PUBLIC-PRIVATE PARTNERSHIPS-ANALYSIS OF CURRENT CHALLENGES AND OPPORTUNITTIES AT EU-27 AND NATIONAL LEVEL FROM AN ENTREPRENEURIAL PERSPECTIVE

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Abstract
Public-private partnerships are one of the most debated issues at EU-27 level nowadays. The experience of the past two decades has shown that this European Union initiative has delivered results below expectations despite the opportunities for improved absorption of European funds based on setting up such partnerships. In our paper we argue that by investigating main definitions and institutional-regulatory frameworks, public-private partnerships could turn into a key tool for promoting and supporting sustainable development at both national and rural level (that is, at the level of the regions of development) by interacting and best suited to sustain the activities of start-ups and innovative SMEs. Romania's experience is still at its very beginnings, but the current economic, social and political climate is an argument for considering how public-private-partnerships and entrepreneurship might be interlinked for generating economic growth, and creating platforms even for encouraging social entrepreneurs who, due to their 'not-for-profit' objectives are more flexible in applying new perspectives and innovations faced with new opportunities, thus gaining experiences transferable to changing and improving the 'for profit' sector and contributing to improved perceptions about public-private partnerships, not as an objective per se, but as operational tool in ensuring economic growth, social development and increased sustainability and resilience.

Keywords: *public-private partnership, institutional-regulatory framework, economic growth, entrepreneurship, sustainability, innovation*

Classification JEL: *L31, L32, O17, O35, O39, Q01*

1. INTRODUCTION

The 09/2018 Special Report of the European Court of Auditors drew attention to the fact that despite expectations, and analyses showing that public-private partnerships (PPP) support improved economic growth, and bring about increased benefits to both public and private stakeholders, the outcomes over the past two decades were less than encouraging as regards the use of such partnerships. Main findings related the ineffectiveness of such partnerships to increased spending, delays, cost increases, all due to lacking experience and expertise in performing adequate analyses, and the shaping of corresponding strategic approaches.

The reasons might be found first in how institutional and legal frameworks are built, evidence thereof being several initiatives in both developed and developing countries of the EU-27 to review the existing institutional and legal frameworks as to increase PPP performance. In fact, we argue that the modest results of PPPs at EU-27 level and in Romania, have as source: institutional economic and legislative framework shortcomings, related to the legal systems, to historical and even entrepreneurial culture reasons.

Without insisting overmuch on the historical development of PPPs, there are two broad historical periods that can be circumscribed to their evolution: (i) the first period, starting about the same time as the 1st industrial revolution and coming to an end approximately at the beginning of the 20th century, and the second period which is gaining momentul as of the years seventy of the 20th century.

For clarifying the challenges and opportunities faced by PPPs in general, and in relation to entrepreneurship in particular, we suggest three main objectives: (a) a brief inventory of defintions, meanings and potential that can be gained by such partnerships in general, as one of the stated purposes for this particular type of cooperation is to obtain synergies and put to good use at a superior level the competences, abilities, skills and knowledge of the involved stakeholders (Jomo, K.S. et al. 2009); (b) overview of current institutional economic and legal frameworks for improving and operationalising PPPs that contribute to stimulating entrepreneurship, innovation thus creating a solid basis for improved sustainability and resilience at national and EU-27 level; (c) identifying main objectives and policy approaches that are best fitted to change PPPs from an objective into a useful tool for ensuring economic growth, and competitiveness at national and EU-27 level; (d) reviewing the recent developments and new initiatives for improving the PPP performance potential in the post-Covid period.

2. PUBLIC-PRIVATE PARTNERSHIPS – OVERVIEW OF KEY-ASPECTS

The definition of PPPs is not standardised at EU-27 or at world level, and this is one of the most important issues to consider when intending to change PPPs from an objective in itself to a tool that is instrumentalised for improving economic growth, encouraging entrepreneurship and innovation, and addressing simultaneously the concerns of both public and private sector in their interactions on such basis. The most encompassing definition is provided by OECD in 2017 as it defines it as a long-term contract concluded between one governmental entity and a private partner for ensuring, providing, delivering assets, goods or services and in which the private partner assumes significant risks and responsibilities in managing the object of the contract, while the remuneration is correlated with performance.

The definitions of PPPs in developed and developing countries are a reflection of the legal systems governing them. In Table 1 we present a brief synthesis of the key elements differentiating the legislative-institutional frameworks with impact on how PPPs are structured. It draws attention to the fact that PPPs is not, or should not be linked necessarily to concession, and all the effects this links implies for the implementation and management of the public-private partnership. Moreover, the same key elements are also determinant for the way in which PPPs are defined and the dimensions they might incorporate in different countries of the EU-27 and even at world level.

The absence of a clear and standardised PPP definition imposes a more in-depth analysis of this type of alliance on three essential dimensions: contractual governance, interinstitutional relationships and risk sharing. Implicitly, depending on these dimensions, and differences PPPs could be shaped to fit general and specific goals of economic growth in general, and of supporting entrepreneurship and SMEs in their start-up encompassing possibly even a strong innovative characteristic in their incipient development.

Table 1 – Key elements governing PPP definitions and structure

Key-element	Civil Law	Common Law
Written Constitution	Always	Sometimes
Juridical decision	Not compulsory for third parties, but decisions of administrative and constitutional courts are obligatory for all parties when referring to laws, regulations, governmental decisions, etc. .	Obligatorie
Works/recommendations from experts, researchers, professor in the field of legal sciences	Significant influence in some jurisidictions	Low influence
Contractual freedoms	More limited – several provisions imposed/based on law in the contractual relationship	Extensive, with few refernces to law regarding contractual relationship.
Law governing PPP	The majority of PPP (e.g. concessions) are object off public administrative law and	In their vast majority subjected to private law provisions, and courts of private law.

	administrative courts.	

Source: author's processing after https://ppp.worldbank.org/public-private-partnership/legislation-regulation/framework-assessment/legal-systems/common-vs-civil-law

The legal-institutional framework, associated with significant aspects of institutional economic indicators are the most critical in approaching PPPs at EU-27 and national level.

Most definitions are circumscribed to regarding PPP as arrangements between two or more entities for achieving common or compatible goals, by dividing in various shares authority, responsibility and resources' investment and risk sharing (Treasury of Great Britain 1998), or as a permanent agreement between government and private sector organisations (Forrer et al. 2010) that are involved in decision-making and generating/supplying a good or services previously delivered by the public sector, or as a form under which investments' and services' supply are included in a single package for a period as long as twenty to thirty years (Engel et al. 2008 and where the concession holder manages and controls the assets in exchange for a fee/tax as compensation for the investment and the other costs related to management, operation, maintenance, etc. In brief, the definitions might be reunited under the three broad categories where PPP are the result of contractual governance (Engel et al. 2008), or of interinstitutional relationships (Treasury of Great Britain 1998), or of how risks are shared (Forrer et al. 2010).

The last decade, 2010-2020, has shown the necessity of reviewing both definitions and approaches to PPP from the legal-institutional perspective, fact proven by reviews of the relevant legislation in developed EU-countries such as Germany, France, Italy, Spain, and the Netherlands. This is also the result of the fact that the funds allocated over the period 2010-2021, respectively 368,3 billion euro were directed to the largest extent to the transports' infrastructure, followed by environmental projects at a far distance. However, this type of projects underperformed, due to various reasons, and the post-pandemic perspective suggests that a new vision should be adopted, by putting more emphasis, among others on encouraging public-private-partnerrship addressing the issues of entrepreneurship, and of start-ups, especially those that deliver with respect to both innovation and improvements of the economic-social context at national, regional and community level.

2.1 Reviewing public-private partnerships over the period 2010-2020

With the beginning of the Horizon 2020 programme two types of PPPs are considered as useful tools and representative for the aims of this type of cooperation at EU-28/27 level:

a) *Joint Undertakings (JUs) or Joint Technology Initiatives (JTIs)* which have built on legal-institutional functioning framework according to Art. 187 TFEU. The members are the European Commission, a not-for-profit industry-led association and the corresponding member-and/or associated states. This group is open for all SMEs or research organisations either public/private educational institutions with research as objective (for instance universities), and to representatives of the corporate environment. It is important to stress that JTIs/Jus focus most on research in key-fields relevant to the economic activity sectors with respect to improving technological and economic competitiveness. In this context, support is provided for research infrastructure, SMEs, education and for extending cooperation at global level.

   It should be noticed that the initiatives are of strategic relevance, considering the current period of uncertainties regarding health, and climate change. Some examples are Innovative Medicine 2 (IMI 2), Fuel Cells and Hydrogen 2 (FCH2) having as objective clean and efficient technologies in energy and transport, bio-based industries (BBI) with impact on agriculture and nutrition, and other projects related to improving transports' infrastructure for both rail and air transportation means.

b) *Contractual Public-Private Partnerships (cPPP)* which was based on strategic roadmaps for the industrial partnerships within the EU, and which succeeded in creating 10 such cPPP. It should be mentioned that some of them have started ahead, as early as 2008 (Factories of the Future, Energy-effcient buildings, European Green Vehicles, etc)

Our research also analysed which countries had managed to conclude such partnerships on the three axes that are the most relevant currently and which, according to EU provisions benefited also from support of the European Investment Bank. In Table 2 we present the public-private partnerships, centred on infrastructure (transport, digital, etc.), education and health. We notice that most of the countries involved were the developed member-states belonging to the Old Member States and the Former Member States of Convergence and Cohesion, while the New Member-States were less represented in such partnership schemes.

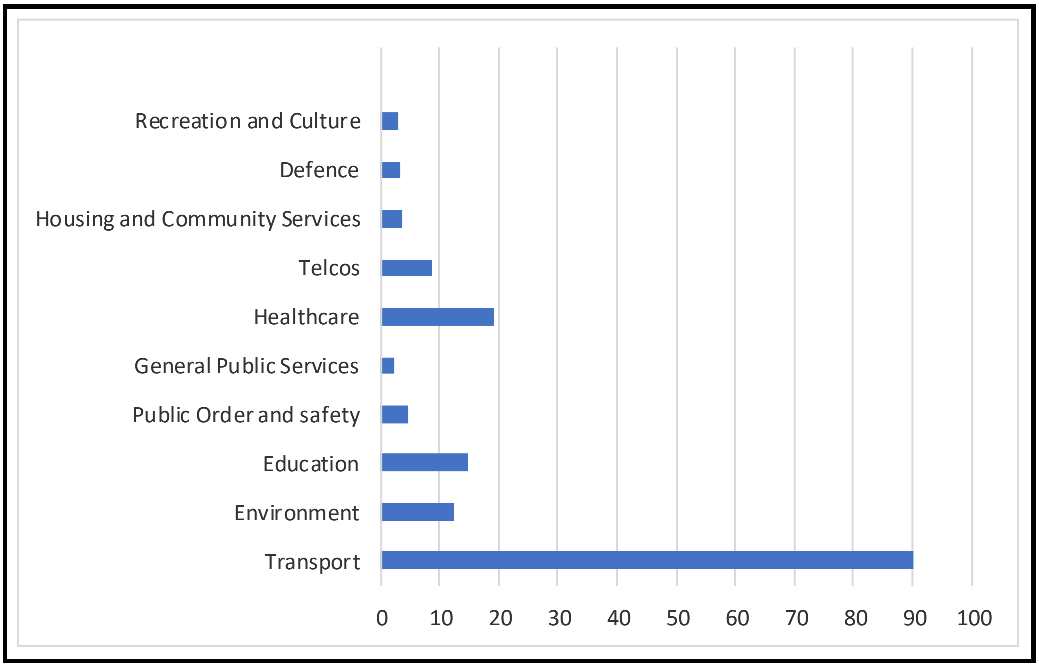

Figure 1 Distribution of PPP projects by sector, all countries 2010-2020, in billion Euros
Source: author's own processing

If we focus strictly on the number of projects, we notice that most interest is shown for projects dedicated to the transports' infrastructure followed by education, environment and health which shall be all crucial topics in this post-pandemic period.

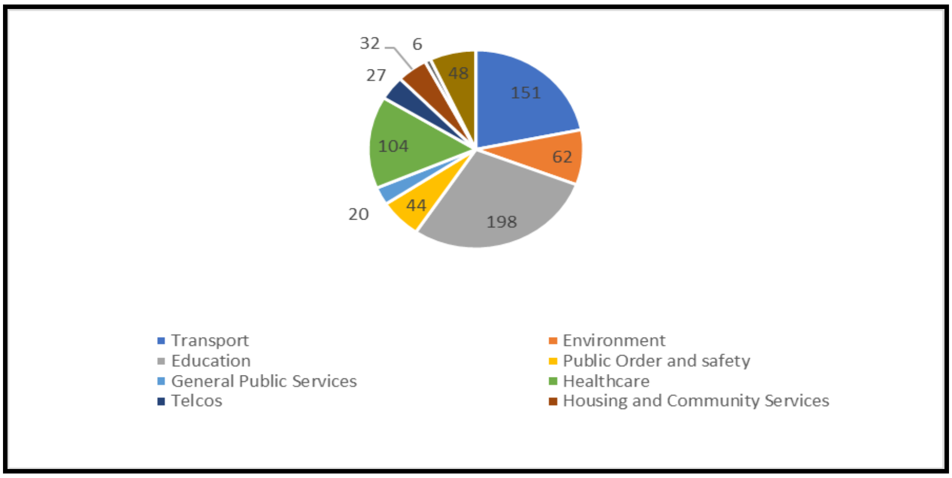

Figure 2 Total number of PPP projects by sector, all EU-countries 2010-2020
Source. author's own processing

If we analyse the number of projects by sector, we find that most emphasis is given to transports, respectively 151 projects, while the smalles number is for housing and community services. However, the pandemic and post-pandemic period have both emphasised the relevance of social considerations, and taking into account the objectives of a social market, according to the European Pillar of Social Rights, the number of PPPs regarding housing and community services needs further examination, and expansion in the number of projects.

Although there is few evidence, aspects and arguments for turning PPPs into a useful tool for entrepreneurship, that would support a change of paradigm for making them successful at EU-27 and national level would be: SMEs, and other businesses that are frail from the perspective of resources, including after a period like the post-pandemic one, for instance, often request governmental support either at national and/or regional and community level. What they deliver if their proposals are approved are jobs and continued support for economic growth. This would reflect also a shift from PPP as means of launching new businesses to PPPs as tool for sustaining businesses and ensuring long-term resilience. Moreover, in this way they also could be true 'centres' for pooling and maintaining pools of talent, competences and skills by being able to attract the best fit, and skilled labour force in the community, region and at national level and to consolidating a sustainable and resilient country brand.

This would involve, as well, assessing and managing risks from new perspectives, by attempting to shift from backward-looking to forward looking regarding the types of risks that consider existing and emerging risks as reference in setting the bases for partnerships. Such a judicious shift would allow also for developing clearer measurements, interventions to provide for delivering on time, and at the forecasted costs. Moreover, in such an integrated approach, that is comparable to the enterprise-risk-management framework the trade-offs would allow for swifter integration of risk integration into business decisions. Nevertheless, this would also imply a clear attribution of roles, responsibilities, levels off involvement for the public and private partners.

Last, public-private partnership regarding entrepreneurship, could use social entrepreneurs as true pilots for extending the expertise gathered in developing such initiatives into further lucrative partnerships with the business environment.

One question, which needs further investigation, and for which we shall attempt to identify some of the reasons is the particular case of Romania, which was not involved in these types of projects.

We consider that a starting point might be in the country's history and experience of the past two centuries, in the lack of domestic capital at the beginning of the transition, but also the absence of a consolidated entrepreneurial culture of coordination and cooperation as well as in the current legislative-institutional framework which allows for many confusions, for instance between some provisions in the law regarding PPPs and the provisions contained in the Law of Concessions. The reasons for the current state-of-affairs at national level will be presented more extensively in the following sub-chapter.

2.2 The particular case of Romania – an overall analysis

If we analyse the PPP market, we notice clearly that most PPPs operate in the Old Member-States and in the Former Member-States of Convergence and Cohesion, and less in the developing New Member-States, with the exception of Poland with a total of 7 projects in the time period 2010-2020, all below 1 billion euro, and the Czech Republic with 4 projects also below 1 billion euro. Leaders were Germany, France and the Netherlands.

However, the same is not true for Romania, and we suggest that the particularities leading to this situation have historical reasons, but mostly economic-institutional ones. From the historical perspective, the first period of public-private partnerships in modern terms of the concept begins by mid-19th century and is mostly represented by building the Romanian rail infrastructure. It is also the time when for the first time the friction shows between the Romanian elites separated in public versus private elites. This situation triggers also the first discussions about corruption, for instance the Strousberg Affair which was the result of the dispute around the concession for building the railway Roman-Bucharest-Varciova. The main reason was the unfavorable conditions from the concession contract between the Romanian state and the private partners which led to the bankruptcy of the Strousberg Consortium, while the works were finished only yet another 10 years.

The 20th century, and especially the period after the 2nd World War represented for Romania a period in which PPPs where impossible due to the specifics of the communist regime. However, in the nineties, the opportunity of creating new PPPs was given once the country entered the road for transitioning to a market economy.

Noticeably, in the nineties some incipient forms of PPPs could be formed, but the historical memory hindered considerable progress, mainly due to the 'elitist faultline' which had persistence and shows path dependency regarding the issue of PPPs. Nonetheless, some ad-hoc forms were created with the aim of developing sectoral and/or national strategies, and two of the results that continue to operate of these ad-hoc partnerships are the Tripartite National Council for Social Dialogue and the Economic and Social Council (Levai, 2012 p. 243).

It is the period in which the first legal documents regarding PPPs are drawn up, respectively Law 219/1998 regarding concessions and the Emergency Ordinance 60/2002 regarding public acquisitions. These two are the rudiments on which the current PPP legislation is built, and despite several changes and amendments, PPPs in Romania continue to have an unclear status, as there is no specific definition of PPP at national level, and its applicability is diluted in several documents, many of them leading to confusions and overlaps with the Law of public acquisitions and the Law regarding concessions.

This brings up and emphasises the relevance of institutional-economic indicators that need to show good performance for creating a favourable environment to PPPs at national and sub-national level. For more visibility, we have selected some countries that are relevant also for the number of PPPs concluded over the period 2010-2020, and excluded several countries (for instance Hungary) that did not undertake any PPP project over the period 2010-2020. Some caveats are necessary: (a) we included Great Britain for comparison, as Brexit occurred formally only recently. (b) we included Romania, as we pursue to emphasise the role of these economic-institutional factors in stimulating and supporting PPPs at country level. Moreover, to these might be added some other such indicators related to the credibility and transparency of the economic information, and to the financial autonomy of the sub-national authorities etc. Among the most important, we mention, based on the CEPII – Institutional Profile Database indicators, the following such indicators (Table 2).

It is obvious that, while Romania has good scores for state's reform capacity, the situation is not the same as regards the other relevant indicators, and the smallest are for public-private cooperation which even decreases over the available period from 2.33 in 2012 to only 1.67 in 2016 (last available year in the database). One question might be how this cooperation has evolved over the pandemic period, and how it will unfold in the post-pandemic period based on lessons learned. Same discouraging results are for long-term vision and long-term sectoral strategies over the same period from 2010-2020 if we consider the years 2012 and 2016 as years of reference for estimating economic-institutionally the perspective of PPPs in Romania.

Table 2 Set of economc-institutional indicators relevant to PPPs in the selected member-states

	Reform capacity of the state		Sectoral reform capacity		Public-private cooperation		Long-term vision		Long-term sectoral strategies	
	2012	**2016**	**2012**	**2016**	**2012**	**2016**	**2012**	**2016**	**2012**	**2016**
Austria	2.75	2.50	3.00	2.20	2.33	2.67	3.00	3.00	3.50	3.25
Bulgaria	2.75	2.75	2.60	2.60	2.00	2.67	2.50	1.00	2.25	1.75
Czech R.	3.50	3.00	3.40	2.60	3.00	2.67	2.00	2.00	2.00	2.50
France	3.00	4.00	2.60	3.40	3.00	2.67	3.00	2.50	2.00	3.00

Germany	3.75	4.00	3.80	3.80	3.33	3.33	2.50	4.00	4.00	3.50
Greece	2.50	1.50	2.20	1.40	3.00	2.00	2.00	0.00	2.25	1.75
Italy	3.00	2.25	2.80	2.60	2.33	3.00	2.50	1.00	2.50	2.25
Netherlands	3.75	3.00	3.00	3.20	4.00	4.00	3.50	4.00	3.50	3.75
Poland	3.75	2.50	3.40	2.80	1.00	2.67	2.00	3.00	2.75	1.50
Portugal	2.50	2.50	3.40	3.60	4.00	3.67	3.00	3.00	3.25	3.50
Romania	3.25	3.00	2.40	1.80	2.33	1.67	1.50	1.00	1.25	1.50
Spain	3.00	2.25	3.00	2.60	3.00	2.67	3.00	2.00	2.00	2.00
Great Britain	4.00	4.00	4.00	3.60	4.00	4.00	4.00	3.00	3.50	3.25

Source: Institutional Profiles Database, IPD, CEPII, http://www.cepii.fr/institutions/en/ipd.asp

***Legend**: the values are calculated on a scale from 0 to 4, where 0 represents the non-existence or very low level for the respective indicators, while 4 the best performance of it.

Finally, we mention that these economic-institutional indicators can be corroborated with the main findings and recommendations received from international and European institutions and organizations, but also with the observations and comments of the Romanian business-environment which continues to show considerable reluctance regarding the possibilities and opportunities of implementing PPP initiatives in the country.

2.3 Recent developments of PPPs in the EU-27

Despite the noticeable skepticism, even the pandemic period 2020 and 2021 showed that interest in PPPs remained constant for most EU-27 countries, even if the number of transactions fell slightly from 43 in 2020, to only 40 in 2021 as regards transactions reaching financial close. At the same time, in the time interval 2020-2021, the average transaction size was somewhat reduced from 215 million in 2020 to 201 million Euro in 2021.

The evolution of the PPP market has continued to show that Italy was the largest PPP market in terms of value (2.2 billion euro in the period 2012-2020 and 473 million euro in 2020), followed by France and Germany in terms of both value and number of projects. At the same time, Romania continued to show a low appetite for such forms of funding for projects.

For the future, three countries stand out regarding the number of PPPs in different stages of preparation, respectively France with 53 projects, followed by Belgium with 25 projects and Italy with 19 projects. At the same time, Romania has only 1 project in preparation (Figure 3).

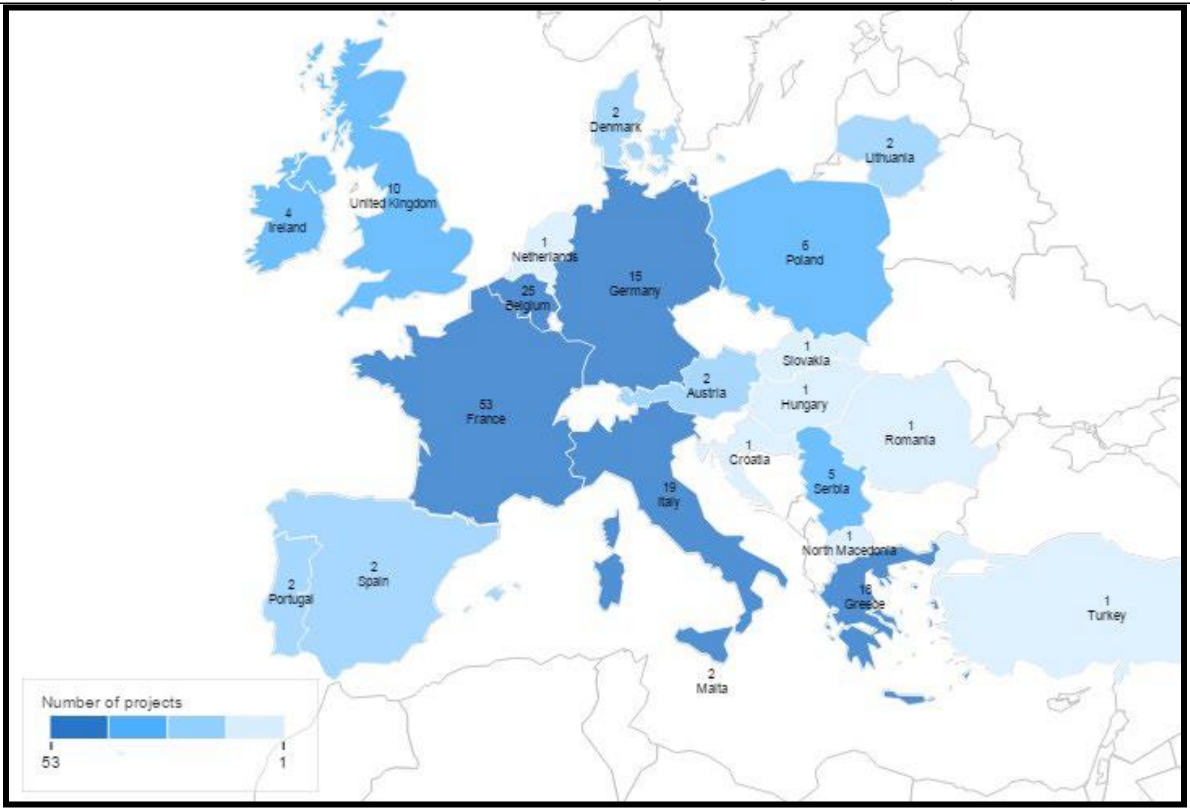

Figure 3 Number of PPP projects in preparation in Europe
Source: EPEC, Review of the European public-private partnership market in 2021

The trend after the difficult 2020-2021 period shows that the same sectors are dominant in the interest of the stakeholders in PPPs, respectively transports with a share by 28% of total projects followed by environment (21%) and education (17%).

The trend might seem encouraging, but some of the recommendations and findings of the European Court of Accounts (ECA) remain valid:

- Lacking flexibility continues to persist due to the normative legislative-institutional framework which is dominant in most EU-27 member-states
- Differences persist as regards interests of public and private stakeholders, especially as regards risk sharing;
- Difficulties are still noticeable in ensuring coordination and cooperation between public and private stakeholders.

We believe that one solution, in particular in this still (uncertain) post-pandemic period could be encouraging ad-hoc public-private partnerships that are more open to identifying innovative coordination and cooperation solutions between public and private stakeholders, and showing more openness towards project-oriented-partnerships (POPs) that could open new opportunities, including for Romania, where the reluctance in encouraging and entering PPPs continues to be high.

3. CONCLUSIONS

The conclusions for the period 2010-2020 regarding PPPs at EU-27 level show that this type of partnership has been underused despite its potential. However, first the post-economic and financial crisis austerity, then the pandemic and the uncertain post-pandemic current period have drawn attention to the fact that the current volatile economic, social and political context might be addressed by improving/reconsidering/reshaping what are PPPs, how they operate and might operate, and which is their potential for the future considering the multiple challenges of production, supply and delivery of goods and services of public interest. Steps in this respect are already taken by developed countries of the EU that seek to make PPPs more flexible and adjustable in addressing and mitigating current and future needs and even risks.

Romania has small almost to non-existing expertise in developing community, region and national level PPPs, and one of the most relevant issues is the one of how PPPs is defined and the legal-institutional framework structured at national level. One reasonable step, in our opinion, would be to begin with community, regional level small PPP projects that would combine the creation of new, possibly innovative start-ups, with supporting the local, regional, and/or national business environment. Thus, an improved environment would be created for retaining talent, skills and competences at national level, while turning PPPs at national level from an objective per se into a useful tool.

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YEAR	COUNTRY	INFRASTRUCTURE	EDUCATION	ENVIRONMENT/HEALTH

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