

***Policy of the Government of the Czech Republic
concerning Public Private Partnership
(Partnerství veřejného a soukromého sektoru)***

1. INTRODUCTION

The Czech Government has adopted a policy introducing public private partnership ("PPP") as a standard tool serving the provision of public services and public infrastructure.

The Government believes that a systematic and programmed application of PPP would bring about the following:

- ***real financial benefit and a better utilisation and allocation of public funds;***
- ***development of efficient public infrastructures in shorter terms than otherwise;***
- ***ensuring good quality public services;***
- ***economic growth and boosted direct international investments by giving incentives to private investment in public infrastructure and public services;***
- ***efficient control over the formation of long-term private sector liabilities;***
- ***limitation of negative impact of non-systematic execution of PPP projects;***
- ***increased possibility of drawing on EU funds by a higher co-financing share taken by the private sector in projects of public interest.***

The introduction of PPP represents a measure based on the requirement for fiscal moderation and a systematic control over the formation of long-term public sector liabilities. This measure, too, is of a pro-growth nature, stimulating as it is an increase of private investment in the building of public goods and provision of public services. Thus, it is directly linked to the Czech Government's policy of long-term economic growth and social stability in the country. Its nature will facilitate investments into certain socially sensitive areas that otherwise could not be implemented due to fiscal reasons.

The Czech Government's PPP policy declares in the first place an unambiguous support for the implementation of PPP projects and also takes care of the role of their regulation and the position of the regulator in strengthening fiscal discipline.

Since PPP projects bring about certain mandatory disbursements on account of future budgets of both the Government and the regions (the autonomous self-administration territorial units) that may result in an increase of the state debt, the Government has decided to regulate PPP. The total amount of Czech Republic's public debt is limited by the Maastricht Criteria. Therefore, it is necessary to introduce a practical and just system in PPP so that certain components of the public sector (the Government or the regions) should not be disadvantaged by the performances of other elements of the public sector.

2. THE PPP GOVERNMENT POLICY

2.1 Support to PPP

It is the Czech Government's policy to support the introduction and application of PPP anywhere that can bring any advantages to the public sector in the provision of public services and infrastructure, both at the level of the central government and in regions. In respect of PPP, the Government acts in the capacity of a partner and a customer of the private sector while purchasing services from it. The private sector would provide public infrastructure (services) at its own cost and the Government, in the capacity of its client, would pay regular fee in exchange for such investment until the expiration of their PPP-based contract(s).

2.2 Preconditions for PPP Application

The introduction of PPP is conditioned by its programme and systematic application that makes known the PPP fiscal concept and that guarantees compliance with (inter alia) the following fundamental principles set out by the Czech Government:

- (a) Value for Money – It is the main requirement that the resulting economic value of a PPP project should be lower than if implemented in a traditional manner of public sector funding. Since PPP represents a long-term and comprehensive concept, the total resulting economic value should also be viewed in a comprehensive manner (total costs of the public sector and opportunity costs) rather than solely from the sum of the cash payable from public budgets. The total economic value of a PPP project must be determined prior to launching the relevant PPP tender.*
- (b) Risk Transfer – That party best capable of managing risk should be that party to bear it; any material risks should be transferred to the private sector.*
- (c) Specification of Public Service Standards – The public sector in the capacity of a client must define standards applicable to public services, both in order to guarantee optimum public services and taking into account the economics of such standards.*
- (d) Maintenance of Public Assets Value – Since public assets would not be usually transferred to the PPP operator or they should come back to the public sector upon the expiration of the contract, it is essential to define clearly the relevant rules applicable to the maintenance of the value of such public assets managed by the private sector under PPP contracts (as a rule, 5-60 years)*
- (e) Ensuring Innovation and Competition – PPP contracts must not result in a monopoly of a single contractor; rather, PPP should manage competition so that it brings about utmost innovations in the given public service.*

2.3 General Review of PPP Feasibility

The Government expects the public sector also to take into consideration PPP when assessing its investment goals.

2.4 Authority

The Government wishes to declare that the authority to decide on a PPP application, the determination of any expected outcome of PPP projects in the form of public services, and their implementation, will remain with the relevant state administration and self-administration bodies (the "Beneficiary") in charge of the provision of the public services or infrastructure in question.

The Ministry of Finance would set up a body to manage PPP implementation (the "PPP Centre"). It is the Government's intention that the PPP Centre should assist the Beneficiaries in the implementation of their PPP projects. The Government further expects all components of the public sector to draw on resources available at the PPP Centre when implementing PPP.

2.5 Expert Backing and Costs

The Ministry of Finance would ensure that the PPP Centre should draft certain standard PPP procedure and provide a methodology support to individual PPP Beneficiaries. The Government appreciates that PPP would require higher transactional costs at its outset than in the event of standard tenders but it is convinced that such higher costs would be more than balanced by the advantages from implemented PPP projects.

2.6 State Regulation

The Government would propose that any mandatory disbursements on account of future budgets in excess of certain limits should be subjected to an approval by the Ministry of Finance in respect of all components of the public sector. The Ministry of Finance has been requested to draft a methodology serving the assessment and approval of PPP, as well as the approval of launching preparatory work for specific PPP projects.

The Ministry of Finance, having been requested to define unequivocally the scope of PPP projects to be subjected to regulation, provided:

Those contracts between the public and private sectors will be considered PPP if they would bind the private sector to supply and/or operate public services or infrastructure projects that have typically been the realm of the public sector. They will mainly be projects or services that meet any of the following features:

- 1) Shared responsibility for the supply of infrastructures or services whereby the private sector accepts higher risk, typically combining the design, construction, funding, management and maintenance elements.*
- 2) A long-term commitment (at least 3 years) by the private sector to provide good quality public services defined by the public sector.*
- 3) Shared expertise and capabilities by the private and public sectors so that the public sector may optimise the exposure and guarantee a higher value of public*

expenditure application, mainly while making use of qualities inherent to the private sector in the technical, financial, management, and innovation fields.

2.7 Required Support to Legislative Changes

The Government is prepared to support certain amendments to the legislation required in order to facilitate PPP implementation.

Also, the Government will strive to adopt amendments to the legislation required for the protection of the public sector against risks of indiscriminate application of PPP.

2.8 Payments by Customers

The Government is aware that certain public infrastructure projects could not be implemented without the introduction of payments for such infrastructure use (e.g., toll paid for crossing a specific bridge). The Government wishes to declare that currently no introduction of such specific payments has been considered. If it should be introduced in future it will be preceded by careful assessments and consideration of any social and economic effects.

2.9 Transparent Identification of Private Partners

The Government expects PPP contracts to be executed in compliance with the rules in force in the Czech Republic and the European Union, and that the associated processes will be both transparent and just. The Government is aware of the specific and exacting manner of identification of PPP partners and execution of PPP contracts. Therefore, it will support flexibility on the part of the Beneficiaries subject to compliance with the above-described criteria.