

Public-Private partnerships and sustainable development in the European Union

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1. WHAT IS THE SOCIETAL AND ECONOMIC RELEVANCE OF THIS THESIS?

The research questions addressed by this thesis are the following. Can PPPs be considered as public services and infrastructure delivery models actually capable of promoting also sustainable development goals through the generation of socio-environmental benefits? Which are the spaces for sustainable development concerns that can be located within PPPs' structures according to EU public contracts and concessions law? Which are the spaces for sustainable development considerations that can be located within PPP schemes according to public contracts and concessions laws of the Members States studied in this thesis? Through which means (i.e. tender and contractual strategies) public and private actors may actually integrate sustainability concerns within PPPs' structures and, therefore, deliver also socio-environmental benefits?

Therefore, the focus of this thesis lies on the study of the scope for sustainable development considerations within PPPs according to EU and national public contracts and concessions laws of the considered Members States. Moreover, this thesis aims at investigating the concrete strategies through which PPPs can embed sustainability considerations within their structure and, thus, generate socio-environmental benefits fostering sustainable development objectives.

The societal and economic relevance of this thesis follows primarily from the circumstance that its research questions relate to a pressing current-day challenge in the field of public services and infrastructure delivery: the need to boost economic growth and the functioning of the Internal Market along with the other equally important goals of socio-environmental sustainability. The thesis has established that the applicable public procurement regime as well as the inherent PPPs' features and mechanisms indeed allow public and private actors to shape PPPs upon both economic and sustainable demands. PPPs are capable of effectively balancing price, cost, risk, quality and performance with on-going assets' improvements. Moreover, PPPs create a favorable environment for innovation and sustainability. This PPP ability constituted an important justification to further investigate the tender and contractual strategies that can actually be used to embed socio-environmental concerns within their structures and, thus, to promote sustainable development.

A second comment on the societal and economic relevance of this thesis relates to the legal basis of sustainable development. Article 3 of the TEU specifically foresees that the Union should work for its realization in the context of Europe. Therefore, the principle of sustainable development must guide Members States in the definition and implementation of the Union's policies and activities. This shared legal basis is directly connected with the EU's ambition of achieving and promoting the functioning Internal Market within the EU (Article 3 TEU; Articles 26 and 113 TFEU). Since, sustainable development consists of the establishment of a synergy between the economic, environmental and social dimensions of human life in order to move towards a new approach of human progress, by working for the sustainable development of Europe the functioning of the Internal Market is promoted at the same time.

Taking into account the positive impact that the promotion of sustainable development may also have on the functioning of the Internal Market, the study of PPPs as effective public delivery means capable of supporting also sustainable considerations constitutes a research subject with broad, EU-based societal and economic relevance.

It is also for this reason that this thesis has explored the various strategies, which may enhance, through PPPs, the generation of socio-environmental benefits and, thus, the promotion of sustainable development throughout Europe.

2. TO WHOM MAY THE RESEARCH RESULTS BE OF INTEREST?

The research for this thesis has, amongst other matters, provided insight into the legal background of PPPs at an International, European and Member States' level. In that regard, the research results may be employed by various International organizations active in the field of PPPs or by the EU and national legislative bodies which are looking for a uniform or more comprehensive regulation of PPPs, an ambition which is at the forefront of EU policymaking especially following the EU Commission's Communication of 2009 'Mobilizing private and public investment for recovery and long-term structural change: developing Public Private Partnerships' (COM(2009)615final). The thesis identifies, in the absence of an *ad hoc* and comprehensive PPP's legal regime in most legal systems, the current norms of positive (EU and national) public contracts and concessions law applicable to PPPs. A comprehensive review of their regulation could start from here. Further, the research has discussed the (legal) spaces for sustainable development considerations within EU and national public contracts and concessions laws, which have the potential of allowing PPPs to promote sustainable development through public service and infrastructure delivery. Particular attention may be devoted to such findings in order to shape public contracts' legal regimes to better embed sustainable development concerns.

Besides (EU and national) legislative bodies, there are various other parties and/or institutions to whom the research results may be relevant. First, since the thesis has explored and has identified the various tender and contractual strategies (e.g. defined output specifications, payment mechanism) which can support the generation of socio-environmental benefits through PPPs, the outcomes of the research may be of particular interest for the public and private sectors engaged into innovative and sustainable PPPs. In fact, the thesis clarifies how PPPs can be awarded, structured and managed in a way that allows the promotion of sustainable development gains, along with economic objectives. Second, such a research outcome is relevant also for practitioners and legal experts in the field of complex public contracts. The considerations outlined throughout the research constitute a comprehensible theoretic and practical foundation for practitioners and legal experts whenever they are engaged in the support of the private sector involved in PPP projects. Finally, the thesis, by focusing on a subject (i.e. promotion of sustainable development through PPPs) which until now has not been systematically addressed by scholars and academics in the legal field, provides them with a foundation for further research into the PPP phenomenon as an alternative public service and infrastructure delivery method that can also effectively promote sustainable development considerations. In this regard, various starting points for further and future research are raised throughout the research.

3. INTO WHICH CONCRETE PRODUCTS, SERVICES, PROCESSES, ACTIVITIES OR COMMERCIAL ACTIVITIES WILL THE RESEARCH RESULTS BE TRANSLATED?

Firstly, the author's intention is to adapt the thesis into a commercial edition, which is to be marketed by an internationally operating publishing house. This will allow the research results to be properly distributed amongst the various interest groups mentioned under point (2) above (i.e.

International organizations active in the field of PPPs, legislative bodies, public and private sectors, practitioners and legal experts, (EU) public contracts scholars). By means of the commercial edition, the author intends to maximize the (potential) legal, societal, environmental, economic and academic impact and relevance of the research results.

The thesis identifies various tender and contractual strategies, which can be employed to award and structure PPPs capable of promoting sustainable development. Thus the research results can be employed as guidelines by entrepreneurs and public servants to identify which are - on a case-by-case basis - the most effective strategies which allow socio-environmental considerations to be embedded within PPP structures. Subsequently, award procedures and contractual schemes can be adjusted upon the identified sustainable development considerations. Therefore, by means of the research results, the thesis allows both public and private actors to support the generation of socio-environmental benefits through PPPs. This will enhance the promotion of sustainable development in the EU. Even though the ultimate decision to translate the research results into concrete adaptations or revisions by current (EU and national) public and private actors remains at their discretion, the thesis has provided them with the essential instruments to do so.

In any case, the research results of the thesis incentivize private entities and civil servants to work together towards a more precise balancing of the economic, environmental and social dimensions of human life.

4. TO WHAT DEGREE CAN THE RESEARCH RESULTS BE CALLED INNOVATIVE?

The research results are innovative because PPPs, understood as effective public service and infrastructure delivery means capable of delivering also socio-environmental benefits, have not yet been addressed in a structural or in-depth way by scholars and academics in the legal field - even though the promotion of sustainable development through public procurement represents a pressing current-day challenge within the EU. Thus, the subject matter of the thesis can be regarded as a new research area, which relates to a largely unexplored feature or ability of the PPP phenomenon.

The thesis has unveiled that PPPs are actually capable of promoting sustainable development within the EU if they are effectively shaped upon socio-environmental considerations, from the pre-procurement to the maintenance phase. The underlying research processes have, therefore, led to new insights and conclusions which, in conjunction with each other, contribute to a move towards a new understanding of PPPs as effective public delivery means of also socio-environmental benefits (i.e. accelerated and enhanced delivery benefits, wider socio-environmental gains).

5. HOW WILL THE VALORIZATION OF THE RESEARCH RESULTS BE SHAPED?

As addressed in point (3) above, the author intends to distribute the research results as widely as possible. One intended initiative to this end is the publication of a commercial edition through an internationally operating professional publisher. In addition, the author will be pro-actively involved in (EU) public contracts and focused academic gatherings such as seminars, conferences and symposia. These initiatives will contribute to spread the research results and possibly their translation into concrete guidelines and/or practical handbooks. Further, they will allow the research results to be tested, evaluated and, ultimately, to be supplemented or even revised. This will ensure that the thesis results will effectively contribute to 1) the promotion of sustainable development within the EU through PPPs and 2) the academic progression in the legal field of innovative and complex public contracts.