir skleistų partnerystės sutarčių praktiką. Šis subjektas turėtų sukurti projektų rizikos vertinimo ir padalijimo tarp šalių metodiką, kuri padėtų parengti ir peržiūrėti jau parengtus sutarčių projektus, parengtų tipines partnerystės sutarčių formas ir skatintų naudojimąsi jomis. Privataus kapitalo pritraukimas taikant viešojo ir privataus partnerystės modelį yra viena alternatyvų siekiant efektyvinti ir Mažeikių rajono ekonomiką.

Tyrimo objektas – viešojo ir privataus sektorių partnerystė.

Tyrimo tikslas – pagrįsti viešojo ir privataus sektoriaus partnerystės Mažeikių rajone plėtros galimybes.

Uždaviniai: 1) išnagrinėti pagrindinius viešojo ir privataus sektoriaus partnerystės teorinius aspektus; 2) apibūdinti Lietuvos Respublikos teisinius pokyčius viešojo ir

privataus sektoriaus partnerystėje; 3) išanalizuoti Mažeikių rajone taikomas pagrindines partnerystės formas, principus ir strategijas.

Tyrimo metodai: kokybinė teorinių šaltinių turinio (angl. *Content*) analizė, apibendrinimas ir sisteminimas; Europos Sąjungos (ES) ir Lietuvos Respublikos įstatymų, projektų, valstybės dokumentų analizė; Mažeikių rajono savivaldybės administracijos dokumentų ir parengtų, įgyvendintų arba įgyvendinamų VPSP projektų empirinė analizė.

Pagrindiniai tyrimo rezultatai. Straipsnio teorinėje dalyje apibendrinti teoriniai viešojo ir privataus sektoriaus partnerystės aspektai. Išnagrinėtos partnerystės formos, jos formavimo procesai, rizikos pasiskirstymas. Apibūdintas viešasis ir privatus sektorius, akcentuotas trečiasis sektorius – nevyriausybinės organizacijos, visuomenės iniciatyvos bei augantis jų vaidmuo VPS partnerystėje. Išskirta socialinė ir vietos partnerystė. Nemažai dėmesio skirta partnerystės procesui, akcentuota viešojo ir privataus sektoriaus bendros vizijos ir strateginių tikslų svarba. Nagrinėta opiausia VPSP problema – rizikos pasiskirstymas. Dažniausia privatus sektorius prisiima gamybos, statybos rizikas, o viešasis – partnerystės projekte sukurtų produktų ar paslaugų tinkamumo, paklausos rizikas.

Išanalizuoti pagrindiniai Lietuvos teisinės bazės pokyčiai šioje partnerystėje. Dabartinė teisinė bazė sudaro sąlygas taikyti šias VPSP formas: *koncesiją, valdžios ir privačių subjektų partnerystę, mišraus kapitalo įmonių veiklą.*

Išnagrinėtos Mažeikių rajone pasireiškiančios partnerystės formos, taikomi principai ir strategijos, įvertintas partnerystės projektų vykdymas, tokių projektų poreikis ir rizika. Daugelis Mažeikių rajono VPSP projektų inicijuojami savivaldybės administracijos ir įgyvendinami orientuojantis į viešuosius pirkimus. VPSP projekto įgyvendinimo ciklas susideda iš *projekto inicijavimo, projekto tvirtinimo, pirkimų organizavimo, sutarties derinimo bei projekto įgyvendinimo.* VPSP projektų įgyvendinime dalyvauja vals-

tybės arba savivaldybės institucijos, verslo įmonės, visuomeninės nevyriausybinės organizacijos. Pavyzdžiui, 2010 metais savivaldybės administracijos viešųjų pirkimų plane numatyta įsigyti 22 prekes, suteikti 144 paslaugas bei atlikti 61 darbą, kurių daugiausia atliks tik viešojo sektoriaus institucijos. Pagal 2009 metų viešųjų pirkimų planą buvo įsigyta 16 prekių, suteiktos 98 paslaugos bei įvykdyti 45 darbai.

Privatizuojamų objektų sąrašas Mažeikių rajone nėra didelis. 2008 metais buvo privatizuoti 4 pastatai, 2009 metais – tik 2. 2010 metais privatizuojamų objektų duomenų bazėje paskelbtas tik vienas objektas. Rajone dažniau pasirašomos panaudos sutartys, kai gavėjui leidžiama laikinai ir neatlygintinai valdyti ir naudotis panaudos davėjui nuosavybės teise priklausančią turtą. 2009 metais buvo pasirašytos 5 panaudos sutartys.

Išvados. Kaip rodo mokslo šaltinių ir užsienio valstybių bei Lietuvos dokumentų analizė, VPSP vyksta daugelyje veiklos sričių: plėtojant infrastruktūros, švietimo, lavinimo ir aplinkosaugos sritis. Pagal veiklos rūšis efektyviausiai VPSP pasireiškia projektavimo, statybos, finansavimo, eksploatavimo veiklose.

Pagrindiniai partnerystės bruožais laikomas lankstumas, dalyvavimas ir tarpusavio pasitikėjimas. Pagrindiniai PPP sėkmę lemiantys veiksniai yra *institucinė aplinka, organizaciniai aspektai ir žmogiškieji ištekliai* (kompetencija).

Mažeikių rajone viešasis sektorius taiko *įgalinimo strategiją* privataus sektoriaus ir *rėmimo strategiją* nevyriausybinių organizacijų bei visuomenės atžvilgiu. Visuomenės atstovai dažniausia tampa naudos gavėjais.

Diskusijoje aptartos VPS partnerystės valdymo tobulinimo, partnerystės plėtros ir veiklos kokybės gerinimo gairės.

Pagrindiniai žodžiai: viešojo ir privataus sektorių partnerystė, projektai, viešosios paslaugos, koncesija, rizikos pasiskirstymas.

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