



Co-production of public policies (PPUB) in public-private partnerships (PPP) with social and solidarity economy actors using social complementary currencies in Palestine

MedTOWN Project

Co-production of social policies with social and solidarity economy actors to fight poverty, inequality and social exclusion.

QUESTIONNAIRE PROJECTS PHASES AND LOCAL PARTNERS. MEDTOWN PROJECT. 3rd LOT.

DEMOSTRATIVE ACTION. Name: Citizen and SSE waste processing. A circular economy model

MUNICIPALITY, REGION AND COUNTRY ACTION: Beitillu village, Palestine

BRIEF DESCRIPTION OF CONTEXT:

An unstable political and fiscal framework puts the West Bank in a difficult position to develop Public-Private Partnership projects (PPP). Despite investment-friendly policies implemented by the Palestinian Authority, the lack of full control by the government over some parts of the territory and the absence of fully fledged statehood coupled with restrictions on parts of its territory, make political risk the key investor concern for developing PPPs in the West Bank. In addition, its weak economy, which remains vulnerable to political developments and dependent on grants from the international community, does not provide sufficient long-term fiscal sustainability for PPP projects. This is further complicated by the lack of specific legislations on PPPs.

Palestinian Authority's policies, and donors' support is expected to increase and expand private participation in infrastructure beyond just implementation. There is potential for further private sector participation beyond the current small-scale PPI in the telecom sector. Much of this could be facilitated through the Palestinian Investment Fund (PIF) and the Palestinian Investment Promotion Agency (PIPA), the Ministries of Finance and Local Government particularly in key sectors, such as waste and water management and the energy sector. In the short-term, the need to bridge a huge infrastructure gap and enhance service delivery, present clear opportunities for the development of small-scale PPP pilot projects through blending of grants and loans, particularly in sectors such water and solid waste management.

PPP pilot projects could be developed if stability and investment climate improve. Given the current political and macroeconomic context and the lack of laws on PPPs, privatization, competition, franchise and partnership contracts, the private sector is unable to finance, build and operate projects without donors assuming most of (if not all) the risks. . Therefore projects currently undertaken in Palestine do not fall within the textbook definition of PPPs. In addition to improving political and macroeconomic stability, institutional strengthening, increased funding capacity and simplification of the legal framework, could lead to the development of targeted PPP projects in the medium term.

As noted, there are no specific laws on PPUBs or PPP in Palestine, although both PPUB and PPPs are implicit in the legal framework. The legal framework applicable to infrastructure and more generally, the application of Palestinian law, varies in accordance to the level of control that the PA exercises over each area in the West Bank. Local authorities do have powers to enter into PPP projects, and this is encouraged by the Ministry of Local Government. There are two prominent examples of PPPs in solid waste management in the northwestern and southern West Bank, but these are still dependent also on donor financing for cost recovery.

The PA could benefit from closer cooperation with institutions or agencies in neighbouring countries with experience in infrastructure and PPP development. Knowledge exchange programmes with such institutions could have a positive effect on the PA's ability to carry out successful PPP pilot projects in the future.



ARRAY TO BE FILLED IN:

N°	ASPECTS TO BE REPORTED	ACTIONS	OTHER ACTIONS/ DISCLAIMERS	OTHER DISCLAIMERS
1 ¹	<p>Existing applicable regulations governing PPUB and PPPs</p>	<ul style="list-style-type: none"> - There is no specific regulation on social complementary money. - There are also no dedicated laws governing PPUB or PPPs. - There are numerous laws, however, that include provisions on both. For example, the overwhelming majority of legislations that govern private sector include articles stimulating the participation of private sector organizations in economic policy development through membership in national planning and policy committees and advisory boards, among others. - Some related PPP regulations: <ul style="list-style-type: none"> i) The Local Authority law (1), for the year 1997 <ul style="list-style-type: none"> * The Text of Paragraph (A) of Article (15) of the Local Authority Law ** Article (15 / a / 26) ii) The municipality law No. 29 for the year 1955 <ul style="list-style-type: none"> * Article (1/3) from iv) ** Article (41,a,38) iii) Company law No.(12) for the year 1964 iv) Regulation of law No. (9) for the year 2008, amendment to Local Authority Law. v) Primarily law No.(1) of the year 1998 on the promotion of investment in Palestine (Investment law) vi) The Income Tax Law No.(17) for the year 2004 and its amendments 	<ul style="list-style-type: none"> - Palestine does not own a national currency - The Palestine Monetary Authority is considering issuing a digital currency (2021) - There are numerous legislations that include articles stipulating participation of civil society and private sector organisations in policy forums. 	<ul style="list-style-type: none"> - The absence of the Palestinian Legislative Council - The unstable political and fiscal framework puts the country in a difficult position to develop Public-Private Partnership projects (PPP). - Despite investment-friendly policies implemented by the Palestinian Authority, the weak economy, which remains to political developments and dependent on grants from the international community, does not provide sufficient long-term fiscal sustainability for PPP projects vulnerable - Company law No.(12) for the year 1964 that is applied in the West Bank makes no reference to the possibility of municipalities establishing companies, but inferred the possibility of the

¹ Especially related to Social Solidarity Economy (SSE) through social and complementary currencies.



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				municipality entering as a shareholder in a company.
2	Purpose of the regulation	<p>As noted. There are no specific legislations or regulations on PPUB or PPP.</p> <p>Where provisions on PPP and PPUB exist in legislation, these are mainly intended to promote participation of private sector and social actors in public policy development and implementation.</p> <p>The Palestinian Local Authorities Law No.(1) for the year 1997 considers the local authorities (including municipalities) as a legal entity (personality) having financial independence, and this means municipalities are qualified to acquire the rights and bear commitments.</p>		
3 ²	Theoretical Consideration- Definition PPUB and PPP (According to regulations)	There is no legal definition of either.	<p>When it comes to PPUB at the local level, local authorities are required to develop strategic plans in accordance with a methodology put forward by the Municipal Development and Lending Fund. This methodology requires local government units to engage citizens in the analysis of needs and identification of strategic initiatives and projects. The methodology includes guidance on formation of thematic groups for this purpose.</p> <p>The Local Authorities Law gives the power to local authorities to delegate their responsibilities for delivering municipal services wholly or partially to subcontractors, contractors and lessees. This authority, however, is granted for a period of three</p>	The other method set by the legislator for the local authority to exercise its powers is the indirect method i.e. contracting with a third-party (i.e the private sector) to entrust them to carry out all or some of its mandated responsibilities. The legal text referred to a number of scenarios that can be applied to contracting with the private sector such as service and construction contracts or concession contracts.

² Necessary for making comparative terms of equivalent concepts



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			<p>years, otherwise the Minister of Local Government would need to approve. Approval, however, is contingent only on verifying the legality of the decision making process, not on technical or financial merits of the decision itself. This is often misunderstood by both local authorities and the Ministry of Local Government, and is the reason why some municipalities opt not to consider long-term PPP arrangements.</p> <p>The local authority is considered a legal entity having its own financial independence, and its functions and authorities are defined by the law.</p>	
4	Regulations for citizen participation in the design of public policies	None.	- There is no formal public consultation process in drafting laws in the PA. Public consultation takes place informally and on an ad hoc basis. Consultation with stakeholders outside the government takes place through hearings and workshops in the specialised committees. Some ministries also directly consult civil society and the private sector.	PA maintains that public consultations are necessary to assess needs and set priorities for legislative policy; however, consultation is not mandatory and there are no rules governing it.
5	Scope of application of PPUB and PPP regulations	State, Regional, Local	Public/Private/Both	
6	Stakeholders involved PPUB and PPPs	<p>In theory, there are scores of social and solidarity stakeholders involved in PPUB and PPU. Mentioning all of them in this questionnaire is not possible. Hence, the focus here is on stakeholders deemed most relevant to the DA:</p> <ul style="list-style-type: none"> • Ministry of Local Government • Ministry of Finance (for tax and incentives) 	The Palestinian Investment Fund (PIF) could provide equity and acts as catalyst for equity investment in infrastructure including PPPs. Wholly owned by the PA but independently managed, the PIF's aim is to strengthen the local economy through key strategic investments. It is currently leading an ambitious five year investment program amounting to USD 4 billion. Target projects include construction of a 140MW-200MW power plant in the northern West Bank, under an investment PPP scheme.	

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		<ul style="list-style-type: none"> • Palestinian Environmental Quality Authority • Palestinian Investment Fund • Investment Promotion Agency • Agricultural Cooperatives • Community based organizations • Beitellou Local Council • Beitellou residents 		
7	Existence of Specific Legal Figures PPUB and PPP Sector?	No specific bodies, and this is largely due lack of legislation on PPP.		
8	Main Figures for PPUB and PPP creation	When it comes to the creation of PPUB, local authorities and the Ministry of Local Government are the key stakeholders, particularly in relation to the DA.		
9	Administration-legislative body responsible PPUB and PPPs	Ministry of Local Government as it is the entity responsible for advancing reforms in the local government sector, and the entity responsible for oversight of performance of local government units in Palestine. Ministry prepares draft legislations and regulations, and the Cabinet discusses and endorses. President approves as a final step in the legislative process.	Palestinian Legislative Council is unoperational since 2007. All legislations are passed by President on the basis of recommendations by Cabinet.	
10	Administration-Competent executive body PPUB and PPPs	<p>Local Authorities for local level policies and PPPs.</p> <p>Line ministries –each within their remit- for national level policies and PPPs.</p>		

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11	Administration-Competent supervisory body PPUB and PPPs	Ministry of Local Government and Palestine's State Audit and Administrative Control Bureau	Ministry of Local Government provides oversight of performance of local authorities through its Directorates. State Audit and Administrative Control Bureau undertakes audits of all governmental, semi-governmental, non-governmental, and public shareholding companies. Audits are undertaken on the basis of audit plans the Bureau prepares on an annual basis, and coverage is fairly limited.	
12	Certifications/Registration of PPUB and PPP Actors	No		
13	Measures promoting or encouraging PPUB and PPPs	In 2017, the Ministry of Local Government launched a new national strategy for solid waste management, 2018–2022, in which more attention was given to public–private participation and recycling of solid waste. It specifically mentioned that the private sector is welcomed to take initiatives and actively participate in the waste management itself or the development of waste management systems that will include recycling and energy generation. The former stated constitutes the strategic objective No. 6. The national strategy also mentions the monitoring of indicators regarding private sector's interest in separation and recycling projects.	PP participation needs to be enhanced, utilized and invested in light of the available enabling environment and incentive systems, following the amendment made on the investment promotion law and the construction of three industrial zones in Jericho, Bethlehem and Jenin. National strategy requires a policy in order to raise awareness, set foundations and audit the creation of investment. In addition, absence of appropriate mechanisms to encourage the involvement of the private sector to invest in solid waste management was identified, in spite of the presence of the Investment Promotion Law, which exempts investors in the field of solid waste management of tax (inactive on the ground). This Act needs to be updated and activated taking into account the option of PPPs and present all parties with incentives, e.g. tax minimisation and tax breaks on machinery and equipment.	Including tax benefits, social security, subsidies, etc
14	Other legislation related to PPUB and PPPs	Investment Promotion Law includes provisions on tax exemption for PPPs, but this is not activated in practice. See above.		
15	Possibility of creating new	Relatively negligible for PPPs in the absence		

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	PPUB and PPP regulations	of specific legislation. However, when it comes to PPUBs at the local level, there are good opportunities for introducing new regulations on local level planning, and activating community-level committees to support local policy development.		
16	Possibility to amend existing legislation PPUB and PPPs	N/A as there are no specific legislations.		
17	Possibility Regulatory implementation (new or amended) PPUB and PPPs	High. PA's fiscal challenges have provided impetus for government to explore ways to reduce its operational costs through partnerships with the private sector. Government is open to ideas that could support this.		
18	Problem Identification/implementation of PPUB and PPP regulations	While PPUBs with SSE actors is implicit in the legislative framework affecting economic and social spheres, regulations are often lacking, rendering implementation unsystematic. There are also issues with capacity to undertake policy development, including problem-driven policy analysis and development. Existing regulations and laws do not cover issues of representation and voice of the marginalized in policy making structures. As for PPPs, the main problem is lack of specific laws.		
19	PPUB and PPP regulations and other applicable to the Demonstration Action (Concrete Project)	Local Authorities Law of 1997 is the key legislation that is applicable to the DA. As noted earlier, it includes articles that govern PPPs.	The Environmental Quality Authority and the Ministry of Local Government are working together to implement the Solid Waste Management Strategy. This Strategy envisages the establishment of a sanitary landfill in the central West Bank. There are currently issues with securing the land and permits	

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			for this landfill. Should this issue be resolved, all local authorities will be required by law to work through Joint Service Councils to manage solid waste, and they will be required to transfer all of their SWM assets and operations to the JSC. This is critical for the sustainability of the project on the medium and long term.	
20	Other matters and policy areas linked to PPUB and PPPs	Investment Promotion Law. This grants tax breaks for PPPs, but these are not applied in practice. Project could advocate for this.		
21	Examples of public procurement of PPUB co-production with SSE actors	N/A		
22	Other issues to highlight			

CHALLENGES & RECOMMENDATIONS:

There is a need to strengthen institutional and human capacities in the Government and to further clarify its function and responsibility to protect the public interest and manage essential services, utilities and public goods. Such clarity in the definition of the economic mission of government would encourage private sector partnerships, with public investment leading risk-taking for major development projects.

Above all, Government faces regular private sector calls for greater policy direction, focus and leadership that the business community feels necessary for it to invest and operate in such a risky and uncertain environment

MEASURES TO BE IMPLEMENTED:

Facilitate experience exchange with other countries/entities with solid PPP experience.

Ensure PPP contracts are clear.

Advocate PIPPA and MoLG to grant the tax breaks to the DA.



OTHER INTERESTING SUGGESTIONS/NOTES:

- MedTown demonstrative action in Palestine can be used as a success story for PPP to inform policy.

IDENTIFIED CONFLICTING ISSUES (if any):

N.A.

EXAMPLES OF ACTIONS DEVELOPED IN THE FIELD OF SSE IN THE COUNTRY, REFERENCES AND HOW THEY HAVE BEEN DEVELOPED (if any):

