ANALYSIS OF PUBLIC-PRIVATE PARTNERSHIPS IN THE MARITIME TRANSPORT SECTOR

Lecturer PhD. Ana Olteanu[x]

Constanta Maritime University[x]

ABSTRACT

Unlike the traditional method in which the private investor realizes and sells the result of the work, a public-private partnership implies from the private sector quality assurance and long-term maintenance of the good / service. The projects resulting from these partnerships can provide Romania with a healthy and rapid economic development, taking into account the supplementation of the state's financial resources with the private sector, but great attention must be paid to the risks that may arise due to the long term realization and the complexity of such projects. From the point of view of the public-private partner, Romania is at an early stage due to the fact that at local level there are no clearly allocated responsibilities and the level of decision making is not known, there is no unitary institutional approach to such projects, in general, most of the risks need to be assumed by the private sector, which also faces a relatively low financial power given that the business environment is not very favourable to investment.

Keywords: *PPP, DBO, BOR, BOT, LDO.*

1. INTRODUCTION

The concept of public-private partnership has been promoted since 1997 following the financing of trans-European transport network projects through public-private partnerships and represents cooperation between the private sector (companies, non-governmental organizations, business associations) and public authority with positive effects for both local development and the labour market, the ultimate goal being to improve the living standard of citizens.

The government sector has a high interest due to: the interest in maximizing the efficiency of the available resources, developing of inter sectorial complementarity in the organization and offer of services, the private sector that have a high capacity in the provision of public services.

At the EU level, the process of adopting a public-private partnership has three stages: "advanced adopters" (e.g. Ireland, Italy, Great Britain, Germany, France) - who have extensive experience using such contracts for sectors such as infrastructure, health, detention, followed by "adopters at a medium level" (e.g. Spain, Portugal, Belgium - Flanders Region) - having projects underway or completed by infrastructure and the "last come-in”, Sweden, Belgium - Wallonia Region).

Depending on the state of decentralization of public services, the administrative system and the level of social capital development, we can distinguish several types of partnerships:

- horizontal - partnerships between the local authority and the private sector for: infrastructure investments, local development and employment, takeover of the public sector activities by the private sector, operation of the public service in private system; and
- vertical type - partnerships between the public authority on several levels and the private sector for the realization of projects funded by structural and pre-structural funds for local and regional development. The assignment of the projects is done taking into account the principle of the most advantageous economic offer, thus removing the inconsistencies related to the inadequate quality of the services and the works done at the lowest prices. Following the award procedure, a fixed-term contract is signed between the two partners (public, private), on the basis of which a project company is being organized and is being organized as a joint venture company, which will manage all stages of the contract execution, and upon completion the good will be transferred free of charge to the public partner.

According to the European trend, Romania has paid particular attention to these partnerships, given the benefits of cost and risk sharing, as well as the low budget for investments in sectors such as infrastructure, health, education, etc.

For a public-private partnership one of the following types of contracts may be used:

- Design - Construction - Operation (DBO) - the design, construction and operation is transferred to the investor for a period of up to 50 years, including the financing and the provision of services.
- Construction - Operation - Renewal (BOR) - the financing, construction and costs of operation and maintenance of the public good are transferred to the investor for a maximum of 50 years, which can charge appropriate tariffs for the use of the public good, thus recovering the initial investment and obtaining of profit.
- Construction - Operation - Transfer (BOT) - the financing, construction, operation and maintenance of a public good is transferred to the investor, also allowing him to charge appropriate tariffs to cover the investment and to obtain profit
- Leasing - Development - Operation (LDO) - Takeover of public good in leasing for a maximum of 50 years by the investor.
- Rehabilitation - Operation - Transfer (ROT) - financing, rehabilitation, operation and maintenance of the public good for a maximum of 50 years.

The principles of a public-private partnership are: non-discrimination (the award of a contract is done regardless of the investor's citizenship); equal treatment (application of the same rules, requirements, criteria for all investors), transparency (providing all information on contract award procedures); proportionality (ensuring the relationship between the objective of the contract and the real requirements, between the requirements and the conditions imposed on the private sector, between the selection criteria and the contractual clauses); efficient use of funds (so as to design economic, social, environmental, and sustainable development); assuming responsibility (requires precise assignment of tasks, responsibilities, ensuring impartiality, professionalism, independent decisions).

The characteristics of the public-private partnership are further stated, namely: the financing of the project in particular from private sources, the cooperation between the two sectors in order to achieve the established objective, the distribution of the risks between the two partners according to the ability to assess, administer and control the risks; a long time running the contract for the recovery of the investment and the realization of the profit by the private sector.

The central administration through this partner seeks to provide public goods and services, while private entities, making profit the common goal of providing community services in terms of minimizing costs.

At European level, these partnerships are often used in sectors such as health, education, transport and public safety, aiming at increasing investment in trans-European network infrastructure and innovation, research and economic development.

The first public-private partnerships in Romania emerged in the mid-1990s, contributing to the realization of the cooperation environment between political and social actors, following the elaboration of national and sectorial strategies.

The private sector, as a fund manager and executive management, and the public sector as the initiator of public utility projects are motivated by these partnerships to improve infrastructure, protect the environment, monitor state aids, ensure a predictable and loyal business environment, the purpose of these contracts is to achieve public objectives: design, financing, construction, rehabilitation, upgrading, operation, maintenance, development and transfer of a public good or service.

Among the advantages of the public-private partnership we can mention: stimulating the fulfilment of the assumed contractual obligations; speeding up the achievement of infrastructure objectives and projects, by lowering the execution and operating deadlines; combining takeover of private sector responsibilities and risks with disposing of public sector services and making payments; reducing project costs; improving public sector management by exposing services to the rigors and requirements of competition; payment by the public sector takes place at the moment of finalizing and operationalizing the investment, the risks of the project being the responsibility of the private sector; improving the quality of public utility services; creating additional revenue; easy budget planning, given that all costs from the start of the project are known; private resources are used; during the life of the project, the cost of providing the service is low; from the conception phase of the project benefit from the experience of the private sector; throughout the duration of the contract (10-35 years) the level of services is constant; encouraging the use of economic technologies that protect the environment; to the detriment of a traditional public acquisition the cost / quality ratio is superior; lowering public sector indebtedness, given that the vast majority of funding comes from the private sector, and to a small extent (generally in kind) from the public sector; using the effective expertise of the private sector; ensuring transparency and pooling of financial capital in the public sector; outsourcing (through sale, concession) of activities carried out by the public authority to the private sector if the latter performs much better; gaining positive effects on the labour market and the community; providing efficient and effective facility; raising awareness and empowering the private sector to engage in projects related to the local community; risk sharing; "Best practice" and innovation; improving infrastructure.

And among the risks of public-private partnership is the following: the public sector can no longer manage the public service; lack of transparency and unequal treatment when awarding the partnership contract; the absence of garages to cover risks and the recovery of investments; difficult selection procedure for investors; the high cost of infrastructure financing; it is not possible to correlate the royal development programs with the local ones due to the absence of structures at all levels of administration for the evaluation of opportunities and partnership projects; signing a relatively rigid contract over a long period of time; the expropriation law discourages landowners from participating in such a partnership; favouring short projects at the expense of strategic ones due to strategic local development planning and hierarchy of almost non-existent priorities; high risk of failure of the project if it is not well documented; there is not a healthy competition environment for the functioning of public utilities; it is difficult to harmonize the interests of the partners; the greedy and costly procedure of awarding the contract; the lack of trust in the first phase of the partnership due to cumbersome communication between partners and the fear of not turning this partnership into a source of immediate income; low appreciation on the part of the population.

The public authority should give a high interest to these partnerships as the private sector is more flexible in designing and managing projects, has more rapidity in action, can get financing much easier and at lower interest rates, as well due to the fact that the administration is lacking the expertise of the technical staff.

According to the National Public-Private Partnership Council in the US, there are five success stories that such a partnership should have, namely:

- Political Elementary - Goals can only be achieved if there is clear assurance from decision-makers that they will actively engage, support, coordinate and lead each project
- The public sector involved in the project, the systematic monitoring of the performances having a positive role, the flexibility of the solutions in the case of unfavourable intervention of the economic or business factors.
- A well-designed plan so that each partner initiates his / her goals and identifies the responsibilities of the parties so as to avoid possible misunderstandings or disputes.

- Adequate communication with the parties involved, such a partnership having effects on both employees, trade unions, the press, interest groups as well as the beneficiaries of the good / service.
- Optimal choice of partner based on the most valuable "best value" offer to ensure a partnership over a long period of time.

2. PRESENTING THE CURRENT SITUATION

Worldwide, about 450 public-private partnerships in the maritime sector with an estimated value of more than 83 billions dollars have been completed by mid-2017. Investments in seaports have tended to decline since the outbreak of the 2008 crisis so that only eight such contracts have been concluded by mid-2017. The largest project was the Russian Federation (BOT - Port Vera Coal Terminal I) of about 664 million American dollars (sponsor: 75% Shenhua Group Corporation Limited), followed by the BOT-type Tema LNG Import Terminal, in which more than $ 550 million have been invested in Ghana's natural liquefied gas (LNG) (sponsor M Ghulam Faruque Group, Quantum Power Limited). Another $ 504 million were invested in Egypt by Amiral Holdings Limited (63 %) in the Sokhna Port Bunkering project, over $ 350 million in Brazil in Brazil Port Logistica Offshore e Estaleiro Naval and Porto Maravilha Wheat Terminal and $ 150 million in Ukraine in the Port of Yuzhny Grain Terminal project.

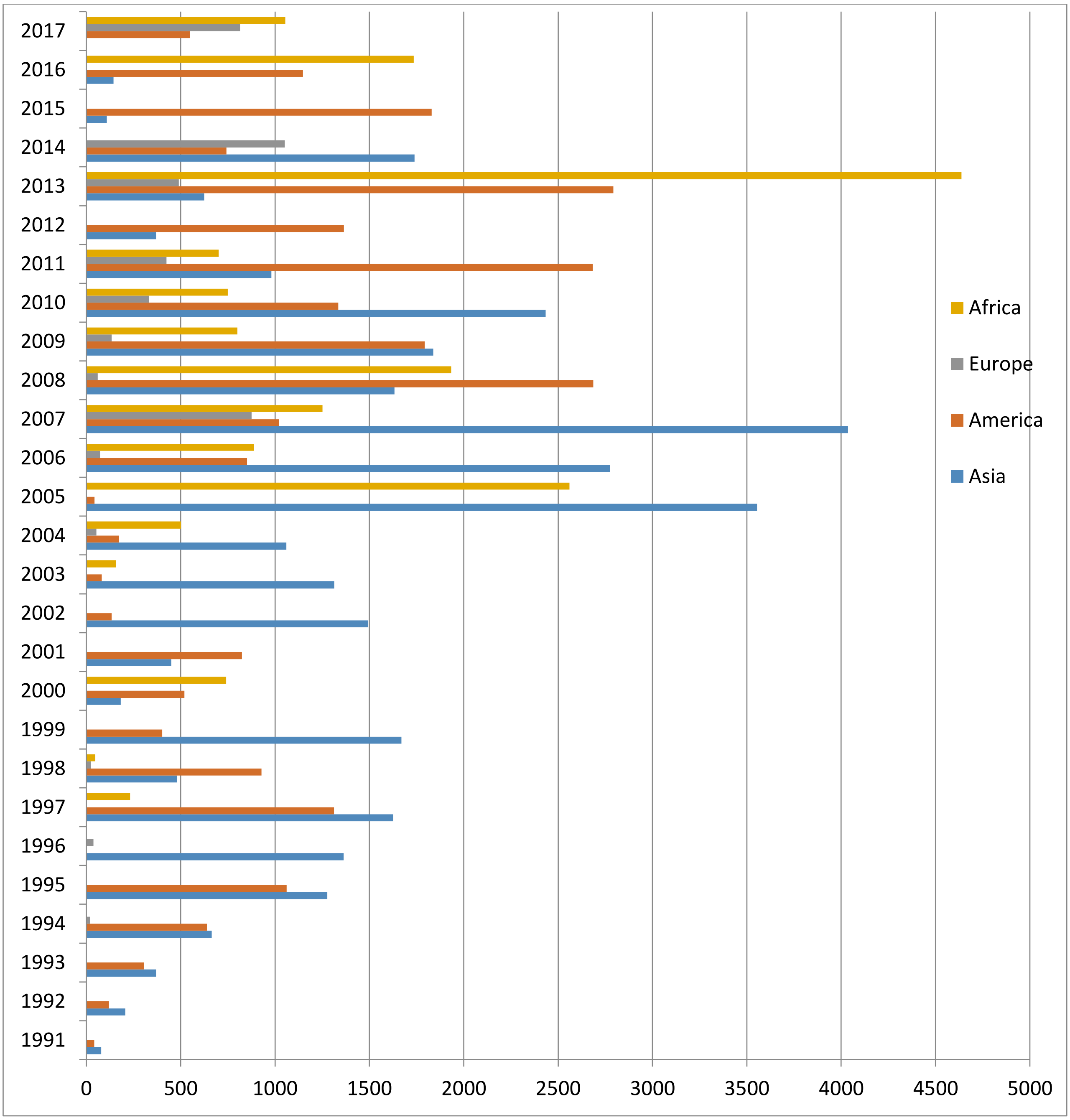

Figure 1: Distribution of value of investments by Continent and year
Source: processing after World Bank

In the maritime field, there was a high interest in such partnerships in 1991 a BOT (Construction - Operation - Transfer) contract with a $ 78.8 million investment sponsored by P & O Ports (23% / United Kingdom), Swire Pacific Ltd. (18% / Hong Kong, China).

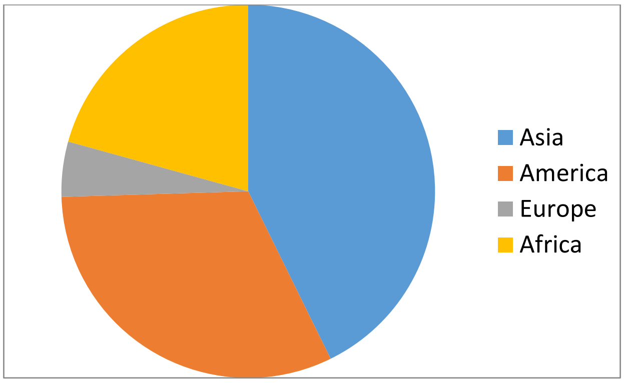

Figure 2: Distribution of value of investments by Continent
Source: processing after World Bank

The greatest interest from the point of view of the public-private partnership, referring to the value of the investments allocated to the maritime area, espoused by the Asian continent countries that have allocated over 33 billion dollars for the development of the port infrastructure.

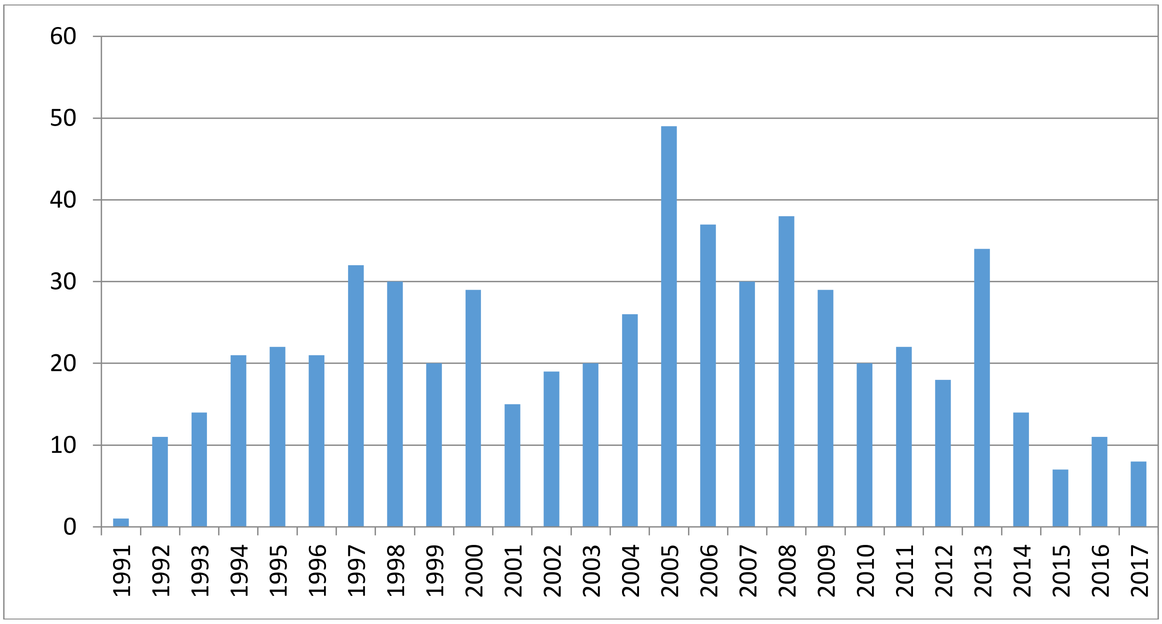

Figure 3: Distribution of number of public-private partnerships
Source: processing after World Bank

Worldwide, in the year 2017, eight public-private partnerships with an investment value of about 2400 billion dollars were concluded in the maritime field, and 3 contracts with an estimated $ 675 billion. From the graphs above, it can easily be noticed that this sector has also been affected by the financial crisis, registering a 30% decrease in the number of contracts concluded and the investments invested in the maritime infrastructure projects compared to the year 2008.

From the point of view of the public-private partnership, Romania is at a rather weak level given that only one project was signed in 1998 worth approximately 23 million dollars in Constanta Port, in which Romtrans SA (50%/ Romania), and East Point Holding Ltd (50% / Cyprus) participated in equal proportions.

3. CONCLUSIONS

Empowering the private sector's resources and know-how, public-private partnership is a way to introduce private management in the public sector based on a long-term contract, but presupposes a good relationship between public and private sector, the latter having a high weight in the economy.

Thus the public-private partnership ensures: the project - taking into account the fixed deadlines and budgets, sharing the risks between the partners - in the conditions of the appropriate allocation of the duties, diminishing the infrastructure costs - taking into account the innovative potential of the competitive private sector; the allocation of lifetime infrastructure financing costs - reducing the pressure on public sector budgets; encouraging innovation, research and sustainable development efforts - by finding solutions to socio-economic challenges; assigning an important role to the private sector in developing and implementing long-term strategies in areas such as industry, commerce, infrastructure.

The projects resulting from these partnerships can provide Romania with a healthy and rapid economic development, taking into account the supplementation of the state's financial resources with the private sector, but great attention must be paid to the risks that may arise due to the long term realization and the complexity of such projects.

From the point of view of the public-private partnership, Romania is at an early stage due to the fact that at local level there are no clearly allocated responsibilities and the level of decision making is not known, there is no unitary institutional approach to such projects, in general, most of the risks need to be assumed by the private sector, which also faces a relatively low financial power given that the business environment is not very favourable to investment.

At present, the public private partnership is not fully capitalized due to: the drastic decrease of the maturity of the granted credits; a significant increase in borrowing costs for such projects as a result of limiting lending opportunities; the financing obtained after the conclusion of the public procurement procedure.

Advantages for the private investor: an important business opportunity for national and multinational companies, especially if the contract does not stipulate otherwise, the intellectual property in the process of implementing this partnership belongs to the private partner, the benefits and risks can be negotiated following the organization of competitive dialogue procedures.

Disadvantages for the private investor: the risk of financing the project is either from own sources or the investor has to attract them from other sources; the risk of moral wear; the risk of occurrence of major force situations.

The advantages of public sector are: developing new skills and learning from experience; high trust that strengthens partnership and increases mutual support; using private and public resources; cost reduction; high efficiency in project development; use of know-how and private management; technical innovation; different private financing; faster implementation; higher quality of services provided; a good part of project risks are transferred to the private partner; at the end of the contract, the result is transferred free of charge in perfect condition, free of any obligation.

Disadvantages of public sector are: significant state resources may be scattered if there is no proper regulation and monitoring of the choice of the private partner; such a project is complex and requires a long period of time and the lack of experience of the public authority can be a major difficulty; loss of control - the issue that should be addressed when defining the project and maintained when negotiating the contract, and in the final analysis will establish the standards of services and will protect the public interest; the emergence of political risks due to the experience as well as the non-familiarization of the decision-makers with this partnership; incapacity to benefit from competition that limits efficiency gains, innovations and low prices; it may not benefit if there is no fierce competition between private partners; impairment of quality, ineffective provision or inadequate measures to maintain the utility of the services due to the proper structuring of these contracts.

Recommendations: to develop a database containing a history of these partnerships that have been completed or under execution as well as the opportunities for such contracts; organizing events to train public administration staff on such a partnership; the definition by the public administration institutions of a project management mechanism; adequate communication between partners and with the beneficiaries of these goods / services.

Public Private Partnership is effective only if the combination of private and public resources generates positive results and gains over the costs of selecting the private partner, operating the project as well as monitoring and controlling it.

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