



FRAMEWORKS AND REGULATIONS FOR MANAGING PUBLIC-PRIVATE PARTNERSHIP PROJECTS

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Abstract

This article describes the organizational and legal foundations of the implementation and management mechanism of public-private partnership (PPP) projects. The main normative legal documents related to the implementation of PPP projects in the social sphere have been systematized. The mechanism for implementing a project for the construction of heat and solar power plants within the chemical-technological cluster, based on a public-private partnership at JSC "Navoiyazot," has been analyzed using the author's developments. Based on the results of the analysis, scientific and theoretical conclusions were drawn.

Keywords:public-private partnership (PPP), education sector, healthcare, green economy, cluster, private partner, public partner, concession, management mechanism, chemical technology

INTRODUCTION

For the innovative development of the economy, it is necessary to reduce the state's role in the implementation and direct regulation of economically significant projects. Only then will alternative mechanisms for state participation in the development of economic sectors begin to emerge. One such mechanism is public-private partnership (PPP). According to researchers, the most promising area for the implementation and management of PPP projects is the transport and logistics sector. This is because the transport sector holds significant investment potential in many countries.

In general, the management body of an investment project within the PPP framework is primarily responsible for supporting the technical implementation of the project while performing control, oversight, and audit functions. To prevent conflicts of interest between the public and private sectors, granting the PPP management body legally independent status will enhance the project's effectiveness. The foundation of the management system in the PPP mechanism is a special legal entity appointed by the government. For this, examples can be drawn from lower-level administrative bodies, such as provinces, regions, municipalities, or regional (city) centres. However, this approach is observed to have a serious negative impact on the transparency of PPP relationships.



LITERATURE REVIEW

Richard Hemming notes that PPP relationships are attractive to both the public and private sectors [1]. The public can finance infrastructure without borrowing, while the management capabilities of private partners lead to cost savings in projects.

According to Varnavskiy, a scientist who studied the potential of supporting business entities through PPP projects, as well as improving the management system of investment projects through PPP mechanisms and applying these projects to public service sectors, "Public-private partnership projects are strategic for the state. They represent a mechanism for attracting investments into projects at a close but lower level." In this mechanism, the state establishes an effective project management system aimed at maximizing social benefits and minimizing future large costs, while transferring part of the responsibilities to the private sector for mutual benefit [2].

In his research on "Theoretical and Methodological Issues of Corporate Governance Development Based on Public-Private Partnership," U.Djumaniyazov states that organizing corporate governance based on PPPs lays the foundation for free competition with large corporate enterprises in economically developed countries. This approach increases revenues to the state budget, reduces pressure on corporate structures, and enhances their social activity. He also emphasizes that it creates the necessary conditions for attracting advanced technologies, labour, and investment funds at a scale necessary for the rapid development of production and service processes.

RESULTS AND ANALYSIS

The organizational and legal foundations of the implementation and management mechanism of public-private partnership (PPP) projects in Uzbekistan are, at the very least, systematic. In this regard, measures such as the implementation of PPP-based projects, the promotion of these projects by the state, the legal regulation of relations with the private sector, and the establishment of a support system for PPP projects through legal frameworks have been observed. Research into the organizational and legal foundations of PPP implementation and management mechanisms shows that activities in this area have rapidly developed since 2018.

Table 1 below presents an analysis of the organizational and legal foundations for the implementation and management of PPP projects, as documented in the national database of legal information of the Republic of Uzbekistan (www.lex.uz):

- Between 2018 and 2023, more than 40 legal documents aimed at the implementation of PPP projects were adopted. These include 2 laws of the Republic of Uzbekistan, 16 decrees and decisions of the President of the Republic of Uzbekistan, and 23 decisions of the Cabinet of Ministers of the Republic of Uzbekistan.

Table 1

Organizational and legal basis of the mechanism of implementation and management of public-private partnership projects¹

№	Indicators	years					
		2018	2019	2020	2021	2022	2023
1	The total number of adopted legislation	8	8	3	9	8	5
<i>out of which:</i>							
1.1.	Laws of the Republic of Uzbekistan	-	1	-	1	-	-
1.2.	Decrees and decisions of the President	3	1	2	3	2	5
1.3.	Decisions of the Cabinet of Ministers	5	6	1	5	6	-

Source: These legal foundations have been compiled from the normative legal documents publicly available in the national database of legislative information of the Republic of Uzbekistan (www.lex.uz).

- In 2018 and 2019, 8 legal documents were adopted, followed by 3 in 2020, 9 in 2021, 8 in 2022, and 5 in 2023, all related to the implementation and management of projects based on public-private partnerships. These documents are significant as they are specifically aimed at facilitating the implementation and management of public-private partnership projects

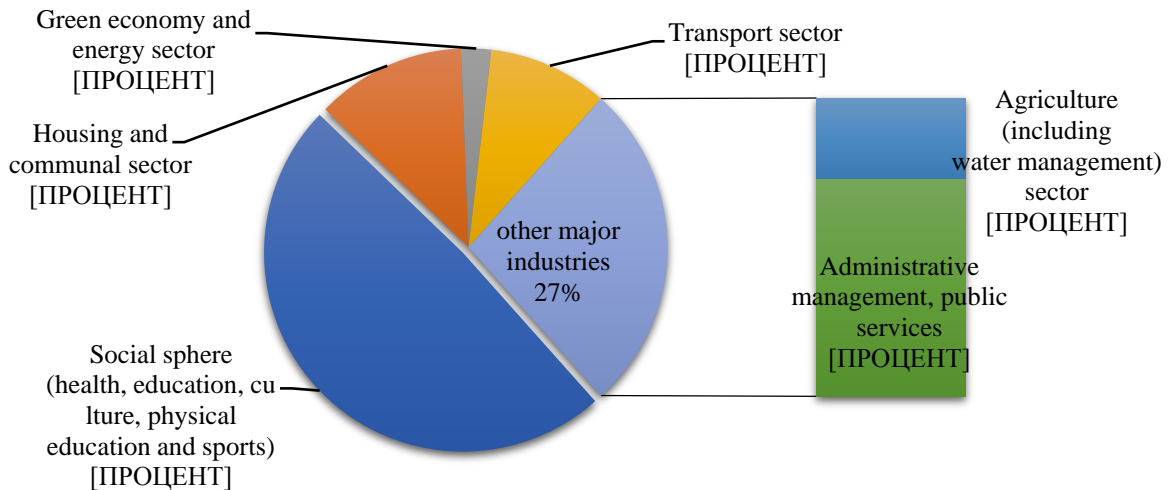


Figure 1. Legal bases adopted in the section of directions for public-private partnership projects in 2018-2023²

Between 2018 and 2023, the principles accepted for public-private partnership (PPP) projects highlight the following:

1) A significant portion of the projects implemented through the PPP mechanism, according to the legal frameworks adopted during this period and those planned for the future, are focused on social development sectors. These sectors include healthcare, the education system (schools, preschools, and higher education), culture, physical education, and sports. Around 50 percent of the legal documents related to the implementation and management of PPP projects pertain to these areas:

¹Developed by author

²Developed by author



Table 2

The main normative legal documents adopted for the implementation of projects in the social sphere on the basis of public-private partnership³

№	The name of the legal document	Accepting body (entity)	Acceptance number, date and effective date
1	On measures to create conditions for the development of public-private partnerships in the field of culture and art	President's decision	№3892, date of adoption 01.08.2018, Effective date 02.08.2018
2	On the establishment of a modern preschool educational institution based on a public-private partnership	Decision of the Cabinet of Ministers	No. 681, date of adoption 24.08.2018, Effective date 25.08.2018
3	On the establishment of a centralized clinical-diagnostic laboratory on the basis of public-private partnership	Decision of the Cabinet of Ministers	No. 674, date of adoption 08/17/2018, Effective date 08/20/2018
4	On measures to create conditions for the development of public-private partnerships in the field of preschool education	Decision of the Cabinet of Ministers	No. 475, date of adoption 25.06.2018, Effective date 27.06.2018
5	On the establishment of non-state preschool educational institutions with direct foreign investment in Tashkent on the basis of public-private partnership	Decision of the Cabinet of Ministers	No. 417, date of adoption 05/18/2019, Effective date 05/21/2019
6	On measures to develop public-private partnership in the health sector	President's decision	No.4290, date of adoption 04/16/2019, effective date 04/17/2019
7	On measures for the development of public-private partnerships in the field of physical education and sports	Decision of the Cabinet of Ministers	No. 184, date of adoption 01.03.2019, Effective date 02.03.2019
8	On measures to further develop public-private partnerships in the field of preschool education	President's decision	No.4581, date of adoption 30.01.2020, effective date 31.01.2020
9	On the implementation measures of the project "Supporting public-private partnership in the field of preschool education" with the participation of the Saudi Development Fund	Decision of the Cabinet of Ministers	No. 416, date of adoption 03.07.2021, effective date 04.07.2021
10	On approval of the list of state-owned objects provided on the basis of public-private partnership in the field of culture and art	Decision of the Cabinet of Ministers	No. 30, date of adoption 20.01.2021, Effective date 21.01.2021
11	On measures to simplify public-private partnership relations in the field of preschool education with the help of modern digital technologies	Decision of the Cabinet of Ministers	No. 426, date of adoption 02.08.2022, Effective date 03.08.2022
12	On the approval of the regulation on the procedure for allocating subsidies from the State budget of the Republic of Uzbekistan for the construction of student residences on the basis of public-private partnership conditions	Decision of the Cabinet of Ministers	No. 239, date of adoption 06.05.2022, Effective date 07.05.2022
13	On the establishment of general secondary education schools on the basis of public-private partnership in Tashkent city and Tashkent region in cooperation with the Asian Development Bank	President's decision	No.163, date of adoption 05/25/2023, effective date 05/25/2023
14	On modernization of heating systems of social sector facilities on the basis of public-private partnership	President's decision	No.118, date of adoption 04/10/2023, effective date 04/11/2023

³Мазкур ҳуқуқий асослар Ўзбекистон Республикаси қонунчилик маълумотлари миллий базасига (www.lex.uz) очик жойлаштирилган норматив-ҳуқуқий асослар орқали тузилган.



2) Twenty percent of the normative documents approved for regulating public-private partnership (PPP) activities and developing the sector using advanced technologies and modern tools are related to administrative management and the provision of public services. These legal frameworks play a key role in shaping the sector's activities and ensuring the effective delivery of public services through PPP mechanisms:

Table 3

Adopted regulatory legal documents related to the field of administrative management and public services in public-private partnership⁴

№	The name of the legal document	Accepting body (entity)	Acceptance number, date and effective date
1	On the establishment of the Public-Private Partnership Development Agency under the Ministry of Finance of the Republic of Uzbekistan	Decision of the Cabinet of Ministers	№1009, date of adoption 13.12.2018, Effective date 14.12.2018
2	On the primary measures to create a legal and institutional basis for the development of public-private partnership	President's decision	No.3980, date of adoption 20.10.2018, Effective date 22.10.2018
3	On the organization of the construction of the buildings of the State Service Centers of the President of the Republic of Uzbekistan at the People's Reception Offices in the districts (cities) on the basis of the conditions of public-private partnership	President's decision	No.3701, date of adoption 08.05.2018, effective date 05.14.2018
4	On public-private partnership	Law	№537, date of adoption 10.05.2019, Effective date 12.06.2019
5	On additional measures to attract the private sector to the sectors regulated by the state	President's decision	No.4913, date of adoption 07.12.2020, Effective date 07.12.2020
6	On improving the procedure for implementing public-private partnership projects	Decision of the Cabinet of Ministers	No. 259, date of adoption 04/26/2020, Effective date 04/27/2020
7	On measures to establish a fund for the development of public-private partnership projects in Uzbekistan	President's decision	No.307, date of adoption 09/14/2023, effective date 09/18/2023

3) In the course of researching the legal basis for the implementation and management mechanism of public-private partnership (PPP) projects, we found that 13% of the adopted legal documents are related to housing and communal services. These regulations play a crucial role in facilitating PPP projects in these sectors:

⁴These legal bases are compiled through the normative legal bases publicly placed in the national database of legal information of the Republic of Uzbekistan (www.lex.uz).

Table 4

Adopted regulatory legal documents related to the housing and communal sector implemented in public-private partnership⁵

№	The name of the legal document	Accepting body (entity)	Acceptance number, date and effective date
1	On the approval of the regulation on the procedure for the implementation of public-private partnership in financing the development of detailed planning projects of parts of settlements	Decision of the Cabinet of Ministers	№169, Date of adoption 26.02.2019, Effective date 26.02.2019
2	On the development of the heat supply system of the city of Tashkent on the basis of public-private partnership	Decision of the Cabinet of Ministers	№594, Date of adoption 09/22/2021, Effective date 09/22/2021
3	On measures to further improve the heat supply system of Tashkent city on the basis of public-private partnership	Decision of the Cabinet of Ministers	№241, Date of adoption 07.05.2022, Effective date 07.05.2022
4	On the measures of modernization of Tashkent city heat centers by introducing cogeneration technologies on the basis of public-private partnership	Decision of the Cabinet of Ministers	№214, Date of adoption 04/26/2022, Effective date 04/26/2022
5	On amendments and additions to the decision of the President of the Republic of Uzbekistan dated April 10, 2023 PQ-118 "On modernization of heating systems of social sector facilities on the basis of public-private partnership"	President's decision	№185, Date of adoption 06/12/2023, Effective date 06/13/2023

The primary focus of the adopted normative legal documents for the implementation and management of public-private partnership (PPP) projects in this field is to encourage the involvement of private sector representatives in the further development of heating systems. This aims to enhance the quality of housing and communal services through the PPP framework.

4) Additionally, a number of regulatory legal documents have been adopted over the past period to apply the PPP mechanism to the further development of agriculture. These regulations support the integration of private sector expertise and investment into agricultural development.

Table 5

The main regulatory legal documents adopted in the field of agricultural development in public-private partnership⁶

№	The name of the legal document	Accepting body (entity)	Acceptance number, date and effective date
1	On the measures for the organization of scientific and research works in the field of agriculture in the Syrdarya region on the basis of public-private partnership	Decision of the Cabinet of Ministers	№105, Date of adoption 07.02.2019, Effective date 08.02.2019
2	On measures to expand public-private partnership in the rational use of water resources and the use of water management facilities	Decision of the Cabinet of Ministers	№199, Date of adoption 10.04.2021, Effective date 12.04.2021

Significantly, the adopted regulatory legal documents in this area make up 12% of the legal bases related to the mechanism of implementation and management of projects based on public-private partnership between 2018 and 2023.

⁵The same source as citation No7

⁶The same source as citation No7



5) Among the normative legal documents adopted for the implementation of projects based on public-private partnership in the field of green economy and energy, we can highlight the following:

Table 6

The main normative legal documents adopted in the field of green economy and energy in public-private partnership⁷

No	The name of the legal document	Accepting body (entity)	Acceptance number, date and effective date
1	On measures to build heat and solar power plants for the chemical-technological cluster to be established based on public-private partnership on the basis of JSC "Navoiyazot"	Decision of the Cabinet of Ministers	No240, Date of adoption 07.05.2022, Effective date 07.05.2022

It should be noted that to expedite the implementation of public-private partnership (PPP) projects aimed at developing the social sector, numerous regulatory legal documents were adopted in the initial stages. Notably, the decision of the Cabinet of Ministers in 2022 regarding the establishment of heat and solar power plants for the chemical-technological cluster at JSC "Navoiyazot" created opportunities for implementing PPP projects in the green economy sector.

According to these legal documents, the project for constructing heat and solar power plants, established as a PPP, involves JSC "Navoiyazot," "Uzkimyosanoat" JSC, "Electricité de France S.A." (France), "Stone City InSolar B.V." (Netherlands), and "Siemens Energy Global GmbH & Co. KG" (Germany). The legal framework for this project designates several operators for its implementation (see Fig. 2).

⁷The same source as citation No7

Implementation mechanism of the project of construction of heat and solar power plants for the chemical-technological cluster based on public-private partnership based on JSC "Navoiyazot"

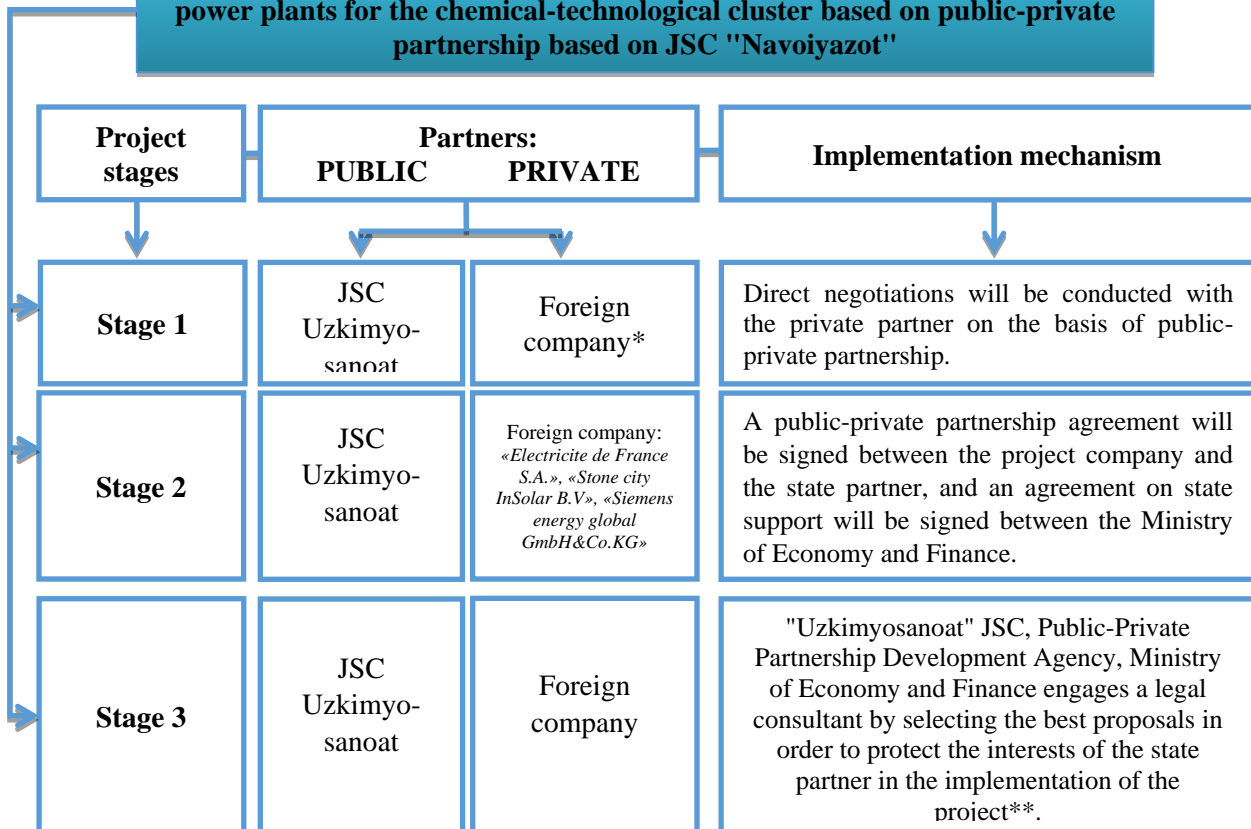


Figure 2. Implementation mechanism of the project of construction of heat and solar power plants for the chemical-technological cluster based on public-private partnership based on JSC “Navoiyazot”⁸

6) Additionally, regulatory legal documents related to the implementation of PPP projects in the transport sector constitute 10% of the total regulatory frameworks adopted between 2018 and 2023. This represents a significant portion of the legal basis for managing and regulating PPP projects in this area.

Table 7

The main regulatory legal documents adopted in the public-private partnership in the field of transport⁹

№	The name of the legal document	Accepting body (entity)	Acceptance number, date and effective date
1	On measures to develop public-private partnerships in the field of managing the republic's airports	President's decision	№5042, Date of adoption 29.03.2021, Effective date 29.03.2021
2	On attracting the private sector to enterprises with state participation in the field of road transport	Decision of the Cabinet of Ministers	№2, Date of adoption 02.01.2022, Effective date 03.01.2022
3	On measures to implement the project on modernization and management of "Samarkand" International Airport on the basis of public-private partnership	President's decision	№238, Date of adoption 07.05.2022, Effective date 07.05.2022

⁸Developed by author. Source: <https://lex.uz/docs/5996848>

⁹The same source as citation No7



In the legal framework adopted in this field, special attention is given to utilizing the public-private partnership (PPP) mechanism for the development of road transport and the implementation of PPP projects for advancing air transport systems through modern technologies. It is pertinent to include these aspects among the legal bases for PPP projects.

CONCLUSION

Based on the above, it can be concluded that the primary legal foundation for projects implemented through public-private partnerships (PPPs) is the Law of the Republic of Uzbekistan "On Public-Private Partnership," adopted on May 10, 2019, O'RQ-537. This law establishes key aspects of PPP projects, including the guarantee of various rights for the "private partner." These rights are crucial for attracting investments to such projects.

According to the Law of the Republic of Uzbekistan "On Public-Private Partnership," the private partner is entitled to the following:

- If changes in Uzbek legislation that occur after the conclusion of a PPP agreement lead to increased costs for the private partner or a reduction in its income, the private partner has the right to demand a compensatory adjustment. This may include an increase in the fee for the use of the facility, a one-time compensation payment from the state partner, or the introduction of relevant changes or additions to the PPP agreement, if such provisions are included in the agreement.

- The procedure, conditions, restrictions, and exceptions for applying these guarantees are specified in the PPP agreement.

- These provisions do not apply in cases where changes in legislation affect taxes and fees after the agreement has been concluded, except in cases of discriminatory changes affecting a specific PPP project.

In conclusion, the adopted regulatory and legal frameworks play a significant role in the implementation and effective management of PPP projects. The development and support of PPP activities in Uzbekistan are reflected in these legal frameworks.

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