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FURTHER PROCESS OF PUBLIC-PRIVATE PARTNERSHIP IMPLEMENTATION (EU, SERBIA AND NEIGHBORING COUNTRIES)^a

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Abstract

This paper explores the progress some European countries, particularly Serbia and its neighbors, have made in overcoming obstacles for foreign investments and wider application of public-private partnership, such as: inadequate legal framework, underdeveloped market relations reflected in insufficient competitiveness of domestic suppliers, the lack of financial resources and funds, and limited institutional capacities for reforms, strategic planning, and marketing accompanied by a negative image of these countries. Public-private partnership can yield numerous benefits depending on the strategic approach, institutional capacities, and inter-sector cooperation within an economic environment. World markets are faced with financial limitations of national budgets and lack of capital investment funds on the one hand, and vast potential of the private sector on the other hand. Governments are turning to the private sector in order to obtain the necessary capital, resources, and the know-how for the development and functioning of the infrastructure. Public-private partnership is the form of investment and financing which aims to reconcile the existing, legally defined, opposites of the public and private sector without violating their underlying legal principles. Modern economic and legal theory holds that public-private partnership is possibly one of the best models countries can apply to build public infrastructure and provide services in the public sector.

Key words: public-private partnership, foreign investments, financing of infrastructure.

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ДАЉИ ПРОЦЕС ИМПЛЕМЕНТАЦИЈЕ ЈАВНО ПРИВАТНОГ-ПАРТНЕРСТВА (ЕУ, СРБИЈА И ЗЕМЉЕ ИЗ ОКРУЖЕЊА)

Апстракт

Аутор у раду настоји да пружи одговор на питање докле су европске земље, Србија и земље из окружења дошле у процесу превазилажења препрека за страна улагања и ширу примену јавно-приватног партнерства као што су: неадекватан нормативни оквир, неразвијени тржишни односи осликани кроз недовољну конкурентност домаћих добављача, недовољна финансијска средства, ограничени институционални капацитети за спровођење реформи и за стратешко планирање и маркетинг праћени лошом сликом ових земаља у иностранству. Јавно-приватно партнерство доноси бројне користи и предности, а како ће се оне операционализовати зависи од стратешког приступа, институционалних капацитета и међусекторске сарадње свих чинилаца привредног окружења.

На тржиштима широм света на једној страни се налазе финансијска органичења националних буџета и недостаци средстава за капиталне инвестиције, а на другој велики потенцијал приватног сектора. Владе се све више окрећу према приватном сектору да би обезбедиле капитал, ресурсе и знање неопходно за развој и функционисање инфраструктуре. Јавно-приватно партнерство представља начин улагања и финансирања који треба да помири постојеће, законом дефинисане супротности јавног и приватног сектора, а да се при том не одступи од утемељених принципа права. У економској и правној теорији преовладава мишљење да је јавно-приватно партнерство један од потенцијално најбољих модела које државе данас могу да користе за изградњу јавне инфраструктуре и пружање услуга у јавном сектору.

Кључне речи: јавно-приватно партнерство, страна улагања, финансирање инфраструктуре

INTRODUCTION

Constant changes of the legislation, rules, and regulations are not encouraging for foreign investors who require a stable and motivating business environment. A country's legislation is one of the key factors when deciding whether to invest in it. Since 2001, direct foreign investments have taken the form of privatization of state-owned companies, takeovers (acquisitions), and greenfield and brownfield investments. In order to overcome obstacles for foreign investments and deficiencies of their underdeveloped legal systems, Serbia and its EU candidate neighbors strive towards creating a predictable and stable business environment. Development of market economy together with wide liberalization of direct foreign investments policy and deregulation in this area leads to the establishment of a good legal framework for the inflow of direct foreign investments, both on the state and local level (Sornarajah, 2004, p. 7).

Economic entities hold that the investment environment is unfavorable if there is political instability or inadequate housing and

infrastructure. “State policies succeed when they create environment where companies can gain competitive advantage...” (Porter, 2008, p. 340). According to the Global Competitiveness Report for 2012 and 2013, the following indicators define Serbian market: population (10.2 million), gross domestic product (GDP) (\$45.1 billion), GDP per capita (\$6.081) and GDP share of world total GDP (0.1%). The Global Competitiveness Index ranks Serbia as 95th out of 144 countries, indicating that the investment climate is still unfavorable (WEF Global Competitiveness Report 2013-2014).

In the process of EU accession, public-private partnership (PPP) promotes market stability and privatization of state owned portfolio, resulting in the rise of direct foreign investments (Kušljic & Marenjak, 2013, p. 948). Cooperation between public and private sector is influencing changes in the investment climate in Serbia and neighboring countries. The stable macroeconomic environment and planned approach to investments have prompted strategic planning on local, regional, and national levels (Johnson, 2014, p. 1). This resulted in the creation of sustainable development plans, local economic development plans, investment project data base, and investment location data base. A wide range of stakeholders from all three sectors – real, public, and private, are involved in the investment planning process. Increasingly limited capacity of the state to perform its social functions in the public sector has heightened the need for investing into public infrastructure, i.e. into the entire public sector (Dabić, 2012, p. 550). As a form of cooperation between public and private sector that aims to finance, construct, and reconstruct the infrastructure, PPP is present in the sectors of transport, public health, education, national security, waste management, water management, and energy distribution.

In today’s world there are various forms of public infrastructure financing, whose common feature is regular use of private financial sources. All these forms fall under the common category of public-private partnership (Cvetković & Milenković Kerković, 2011, p. 762).

THE NOTION OF PUBLIC-PRIVATE PARTNERSHIP

One of the goals of PPP implementation is to fulfill the social function of the state in the public sector. The state, in turn, treats all forms of private funding of public infrastructure as public-private partnership (Green Paper on Public-Private partnerships and Community Law on Public Contracts and Concessions, COM (2004) 327). The PPP concept is not universally defined in the legislation of the EU and other states. Legal and economic experts have already observed the absence of a specific, widely accepted, definition of public-private partnership. However, all public-private partnership definitions agree that the shapes of such cooperation between public and private sector may be different, but the goals are always the same (Mullin, 2004, p. 18).

A comparative legal overview of PPP definition in transition and developed countries generates common characteristics of public-private partnership. All explanations of the PPP concept agree that it pertains to cooperation between two or more subjects (where at least one is from the public sector) through a long-term relationship based on mutual benefits, where the risk and responsibilities are divided among the partners. Division of risk enables each partner to take on as much risk they can adequately manage, which improves the efficiency of such arrangements (Knežević, 2013).

International practice defines PPP as the form of cooperation between public and private partners who work together on the implementation of investment projects and provision of public services. The World Bank uses the term 'private participation in infrastructure' to refer to PPP in the financial sector, while the banking sector uses the term 'private-sector participation'. 'Privately financed projects' and 'private finance initiative' are the terms used in developing countries. 'Public-private partnership', the term used in the USA, refers to joint funds in the sector of education and municipal services, but was later expanded to encompass urban planning (Williams, 2003, p. 283).

The World Bank defines PPP as the form of investment and service provision where the private sector takes on a large amount of risk, while the public sector maintains an important role in providing services or taking significant business risks.

The progress PPP has made in developed countries and its potential in developing countries reflect a state's increasing demand for finance from the private sector; the finance is supplied by private companies which build and manage public infrastructure in partnership with government bodies (Grimsey, D., Lewis, K. M., 1996, p. 92).

Serbian positive legislation, specifically the Law on public-private partnership and concessions (2011, Art. 7, §1) defines PPP as a long-term cooperation between a public and private partner in order to provide financing, construction, reconstruction, management, or maintenance of infrastructure and other buildings of public interest and to provide services of public importance. In Serbian national law public-private partnership can be contractual or institutional (Ibid. Art. 8-9). Concession is a special form of contractual PPP where the state cedes to a natural person or a legal entity the right to use public goods or provide public service for a certain fee in order to serve the public interest (Popov, 1995, p. 32).

Contractual PPP is based on a public contract defining the rights and obligations of the contractual parties in implementation of PPP projects. The contract may or may not contain elements of concession. Issues pertaining to public contracts not specifically regulated by this law are regulated by the Contractual Relations Law, as this is an administrative law contract where the elements of public law prevail.

The institutional PPP is based on the relationship between a public and a private partner as members of a joint business entity implementing the public-private partnership project. A member of a joint business entity may be a founder bringing in founder deposit into the company or a private partner with limited partnership interest (Law on Public-Private Partnership and Concessions, 2011, Art. 4, §1, cl 6). A joint business entity is founded for the purpose of PPP project implementation and the Law on Business Companies applies.

SOURCES OF EU LEGISLATION ON PUBLIC-PRIVATE PARTNERSHIP

In order to develop the missing infrastructure when public sources of finance (both proper and borrowed) are limited, both EU member states and candidate countries necessitate adequate regulation of PPP, so that economic development and competitiveness can take place within the institutional framework.

The EU legal framework for PPP is still not unified, but the work towards its unification is constantly being done. A *lex specialis* is not a necessary requirement for PPP implementation, but a clear legal definition is crucial for the stimulation of public-private sector cooperation.

Assuming that the EU should have the most efficient regulation in order to be the most competitive economy (Renda, 2009, p. 18), one would expect to find harmonized, coherent solutions in member states' national legislation on PPP. However, PPP is not part of the EU legal terminology, although various documents provide rules as to how PPP should be introduced into accounting documentation and public procurement, and discuss the advantages of PPP during structural reforms.

The EU does not have a specific legal source regulating the subject matter of public-private partnership. The general legal framework for PPP can be found in the Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community (2007). Specific provisions are contained in the Directive coordinating procurement procedures of entities operating in the water, energy, transport, and postal services sectors No. 2004/17 and the Directive 2004/18 on the coordination of procedures for the award of public works contracts, public supply contracts, and public service contracts.

As a result of the expected reform of public procurement and concession rules in the EU, in February 2014 a new legislative package was passed repealing the Directive 2004/18/EC by the Directive 2014/24/EU on public procurement, and substituting Directive 2004/17 with the Directive 2014/25/EU on procurement by entities operating in the water, energy, transport, and postal services sectors. EU member states are to harmonize their laws and other regulations with these Directives by 2016.

In addition to the Directives, other important sources of EU law are judicial decisions of the European Court of Justice (ECJ C-300/07; ECJ C-206/08; ECJ C-196/08; ECJ C-536/07; ECJ C-26/03; ECJ C-231/03; and opinion C-91/08).

Accounting procedures define division of risk within PPP in such a way that public-private partnership projects are classified as out of the budget assets if the private partner bears the risk of construction and availability. Otherwise, they are seen as budget funding. Public procurement regulations are determined by the practical need to obey the principles of transparency, equality and no discrimination in the use of PPP models.

Main EU sources of PPP funding are structural funds, the European Investment Bank loans, and other modalities, such as European Transportation Network and Joint Technology Initiatives.

In the EU, PPP is implemented in all infrastructural sectors, especially transport, health, and education, followed by solid waste management, ports, energy, and construction for different purposes (Sredojević, 2010, p. 95). However, it should be pointed out that the majority of public infrastructure investments in the developed markets are still conducted through conventional public procurement procedures, where financing is provided through loans or issuing of bonds. In spite of growing PPP implementation, such projects still represent a relatively small portion of the total public investment in the EU (European Expertise PPP Center, 2012 p. 3). Furthermore, it is not easy to obtain finance through issuing bonds and other securities in underdeveloped markets.

The development of PPP in member states which have recently begun to utilize this concept can be observed in Great Britain, Portugal, Spain, Greece, the Netherlands, Denmark, and Sweden. In Great Britain, in spite of a wide implementation of PPP in financing capital investments, it represents only 10-15% of all the investments from 1996 until now. The PPP concept was also implemented in Ireland, Italy, France, and Germany (Pricewaterhouse Coopers & EIB, 2004, p. 14) and was aided by many factors, such as the financial potential of the private sector, its capacity to provide the know-how, methods, techniques, and technologies, and its ability to manage risks properly. The role of the public sector in the economy is changing in such a way that it loses the role of the main performer of the works, and attains the role of the organizer, regulator, and controller of complex PPP operations.

Differences in how national legislations treat and define PPP projects limit their application and prevent the smooth flow of capital in the EU market. The goal of harmonization of EU legislation is to establish a set of minimal regulations pertaining to public procurement and non-discrimination according to citizenship. When public procurement procedures in relation to citizenship discrimination were being adopted, an important role was played by the European Commission and the Commission interpretative

communication on concessions under Community law in Public Procurement law (COM, 2000, p. 5). The European Commission defines PPP as the transfer of implementation and financing of investment projects from public to private sector (The EPEC, 2012, p. 1). Following the European Commission Guidelines, in such arrangements the participants from the private sector require reasonable profit due to higher risk exposure. On the other hand, the public sector expects higher service quality. PPP makes use of the financial capacities of the private sector giving it an opportunity to perform some of the roles from the domain of the public sector. The implementation of the basic principles contained in EU founding agreements regarding freedom of establishment of companies and freedom of service provision has defined the legal framework of concessions in the Law on Public Procurement when awarding concessions.

Further regulation of concession awarding was conducted through the European Parliament and Council Directives on the procedures for the award of public works contracts, public supply contracts, and public service contracts, as well as on procurement procedures of entities operating in the water, energy, transport, and postal services sectors (Directive 2004/18/EC, p. 114–240, Directive 2004/17/EC, p. 1–113).

Previously in force, the Directive 2004/18/EC governed the public procurement procedures exclusively in the public sector, while the Directive 2004/17/EC applied to both the purchasers from the public sector and private companies not financed directly from public sources. This resulted in municipal procurements differing from others because of a legal or technical monopoly in this sector, which limits or disables free market competition (Minsky, 2008, p. 83).

Currently in force, the Directive 2014/24/EU on public procurement stipulates that the award of public contracts should be based on the most economically advantageous tender (Directive 2014/24/EU, Art. 67). The most economically advantageous tender is identified on the basis of price or cost, using the cost-effectiveness approach (Directive 2014/24/EU, Art. 68). The sector purchasers apply the same award criterion as public purchasers (Directive 2014/25/EU, point 94).

The earlier Directives had the goal of protecting the interests of the companies established in the EU member states wishing to offer goods or services to public sector institutions from another EU member state. They also tried to provide equal treatment of all tender participants and promote economic award criteria. Many rules in the Directives concerning selection of companies in PPP projects were vague. Although the Directives achieved a certain degree of harmonization, the lack of coherence in member states' legal frameworks for the implementation of PPP has led not only to their repeal, but also to the creation of an entirely new document of a consultative nature, the so-called Green Paper on Public-Private Partnership and Community Law on Public Contracts and Concessions (COM, 2004), which

establishes obligations of the member states when implementing these norms into their national legislation.

The Green Paper initiates public consultations in the best possible way in order to develop public-private partnership where there is market competition. The law is neutral regarding whether a member state will provide the public good or service itself or award a contract to a partner from the private sector. This law introduces a new contract award procedure: the competitive dialogue where each award of contract to a third party must be examined in terms of rules and principles of the Memorandum of Association, the freedom of association, and the freedom to provide services, or the principle of transparency, equal treatment, proportionality, and mutual recognition. This dialogue establishes legal basis for certain PPP forms in very complex projects for which the Contracting Authority has a particular need and is looking for the economic operator offering the optimal technical solution.

In the EU, the PPP policy has proved to be efficient when implemented at the beginning of the contractual purchase of a public good from the private sector. The manner in which EU public sector implements PPP is called *private financial initiative*.

Only a well-organized application of PPP can produce good results. It must also be accompanied by a clearly defined national policy and PPP project implementation program. PPP projects in various stages are being implemented in the markets all over the world. In the EU member states and candidate countries PPP has also been implemented not only because of its convenience, but as part of an overall reform of the public service market which, through deregulation and privatization, is supported by international financial organizations such as the International Monetary Fund, the World Trade Organization, and the World Bank. The European Investment Bank does not promote PPP implementation, although it supports it if a country demands it, which, we believe, should be changed in the future.

SERBIA AND NEIGHBORING COUNTRIES

The implementation of PPP in a market economy primarily depends on the national law. Constantly striving towards improvement of the existing legal framework so as to remove obstacles for PPP implementation, Serbia and its neighboring countries, similar to the EU member states, are conducting a legal reform regarding the subject matter.

The existing legislation on PPP in the Republic of Serbia is comparable to European legislation, as PPP is being implemented in accordance with the reformed national regulations as well as with the rules, activities, and standards prescribed by international organizations' legal acts (Vukićević & Vukićević, 2013, p. 191). Following the trends in EU

legislation, the Republic of Serbia reformed its PPP legislation and enacted the Law on Public-Private Partnership and Concessions in 2011. This law was primarily enacted to promote public infrastructure construction and improve public services.

However, although this law completes the PPP regulation, the subject matter is still being governed by different laws. The institution of PPP is directly governed by the Law on Public-Private Partnership and Concessions and the Law on Public Procurement (2012). The former stipulates conditions and the manner of project design, proposal, and approval of PPP projects. The latter does not explicitly mention the institution of PPP. However, since the Law on Public-Private Partnership and Concessions clearly states that provisions of the Law on Public Procurement apply, the latter indirectly becomes part of the Law on Public-Private Partnership. One of the basic principles of the Law is the public interest protection principle, which implies the obligation of the Contracting Authority to ensure that a private party exercising its rights will not violate legally defined public interest (Law on Public-Private Partnership and Concessions, 2001, Art. 6).

Different PPP models coming into existence in the countries discussed above lead us to conclude that the classic public service models, where the state itself organizes, finances, and provides public services, are gradually and inevitably being abandoned.

The practical PPP application in Serbia and its EU candidate state neighbors is still underdeveloped due to limited PPP expertise, low awareness of its good practices in the EU, and inadequate institutional solutions (Brkić, & Kotarski, 2012, p. 310). In Serbia, most PPP projects have been implemented in the area of waste management. Croatia stands out in the region owing to its good legal framework for PPP project implementation (Law on Public-Private Partnership of the Republic of Croatia, 2012) and establishment of PPP agencies. Furthermore, Croatia pays special attention to expert training for PPP implementation, evaluation, and validation, and implements such projects primarily in the domain of science and education, technology, environment, and public administration facilities construction. Highways, schools, and sports facilities have been constructed in Croatia following the PPP model (Sinković & Klarić, 2007, p. 387).

In contrast to Croatia, Bosnia and Herzegovina has not yet enacted the Law on Public-Private Partnership, although the Bill was completed in 2010. The implementation of PPP projects is governed by the Law on Concessions (Bosnia and Herzegovina, 2008) and the Law on Public Procurements (Bosnia and Herzegovina, 2004), and is almost entirely limited to the highway construction project. Although Serbia has legally defined the area of public-private partnership (Law on Public-Private Partnership, RS, 2009), not a single project has been implemented yet. The cantons of the Federation of Bosnia and Herzegovina implement PPP projects following their own legislative framework. For example, the

canton of Sarajevo and the Una-Sana canton possess public-private partnership laws.

The foregoing review of PPP legislation in some countries of former Yugoslavia shows that PPP legislation appeared in the Republic of Serbia only after this form of business-financial cooperation was established in other former Yugoslav republics. In these countries, it was based on the previously defined model and took the shape of financial-technical support implemented by foreign experts in cooperation with local experts associated with non-profit and non-government organizations. It first appeared as state donation, but it was later regulated by law and became a part of the PPP business practice in the so-called 'young market economies'.

Observing the principles of good practice and project feasibility, growing markets, especially those in Southeastern Europe, started off by implementing PPP in the economic infrastructure sector, which was followed by the sector of social infrastructure. Currently the economic sector is still in the lead, being a fertile ground for PPP implementation. Because successful PPP implementation is complex, public service market must remain open while numerous obstacles in these countries are being removed. They include inadequate education, lack of awareness of good PPP practices, especially when project funding is concerned, and absence of state, regional, or local government institutions implementing PPP.

With the exception of Greece, there is not a single Southeastern European country with a specific legal framework regulating PPP project implementation. Partners of the public sector are private companies from other countries, unacquainted with the taxation system, which foresees no deductions for such projects, the vast and complicated administration, and high credit risk. Foreign private companies perceive these as unstimulating factors. Furthermore, the Southeastern European market is burdened with the traditional belief, customary in all planned economies, that the public sector should provide services of public interest free of charge. Consequently, the question is how to establish the obligation of the end user to pay the fee for the service?

We have identified adverse circumstances which still affect the outcome of PPP projects in Southeast European countries. However, the current situation shows that most countries in the region continually implement PPP projects, which are at various stages. More than a half of thirty or so PPP projects are being implemented in the transport sector (road infrastructure), while there are no such projects in the domain of social infrastructure.

International financial institutions and organizations have a particularly important role for PPP implementation. Their role, however, should be limited to short-term assistance; otherwise, the public sector will become passive, less ready to expand its own capacities, and unwilling to take responsibility. The PPP project implementation in Southeastern

European countries is aided by the Southeast European Regional Cooperation Council (RCC, 2008) and the European Public Private Partnership Expertise Center (EPEC, 2009), which promotes dissemination of good public-private partnership practice in EU member states and candidate countries.

The PPP implementation with economically superior foreign partners can produce negative consequences for the public sector of Southeastern European economies, including parallel extraction of extra profit (Gabor, 2010, p. 17). If applied non-critically by economic policy creators, the legal principle of protection of public interests could become a principle by which the private partner is allowed to do anything except what is explicitly prohibited by the law. This principle, although applicable in the private sector, is unacceptable in the public sector, which is based on other assumptions (public property, public legal entities, public funds, special legal rules for the public sector, etc.) and different principles. Consequently, the scholars point out that it is wrong to presume that direct foreign investments can solve all the problems of the developing economies and that foreign investors should be an endlessly privileged party in a joint venture (Knežević, 2013). Such an approach drives states to offer more incentives for foreign investors than they can realistically provide.

The principle of equality of contractual parties in PPP public contracts is sometimes interpreted as a relationship of parties based on equality and fair balance of wills. Although completely legally inaccurate, such an arrangement creates favorable conditions for private foreign investments into domestic infrastructure. In legal terms, it is exactly in this aspect that public contracts differ from private ones: the contractual parties are not equal in declaration of will (the public partner represents public authority), and the public partner cannot act in the way the private partner can, because its will is not autonomous (Dabić, 2002, p. 18).

CONCLUSION

Current business practice indicates a possible solution for the problem of procuring funds for large project implementation: establishment of PPP and pooling of state and private capital. Different PPP models applied in the countries we discussed here make large project implementation less uncertain, regardless of the project stage. They also make it possible to safeguard various interests, as the presence of the private sector in the public interest domain does not necessarily reduce the role of the state. It simply alters both the state's role and the manner of state's involvement. Adequate legislation in the Republic of Serbia and the above mentioned countries should enable the state to control how public interest is served through institutional supervision of the private partners involved in PPP projects. Current Serbian legislation has been harmonized with the EU law, which is

a precondition for PPP. Whether the Law on Public-Private Partnership and Concessions will prove to be an efficient legal solution remains to be seen.

The PPP implementation can be further developed through the exchange of best PPP practice between the EU member states and candidate countries. The specific legislation governing PPP cannot be the universal solution to all the problems in PPP projects. The PPP framework in the EU is methodologically different, so the legislation in this subject matter comprises laws on public procurements or laws on concessions.

Although national legislation is constantly being improved, we conclude that there are still obstacles in PPP implementation. Each European country, candidate countries included, should consider other countries' results in PPP implementation, approaching each project individually in order to identify newly created, applicable, and effective rules shaped to meet the real needs. As for future PPP implementation in the business practice of Serbia and other Southeastern European countries, considerable caution should be taken when interpreting the principle of public interest protection, especially concerning the claim that the private partner is allowed to do anything except what is strictly prohibited by law, which is not applicable in the public sector, as it is based on substantially different assumptions.

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ДАЉИ ПРОЦЕС ИМПЛЕМЕНТАЦИЈЕ ЈАВНО ПРИВАТНОГ-ПАРТНЕРСТВА (ЕУ, СРБИЈА И ЗЕМЉЕ ИЗ ОКРУЖЕЊА)

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Резиме

Предмет анализе је регулаторни оквир јавно-приватног партнерства у ЕУ, Србији и земљама из окружења. Циљ рада је да се кроз приказ оствареног степена имплементације јавно-приватног партнерства у пословну праксу тржишне привреде једне земље укаже на важност процеса сарадње јавног и приватног сектора. Аутор у уводном делу указује на значај стабилног пословног окружења и његово подстицајно деловање на стране улагаче. Такође наглашава да сарадња јавног и приватног сектора доводи до промене амбијента за инвестирање. Кроз појмовно одређење јавно-приватног партнерства и компаративни приказ извора права у предметној области у ЕУ, а даље и у Србији и земљама из окружења аутор даје посебан осврт на неадекватан нормативни оквир за имплементацију јавно-приватног партнерства. У раду се полази од хипотезе да у Србији као и у земљама из окружења које се налазе у процесу приступања ЕУ постоји и даље недовољно развијена пракса спровођења јавно-приватног партнерства како због непознавања подручја јавно-приватног партнерства и његове добре праксе у ЕУ, тако и због неадекватних институционалних решења. Адекватан регулаторни оквир треба да доведе до динамичнијег развоја јавно-приватног партнерства, тако да аутор указује на потребу његовог усаглашавања као и сталног побољшања. Рад завршава закључком да и ван законске регулативе постоје бројне препреке у спровођењу јавно-приватног партнерства, и кратким препорукама које би требало размотрити приликом решење проблема спровођења пројеката јавно-приватног партнерства.