

Is it time for a European PPP Agency?

Does the EU need an Executive Agency to improve the implementation of PPP?

Any such idea would be politically contentious given the high profile, high value and importance to public service delivery of many PPP schemes as well as considerations of the balance of competences between the EU and Member States.

So why could such an Agency be a good idea?

There is no doubt that, given recent and continuing growth in its use, PPP have become, and for the foreseeable future will continue to be, important to the delivery of all types of public service. This is being fuelled by budgetary constraints and citizens' pressures for better quality services. At European level, PPP are likely to be important to the implementation of EU policies, because of the "funding gap" ie the gap between the financing needed to implement these policies and the public funds available. This applies most clearly to the completion of Trans-European Networks (TENs), and enabling Member States, and particularly the new Member States, to comply with EU environmental legislation.

Because PPP are long term and often high value transactions, decisions being made now will influence public policy choices and service delivery options for the long term future. But there is little evidence of co-ordination in the implementation of PPP at either European or national level and there is an apparent lack of will at national level to bring about such co-ordination (especially management of the timing of opportunities and the management of markets in particular PPP sectors).

Meanwhile European legislators continue to pass laws without any detailed analysis of how the cost of implementing them will be met by Member States. This could undermine the EU's *de jure* neutrality between public and private sector provision and lead *de facto* to the increasing use of privately financed PPP becoming inevitable.

Much effort is being expended on procuring PPPs – some of which could be avoided by better sharing of good practice - but there is far less effort devoted to reviewing whether or not they are delivering value for money and there are real difficulties for third parties (except for auditors) in gathering information about whether or not actual performance and actual costs match what was agreed at the time of the contract.

And there is a need for greater legal certainty in the EU legislative framework to ensure that PPP, when used, are procured by the most competitive and transparent means.

Several consequences could follow from the failure of such high level planning, including failure to obtain value for money in individual projects (and thus an even larger funding gap) and loss of control of markets by the public sector (leading to the risk of poor value for money and constraint of policy choices). In short, the greater the need of the public sector for private finance for investment programmes, the greater the power which lies with the private sector – both service providers and lenders. Without proper co-ordination, the public sector's position could be further weakened.

Some politicians – thinking about the next election – may not want to be interested in high level planning but taxpayers, and in particular those who will be using the services over the next 25 years, will certainly be interested. A European PPP Executive Agency could be the inter-generational voice in the EU on matters such as fiscal risk and maintaining public sector control over policy choices.

So there is clearly a role which such an Agency could fulfil, if it were given supervisory powers over the scope, objectives, timing and length of certain high value, high profile, long term contracts in some sectors, the authority and capability to advise on the creation of an appropriate

legal and regulatory framework for PPP and the remit to review the implementation of PPP across the EU and candidate countries.

Enough to convince those who consider that PPP is too important for the future of public services in Europe to be left solely to national level.

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