

PPP PILOT PROJECTS ANALYSIS

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Summary

The main purpose of the present document is to inform the government about how the legitimacy and efficiency of the projects that fall into the group of PPP pilot projects was verified.

Component objectives of the analysis were to assess the progress in the works on PPP pilot projects up to now, and assess current status of their preparation, test provisions of the new legislation and processes in practice, and identify problems that arise during the project preparation. All the pilot projects are at the preparatory stage, with feasibility studies to be approved and tender procedures for concessionaires to be started. The conclusions of this analysis indicate that the implementation of the projects by means of PPP may be efficient from a long-term perspective.

For future development in the PPP area it is recommended that:

- procuring authorities of PPP projects should proceed in line with PPP standards and manuals used commonly in other European Union Member States,
- procuring authorities of PPP projects should consider using PPP procuring route continuously as one of the options for provision of public services and public infrastructure,
- legal regulations regarding PPP projects should be reviewed, and if needed, their amendments should be drafted (Concession Act, Act on Public Contracts, Act on Insolvency and Its Resolution, tax and accounting standards),
- The Czech Statistical Office should become involved actively in the process of PPP project preparation in line with its responsibilities.

1. Introduction

The Government has approved the Public-Private Partnership Policy (hereinafter referred to as „PPP“), which was the starting point for creation of an environment suitable for systemic and programme use of PPP as a standard tool for ensuring public services in the Czech Republic.

Then, preparation of PPP pilot projects was initiated by the Government Resolution no. 791/2004, with the intention to:

- ensure a proper management process of preparation and implementation of PPP projects in line with set rules (e.g. PPP Project Governance Guidance published by the Ministry of Finance and the PPP Centre, including an organisational structure of projects, Advisors' Selection Guidance etc.),
- test methodologies in practice and prepare necessary legislation,
- create and enhance relevant processes and procedures and standardise them based on lessons learnt,
- identify weaknesses and specify necessary amendments of the legal regulations regarding PPP implementation.

Proposed PPP Pilot projects from various fields of public sector were submitted to the Ministry of Finance for appraisal, and from January 2005 vast majority of them (projects run on the state level) was gradually presented to the Government. Recommendations supporting PPP procuring route in these projects issued by the Ministry of Finance and the PPP Centre and approved by the Government were based on the following assessment criteria: assessment of budgetary impacts and affordability, possible scenarios for transfer of risks, ability to specify expected outputs and aims, conformity of the project with the priorities of the Government policy, suitability of the type and strategy selected for particular projects, achievement of value for money, feasibility, securing transparency and competition.

There were 9 projects¹ identified as PPP pilot projects. In the table no. 1 there is an overview of the projects including their original features:

Table no. 1: Outline of PPP Pilot projects

Project	Sponsor	Preparations launched *	PPP Type **	Value***
AirCon – railway connection Prague – Ruzyně Airport	Ministry of Transport	01 - 2005	combination of BOT/DBFO and O&M contract for operation	CZK 15-18bn.
Hotel-type accommodation and car park at the Central Military Hospital, Prague	Central Military Hospital Prague (CMH)	01 - 2005	DBFO	CZK 440m.
Construction, financing, maintenance and operation of D3 Motorway, Tábor-Bošilec	Ministry of Transport	08 - 2005	BOT	CZK 11bn.
Justice Courts: Ústí nad Labem, Karlovy Vary	Ministry of Justice	08 - 2005	DBFO/BOT	CZK 1.8bn.
High security prison	Ministry of Justice, Prison Service	08 - 2005	DBFO/BOT	CZK 1.1bn.
Na Homolce Hospital	Na Homolce Hospital, Prague	12 - 2005	DBFO	CZK 625m.
Ponava Brownfield regeneration in Brno	Chartered City of Brno	01 - 2006	DBFO	CZK 2bn.
of Jan Evangelista Purkyně University Campus	J. E. Purkyně University, Ústí nad Labem	05 - 2006	DBFO	CZK 2.5bn.
Total upgrade of the Pardubice Regional Hospital	Pardubice Region	07 - 2006	DBFO	CZK 2.2bn.

* Start of the works, or to be precise: submission of the proposal to the Government,

** anticipated contract types:

- DBFO = Design, Build, Finance, Operate
- BOT (BTO) = Build, operate - transfer,

*** original estimates.

As a result of the fact:

- that the PPP pilot projects reached quite an advanced stage of preparation (Outline Business Cases about to be produced and submitted to the Government /municipality councils for approval) and that there was certain refinement of the scope and aims at some cases,
- that new legislation governing the processes of preparation and implementation of PPP projects (in particular, Concession Act and Act on Public Contracts) was adopted, and
- that the government's resolution no. 88 issued on 29 January 2007 assigned:
 - the cabinet members to verify legitimacy and efficiency of the projects included into the group of PPP pilot projects and to notify the Minister of Finance about their conclusions by 31 March 2007,
 - the Minister of Finance to submit a report describing the results of such reviews to the government by 30 April 2007,

¹ Projects were classified as pilot projects on the basis of the Government Resolution no. 76/2005, 1017/2005 and 644/2006 and based on decisions made by relevant bodies of local self-government units.

this document has been produced in order to assess the work on PPP pilot projects up to now, assess current status of the project preparation, to test provisions of the new legislation and processes in practice, to evaluate acquired experience, to evaluate standard and recommended documents and to identify any problems arising during preparation.

2. Evaluation of course of PPP pilot projects preparation up to now

2.1. Organisation of the PPP pilot project management, employment of methodologies and standard procedures

Since 2004 the PPP Centre together with the Ministry of Finance has produced first methodologies regarding individual stages of the project preparation. These manual have been made available for the procuring authorities of the pilot projects.² In particular, the following documents were produced: PPP project Governance Guidance, Advisors' Selection Guidance, as well as Standard „Tender Documentation“ for selecting advisors, Risk Management Guidance and standard Concession Contract and its manual.

As long as these standard methodologies are complied with, individual activities will be optimised, outputs will be enhanced, problems will be addressed quickly, costs will be minimised, transparency will be enhanced and efficient control will be ensured. In countries with high-quality budgetary procedures it is common that such and alike methodologies on PPP are published by the Ministry of Finance.³

The key player in the project management process is a so-called Project Board (Steering Committee). The Project Board is responsible for achieving objectives and for successful implementation of a given project. This body shall take crucial decisions and give its consent for entering following key stages of the project; decisions made by the Project Board are critical for the direction of work that the procuring authority will take. According to the PPP Project Governance Guidance the Project Board shall consist of representatives of the Procuring Authority, Founder, Ministry of Finance and PPP Centre and other relevant bodies or local self-governing authorities (e.g. there is a representative of the Railway Infrastructure Administration at the Project Board of AirCon project, or a representative of the Regional Authority at Ponava project, etc.).

The Project Board is superior to a Project Manager; he/she is the main coordinator and contact person of the project, responsible for everyday project management. The Project Manager shall direct advisors and he/she is superior to a Project Team that shall back his/her activities and work out the outputs. In some projects there are more Project Teams established – i.e. working groups that concentrate on specific, particular and component items of the project (e.g. on technical or legal aspects of the project).

Table no. 2 provides basic information on the way of applying manuals and management structure in individual projects.

Table no. 2: Overview of methodology application, Project Managers

Project	PPP Project Governance Guidance	Advisors' Selection Guidance, Standard Documentation	Stand. Concession Contract ⁴	Project Manager
AirCon	yes	x	x	MoT employee
CMH Prague	partly	yes	yes	A natural person
D3 Motorway	no	no	x	Advisor's representative

² As stipulated in 2.5 of „The Policy“

³ The Ministry of Finance is a beneficiary of two Twinning projects on PPP, financed by the European Commission; a major part of the two projects is focused on production and publication of methodologies; among common methodologies produced and issued in other countries are e.g. Code of Project Management, Process Guidance, Value for Money, Risk Management, Manual for selecting Advisors, Manual for selecting concessionaires.

⁴ The mark „x“ stands for the fact that the manual is irrelevant at that stage of the project preparation.

Justice Courts: Ústí nad Labem, Karlovy Vary	yes	yes	yes	MoJ employee
High security prison	yes	yes	yes	MoJ employee
Na Homolce Hospital	yes	yes	Implementation of the project by PPP has been abandoned	
Ponava, Brno	yes	yes	x	Employee of the Chartered Municipality
J.E. Purkyně University Campus	yes	Implementation of the project by PPP has been abandoned		University bursar
Pardubice Regional Hospital	yes	yes	x	PPP Centre employee

2.2. Hiring Advisors

The preparation of PPP projects is generally demanding, especially due to their long-term nature, significant investment demands, and higher degree of risks transferred to the private sector. Therefore, using services of high-quality advisors is vital for the success of the PPP project delivery. In most PPP projects the procuring authorities need advisors with appropriate qualification and with experience in running successful projects. Such advisors may be hired at three different stages of the project preparation – for project specifications (identification of needs, preparation of Outline Business Case – feasibility study, Concession Design), for preparation of tender documentation and procurement/concession procedure, and for consultancy prior or during the operation phase of the project.

In most PPP pilot projects certain similarities can be found in the approach of procuring authorities to the selection, role and tasks of advisors. The procuring authorities select i.e. a main advisor (a consortium of legal, financial and technical advisors) in order to perform activities in the above two stages of the project. Apart from the main advisor the procuring authorities usually take advantage of other advisory companies assigned with other smaller tasks. Usually, these comprise delivery of services connected with preparation of tender for advisors or carrying out smaller technical surveys.

At present, one of the risks regarding advisory services seems to be the fact that in some cases the procuring authorities do not manage advisors from a position of a strong client that would have a clear idea about required outcomes of the advisors' work. In case of "small" advisors the procuring authorities often lack clear sense of small advisors' work and activities, which can sometimes lead to unsystematic hiring of advisors, overlapping of advisors' tasks and a lack of continuity with the project outputs and tasks performed by the main advisor.

A summary of advisory services hired by particular PPP pilot projects is outlined in the table no. 3. The number of bids for the key advisory services is also a sign of market's interest in the PPP pilot projects.

Table no. 3: Overview of advisory services

Project	Main advisor	Price ⁵ (excl. VAT)	No. of bids	Other advisors
AirCon	- The tender has not been			TOLERA, s r.o. ^{NB} TORADO, s.r.o.

⁵ For the services provided by the main advisors.

^{NB} transl. note:

s.r.o.=limited liability company

a.s.=joint stock company

v.o.s.=unlimited company

	started yet			ECONSULT, s.r.o. + others
CMH Prague	Konsortium: Deloitte & Touche Ireland and Deloitte CR B.V., AK HAVEL & HOLÁSEK v.o.s. ^{NB} , Atkins, s.r.o., SUDOP PRAHA a.s, + Berwin Leighton Paisner	CZK 19.8m.	2	GORDION, s.r.o. SCWP, v.o.s.
D3 Motorway	Konsortium: MOTT MACDONALD Lmt. (MOTT MACDONALD Prague, spol. s r.o.), ING BANK N.V., AHURST, Association of British Lawyers	CZK 99.744m.	2	Veřejné zakázky, s.r.o.
Justice Courts: Ústí nad Labem, Karlovy Vary	Konsortium: Mott MacDonald, Česká spořitelna a.s. ^{NB} CMS Cameron McKenna	CZK 47.3m. ⁶	4	B.I.R.T. Group, a.s. PFI s.r.o.
High security prison	Konsortium: Deloitte CZ, Atkins s.r.o., Havel&Holásek v.o.s.	CZK 52.5m.	5	B.I.R.T. Group, a.s. PFI s.r.o.
Na Homolce Hospital	- PPP project cancelled	-	-	PFI, s.r.o VPÚ DECO Praha, a.s.
Ponava, Brno ⁷	Konsortium: PricewaterhouseCoopers ČR, s.r.o. and PWC LLP, AK Balcar, Polanský & Spol. + University of Technology Brno, Masaryk University Brno	CZK 7.985m.	9	PPP Centrum, a.s.
J.E. Purkyně University Campus	- PPP project cancelled	-	-	-
Regional Hospital Pardubice ⁷	Konsortium: Erste Corporate Finance, a.s. Health Care Company KRANKENHAUS BETRIEBSFUHRUNGS, A.G., Association of Lawyers Dáňa, Pergl & Partneři, PURO-KLIMA, a.s., Česká zdravotní, a.s.	CZK 6.915m.	4	PPP Centrum, a.s.

2.3. Duration and course of preparation process

The duration and course of the preparation stage is mainly influenced by the following factors:

- scope, complexity and comprehensiveness of the given project solution,

⁶ At present, negotiations are being held in order to reduce the price for advisory services for Justice Courts as the extent of the works have been diminished.

⁷ Advisory services at the 1st stage of project preparation (especially, needs analysis).

- need and support of the project implementation by procuring authorities (in case of organisations financed by contributions from the state budget, also support by the Founder),
- approach to the advisors,
- changes in the specifications and scope of the project during its preparation,
- stable environment in the project – especially in terms of strategy, organisation and personnel.

These factors are obvious e.g. in the AirCon project: its complexity (large project, numerous stakeholders and organisations influenced by the project, unclear route of the railway, complexity of the planning permission procedure etc.) is projected into the whole process of preparation; also the same applies to the projects Na Homolce Hospital and Ústí nad Labem Campus, where it was decided that these projects would not be implemented by PPP route.

3. Current situation of PPP pilot projects preparation and their anticipated development

3.1. Changes in PPP pilot projects

The above PPP pilot projects have reached different stages of preparation, while the most advanced are projects of the Ministry of Justice (prison, court house) and of the Ministry of Defence (Central Military Hospital project). For these projects draft Outline Business Cases (feasibility studies) have been already carried out in compliance with the Concession Act and these will be subject to an approval by the Government. During preparation some basic parameters of a number of pilot projects have been changed especially because of more detailed elaboration and results ensued from the draft OBCs (reassessment and more precise specification of the procuring authority's needs and objectives of the projects, achieving better value for money⁸, etc.). These changes regard in particular, the following PPP pilot projects:

- Justice Court Houses: the findings from the draft OBCs suggested that the construction of the court house in Karlovy Vary by PPP route would not provide sufficient Value for Money. For this reason it was decided that only the justice court house in Ústí nad Labem will continue to be procured by means of PPP.
- Hotel-type accommodation and car park in the premises of the Central Military Hospital in Prague: extending the project by construction of the accommodation building for the CMH staff. As advisors claim, combining the two investment projects brings economies of scale.
- Construction of D3 Motorway: in the present draft OBC it is considered whether the original intention to build and operate section no. 307 and 308 (Tábor – Bošilec) by PPP procurement route could be extended by other connected sections (305 – 310).
- AirCon: originally the planned scope of the project included only construction of the connection between Prague City and Ruzyně Airport. At present it is anticipated that the pilot project will also include connected section from Prague Ruzyně to Kladno.

Relevant procuring authorities decided that the PPP pilot projects Na Homolce Hospital (design, construction, financing and maintenance of a seven-storey building used for health services such as endoscopy, one-day surgery, oncology etc., including surgery theatres for one-day surgeries and at the same time construction of a new garage building with a capacity of 300 cars) and J.E. Purkyně University Campus in Ústí nad Labem (design, construction, financing and maintenance of five buildings of the

⁸ PPP arrangement should only be considered in case high value for money is achieved compared to traditional procurement method. This VfM can only be ensured if the results of the surveys and analyses prove that in the long run the private partner will be able to provide expected outputs and services in a more efficient way, in higher quality and in more reliable way than the public sector.

university departments, including a congress centre, the Rector's Office, a library, an accommodation building with a capacity of 500 beds for students, a canteen, a car park and two other buildings that are currently being refurbished by a traditional way) will not be procured by means of PPP. This decision was made without carrying out OBCs that would suggest that this form is not suitable for financing of the procuring authorities' intentions. Nevertheless, both the Ministry of Health (as the Founder of the Na Homolce Hospital – an institution receiving contributions from the State Budget) and the Ministry of Education still find the implementation of their original intentions indispensable and therefore these projects will be implemented under different financing regimes.

Table no. 4 comprises key objectives, estimated value in nominal figures and current stage of preparation of individual projects.

Table no. 4: Key objectives and current status of pilot projects' preparation

Project	Description of projects	Estimated value ⁹	Stage of preparation
AirCon	<p>Main objectives:</p> <ul style="list-style-type: none"> ▪ A complete upgrade of existing railroad in the urban housing area, which would ensure suburban railway transport parallel to national transport and special connection between the airport and the city centre, including operation and maintenance, ▪ The project comprises 4-5 stops and a terminus. 	CZK 15-18bn. to be specified based on the type of contract	Preparatory stage
CMH	<p>Main objectives:</p> <ul style="list-style-type: none"> ▪ Accommodation for CMH clients (260 beds of hotel category***+), ▪ Accommodation for CMH staff and candidates undertaking exams to be admitted to the Czech Army (240 beds), ▪ Car-park (300 parking places). <p>Other possible outputs of the project, e.g.</p> <ul style="list-style-type: none"> ▪ New entrance gate into the premises of the CMH for pedestrians as well as vehicles, including connection to surrounding communications, ▪ Information centre for CMH patients and clients, ▪ Flexible layout conference rooms, ▪ chapel, ▪ catering and connected services, ▪ rehabilitation and wellness centre, including 25m swimming pool, ▪ demolition of unfit buildings, ▪ central park, ▪ commercial activities (depending on the results of competitive dialogue). 	Total value: CZK 1,127m. Investment/capital costs: CZK 857.3m.	Feasibility study has been produced, OBC to be approved by the Government
D3 Motorway	<p>Main objectives:</p> <ul style="list-style-type: none"> ▪ to ensure building, operation and maintenance of the sections 0307 Tábor – Soběslav and 0308 Soběslav – Bošilec (or, possibly, other connected sections) as part of the present construction of the D3 Motorway. 	CZK 11bn. – to be specified based on the results of the OBC	Advisors have been selected, at present preparation of the feasibility study is under way

⁹ Nominal value, excluding VAT

Justice Courthouse Ústí nad Labem	<p>Main objectives:</p> <ul style="list-style-type: none"> ▪ construction and operation of a justice court house for the purpose of performing judicial activities of the Regional and District Courts, Regional and District State Prosecutor's Office, Probation and Mediation Service. <p>Other possible outputs of the project, e.g.</p> <ul style="list-style-type: none"> ▪ catering, ▪ cleaning and waste management, ▪ car-pool operation, ▪ reception and related services, ▪ helpdesk, ▪ building and asset administration, ▪ telecommunications services, ▪ information technologies, ▪ security, ▪ delivery, removal and transport services. 	Total value: CZK 4,363.5m. Investment costs: CZK 1,484m	Feasibility study has been produced, OBC to be approved by the Government
High security prison	<p>Main objectives:</p> <ul style="list-style-type: none"> ▪ construction and operation of high security prison for approx. 500 prisoners while complying with European standards (e.g. 6 m² per person), ▪ securing employment for prisoners (min. 60% of prisoners to be employed). <p>Other outputs of the project, e.g.</p> <ul style="list-style-type: none"> ▪ a stand-alone entrance building and a gateway for vehicles + an operating centre, ▪ admission and clearance of escorts, ▪ visiting room, ▪ catering, ▪ health-care centre, ▪ room for education and culture, ▪ administration, ▪ stocks and maintenance of equipment, ▪ production zone, ▪ gym, ▪ car pool, ▪ service dogs centre. 	Total value: CZK 6,755.8m. Investment costs: CZK 1,191m.	Feasibility study has been produced, OBC to be approved by the Government
Na Homolce Hospital	Implementation by means of PPP has been abandoned		
Ponava	<p>Main objectives:</p> <ul style="list-style-type: none"> ▪ regeneration of Ponava brown field, ▪ construction of sports and leisure time centre, ▪ creating facility for top-level sport ▪ enhancing marketing potential of the city. <p>Other outputs of the project:</p> <ul style="list-style-type: none"> ▪ swimming pool, water park, ▪ football stadium, ▪ multi-purpose sports hall, ▪ hall for ball games, ▪ commercial area, ▪ soft services, ▪ demolition of buildings. 	CZK 2bn. To be specified based on the results of the OBC	Advisors have been selected, feasibility study has been produced, the procuring authority considers detailed structure of the project as suggested in individual variants proposed by the advisor
Ústí nad Labem University Campus	Implementation by means of PPP has been abandoned		

Pardubice Regional Hospital	<p>Main objectives:</p> <ul style="list-style-type: none"> ▪ to ensure thorough upgrade of the hospital including design, building of a new infrastructure, and refurbishment of the existing one, maintenance, partial operation of the hospital premises and provide certain soft services, ▪ to regenerate adjacent industrial premises of the former Tesla company where operation and maintenance services will be located, ▪ to enhance and improve operation standards and user standards of the hospital premises. 	CZK 2.2bn. To be specified based on the results of the OBC	Advisors selected, preparation of feasibility study under way
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3.2. Indispensability of project implementation

Based on the tasks determined in the Government Resolution no. 88 issued on 29 January 2007 individual procuring authorities reviewed the legitimacy and efficiency of their projects that belong to the group of PPP pilot projects by focusing on reassessment and evaluation of needs that the project should address, on its targets and expected outputs, as well as assessment of its indispensability and possible consequences of not procuring the project at all, regardless the procurement form – PPP, public contract or any other forms (own funding). The outcomes of the analyses complemented by an assessment of the progress in preparation of PPP pilot project and acquired experience have been collected in this document. The undertaken analyses do not include pilot projects that are in charge of self-government units (Ponava project and Pardubice Regional Hospital). For this reason the following part only contains information on the projects at the state level.

All initiatives implemented by means of PPP pilot projects are in conformity with the priorities and the strategic goals of the procuring authorities. The following table contains basic information that gives evidence of legitimate intentions, reasonable timing and necessity to implement relevant projects regardless the procuring route.

Table č. 5: Justification of indispensability of project implementation

Project	Explanation of necessity and legitimacy
AirCon	<ul style="list-style-type: none"> ▪ to enhance transport services to Ruzyně Airport and the North-West part of Prague agglomeration, ▪ to connect Ruzyně Airport with the railway transport and integrate transport infrastructure in the North-West part of Prague agglomeration thanks to new high-quality and high-capacity corridor Prague – Kladno, ▪ to minimise negative consequences of traffic overload and alleviate the impacts of road transport on the environment.
CMH	<ul style="list-style-type: none"> ▪ urgent need of building additional infrastructure in order to be able to meet planned strategy of the CMH and its smooth running, this need was already identified in the period 2001-2002, ▪ lack of sufficient accommodation capacity for clients of the hospital forces the CMH to make use of services provided by third (commercial) persons, which complicates performance of its main activities, ▪ insufficient number of parking places for motor vehicles (sufficient at the time of construction of the hospital – 1st half of 20 century) makes everyday operation of the hospital difficult (cars of patients and their companions, ambulance cars, supply cars etc.) inside, as well as outside of the premises of the CMH, ▪ urgent need for appropriate accommodation for nurses and paramedical workers. Existing accommodation building is not in a suitable shape. Estimated investment costs for refurbishment of the building planned for 2009 are CZK 230m, nevertheless, closing the accommodation building might cause serious personnel and operational problems to the hospital.

D3 Motorway	<ul style="list-style-type: none"> ▪ to enhance road connections in the Czech Republic with a link to the European Road Network, ▪ to address overloading of the road I/3, contribute to the fluency of the traffic flow, ▪ to divert transit transport from the housing areas, i.e. enhance living standards of people in these areas, ▪ to improve quality of transport in general, reduce time and energy costs, and enhance traffic safety (reduction of accident rate), ▪ to contribute to protection of the environment, ▪ to boost economic activities in the South Bohemia region and inflow of investments into this region, to enhance living standard and the employment rate, in general, ▪ to develop cultural and economic relations of the CR with the Central Austria, as well as to increase the importance of the capital Prague within the Central European Region, <p>The motorway forms a part of the suggested development of road networks in CR for the period until 2010 and of additional TINA network of pan-European transport corridors.</p>
Court house Ústí nad Labem	<ul style="list-style-type: none"> ▪ Current condition of the houses where the justice institutions are located is unsatisfactory: <ul style="list-style-type: none"> - The structure of the Regional Court: poor construction-technical condition, insufficient capacity in terms of office space and other equipment, lack of court rooms, etc. planned refurbishment is not feasible due to construction ban issued in 2002, the structure is located in flooding area, - District Court Building: from the construction-technical point of view it is in good condition, unsuitable room (on average small office space, small number of court rooms, a dossier room in the basement was at risk of floods), - Rented parts: for the purpose of Commercial Register Office and Probation and Mediation Service – annual costs approx. CZK 1m. - Large amount of outstanding cases in North Bohemia Region (the highest number of criminal and civil cases and 2nd highest number of business cases in CR) ▪ Lack of parking places for the existing justice court houses.
High security prison	<p>Need for a new prison:</p> <ul style="list-style-type: none"> ▪ High number of prisoners in the CR (185 prisoner per 100 thousand inhabitants of working age in 2005), ▪ Insufficient accommodation capacity even if the minimum space per prisoner is 4 m², ▪ Unsuitable hygienic and social situation in the prisons and remand prisons ensuing also from communal accommodation and unfit conditions of the buildings, ▪ Low rate of employment of prisoners (in 2006 the national average was 46.9% of employable prisoners), ▪ Long-term insufficient funding of the Prison Service.

Originally, the project of court houses considered and assessed the option of building a court house in Karlovy Vary by means of PPP. The Draft Outline Business Case proved that it is indispensable to implement this project, like in the case of the Court House Ústí nad Labem. Nevertheless, the Outline Business Case did not confirm that a considerable value for money would be achieved, if the project was procured in the PPP route.

3.3. Suitability analysis of procuring projects by PPP form

Potential suitability of PPP procuring route for the pilot projects should be proven by a so-called Outline Business Case, that comprises also a feasibility study. Its results should also verify presence of value for money. The OBC shall be approved by the Government.

The basis for assessing whether traditional procurement (public contract) or PPP procurement route is more convenient is the calculation of a Public Sector Comparator (PSC), in other words drawing a so-called referential PPP project that is then compared with the conventional procurement from the point of view of discounted values. PSC contains a hypothetical budget including risks (i.e. it takes into consideration pricing of the risks that the public sector has to bear) that analyses cash flows of the project procured in a conventional way. The referential PPP project observes cash flows of the project procured by PPP route. This model reflects pricing of risks allocated to the private

partner and the procuring authority. In order to ensure comparability of the two models they should be of identical scope and structure.

Three of the pilot PPP projects (prison, justice court house and accommodation building for CMH) have already produced Outline Business Cases. Based on the advisors' calculations all three pilot projects as mentioned above proved to be suitable for PPP procurement route which will provide value for money for the public sector from a long-term perspective.

The following table (no. 6) gives an overview of preliminary results of the draft Outline Business Cases that have been produced so far. Due to the long-term nature of the projects the most decisive factors for the assessment of suitability of the PPP against the PSC are discounted values (see the table) showing thus net present value of individual variants of the project implementation.

Table no. 6: Outcomes of the Outline Business Cases

	PSC (thousands CZK)	PPP (thousands CZK)	VfM (thousands CZK)	VfM(%)	Length: building/ operation
CMH Prague	850 707	592 005	258 702	30,4%	2/25
Justice Court House Ústí nad Labem	4 764 791	4 363 578	401 213	8,4 %	2/23
High security prison	3 041 667	2 663 902	377 765	12,57%	3/24
Justice Court House Karlovy Vary	1 870 612	1 819 664	50 949	2,7%	2/23

It is evident from the table that PPP option for the above pilot projects would be beneficial in a long term, which would lead to obvious savings of costs for the public sector, as the conclusions of the draft Outline Business Cases indicate.

Unlike conventional procurement way of providing infrastructure (PSC), where the construction is directly funded from the procuring authority's budget and immediately after its completion the asset becomes the property of the procuring authority, in case of PPPs the construction is financed by private money. Therefore, the budget of the procuring authority is not burdened by direct payment of the investment costs (necessary in the first two or three years of the construction). The procuring authority makes regular payments only for services delivered by a private partner during the whole time of the asset's operation. These payments do not start to be disbursed until the services are made fully operational. The private partners are, thus, motivated to carry out the construction within the set deadlines; their investment does not start to be returned until the moment when the services are put into operation. In other words, procuring authority's budget is not burdened intensively by short-term capital expenditures. The payment mechanism is set in a way so that the services are covered on a regular basis, while the amounts to be paid are conditioned by a degree of quality and quantity of the services delivered. In this way the private partners are motivated to ensure good quality services and their continuity (e.g. timely repairs).

3.4. Budgetary sustainability of PPP projects

Apart from economic benefits of individual PPP arrangements it is indispensable for the project implementation that the procuring authorities prove that they are able to meet their obligations arising from potential financial consideration connected with the project implementation by means of PPP from its future budget resources. Unlike many other countries the Budgetary system of the Czech Republic does not work with an integrated long-term development programme that would consist of development of individual sectors of the public sphere, including future expenditures ensuing from this development. It is difficult to give a correct estimate of long-term budgetary sustainability of individual projects of a length of 20 years and more in the context of a three-year medium-term outlook of the State Budget.

Therefore the Ministry of Finance holds that it is necessary at least to respect internationally recognised principles of "fiscal stability" of PPP projects which have been determined e.g. by the International Monetary Fund.

Disclosure Requirements for PPPs:

Budget documents and end-year financial reports should include an outline of the objectives of a current or planned PPP programme, and a brief description of projects that have been contracted or at an advanced stage in the contracting process (their nature, the private partner or partners, and capital value).

In addition, the following more detailed information should be provided for each PPP project or group of similar projects:

- Future service payments and receipts by government specified in PPP contracts over for the following 20-30 years.
- Details of contract provisions that give rise to contingent payments or receipts (e.g., guarantees, shadow tolls, profit sharing arrangements, events triggering contract renegotiation), with the latter valued to the extent feasible.
- Amount and terms of financing and other support for PPPs provided through government lending, or via public financial institutions and other entities (such as special purpose vehicles) owned or controlled by government.
- How the project affects the reported fiscal balance and public debt, and whether PPP assets are recognized as assets on the government balance sheet. It should also be noted whether PPP assets are recognized as assets either on the balance sheet of any special purpose vehicle.

In countries with significant PPP programs, disclosure could be in the form of a *Statement on PPPs* which is part of the budget documentation and accompanies financial statements.

Within-year fiscal reports should indicate any new contracts that have a significant short-term fiscal impact. PPP contracts, or summaries of their key features (preferably in standardized format), should also be made publicly available.

Source: <https://www.imf.org/external/np/seminars/eng/2006/rppia/pdf/hemmin.pdf>

By adopting the Concession Act, its implementing regulations and related amendments of Budgetary Rules formal conditions for complying with most of these principles have been fulfilled. Every pilot project that has not been abandoned at an earlier stage is subject to two approvals by the Government or by representatives of municipality/region. By giving its consent on the PPP project the government shall decide also on what future liabilities with regards to the PPP project the budget chapter administrator will have to discharge. Upon the government resolution the Ministry of Finance shall record relevant features of the project into the database of liabilities arising from PPP projects.

In order to enforce consistently the above principles a methodology¹⁰, that being prepared by the Ministry of Finance, is going to specify the composition of compulsory data to be included by procuring authorities of PPP projects into the material submitted to the decision-making process by the Government. These data are necessary for budgetary monitoring.

3.5. Anticipated development in PPP pilot project preparation

In this year it is expected that all Outline Business Cases for all pilot projects (except for AirCon project¹¹) will be finalised and tender procedure for concessionaires will be launched. The most advanced are the projects of the Ministry of Justice and

¹⁰ Since November 2006 until May 2007 there has been a Twinning Light Project at the Ministry of Finance run under the EU Transition Facility Programme; one of its components focuses on creation of methodology on correct recording of PPP project features in the budgetary documentation

¹¹ Successful implementation of the AirCon Project and its economic benefits will depend on good initial specification – especially on the selected route and agreement of all the stakeholders on a solution to transport services which would take into account the whole context (e.g. an option is to enlarge the metro).

Ministry of Defence, where the procuring authorities expect to enter into the concession contracts in the first half of 2008.

Table no. 7: Anticipated development in PPP pilot project preparation

Project	Draft OBC	Approval of OBC/commencement of tender for concessionaire	Approval of concession contract	Construction	Operation
AirCon	Not possible to be specified				
CMH Prague	Finished	07/2007	03/2008	2008 – 2009	2010 – 2035
D3 Motorway	30/6/2007	08/2007	07/2008	07/2008 - 06/2010	2010 - 2040
Justice Court Ústí nad Labem	Finished	05/2007	04/2008	05/2008 - 04/2010	2010 - 2033
High security prison	Finished	05/2007	04/2008	05/2008 - 04/2011	2011 - 2035
Ponava, Brno	Finished	The timetable to be updated			
Pardubice Regional Hospital	05/2007	07/2007	The timetable to be updated		

4. Constraints and issues arising during the preparations

Until now, the development of pilot projects have served the original purpose for which these projects were designed. Issues and problems regarding the preparation of PPP projects have been identified and will be addressed on short notice. Among these issues are in particular: binding nature of methodologies and standard documents for the preparation of PPP projects, applicability of the Concession Act and its use in practice, the role of the CSO in the preparation of PPP projects and solutions to tax and accounting issues connected with PPPs.

4.1. Binding nature of methodologies and standard documents

The above facts prove that by employing methodologies and standard documents the whole process of preparation of PPP projects can be improved, accelerated and simplified, efficient control will be ensured and the transparency will be enhanced. In this way the costs of PPP pilot projects will be minimised. The majority of procuring authorities confirmed the usefulness and applicability of these documents. Using various principles and procedures makes the approach to the project preparation by the procuring authorities unsystematic, obscures the whole process, raises the costs and erodes the key objectives of individual project preparation stages.

Although the new legislation contains basic principles of PPP project preparation, in practice it proved that the adopted acts (in particular the Concession Act) and its implementing regulations and related rules defining the course of actions to be taken by the procuring authorities are too general, if we take into account the potential long-term impact of the project on public budgets.

We recommend that those methodologies published in competence of the Ministry of Finance, should be binding for the members of the Cabinet who prepare and procure PPP projects.

During 2007-2008 following manuals on PPPs should be published:

Methodology	Deadline for publication
PPP Project Governance Guidance	July 2007

Advisors' Selection Guidance	July 2007
Standard Tender Documentation for advisors' selection	July 2007
Standard Concession Contract + Guidance	August 2007
Manual for Recording of PPP projects in the State Budget documentation and in the medium-term budgetary outlook	September 2007
Process Guidance	October 2007
Value for Money Guidance	November 2007
Upgraded Risk Management Guidance	December 2007

4.2. Application of Concession Act

On 1 July 2006 the Act no. 139/2006 Coll., on Concession Contracts and Concession Procedure (Concession Act) and the Act. No. 137/2006 Coll., on Public Contracts, including additional and implementing regulations of these acts became effective. This legislation is fundamental for the preparation of PPP projects. During pilot projects some constraints have been identified in the current legal provisions, in particular these are:

- Uncertainties and ambiguity in application of the Concession Act and the Act on Public Contracts during the preparation for procurement procedure, especially with regards to sec. 1 (2) of the Concession Act and sec. 156 of the Act on Public Contracts,
- Unnecessary differences between the provisions governing certain aspects in the Concession Act and in the Act on Public Contract that make either of the laws more/less convenient for application, e.g. sec.13 of the Concession Act,
- Formal imperfections in the Concession Act.

For this reason, we recommend to review the Concession Act and the Act on Public Contracts, and on the basis of acquired findings to amend them if needed.

4.3. Role of the Czech Statistical Office in the process of preparation and implementation of PPP projects

An important issue in the field of PPP projects is their impact on government debt and deficit. By its resolution no. STAT/04/18 issued on 11 February 2004, the Eurostat recommended (in compliance with the European system of accountings ESA 95) that the assets produced within the PPP projects should be classified as non-government assets (i.e. regular purchase of services by the public sector will influence only government's deficit) and therefore it would stand off the government's balance sheet provided that both of the following conditions are met:

The Private sector partner will take over:

1. a so-called construction risk at the initial phase of the project – it is usually a risk of late delivery, of additional unexpected costs, non-compliance with technical specifications and standards etc.
2. and either of the following risks that relate to the operational part of the project:
 - availability risk – this risk results from non-compliance with quality criteria defined in the contract (non-compliance with determined specifications, non-functioning of the facility or its parts, etc.)
 - demand risk – this risk depends on the change (decrease) of demand for given facility or services from the part of final users, e.g. due to new trends at the market, competition, alternative ways of satisfying the needs of users – if

transferred to the concessionaire the change in demand has a direct impact on the revenues of the project.

However, if most of the risks will be borne by the government as stipulated in the contract, the asset must be classified on-balance sheet for government.

Therefore it is crucial to undertake a risk assessment within relevant concession contracts. In order to ensure correct classification of the assets even in more complex cases it is necessary, (besides the allocation of the above risks) to take into consideration also other relevant aspects that will form a part of the concession contract.

The Czech Statistical Office is responsible for the decision-making on correct classification of the asset on the Government balance sheet in line with the ESA 95 Manual. Because of potential impacts of the PPP projects on the government's debt and deficit and due to the current development of these two benchmarks, it is necessary that the CSO is actively involved in the process of PPP project preparation based on the above mentioned responsibilities, and produces a basic manual and to optimises budgetary impacts of the PPP project in accordance with the Eurostat's opinions.

4.4. Further challenges in PPP

During the production of OBCs of the aforementioned PPP pilot projects it has proven that there is a need for clarification of tax and accounting issues regarding PPPs. Among these issues are: aspects governed by the Act on Income tax, Act on VAT¹², Act on Accounting and Insolvency Act. It is, therefore, recommended to review these legal regulations further from the viewpoint of PPP projects so that the relations between the public and private sectors are optimised and better Value for Money is ensured. Once possible legislative solutions are proposed, it is recommended to present their amendments.

4.5. Course of actions to be taken by procuring authorities in terms of proposal and preparation of new PPP projects

As suggested above, according to the Government resolution on. 7 issued on 7 January 2004 and no. 791 issued on 25 August 2004 the proposals for PPP projects have been assessed by the procuring authorities according to the criteria set up in the latter one (in particular regarding the budgetary impact, risk allocation, definability of the expected outputs) and a Template for a Proposed PPP Pilot Project has been produced. On the basis of evaluation of information contained in the Template the Ministry of Finance together with the PPP Centre, recommended the PPP project to be started. Information about projects prepared on the state level have forwarded to the government. Further preparation of the project shall be subject to the provisions of the Concession Act.

As this course of action has proven effective (some projects were assessed as unsuitable for PPP at an early stage) we recommend maintaining this process in projects run by government members, while it will be optional for the self-government bodies to have their potential PPP projects assessed in this initial appraisal.

5. Conclusions

The analysis has demonstrated that the implementation of all pilot projects on the state level (projects on the level of self-administration units have not been included in the review) is reasonable and indispensable. Three out of four first feasibility studies that have been produced until now provided evidence that the implementation of the project

¹² Act on VAT can only be amended within the scope that would be compatible with Community Law, in particular with the Council Directive no. 2006/112/EC.

of Justice Court in Ústí nad Labem, high security prison and Accommodation of CMH by PPP procurement route may be efficient.

The survey and the first draft Outline Business Cases also showed that the PPP method of providing public infrastructure and public needs is reasonable in general and it can bring Value for Money for the public sector in a long-term perspective.

In addition, practical experience corroborates that the legislation in force needs to be complemented by detailed methodologies that are commonly published in other countries. These publicly available manuals – “game rules”- will facilitate informed and transparent project management and regular and follow-up review by means of standard control mechanisms.