

**PRISYAZHNYUK Anna**,  
PhD (Economics),  
Associate Professor of the Management Department,  
Kyiv National University of Trade and Economics  
19, Kyoto str., Kyiv, 02156, Ukraine

**KHMUROVA Victoria**,  
PhD (Economics),  
Associate Professor of the Management Department,  
Kyiv National University of Trade and Economics  
19, Kyoto str., Kyiv, 02156, Ukraine

E-mail: [anya\\_fairy@ukr.net](mailto:anya_fairy@ukr.net)

ORCID ID: <https://orcid.org/0000-0002-5399-5406>

E-mail: [chyydo@ukr.net](mailto:chyydo@ukr.net)

ORCID ID: <https://orcid.org/0000-0002-6398-6351>

## PUBLIC-PRIVATE PARTNERSHIP: THEORY AND PRACTICE

*The article is devoted to actual issues of partnership at the state and enterprise level. The peculiarities of the legislative base on public-private partnership in Ukraine are analyzed. The authors define main problems and obstacles in the conclusion of partnership agreements and the prospects of application.*

*Keywords:* partnership, public-private partnership, partnership agreements.

*Присяжнюк А., Хмурова В. Публично-частное партнерство: теория и практика. Рассмотрены актуальные вопросы партнерства на уровне государства и предприятий. Проанализированы особенности законодательной базы публично-частного партнерства в Украине. Определены основные ошибки при заключении сделок партнерства и перспективы применения публично-частного партнерства.*

*Ключевые слова:* партнерство, публично-частное партнерство, партнерские соглашения.

**Background.** The development of the modern inclusive society requires the use of new mechanisms for cooperation between public institutions and business. Outdated methods do not allow to solve economic and social issues of development and to ensure the solution of issues of labor migration. It is precisely the use of mechanisms of public-private partnership that can solve urgent issues of development of the country as a whole, or in priority directions.

**Analysis of recent research and publications.** The results, presented in the publications of leading scientists I. V. Zapatrina, Yu. Z. Drachuk, N. V. Trushkina, O. M. Levkovets, V. I. Pavlov, L. I. Tarash, Ya. S. Tkachenko [1–7], testify to the prospect of this type of cooperation for further economic development. I. V. Zapatrina considers decision of infrastructural problems as one of the basic priorities in the activity of public power [1]. The state of the systems of life-support and transport infrastructure requires serious financial investments and bringing in new technologies and materials, but also creation of new culture of production and exploitation of the similar systems, based on the ideology of steady development of territories. The most serious obstacle for development of public-private partnership is the tariff policy and attitude to what is happening in this sphere of both public power and population. The

Yu. Z. Drachuk explores the principles, which should be based on modern forms of public-private partnership in the field of innovative development of industry, and identifies the priority areas [2].

Public-private partnership in Ukraine is in its infancy. In modern conditions, public-private partnership represents an alternative to privatization of strategically important state-owned objects, helping, on the one hand, to maintain control over those entrepreneurs that are critical for the stable functioning of the economy. On the other hand, for their development, it has a wider scope for attracting private capital whose interests should be taken into account and protected. The need to develop public-private partnerships for pilot projects, development and distribution of methodology of their application in different directions (types of economic activity) was noted. The constructive interaction between the public and the private sector provides conditions for the implementation of entrepreneurial initiatives, while maintaining control in the social spheres of the state.

Issues of confidence in the state of business structures, determination of real opportunities for development and obtaining preferences provided by public-private partnership remain unresolved. To date, mechanisms of public-private partnership remain the instrument of the state for uncontrolled movement of funds and solving private business issues. As a whole, public-private partnership is defined as a defined system that has a certain set of economic, social, legal, political, organizational, managerial and other interrelationships, relationships and conditions that promote the most efficient use of existing and other sources for the socio-economic development of Ukraine.

The **aim** is to identify the main mistakes of partnership between government and business in the current environment and suggest ways to overcome them.

**Materials and methods.** The following general scientific methods, such as synthesis, analysis, comparison, abstraction and induction, are used in the work.

The solution of the above-mentioned questions and problems is intrinsically related to public-private partnership, since the latter serves as an effective instrument of investment support and equalization of socio-economic imbalances in the context of aggravation of macroeconomic upheavals.

**Results.** In scientific research, the term "public-private partnership" is considered in a narrow, and broad sense. Public-private partnership in the first case describes the long-term contract regulated cooperation between the state and the private sector for the fulfillment of public tasks, which covers the entire life cycle of the relevant project: from planning to operation, along with maintenance. In the broad sense, the term "public-private partnership" combines all forms of cooperation between the state and the private sector in order to solve tasks traditionally within the competence of the state [8, p. 41].

From a practical point of view, such a broad interpretation of the term is of little use, since there are many forms of cooperation between the state and business, the latter are regulated by different normative acts and pursue different goals.

According to the legislation of Ukraine, public-private partnership is a cooperation between the state of Ukraine and territorial communities in the person of the relevant state bodies and local self-government bodies (state partners) and legal entities, except public and communal enterprises, or individual entrepreneurs (private partners), which is carried out on the basis of the agreement in the order established by the Law of Ukraine "On public-private partnership" [9].

However, according to the Law "On Public-Private Partnership" of 01.07.2010 № 2404-VI "the dominant areas of application of the mechanism of public-private partnership are:

- search, exploration of mineral deposits and their extraction, except those carried out on the basis of production-sharing agreements;
- production, transportation and supply of heat and distribution and supply of natural gas;
- construction and/or operation of motorways, railways, runways at aerodromes, bridges, road overpasses, tunnels and subways, sea and river ports and their infrastructure;
- machine building;
- collection, purification and distribution of water;
- health care;
- tourism, recreation, culture and sports; ensuring the operation of irrigation and drainage systems;
- waste treatment;
- production, distribution and supply of electric energy; real estate management.

At the same time, this Law has certain disadvantages. *First*, there is no minimum percentage of participation in a private partner project. In this regard, the share of private financing in a joint project allows it to be classified as a public-private partnership, translating most of the responsibilities to the state. *Secondly*, there are no well-defined mechanisms of practical implementation (definition of stages of implementation of Public-Private Partnership projects, creation of motivation for foreign investors, etc.). *Thirdly*, according to Article 7 of the Law, Public-Private Partnership extends to objects that are in state or communal ownership, thus preventing the implementation of such projects as the construction of objects by a private partner, with subsequent transfer to the public partner.

It is evident from the list below that the main legislative act needs to be substantially refined in terms of expanding the scope of public-private partnership, in particular the sphere of domestic trade, since its socio-economic load is no less important than in other priority sectors. In addition, none of the above spheres is able to implement Public-Private Partnership projects and monetize their results without involving business entities.

It should be noted that the normative and legal basis for the regulation of public-private partnership in Ukraine is in the process of continuous improvement and close attention of specialists from the Ministry of

Economic Development and Trade. The list of normative documents of the Cabinet of Ministers is presented in the *table*.

*Table*

#### Development of normative and methodological support of Public-Private Partnership

Document	Issues that are regulated by the document
Resolution of the Cabinet of Ministers of Ukraine "On Approval of the Procedure for Granting to the Private Partner to the State Partner Information on the Implementation of the Contract, concluded in the framework of the Public-Private Partnership" dated February 9, 2011 № 81	The public partner prepares a report on the implementation of the agreement submitted to the authorized executive body on public-private partnership, which monitors, summarizes and publicizes the results of the implementation of public-private partnership. Approved report form, list of indicators
Resolution of the Cabinet of Ministers of Ukraine "On Approval of the Methodology for the Identification of Risks Related to Public-Private Partnership, their Evaluation and Definition of their Management Form" dated February 16, 2011 № 232	The methodology is used during the analysis of the effectiveness of public-private partnership, decision-making on its implementation, the distribution of risks between public and private partners, and the conclusion of an agreement between them
Resolution of the Cabinet of Ministers of Ukraine "On Approval of the Procedure for Providing State Support to the Implementation of Public-Private Partnership" dated March 17, 2011 № 279	The procedure of providing state support for the implementation of public-private partnership on state-owned objects, and the form of state support is defined.
Resolution of the Cabinet of Ministers of Ukraine "On Some Issues in the Organization of Public-Private Partnership Implementation" dated April 11, 2011 № 384	The procedure of conducting the analysis of the effectiveness of public-private partnership implementation is approved
Order of the Ministry of Economic Development and Trade of Ukraine "On Approval of the Form of Submission of a Proposal for the Implementation of Public-Private Partnership" dated August 16, 2011 № 40	The form for submission of proposals on implementation of public-private partnership is approved
Order of the Ministry of Economic Development and Trade of Ukraine "Some issues of the analysis of the effectiveness of the implementation of public-private partnership" of February 27, 2012 № 255	The form of feasibility study for the implementation of public-private partnership is approved
Resolution of the CMU "On Approval of the Concept of Public-Private Partnership Development in Ukraine for 2013-2018" of August 14, 2013 № 739-p	The methodology for conducting an analysis of the effectiveness of the implementation of public-private partnership is approved

However, the accumulation of legislative and regulatory framework in quantitative terms in practice reveals the weakness of qualitative parameters. According to the above-mentioned normative documents and methodological recommendations, at the stage of negotiations on Public-Private Partnership, a private partner needs to undergo complex approval procedures. At the same time, he does not receive from the state the necessary guarantees regarding fulfillment of obligations on his part.

According to the approved procedure, it is first necessary to sign a Public-Private Partnership contract and begin its implementation, and then the state will make a decision on providing financial support that does not correspond to the basic nature of the Public-Private Partnership.

Also, according to the current legislation, Public-Private Partnership projects should ensure higher efficiency of the activity than in the case of its implementation by a public partner, have a long-term nature (from 5 to 50 years), provide financing (or co-financing) of the project by the private partner, distribution of responsibilities and risks between private and public partners in the process of Public-Private Partnership implementation. Business considers such a partnership as:

- the opportunity to participate in resource and capital infrastructure projects through an organizational and institutional long-term alliance with the state;
- as a way of obtaining from the state guarantees in the form of the right to receive minimum returns and return of investments in the form of the right to receive income from the paid operation of the object, as well as partial or full return of money in case of unsuccessful implementation of the project;

• direct financial support from the state in the form of financing costs. It can be presented in the form of capital grants, operating subsidies in the form of fixed payments on availability or payments, which are dependent on traffic, and in some cases – granting of loans on preferential terms;

- preservation of strategic control over assets created by transferring the function of management of a specially formed company;

• The state, attracting a private partner, receives technological and technical development of infrastructure in the country;

• In addition, the efficiency of using budget funds is increasing, some of the risks are transferred to a private partner, effective management is involved, and the pace of social and economic development of the country is accelerating due to extrabudgetary funds. Also, the state is able to;

- carry out events of international importance. Ukraine successfully hosted the Football Championship 2012 and Eurovision 2005 and 2017. These measures require a high-quality infrastructure that can not be created on the right scale without the involvement of Public-Private Partnership mechanisms;

• the global crisis calls for a reduction in budget financing, especially infrastructure financing, and calls for the search for extrabudgetary sources of funding under the terms of the Public-Private Partnership;

- Business wants to cooperate with the state for the following reasons;
- successful projects (increase investment attractiveness and reduce risks);
- additional guarantees and rights of investors, as well as the introduction of new, more flexible Public-Private Partnership mechanisms at the legislative level (subject to the improvement of the legislation).

In order to implement the Public-Private Partnership, both parties must evaluate its risks, which is the first step in structuring the task. It is advisable to develop a risk map together with the financial model in its ratio and correspond to each other.

The world-wide practice of implementing Public-Private Partnership projects suggests that most of the failures are due to the following mistakes:

*Incorrectly defined cost/profit part of the project.* This may be an incorrect calculation of the cost of work or an incorrect calculation of net discounted profit. In such cases, the project may be completely terminated or an additional agreement may be entered into with the correction of errors and the adjustment of the implementation dates.

*Technical design errors.* These risks are due to mistakes in the design documentation, risks in the field of technological regulation (complexity in obtaining design documents, construction permits, approval of documents), the risks of identifying hidden defects after the commissioning of the facility, as well as the problems of territorial construction.

*Non-rational division of risks according to the project.* This may be an overstatement of business fines for violating conditions, but another partner will have other conditions.

*Social and environmental risks.* Forecasting of environmental risks should be carried out to the stage of designing an object through conducting relevant research. In addition, attention should be paid to environmental risk insurance, but in practice these issues usually remain unregulated.

*Political risks.* It is one of the most difficult to predict and has long-term negative consequences. The country has a significant relationship between political events and the economic development of various sectors. A constant budget deficit requires foreign lending, which is directly related to international agreements and the economic attractiveness of the country as a whole.

*Legislative risks.* It may be expressed in the incorrect interpretation by the parties of legal norms governing contractual relations, or in the termination of contractual relations by the state.

Public-Private Partnership as the instrument of economy development has significant prospects especially taking into account all the above-mentioned issues. However, this is possible if in the near future certain efforts will be directed at eliminating the factors hindering the development of partnerships between public authorities and business [10]. These include an imperfect base, inefficient funding mechanisms, and lack of flexibility on the part of the state towards investors.

Let's turn to practical implementation of Public-Private Partnership projects in Ukraine. Tourism is one of the priority areas of the Public-Private Partnership. When creating Public-Private Partnership projects in this direction, the state will receive: road infrastructure, public transport, the prosperity of tourist centers, public park systems; restored historical places, the possibility of festivals and other cultural events. The private sector will receive: hotels, conference halls, restaurants, shopping malls, entertainment centers and parks, sports complexes, etc. One of such projects was to reconstruct the palace in Tartak in Sokalsky and the castle in Old Village. The concession agreement, initiated by the state administration, envisaged, first of all, the reconstruction of the castle.

But the castle in the Old Village is scattered due to the mismanagement of the concessionaire, whose inaction led to the destruction of the palace. Several years of irresponsible concession worsened the already

emergency state of monuments of national significance – the palace in Tartak in Sokalsky district (needs for the restoration of "Novosad" was estimated at 100 million USD) and a castle in the Old Village near Lviv (in this facility LLC "Chris" was obliged to invest 300 million UAH). Concerning the fact that the commitments are not fulfilled, the concessionaires blame the world recession. But the sights are not easier. The palace in Tartak does not have a roof, the castle in the Old Village peasants stretch out to the stone for the mistress.

It was a complete failure of the government's initiative to hand over the landmark for half a century to the hands of private entrepreneurs who promised to restore the castle and palace within five years. Only reasonable defenders of the sights realized what really needed to be done to preserve the architectural pearls. These concessions were an attempt to pass the castles to private hands, because under such circumstances the state won't be able to maintain them in its current state. At that time, it seemed that there were already potential owners of these castles, it was simply tried to transfer them to private hands, for the current corruption to do it at the level of the Ministry was not a problem. Representatives of local authorities tried to persuade all of them to finance the state budget with a separate article.

After signing the concession agreement, entrepreneurs should order the development of a project for the withdrawal of a memorandum from a severe emergency, to attract professional restorers to work on the project. But this is completely absent, which gives grounds to consider concession the most usual fiction. Perhaps someone wanted to screw up some sort of scam, for example, to get a big loan in the bank, and a contract with the state structure is such a guarantee of reliability of the borrower. In this case, the authorities should work on the termination of the contract. These concessionaires not only do nothing, but also avoid communication with authorities.

Indeed, during the time of the castle concessions, Lviv had already changed several heads of state administrations and their deputies. The concession agreements were concluded for 49 years with other management and when unprofitable concessionaires did not make measurements, design estimates and consolidation, the irresponsible rulers wiped their hands without resorting to the perpetrators of any sanctions. Although the state retained the right to terminate the agreement ahead of time and to announce a tender if the concessionaire did not fulfill the requirements of the contract.

Two facilities in Lviv region before the concession were in better condition than now. Currently, all the innovations heard by local residents in the castle are the same as bike hangouts.

Recently all of confusions on the whole from the idea of castle concession and palaces to renounce does not hurry. The concession and private investor are the only hope for the preservation and restoration of historical objects. When complying with the law and taking into account the risks and clearly defined terms of responsibility, the Public-Private

Partnership projects have the right to exist. Good experience can be borrowed in the EU countries, where rest zones, hotel complexes, etc. are arranged in the restored castles.

**Conclusion.** As a result of the research, it was discovered that the main mistakes of partnership are the inability to clearly understand the legislative framework and the lack of incentive tools for business and reimbursement. To overcome the mentioned mistakes all the necessary changes should be made on the legislative level, clear framework for risk sharing and future preferences should be identified. All of the above has proven that it is necessary to develop clear instructions for signing concession agreements with determining the responsibility of each party depending on the amount of its contribution and determining the amount of fines in case of violation of conditions.

The analysis of the theoretical and practical aspects of Public-Private Partnership suggests the need for development of this direction, since it is the cooperation of the state and business through the mechanisms of Public-Private Partnership that will improve the quality of life of the population. We consider it expedient to continue the research of public-private partnership in the field of education and social sphere.

Further development of Public-Private Partnership in Ukraine should be linked to using advanced foreign experience in the development of regulatory and organizational foundations, the introduction of modern models of Public-Private Partnership and effective mechanisms of the state regulation and support.

#### REFERENCES

1. Zapatrina, I., & Pylyay, A. (2014). European Procurement & Public Private Partnership Law Review; Berlin, (Vols. 9 (4), (pp. 287-294) [in English].
2. Drachuk, Y. Z., & Trushkina, N. V. (2016). Vyznachennia zmistu termina "publichno-pryvatne partnerstvo u sferi innovatsiinoho rozvytku promyslovosti" [Determination of the term "public-private partnership in the field of innovative industrial development"]. *Hlobalni ta natsionalni problemy ekonomiky – Global and national problems of the economy*, (pp. 98-104) [in English].
3. Zaloznova, Y., Petrova, I., & Trushkina, N. (2016). The classification of forms of public-private partnership: synthesis foreign and domestic experience. *Resource Economics International Scientific*, (pp. 88-105) [in Russian].
4. Levkovets, O. M. (2012). Public-private partnerships as a tool for economic reforms (theoretical aspect). *Visnyk Natsional'noho universytetu "Yurydychna akademiia Ukrainy imeni Yaroslava Mudroho" – Bulletin of the National University "Legal Academy of Ukraine named after Yaroslav the Wise"*, 4.18-32 [in Ukrainian].
5. Pavlov, V. I. and Liakhovych, O. O. (2013). Features forms of public-private partnership in the innovation sphere. *Rehional'na ekonomika – Regional economy*, 3. 57-65. Retrieved from [http://nbuv.gov.ua/UJRN/regek\\_2013\\_3\\_6](http://nbuv.gov.ua/UJRN/regek_2013_3_6) [in Ukrainian].
6. Tarash, L. I. & Petrova, I. P. (2015). Generalization practice of using forms of public-private partnership. *Visnyk ekonomichnoi nauky Ukrainy – Bulletin of Economic Science of Ukraine*, 2(29). 97-103 [in Ukrainian].



7. Tkachenko, Ya. S. (2015). World practice of concessions. *Naukovyj visnyk Khersons'koho derzhavnoho universytetu – Scientific Bulletin of Kherson State University*, 3. 166-169 [in Ukrainian].
8. Pavliuk, K. V. & Pavliuk, S. M. (2010). The essence and role of public-private partnership for socio-economic development of the country. *Scientific papers of KNUTE. Economic Sciences*, 17. 40-49 [in Ukrainian].
9. On public-private partnership: Law of Ukraine dated July 1, 2010 & 2404-VI. *Bulletin of the Verkhovna Rada of Ukraine – Bulletin of the Verkhovna Rada of Ukraine*, 40 (with amendments and replies) [in Ukrainian].
10. A new approach to public private partnerships (2012). Retrieved from: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/205112/pf2\\_infrastructure\\_new\\_approach\\_to\\_public\\_private\\_parnerships\\_051212.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/205112/pf2_infrastructure_new_approach_to_public_private_parnerships_051212.pdf) [in Ukrainian].

*The article submitted to editor's office on 31.10.2018.*

**Присяжнюк А., Хмурова В. Публічно-приватне партнерство: теорія і практика.**

**Постановка проблеми.** Розвиток сучасного інклюзивного суспільства вимагає використання нових механізмів співпраці між публічними установами та бізнесом. Застарілі методи не дозволяють вирішити економічні та соціальні питання розвитку та забезпечити вирішення питань трудової міграції. Саме застосування механізмів публічно-приватного партнерства може вирішити актуальні питання розвитку країни в цілому або за пріоритетними напрямками.

**Мета статті** – визначити основні проблеми партнерства між владою та бізнесом у сучасних умовах та запропонувати шляхи їх подолання.

**Матеріали і методи.** У роботі використано такі загальнонаукові методи, як синтез, аналіз, порівняння, абстракція та індукція.

**Результати дослідження.** Обґрунтовано необхідність вирішення актуальних питань партнерства на рівні держави та підприємств. Проаналізовано особливості законодавчої бази з державно-приватного партнерства в Україні. Визначено основні помилки при укладанні угод партнерства та перспективи застосування.

**Висновки.** Проведений аналіз теоретико-методологічних та практичних аспектів публічно-приватного партнерства свідчить про необхідність його розвитку, оскільки саме співпраця держави та бізнесу через механізми публічно-приватного партнерства надасть можливість покращити якість життя населення, і цей напрям є перспективним механізмом впровадження нових технологій та оптимальним на шляху розвитку економіки і суспільства.

**Ключові слова:** партнерство, публічно-приватне партнерство, партнерські угоди.