

WORLD EXPERIENCE OF THE PUBLIC-PRIVATE PARTNERSHIP AND ITS APPLICATION IN THE ECONOMY OF THE REPUBLIC OF KAZAKHSTAN

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Abstract. *The purpose of the paper is to research the world experience of the public-private partnership development and its application in the current state of the economy of the Republic of Kazakhstan. The leading method of research was the method of analysis. Methods of synthesis, systematicity, comparison, induction, and deduction were also used during the study. The novelty of the study is determined by the fact that a feature of the global institutional environment that is formed by world leading countries lies in the establishment of a close dependence on the institutional mechanism of the public-private partnership of a particular state on international institutions and provisions – leading states, formal and informal intergovernmental institutions, transnational networks of business corporations, and non-governmental organisations. The authors show that the institutional subjects of public-private partnerships in a globalising world interact not only within the country, but also beyond its borders. The practical significance of the study is determined by the fact that public authorities as part of a group of states form networks of interaction with other entities that, together with representatives of private capital, develop concepts and state public-private partnership programs, focusing on the provisions of a single international legal framework.*

Keywords: *decentralisation, business, international documents, globalisation, state.*

Raktiniai žodžiai: *globalizacija, decentralizacija, tarptautiniai dokumentai, valstybė, verslas.*

Introduction

The formation of the principles of work constitute the essence of the features of a globalising institutional environment and the mechanism of public-private partnership (PPP) (Miraftab, 2004). That is, the PPP phenomenon becomes an object of global governance (Glumac et al., 2015). We associate the latter concept with the widespread definition of globalisation as a set of processes of transformation of the spatial organisation of public relations and actions of various scale, intensity, speed, and sustainability; which generate transcontinental or interregional flows and networks of activity, interaction and use of power (Mishchenko, 2009). The use of power in PPP activities is a key point in this definition. It should be coordinated with the internationalisation of national economies and increased economic interdependence between countries in accordance with supranational agreements, which can be consolidated in the form of laws and institutional agreements (Levy, 2008). Intergovernmental and non-governmental organisations (NGOs) of international significance, transnational corporations, private entities, and individuals (Van Dijk, 2008) become subjects of the global PPP infrastructure along with states. Partnership between public organisations and business is currently one of the tools for introducing more responsible practices, since NGOs, as a rule, have a high level of trust in society and sometimes their representatives are more competent in solving social and environmental issues (Regéczi, 2005).

Partnership building is based on clear criteria, which requires a high-quality institutional environment that is influenced by global determinants (Tinoco, 2018). Among them, the main ones, in our opinion, are as follows (Xie, 2002): processes of modern world regionalisation; public administration decentralisation tendencies; strengthening of the role of information and network interaction; strengthening of the dependence of national public management decisions on the influence of international structures and large corporations; increase in the influence of expertocracy; public management as related to economic and political decisions; financial and economic resources, especially after the global crisis.

Under the influence of factors, a new transnational public law and economic reality is formed, focused on the priority of supranational political, economic, and cultural ties (practices), which become models for national (intraregional and local) features (Carbonara et al., 2014; Yolles & Iles, 2006). A contradictory dependence arises, which, with the most general approach, can be represented as follows: on the one hand, there is the interpenetration of national economies, the merging and enlargement of economic systems and international markets, the formation of global economic unions, and the creation of supranational governing bodies; on the other hand, the growth of fragments throughout the world economic space, the diversity of the trajectories of national economic development, the localisation of economic activity, the strengthening of the cultural differentiation of peoples, and the deepening of the asymmetry of development (Bovis, 2010; Alieva et al., 2020).

The objectives of the study are:

- to analyse the international standards for the functioning of public-private partnerships;

- to research the features of decentralisation;
- to explore the structural and institutional features of the levels of interaction of public-private partnership entities;
- to reveal the current tendencies in public administration.

Materials and Methods

The methodological basis of the study are the provisions of modern management theory and the concept of foreign scholars on the development and formation of public-private partnership. During the study, methods of analysis, synthesis, systematization, comparison, structural-functionality and historical-legality were used. The information base of the study consists of regulations and legislation, regulations, and statistical materials. The main issues are aimed at identifying aspects of state regulation of the issue from the standpoint of the current regulatory framework. All data is carefully analyzed in order to draw logical conclusions that help determine the main aspects that solve the problems of this study.

The use of methods of analysis and synthesis made it possible to distinguish between various concepts and phenomena, to identify their special features, as well as to carry out a comparative analysis of national and foreign doctrines of public-private partnership. Using the comparative legal method, the possibilities of applying such experience in the realities of systemic transformations of Kazakh society were assessed.

The structural-functional method made it possible to analyze the peculiarities of the content of regulations regarding the structural division of legal norms and the reflection in them of forms of public-private partnership. The historical and legal method contributed to the study of the peculiarities of the development of this institution. The statistical method was used in the analysis of statistical data on the activities of public authorities in the field of public-private partnership.

Results and Discussion

Analysis of international standards for the functioning of public-private partnerships

One of the most important features of the interaction of global PPP entities is the formation of a decentralized, multi-level organisational structure comprising institutional entities representing all sectors of society – governmental, intergovernmental, non-governmental structures, NGOs of international importance, transnational corporations, private entities, and individuals. They operate in a single global institutional environment where all the components of the PPP mechanism (legal, organisational, educational-informational, social-communicative) become decisive factors in transnational public-power and economic reality (Bondarenko et al., 2018).

The second feature of the global level of PPPs is the approval of the priority of supranational political, economic, and cultural relations (practices) as models for national

(intraregional and local) PPP practices. This affects the competitiveness parameters in the market of PPP projects. The institutional environment of the state, its focus on global and regional partnership, is becoming one of the indicators of sustainable socio-economic development for the country. Factors of influence on PPPs are as follows: the international political and economic situation; geopolitical development paradigms; phase of development of the global economy; country participation in international political and economic formations and military alliances. Features of PPPs require the establishment of international legal coherence for interaction between subjects of PPPs at the global and national levels and creates the need to form a special branch of international public law in PPPs. The latter includes a set of principles and provisions governing the activities of states and other entities in this area. The developed international legal provisions are classified as provisions of the so-called “soft law” of PPPs. They have no binding force, but they encourage states to unify the national legal regulation of PPPs based on international standards.

To avoid conflicts of international and national legislation, legislative bodies and governments of countries should be guided by detailed and comprehensive information on the best international practices of PPPs, guidelines for their legal adaptation to the specific features of a particular country, prevention of typical mistakes in public administration in this area, and development of effective national PPP programs. For this, the Economic Commission for Europe, at the request of its member states, created a group of PPP specialists in 2008 (TOS PPP), bringing together about 2,000 experts from different countries as an intergovernmental structure. Its purpose is the development of standard legal forms and recommendations in PPP. At its VI session in February 2014, the UNECE Committee on Economic Cooperation and Integration decided to focus the work of PPP standardisation on sectors and key areas of the sustainable development goals (Kurbanova et al., 2020).

International documents relate exclusively to the issues of creating a favourable institutional environment, modelling the institutional mechanism of PPPs, and the formation of PPP infrastructure (Naumenkova, 2015). They do not violate other areas of law, such as, for example, state sovereignty, contract law, property rights, tax law, regulation and protection of foreign investment. In these documents, the PPP mechanism is declared as the main means of achieving goals aimed at developing the infrastructure of entities involving transport, utilities, education, and medical services that provide decent living conditions for people. States (UN) are motivated by the relatively wider and more effective use of PPPs at the national level. For this, the national PPP mechanism should be maximally oriented towards broad participation in private sector PPP projects, the most effective forms and financial models for their implementation.

International PPP standards contain a description of the recommended organisational and legal forms of partnership and substantiation of the appropriateness for their application in a particular industry, recommendations regarding the financing model, and the most rational distribution of risks between the state and private partners. In world practice, various forms of PPP are used, the list of which can be supplemented based on practice. World practice offers a list of a significant number of legal forms of PPPs, the description of which is currently widespread, including in the Republic of

Kazakhstan. International standards focus on two main approaches: the conclusion of contracts for certain types of activities (project management, construction, facility operation, maintenance) and the establishment of a special project company, acting based on comprehensive contracts for the implementation of various forms of PPP. Within these approaches, various legal forms of PPP are applicable.

The variability of legal forms of PPP varies depending on such factors as ownership of assets, responsibility for investments, degree of risks assumed by a PPP participant, and duration of partnerships. Most authors, both foreign and Kazakh, use a typology that divides the legal forms of PPP into five types, which can also be specified: supply and management contracts; turnkey contracts; rent; concession; private ownership of assets. The right to make decisions on the choice of the legal form of PPP belongs to public administration bodies. The choice will be based on the following key points: tasks of public administration; project scope; a list of duties or types of work that the public administration body wants to entrust to the private partner and its capabilities to do so; quality control of the project; risk sharing; ways to cover the costs of a private partner.

Features of decentralisation in public-private partnership

Territorial decentralisation for the PPP sector is of paramount importance as an instrument for the development of a communal (municipal) economy, where the leading role is given to local governments, which, through the PPP mechanism, become active participants in the development of territories. Activation of PPPs at the municipal level allows mobilization of the funds of domestic investors, thereby attracting external investments and creating jobs with consideration of the specific features of each particular territory (Nurbasari et al., 2019). Furthermore, the growth of the share of the municipal economy is one of the main conditions for ‘demonopolisation’ of the market; creating a more competitive business environment.

1. Attracting business to the provision of public services and modernisation of local infrastructure based on the PPP mechanism. The partnership is based on a long-term agreement between a local government or a federal executive body and a private company on the provision of certain services that are conventionally provided by state and municipal enterprises and are related to infrastructure. Such international practice is applied in such sectors as telecommunications, energy, transport, water supply, schools, hospitals, information technology.
2. The practice of inter-municipal cooperation ensures the accumulation of organisational and material and financial resources of local authorities. Interaction is carried out through established special institutions to achieve the goals of the development of a common territory in the sectors of tourism infrastructure and emergency services infrastructure.
3. Establishment of transborder cooperation between local authorities. The format of the transborder regions enables local governments of the border territories to jointly implement, based on the PPP mechanism, the socio-economic, cultural, tourism, educational, and other projects, so as to solve problems common for this territory.

4. The creation of communal banks; credit unions intended for financing and lending primarily to local PPP projects aimed at developing the infrastructure of a settlement. The provision of credit funds and interest on deposits should be more attractive than in national and international banks.

The use of market-based instruments to raise funds for local development is practiced mainly in East Asian countries. Local investment programs are often funded from proceeds received through the issuance of municipal bonds. Municipal securities are issued by local governments to raise funds for the development of public facilities. Most often they are allocated to the construction of schools, hospitals, fire brigades, which is often carried out based on PPP projects (Prodanova et al., 2017). Such market instruments should be applied exclusively within the framework of national legislation.

A prerequisite for the application of the above practices is territorial decentralisation, since it should ensure the extension of the autonomy of the local and regional budget and the degree of fiscal decentralisation; all while creating conditions for attracting credit resources by local authorities and access to the domestic and international capital markets. The formation of individual funds and procurement of loans opens up opportunities for the development of the municipal economy, including through the implementation of PPP projects in various sectors of the economy, housing and communal services, energy, transport, agriculture, mining and processing of minerals, etc.

Institutional decentralisation and polycentricity in PPPs stipulate the modification of public management functions in the direction of regulation and coordination of PPP tasks at the global, national, regional, local, and corporate levels (Prodanova et al., 2019). This process mainly comprises moving away from direct public administration to issue discussion technologies, substantiating the goals of PPPs, and integrating the activities of public and private sector organisations. In this direction, according to foreign experts, the United States is the most advanced country, where non-profit and non-governmental organisations are endowed not only with the functions of agencies, but also with the functions of anticipatory governance.

The European version of institutional decentralisation and the establishment of polycentricity is manifested in the concept of “new pluralism” of autonomous organisations. Public management structures, large corporations and non-profit organisations have become equal (institutional) partners. In this context, at the present stage, the paradigm of public administration is changing, which is closely associated with the formation of new ideological institutions. The latter provide a transition from conventional bureaucratic administration to market models for regulating public relations, various forms of network interaction in public administration between subjects of various sectors of society on the principles of equality, partnership, transparency, and cooperation. The paradigm shift in public administration is also manifested in the recognition of the need to perform social functions by international business (large transnational corporations, medium and small enterprises). This tendency is also growing in the Republic of Kazakhstan, where the concept of “new pluralism” of autonomous organisations is also interpreted in the form of corporate strategies for social responsibility of business.

Structural and institutional features of the levels of interaction of public-private partnership entities

The effectiveness of institutional decentralisation depends upon improvement based on the principle of subsidiarity of structural and institutional interaction. The latter term can be interpreted quite broadly, therefore, it requires some explanation. In the previous recital, the authors showed that the national (internal) and international (external) institutional mechanisms of PPPs become so closely interconnected in the context of globalisation that their unambiguous distinction sometimes seems inappropriate. Due to the specifics of its transborder functioning, states, intergovernmental organisations, non-governmental organisations, private sector organisations, and civil society structures are involved in its composition. Such a multilevel composition of participants in the PPP sphere gives reason to connect this issue with the formation of a new model of multilevel global governance. This situation mainstreams the structural and institutional description of the subjects of PPP activities, which should be based on common conceptual goals and values. This is achieved through global, national, and subnational levels of interaction. The structural and institutional approach identifies three levels of such interaction: intergovernmental level of PPP, trans-governmental level of PPP, transnational level of PPP.

The intergovernmental level of interaction is a conventional way of interaction at the level of heads of state, government, and ministers. It takes place through specially created interaction structures – summits, meetings at highest level, and councils (committees) of cooperation.

The trans-governmental level of interaction takes place due to the presence of appropriate powers among public servants of the lower level. Western countries provide for a fairly high level of delegation of authority to administrative personnel of public administration. This frees up time for the head of state or government (ministers) for strategically important issues, de-politicises, decisions and increases their predictability. The interaction between the administrative staff of different countries can take place within the framework of various initiatives, programs, and partnerships through the exchange of delegations, cooperation agreements, joint intergovernmental cooperation commissions, and intergovernmental commissions on special issues.

The transnational level of interaction performs important functions. Firstly, it provides dialogue and transparency of intentions, which generally contributes to the rationalisation of the decision-making process and effectiveness increase. Secondly, it signals a readiness for discussion, thereby increasing confidence; thirdly, it contributes to the harmonisation of policies, the approximation of legal regulation by adopting the same national standards. Fourthly, participants in the transnational level of interaction carry out informal monitoring of each other's actions, thereby contributing to the creation of institutional guarantees for the mutual execution of agreements, usually by persuasion (Rakhimbayeva et al., 2016).

The intergovernmental and transnational levels of interaction together represent the position of the state, which, under any circumstances, retains the power or leverage over PPPs with the aim of achieving public interests as opposed to selfish ones through appropriate public-state policies. Based on the public management position, the state

determines a special format of interests within which it exercises such functions as goal-setting, planning, and control; all of which are necessary for the development of the national economy with the use of the institutional PPP mechanism.

Institutional levels of interaction being decentralised influence each other. At the initial stage of partnership, the leading role belongs to the intergovernmental and transnational levels of interaction. They define conceptual approaches for future innovation. At the international level, the key subject of decision-making is the intergovernmental level, the participants of which conduct dialogues on issues of financial policy, macroeconomics, regional policy, investment, etc. (Seisenbayeva et al., 2020). The state also largely determines the status of NGO activities in various areas of public life; such as where the PPP mechanism could be applied, for example: health protection, environmental protection.

Participants of the first two levels carry out the decisions made. At all stages, the state depends on professional knowledge and reliable information, that is, on all components of the intergovernmental and transnational levels. This gives grounds to conclude on a special system of institutional interaction on PPP issues in a globalised world. In a system where all three institutional levels function in a decentralised manner and fully, businesses lobby certain interests and contacts to the authorities. For businesses and NGOs, access to government, information, and resources often becomes a part of success. Business and NGOs act as partners of the state, supplying its authorities with their information and perform various auxiliary or intermediary functions.

Current tendencies in public administration of public-private partnership projects

Authors identify the last aspect of decentralisation with organisational decentralisation in public administration of PPPs. Its purpose is to eliminate the shortcomings inherent in bureaucracy as a public administrative technology, which is based on a specialised division of labour, a clear administrative hierarchy, rules, standards, and generally binding pre-regulated procedures. Below we offer a description of the main components of PPP activities, which are incompatible with the bureaucratic, strictly centralised approach to administering PPP activities. The first component of the activity, obviously, should highlight the group nature of the work, which should be organised according to the principle of the team. The PPP project team (group) bears all the responsibility for the organisational process of PPP implementation and its methodological support from the stage of its planning and development to the implementation of its specific tasks, monitoring the results of the private partner.

The second important component of PPP activity, which contradicts the bureaucratic style of management, is the need to resolve conflicts that are inevitable in PPP. Typically, PPP projects that are based on numerous and complex agreements between the parties to a partnership can provide different interpretations of legal provisions. In this regard, it is advisable to comply with international law in force when concerning the PPP. Current practices recommend avoiding time-consuming and costly litigation. Best international practices regarding PPPs provide for the creation of effective (out-of-court) conflict reso-

lution mechanisms as early as at the initial stages of partnership interaction, which are indicated in PPP agreements (Shtal et al., 2018).

Understanding of red tape reduction merely as the way to give greater autonomy in decision-making to organisational and administrative structures is incomplete. This should be understood as a certain correlation of functions of organisational structures. In this meaning, red tape reduction involves provision of advantages to a functional beginning as against a branch one, strengthening the role of expert functions of strategic analysis, evaluation and planning, forecasting, marketing of resources, products, consumers, human resources management of an administration, etc. This correlation of functions leads to a departure from purely administrative mechanisms to mechanisms of expert, legal, financial and, in some cases, ethical control.

The above-described situation places higher demands on the officials. Apart from special professional education, an official who corresponds to the rational type of state should have a special managerial education, since professional and managerial competence is required from them. Such an education should include three groups: professional, which is related to meeting the needs of the formation and improvement of the personality as an employee, a participant in the production sphere; family and household, which satisfies the needs in the formation and development of skills, abilities, knowledge, and personal qualities necessary for the effective performance of the roles of family members; social, which is focused on the development and improvement of human functions as a member of society, community, social group.

Nowadays, red tape reduction and organisational decentralisation are associated with the concept of adhocracy. Adhocracy is the best option for organising PPP activities, since this adaptive structure is rapidly changing and organises itself around issues that are solved by groups of specialists with various professional knowledge, selected in accordance with the situation. In such organisations, collectives (teams) are created practically each time to solve particular issues. That is why representatives of the public administration can act as efficiently as possible on the principle of adhocracy in the conditions of matrix and free structures, and the rules of activity and the procedure of actions are often informal and not consolidated, since their activity cannot be carried out in conditions of strict formalisation.

A synergistic solution to many issues requires modern management approaches, since the nature of the tasks set is in contradiction with the institutional rules that currently prevail in the Republic of Kazakhstan. The key goal at the present stage is the transition from administration to a complex unity of organisational and administrative, information and analytical, and social service and public-communicative management; a significant change in the technologies for implementing the functions of the state, where strategic functions remain with the state apparatus. Achieving this goal requires, among other things, overcoming issues of a socio-psychological nature associated with the lack of a market mentality both in public managers and among Kazakhstani businessmen. This is manifested in their inability to make responsible decisions independently in an unstable institutional environment, the quality features of which are bureaucratic barriers, the lack of perfect legal support for lending and risk insurance, a low level of business and professional qualifications, and a rather strict tax system.

Conclusions

Summarising the results of the study of the PPP issues in the context of globalisation and decentralisation, we shall note the following main generalising positions.

1. Globalisation in modern conditions is accompanied by internationalisation, that is, the gradual interpenetration of technological, cultural, and managerial standards. This means that national borders have ceased to be a barrier to participation in the design and financing of PPP projects of global market participants as the basis for the development of the country at large.
2. The legal, organisational, educational, informational, social, and communicative components of the institutional mechanism of PPPs are becoming dependent on global determinants: modern globalisation; decentralised public administration practices; the impact on the economy of states of international structures and large corporations, the global “expertocracy”; reduction of macroeconomic stability of the world and limited world material, and financial and economic resources.
3. In these conditions, a successful country must adhere to the principles defined by the World Bank: a clear definition of the boundaries of responsible institutions, the goals of applying PPPs, procedures, and rules; legislative acts and regulatory documents concerning or directly regulating PPPs; guidance materials and description of best PPP practices.

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Viešojo ir privataus sektorių partnerystės plėtra: pasaulinė patirtis ir jos taikymas dabartinėje Kazachstano Respublikos ekonominėje sistemoje

Anotacija

Globalizaciją šiuolaikinėmis sąlygomis lydi tarptautiškumas, tai yra laipsniškas technologinių, kultūrinių ir valdymo standartų skverbimasis iš viso pasaulio. Šio proceso pasekmė yra bendros pasaulinės rinkos globalios rinkos susikūrimas ir tai daro įtaką, į viešojo ir privataus sektorių partnerystės (PPP) įgyvendinimui. Tai reiškia, kad nacionalinės sienos nustojo tapti kliūtimi dalyvauti rengiant ir finansuojant pasaulinės rinkos dalyvių PPP projektus. Kuriuos galima įgyvendinti ir konkrečioje šalyje ir už jos sienų. Tyrimo naujumą lemia tai, kad pasaulinės (viršvalstybinės) institucinės aplinkos, kurių formuoja išsivysčiusios pasaulio šalys, pagrindinis bruožas yra glaudus konkrečios valstybės PPP institucinio mechanizmo priklausomybės nuo tarptautinių institucijų nustatymas. Kaip jau buvo minėta ir straipsniai savo tyrimu patvirtino, kad PPP instituciniai subjektai globalizuotame pasaulyje sąveikauja ne tik šalies viduje, bet ir už jos sienų. Praktinę tyrimo reikšmę lemia tai, kad atsižvelgdami į nacionalinės ir tarptautinės teisės normas, valdžios institucijos bei įvairios tarptautinės verslo ir nevyriausybinės bei kitos organizacijos sudaro tinklus, kurie kartu su nacionalinės valstybės privataus kapitalo atstovais kuria koncepcijas ir valstybines viešojo ir privačiojo sektorių partnerystės programas.

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