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# FORMS OF INTERNATIONAL MOVEMENT OF CAPITAL WITH SPECIAL EMPHASIS ON THE PPP AND CONCESSIONS

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The state has always cooperated with the private sector in order to implement various activities in the best interest of public. The first models of public-private partnerships (PPP) appeared at the time of the Roman Empire in the context of public works in construction of public baths, markets and ports. Contemporary international movement of capital is a phenomenon that has existed for over a century. When discussing the PPP in modern day terms, the expansion of private involvement in the public sector starts in the 1970s and the 1980s of the previous century, in public infrastructure projects and in most developed economies. The primary purpose of these arrangements is to reduce expenditures in state budgets, but also to achieve faster and better execution of work, reduce risk and efficiently manage the projects. This paper will briefly present the evolution of PPPs and concessions, with an emphasis on understanding money and capital throughout the evolution of PPP, contemporary forms of movement of capital, as well as equity in terms of globalization. The subject of this paper are also examples of the important PPPs and concessions from the construction of the Suez Canal until today.

*Key words:* public-private partnerships, concessions, contracts, capital.

# INTRODUCTION

In order to implement various activities of public importance, the state has always cooperated with the private sector. Public-private partnership (PPP) as a form of cooperation between the state and private sectors, dates back to the Roman Empire. In modern day terms, PPPs are a more recent phenomenon. The expansion of private involvement by the public sector has started in the second half of the previous century in public infrastructure projects and in most developed countries.

PPP engagement relates to infrastructure projects managed by the state in cooperation with the private sector, in which case the private sector undertakes what is, by nature, exclusive business of the state: it designs, finances, performs the work and manages the PPP project. The private sector, therefore, takes the largest share of the risk. The primary purpose of these arrangements is to reduce expenditures in state budgets, but also to achieve faster and better execution of work, to reduce the risk and efficiently manage the projects. This paper will briefly present the evolution of PPPs and concessions, with an emphasis on understanding money and capital throughout the evolution of PPP, contemporary forms of the movement of capital, as well

#### CASH AND CAPITAL THROUGHOUT HISTORY

Aristotle's concept of state, its economic role and the money itself, is the foundation of modern thought in economy, although his fame sprung from the field of philosophy. He determined three functions of money, namely: money as a medium of exchange, as a measure of value and as an asset for amassing wealth. One of Aristotle's interesting assumptions is that money itself is a sterile, i.e. infertile category, one that is not reproducing itself (Stakić and Jezdimirović, 2012: 17). Starting with a definition that the capital is a value to be fertilized, we can conclude that it is impossible for something to breed if it has no value of its own.

as equity in terms of globalization. The focus of this work will be on cases of major PPPs and concessions worldwide, from the construction of the Suez Canal until today. It is believed that the construction of the Suez Canal is one of the most important and biggest concessions in contemporary evolution of PPP. It is subsequent to the concession for the construction of the Panama Canal and the Channel Tunnel. In addition to these concessions, representative examples of other forms of worldwide PPPs will be presented, such as leasing of the management of water supply in Yerevan, service contract for the urban water supply network in Malaysia and a management contract for governing a town in the United States.

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Adam Smith, the creator of the Economic Liberalism Theory, has considered frugality to be a key driver to the capitalist growth and increase of wealth. He believed that savings would enable investment and that consumption was a second-rated action (Smith, 2007). Smith's basic idea, which made him famous, was that the work of the individual with rational self-interests in a liberal economy would lead to the increase of well-being of all. This idea is the foundation of the market economy, and it shows how the seemingly chaotic market system has its internal logic and is governed by the regulation of the so-called invisible hand of the market. In addition, he was a proponent of free trade. He believed that the state could bring great benefit to the economy if it protected contracts and patents and undertook public education of the poor and the infrastructure projects (Smith, 1999).

Before Keynes, the economists had praised the automatism of the market mechanism, through which the individual factors of production mobilized themselves and combined between themselves, an action that lead to the appropriate structure and the adequate volume of investments. Keynes and his followers however, insisted that such system was unable to provide automatically, without the interference of the state, the volume of investments that would lead to full employment without inflation. He analyzed the period from 1923 to 1929, before the great economic crisis, and came to the conclusion that while the propensity for consumption and investment incentive influenced one another, this led to incomplete utilization of accumulation and to declination of the volume of spontaneous investment. Since the propensity to consume couldn't be significantly altered, a vicious circle could only be broken by the intervention of the state, while private investment, so far insufficiently utilized, could supplement public expenditures, and therefore the enhanced economic activity would achieve the full utilization of production capacities (Keynes, 1956).

From the beginning of the 20th century, the capital between countries generally moves in five basic forms: foreign direct investment (as a share in the ownership or management of at least 10%), foreign portfolio investments, loans and credits, investment and business in free zones and investment of capital in the form of PPP, and to a lesser extent through various donations, i.e. grants (Stakić et al., 2015: 48).

The period from the late 1980-ies and particularly in the '90-ies of the 20th century, was marked by the expansion of foreign direct investment (Stojadinović, 2013: 36). It is noteworthy that at the beginning of the 21st century, in addition to the non-banking sector, foreign investment was particularly important in the banking sector, in an era of transition and privatization (Hadžić, 2013: 14). In the last 20 years, there has been a large expansion of the free zone concept, which uses numerous different models of a specific mechanism for the foreign trade business, in order to have it freed from various state tax burdens (Stakić et al., 2015: 127).

# **EVOLUTION OF THE DEVELOPMENT OF PPP AND** CONCESSIONS

The first models of PPP appeared in the time of the Roman Empire in the context of public works in the construction of public baths, markets and ports. There are testimonies of a toll charge, as a form of PPP, ever since the time of Caesar Augustus. Greek philosopher and historian Strabo wrote in his Geography that payment was charged on the usage of Saint Bernard's mountain pass (Little St. Bernard's Pass). This duty was entrusted by the Roman Empire to the tribe of Salasi, which in return had an obligation to maintain the aisle and provide guide service for passengers for a fee (Grimsey and Lewis, 2004: 42). Crossing the London Bridge was charged to the passengers starting from 1286. The toll from London to Litchfield was legalized in the 1364, by the British King Edward III. In 1555 in Britain, the Law on road maintenance came into force. The inhabitants who lived along the road were employed for the maintenance, while the supervision was entrusted to local parish priests. Forced maintenance of the roads lasted until 1835, and in remote parts of the United States even to the twentieth century. The need for more quality roads led to the development of concept of road toll. Some authors consider this concept to be the predecessor of modern BOT (Built-Operate-Transfer) scheme PPP (Smith, 1999: 11).

The development of modern type of PPP begins in the 1970s and 1980s, in the projects of public infrastructure, as the public sector increased the engagement of the private sector (BOT). The first modern PPP developed simultaneously in the US, EU, Australia and in the most developed Asian countries. The idea of a simultaneous increase in investment and the protection of public interest was carried out by the US government during the 60ies, by developing methods to stimulate private investment in infrastructure. Since the 1970ies, governments have focused on finding new and more efficient ways of providing public services through contracting.

### FROM THE CONSTRUCTION OF SUEZ CANAL UNTIL **TODAY**

## The concession for the Suez Canal

One of the most important and largest concessions in history took place for the construction of the Suez Canal, an artificial sea route that merged the Mediterranean and the Red Sea, making the voyage from Europe to India and the Far East much shorter and safer.

The construction of the Suez Canal started upon the initiative of the French consul in Cairo, Ferdinand de Lesseps, who was also the chief designer of the channel (Piquet, 2003: 6). Egyptian viceroy Said Pasha, as a sign of gratitude, issued the French diplomat with a decree that granted him the ownership over the channel for a period of 99 years.

Lesseps was awarded the concession to build the channel in November 1854 and a year and a half later, he has founded The Suez Canal Company (Compagnie universelle du canal maritime de Suez), whose capital amounted to 200 million francs and was divided into 400 thousand shares of 500 francs. Interest in the campaign of the company was so high that as many as 314,494 shares got sold in less than one month, out of which the largest part (over 200 thousand) was sold in France. The Ottoman Empire purchased 96,000 shares, the Egyptian Khedive (lord) went to about 85,000 shares, and the rest of the shares' purchasers were Americans, Britons, Austrians and Russians (Stakić *et al.*, 2015: 140).

The construction of the canal officially began on 21st April 1859, on the Mediterranean coast near the present-day port of Port Said, at the northern end of the future channel. The channel passes through the Sinai desert and is 160 kilometers long, while its width has been expanded several times. The projected cost of the construction was more than twice lower than the invested 432,807,882 francs (ibid.: 141). Africa was separated from Asia and the waters of the Mediterranean and the Red Sea merged on 15/08/1869. The Suez Canal was officially put into use by King Ismail on 17th November 1869.

The canal was expanded, extended and deepened in 2015, in order to double the daily number of ships (from about 50 to about 100). The annual fee for navigation through the channel is more than US\$ 5.0 billion and represents the main revenue budget for Egypt. About 10% of world trade takes place through this channel.

#### The concession on the Panama Canal

The Panama Canal is the shortest sea route between the Pacific and the Atlantic Ocean and is 82 kilometres long. The idea of digging the canal dates back to the sixteenth century, and it was in the nineteenth century when its construction was certain to take place. The first contract, Clayton-Bulwer Treaty, was signed in 1850. The contract foresaw the freedom of navigation through the channel both in peacetime and in time of war, and the guarantors were both contracted parties - the US and the UK (Hoyt, 1966). In the late nineteenth century, the United States politics turned towards domination over the channel, which was legally regulated by the conclusion of the Hay Pauncefote Treaty in 1900 and 1901 (Maurer and Yu, 2006: 9). In 1903, the United States concluded a concession contract for the construction of the channel, after recognizing a Colombian province of Panama as an independent state. The canal was opened for traffic on August  $3^{rd}$  1914, and it wasn't until 1999 that a governmental agency the Panama Canal Authority was formed, having complete independence and financial autonomy with regard to all activities related to the channel (Stakić et al., 2015: 144). In mid-2016, it is expected for the expanded Panama Canal to be opened.

# The concession for the Channel Tunnel under the English Channel

One of the earliest and largest BOT projects in Europe is the Channel Tunnel. The tender was announced in 1985. The contract was awarded to the Franco-British consortium Eurotunnel, formed by the British company The Channel Tunnel Group and the French France Manche (CTG/FM). On the British side, the participants in the consortium were five construction companies and two banks, and the same number of French construction companies and three banks on the French side. British construction companies were associated in a joint venture called Translink Joint Venture, while the French construction companies merged under the name of GIE Transmanche Construction. The bi-national project company TMLTrans Manche Link connected the

two groups (Vasilyev, 215: 31). The contract with the governments of France and Britain was signed in March 1986, as a concession to 55 years, later extended to 65 years. The Eurotunnel is to be handed over in its operating state to the ownership of the two countries (Stern, 2001: 1) in 2052.

The project was late to open, and had much higher costs than anticipated. The costs exceeded the estimated GBP 4.8 billion to a whopping GBP 5.7 billion. There was a 12-month delay in the opening and a 19-month delay in starting of its commercial use. Eurotunnel had the biggest corporate loss in British history of GBP 925 million, which was published in 1995. Interest on the principal debt of GBP 9 billion was GBP 2 million a day (BBC, 1999). Before the channel began to make profit by putting charges to the transport, the payment of dividends was suspended for all shareholders, who owned 69% of capital and whose number reached as many as 683,000 in 1997. The project was credited by 225 banks from all over the world and due to the financial disaster of the project, the debt refinancing and extension of the concession for 10 years was arranged in 1998. This changed the structure of the shares, leaving the individual shareholders with 48% stake in the property after the initial 69%. On the stock market, prices of Eurotunnel's shares fell, dividends were still not being paid out, all this causing a formal bankruptcy of the company, in 2006. Goldman Sachs, owned by Rockefeller, bought off 87% of the capital in 2007 (Robinson and Vatkov, 2011).

# Leasing of the management of water supply - the city of Yerevan

An example of PPP's development from a simpler to a more complex arrangement is one in the city of Yerevan. Before 2006, a management contract for the delivery of water was in force, signed in 2000 with an Italian company. The tenyear valid leasing contract has been signed between the State Water Committee and the French company Veolia Water. Veolia Water founded a new company in Yerevan -Yerevan Djur, in order to enable the implementation of the contract. Water supply for the city of Yerevan entrusted the management and maintenance of its plants to a private operator with a leasing contract, which entitled the operator to collect charges from the consumers, while the plant remained the property of the city. The city held responsibility for the maintenance and further development of the system. The operator was obliged to take part in providing maintenance to the system and to invest in certain equipment (OECD, 2008).

Armenia has established an independent public institution - Public Services Regulatory Commission, which was in charge of supervising the private operators' contract implementation. Experience has shown that the institutions supervising the implementation of the performance-based contracts are of great importance, and that these types of contract help increase the interest of foreign investors in providing funding. The agreement was signed by three contractors: the lessor (the State Committee for Water), the lessee (Yerevan Djur) and Veolia Water, the bidder, the tender winner and the owner of Yerevan Djur-a. During the term of the lease, the tenant was obliged to pay compensation to the lessor every 6 months. The Armenian government raised a loan of 18.5 million dollars from the World Bank,

in order to secure investments in water supply. To repay the loan, the government uses revenues from leasing fees. Both supplier and lessee are required to submit a bank guarantee from a reputable bank (Vasilyev, 2015: 26). Water quality, continuity of supply and efficiency in dealing with the customer issues are the indicators showing whether the contract's implementation is effective. The operator is obliged to hire local labour and, upon the expiry of the contract, to hand over the plant in working order, so that the continuous water supply can be provided for a minimum of 5 years to follow.

### Management Contract in governing a town in the USA

In a referendum held in 2005, local authorities in Sandy Springs, Georgia, have won the status of a town with its 90,000 inhabitants, establishing the first new town in the last 50 years in this U.S. state. Apart from an ambulance, police and fire department, the town authorities decided to hire private partners for all matters concerning the city administration, in order to get more effective results at a lower cost to the budget. The tender was opened for two areas: infrastructure (transport, public works, recreation, parks, planning and zoning) and administration (accounting, human resources, IT and utility services for citizens). The company CH2M Hill won both tenders in 2005, for a period of one year, with the possibility of extending the contract for another five years (The National Council for PPP, 2011).

The contract envisaged that the company should establish management of all town services within three months. It was a short period for procuring office space, human resources, equipment and all the other resources, systems and processes required in order to manage the whole town. This agreement is the most innovative and the most complex PPP contract in providing urban services in the United States and worldwide (Vasilyev, 2015: 23).

### CAPITAL IN THE CONDITIONS OF GLOBALIZATION

Samuelson made a significant contribution to defining the role of the state in modern economy, giving emphasis to a constant growth of public expenditure, due to the increasing intervention of the state in the economy and in the social sphere. He said that for more than a century, national income and production have increased in all industrial economies, but state expenditures have grown even faster. He claims that as the state intervenes more in the economy, therefore it constantly brings new laws and increases public expenditure and collects higher tax revenues (Samuelson,

Cooper gave a very good outline of contemporary causes of the crisis, but also a retrospective of past financial crises in his "Causes of the financial crisis." He starts with the role of central banks that lend money to vulnerable private sector banks, which happens when the banks have exhausted all other sources of lending through the private sector. Lending with bail, which does not ensure timely repayment or any repayment at all, is a new source of instability in the financial markets and therefore in the overall financial system, so the latest crisis could be named the credit crisis. It results in the decline of real estate prices and this affects the entire construction industry, which is considered to be

one of the initiators of other numerous economic activities in all developed country markets (Kuper, 2009).

Piketty, professor at the Paris School of Economics, in his book "The capital of the 21st century", warns that by inequality in the distribution of wealth in the 21st century, we are regressing back to the 19th century, when wealth was concentrated in the hands of a small number of individuals, and when the economic elite were wealthy heirs, and not those who earned their place in the society with work. Piketty argues that the average rate of return on equity is 3 to 4 times higher than the average growth rate of productivity, which means that capital income is growing significantly faster than revenue labour (salaries of employees). (Piketi, 2015).

### REGULATIONS OF PPPS AND CONCESSIONS IN THE **EUROPEAN UNION**

According to World Bank data for 2015, 63 world countries have laws on public-private partnership (World Bank, 2015a). In 2008, countries in Eastern and Central Europe signed in, through the EBRD, to participate in the project of evaluation of existing laws on concessions (Assessment of Concessions Laws). This document analyses the legislation on concessions in 28 countries, conducts comparison with international standards and recommends reforms to improve the legal framework for PPPs and concessions (World Bank, 2015b).

In countries that apply PPPs without specific legal regulations, PPPs legal framework usually falls under the laws on concessions and public procurement. Special legal regulations that directly regulate the implementation of PPP projects in EU did not exist in the member states until 2014. Instead of clear definitions and laws, regulations on public procurement in the EU which referred to the PPPs were executed from four EU legal instruments (Vasilyev, 2015: 64): The Treaty on the functioning of the EU; EU public procurement directives; Relevant law practices of the European Court of Justice (European Court of Justice -ECI); The interpretative Announcements of the European Commission (Interpretative Communications) and the other so-called soft legal measures (Soft-law measures) of the European Commission. The first three documents are binding laws (Hard Law), as opposed to the Announcements of the European Commission which are not binding - soft legal measures (Soft Law), and represent a guide for implementing binding legislation and interpretation of the views of the European Commission with regard to PPPs.

In the past, existing legislation was focused on public procurement and concessions. The development of PPP partnerships assumed the need for more complete regulations. European legislation has regulated this important area in more detail only in 2014. In the "Official Journal of the European Union" of February 2014, three new directives were published, for the field of concessions and public procurement (Stakić et al., 2015: 81).

### CONCLUSION

Aristotle's concept of the state, its economic role and the money itself, is the foundation of modern thought in

economy. One of Aristotle's interesting assumptions is that money itself is a sterile, i.e. infertile category, that money doesn't breed money. Adam Smith considered frugality to be a key driver to the capitalist growth and the increase of wealth. He believed that savings enabled investments and that consumption was a second-rated action. Smith's basic idea was that the work of the individual with rational self-interests in a liberal economy would lead to the increasing of well-being of all. Accordingly, Smith was an advocate to free trade both within the country and internationally.

Before Keynes, economists had praised the automatism of the market mechanism, through which the individual factors of production mobilized themselves and combined between themselves, an action that led to the appropriate structure and the adequate volume of investments. Keynes and the Keynesians however, insisted that such a system was unable to provide automatically, without the interference of the state, the volume of investments that would lead to the full employment without inflation.

Contemporary international capital movement is a phenomenon that has existed for more than a century. Over time, the importance of certain forms of international capital movements has changed. In the second half of the 1980ies, after the debt crisis had reached its peak, there was a stoppage in the movement of loan capital. Private sector refrained from approving any new loans to developing countries, except in the form of direct investment. PPP, as a specific form of privatization of public utilities, dates back to the Roman Empire. In addition to the cost-effectiveness and efficiency in provision of public services, the PPP model contributes to the savings in budget by reducing the costs of public investments. By the end of the 20th century, the need for infrastructure development remained, but the privatization lost its momentum, and PPP models became an important way of providing managers and private investment in the development of infrastructure, in cases where privatization encountered problems or ceased to be implemented.

One of the most important and largest concessions in history took place for the construction of the Suez Canal, an artificial sea route made to merge the Mediterranean and the Red Sea. In addition to the Suez Canal, the Panama Canal also represents one of the most important waterways built in the world. The tunnel under the English Channel is one of the largest BOT projects in Europe. Its tender was announced in 1985, as a concession for 55 years, and was later extended to 65 years. The concession expires in 2052, when the Eurotunnel should hand over the entire project in fully operational condition to become a shared property between the two countries.

The water supply of the city of Yerevan entrusted the management and maintenance of its plants to a private operator through a leasing contract. A private operator was given the right to charge the consumers, while the plants remained the city's properties. Water quality, continuity of supply and efficiency in dealing with customer complaints are the indicators that show the effectiveness of the implementation of the contract.

All the advantages and disadvantages of the private-public sector can be seen in the examples above. The result of cooperation between the two sides, through various forms of PPP, can ensure enormous savings, considerably higher than the expenses the public sector embraces when employing a private company. The examples here show how this is a win-win situation for all the participating sides. All the more complex relationships between the public and private sectors require that institutions continue to bring new sets of rules and regulations in order to satisfy the demands of the market, which the European Commission did by adopting the Directive in 2014 that regulates this area.

However, we must point out in the end that what leaves a bitter taste is the fact that, according to Piketty at the beginning of  $21^{\rm st}$  century, the average rate of return on equity is 3 to 4 times higher than the average growth rate of productivity, which means that the income from capital grows much faster than the income from work, leading inevitably to the increased social stratification in the 21st century.

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