



AGENCY FOR SUPPORT OF  
PUBLIC-PRIVATE PARTNERSHIPS



MINISTRY FOR DEVELOPMENT OF ECONOMY,  
TRADE AND AGRICULTURE OF UKRAINE

# Conclusions from the analysis of the current situation and recommendations for improving the Ukrainian legislation on PPP in order to achieve the Sustainable Development Goals

## Gap analysis of PPP legislation in Ukraine in alignment with UNECE People-first PPPs for SDGs



was formed the  
recommendations for  
improving the Ukrainian  
legislation on PPP



In order to adapt the current PPP legislation of Ukraine to the provisions of the UNECE People-first PPP model, it is recommended to develop and implement to the current legislation

#### IDENTIFICATION

- a general concept of identification and implementation of PPP projects based on the People-first PPP model to achieve the SDGs,
- the procedure of identification, ranking and / or rating for prioritization, selection and evaluation of PPP proposals.

#### OBJECTIVE

- the specific procedure and / or methodology for determining the compliance of the PPP project objective with the priorities of public policy and the SDGs of Ukraine until 2030

## The identified gaps in the planning policy, legislation and law enforcement

Ukrainian PPP legislation



5 basic performance criteria of People-first PPP model

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Access and equality

it is recommended to

- bringing the methodological and by-laws of Ukraine in line with the **UNECE Methodology for People-first PPP assessment to achieve SDG (PIERS - People-first Infrastructure Evaluation and Rating System)**,
- development of methodological materials to assist public servants and public partners who will initiate the PPP proposal and / or prepare a conclusion based on the results of the performance analysis,
- development of guidelines for the preparation of draft agreements concluded under the PPP (concession), relating to the obligations of the private partner in terms of
  - ensuring compliance with the principles of gender equality in job creation;
  - promoting and encouraging the provision of additional social and labor guarantees to employees;
  - implementation of advanced standards of corporate governance and management;
  - compliance with social guarantees for equal access to social services, etc.

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Ukrainian PPP legislation



5 basic performance criteria of People-first PPP model

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## Economic effectiveness including fiscal sustainability

it is recommended to

- implementation of **UNECE Standard on a Zero Tolerance Approach to Corruption in PPP Procurement (ECE / CECI / WP / PPP / 2017/4)** in Ukraine, that will help to implement procedures and processes to reduce the risk of corruption, thereby consolidating trust with all stakeholders involved in the project),
- review the PPP programs (concessions and infrastructure projects in general) on the relationship with the SDG indicators, as well as legislation (including budget), bylaws and guidelines for ensuring fiscal sustainability (impact on the budget and efficiency of budget funds, in particular in the case of PPP / concessions with availability payment)

#### Background

The following document was prepared by a UNECE Project Team led by Marc Fink (France).

The present document has been finalized by the Project Team following a public consultation as envisaged by the Open and Co-operative Standard Development Process and has been endorsed by the Director of the Team of Specialists on Public-Private Partnerships with a recommendation to the Working Party to endorse it.

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Ukrainian PPP legislation



5 basic performance criteria of People-first PPP model

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### Environmental sustainability and resilience



it is recommended to

- practically fulfill its obligations under the Association Agreement, EU Directives in the field of environmental protection and international conventions and agreements ratified by Ukraine,
- amend the bylaws and methodological materials which will provide for the expansion of types and categories of environmental risks to be assessed and taken into account when analyzing the effectiveness of PPP, PPP (concession) and PPP projects in terms of PPP projects. PPP for the benefit of people (including in the absence of the need for environmental impact assessment in accordance with applicable law)

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Ukrainian PPP legislation



5 basic performance criteria of People-first PPP model

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### Replicability

Criteria recommended for adaptation and inclusion in the identification and screening of PPP projects for compliance with SDG and People-first PPP, to the list of conditions for performance analysis and evaluation of PPP projects, qualification conditions and basic obligations of socio-economic nature of PPP projects:

- Encourage replicability and scalability,
- Enhance government, industry and community capacity,
- Support for innovation and technology transfer.



## The identified gaps in the planning policy, legislation and law enforcement

Ukrainian PPP legislation



5 basic performance criteria of People-first PPP model

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### Stakeholder engagement



it is recommended to

- develop a mechanism (procedure and / or methodology) for public involvement and identification of stakeholders in PPP and concession projects,
- develop a mechanism for alternative dispute resolution with stakeholders.



## The identified gaps in the planning policy, legislation and law enforcement

Ukrainian PPP legislation



5 basic performance criteria of People-first PPP model



In general, in accordance with all five performance criteria

TENDER

it is recommended to consider and to add the list of mandatory conditions of the tender and qualification requirements for the selection of a partner in the legislation on PPP and concession conditions related **the focus on sustainable development**

- social (socio-economic) obligations,
- commitment to environmental sustainability and disaster resilience,
- identification and active involvement of stakeholders,
- accessibility and equal access to services or infrastructure, etc.

Ukrainian legislation on PPPs and concessions is partly in line with the UNECE People-first PPP model



while requiring additions and changes and sometimes the development of procedures, mechanisms and methodological materials to

- » actually achieve SDG through PPPs,
- » promoting effective enforcement and strategic sustainable development planning at the national and regional levels in Ukraine, in particular through the implementation of People-first PPP model projects