



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

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.

DEMONSTRATIVE ACTION. Name: _____ **MUNICIPALITY, REGION AND COUNTRY**
ACTION: _____

BRIEF DESCRIPTION OF CONTEXT:

To be completed by the local partner

The concept of co-production was first proposed in the 1980s as a way to better understand how citizen participation can lead to better outcomes. In other words, whereas in the traditional public service model, the professional determines what services are provided and how, and the citizen's only role is that of a recipient or beneficiary of these services, in the co-production model, citizens are given a more active role in deciding how public services should operate and in participating in the provision of the services they 'consume' or otherwise benefit from. So, for example, the notion of co-production has been used in cooperative kindergartens in France to refer to the involvement of parents in organizational decision-making and the help they give to professionals (volunteering for events or maintenance tasks), or in the case of tenant-run social housing organizations where residents and public managers plan and manage housing projects together.

The benefits of co-production would be mainly twofold. By making public services more responsive to citizens' needs, co-production could not only reduce their cost, but also make them more democratic. The lower cost of co-produced services could also result from the fact that citizen participation in prioritizing and designing services leads to a better match with citizens' needs and expectations, and thus to a reduction of unnecessary expenditure on poorly designed services. With a more holistic and person-centred approach, co-production is also more likely to address or prevent longer-lasting social problems, with the additional savings that this implies. For example, co-producing rehabilitation services for ex-prisoners can reduce the risk of recidivism and thus relieve prison services. Similarly, co-producing the design of a public space can reduce vandalism, littering and graffiti. Secondly, co-production can encourage citizen involvement and reduce the democratic deficit between citizens and the state by allowing citizens to exert meaningful influence in an area that directly affects their lives.

ARRAY TO BE FILLED IN:

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1 ¹	Existing applicable regulations governing PPUB	Point out this legislation - Law No. 2015-49 of November 27,	Delivery Regulation	

¹ Especially related to the Social Solidarity Economy (SSE).

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	and PPPs	<p>2015, on public-private partnership contracts as amended by Law No. 2019-47 of May 29, 2019 on improving the investment climate</p> <p>http://www.igppp.tn/fr/node/534</p>	<p>- Government Decree No. 771 of June 20, 2016, on the composition and prerogatives of the Strategic Council for public-private partnership contracts</p> <p>http://www.igppp.tn/sites/default/files/D%C3%A9cret%20G%202016-771.pdf</p> <p>- Government Decree No. 772 of June 20, 2016, establishing the conditions and procedures for awarding public-private partnership contracts</p> <p>http://www.igppp.tn/sites/default/files/D%C3%A9cret%20G%202016-772.pdf</p> <p>- Government Decree No. 782 of June 20, 2016, on the modalities of keeping the register of real rights encumbering constructions, works and fixed equipment built under public-private partnership contracts:</p> <p>http://www.igppp.tn/fr/content/d%C3%A9cret-gouvernemental-n%C2%B0782-du-20-juin-2016-portant-sur-les-modalit%C3%A9s-de-la-tenue-du</p>	
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- Government Decree No. 1104 of July 4,

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			<p>2016, on the terms and conditions for setting the compensation to be paid by the public entity to the project company, and setting the terms and conditions for the cession and pledging of claims</p> <p>https://legislation-securite.tn/law/54700</p> <p>- Government Decree No. 2016-1185 of October 14, 2016, establishing the organization and powers of the general body of public private partnership.</p> <p>https://legislation-securite.tn/fr/law/54903</p> <p>- Presidential Decree No. 2022-451 of May 6, 2022 establishing the organization and assignment of the General Authority for Public-Private Partnership.</p> <p>https://legislation-securite.tn/law/105263</p>	
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2	<p>Purpose of the regulation</p>	<p>Target and final intention regulation</p> <p>To diversify the modalities of fulfilling public orders and its sources of financing in order to develop and strengthen the infrastructure, to encourage public investment in partnership between the public and private sectors and to benefit</p>	<p><i>Co-production, a model for fair and sustainable societies</i></p>	
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		<p>from the professionalism and experience of the private sector.</p>		
3 ²	<p>Theoretical Consideration- Definition PPUB and PPP (According to regulations)</p>	<p>Transfer Definition (if any)</p> <p>Article 26 of Law No. 2019-47 of May 29, 2019 on improving the investment climate:" The public-private partnership contract: is a written contract for a fixed term by which a public person entrusts a private partner with a global mission relating wholly or partially to the design and implementation of works, equipment or tangible or intangible infrastructure necessary to provide a public service. The partnership contract includes the financing, the realization or the transformation and the maintenance and also, if necessary, the exploitation, in return for a remuneration paid by the public person to the private partner during the duration of the contract in accordance with the conditions which are stipulated therein and designated hereafter "partnership contract". The sectors of security, defense and prisons are excluded from the above-mentioned exploitation.</p>	<p>Article 3 of Law No. 2015-49 of November 27, 2015, on public-private partnership contracts, which defines the concept of PPP contract, has been amended by the new so-called horizontal law on improving the business climate</p> <p>Article 3 provided that the partnership contract does not include the outsourcing of public service management.</p> <p>The new article 26 has broadened the legal definition and no longer refers to this restriction. Extension of the mission of the private partner to the exploitation of the public service in case of need in the PPP contracts</p>	<p>Indicate if there is no regulatory definition</p> <p>There is not yet a standard legal definition of public policy co-production</p>

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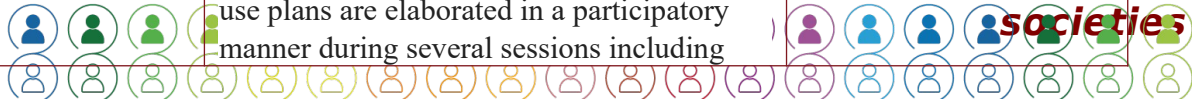
² Necessary for making comparative terms of equivalent concepts



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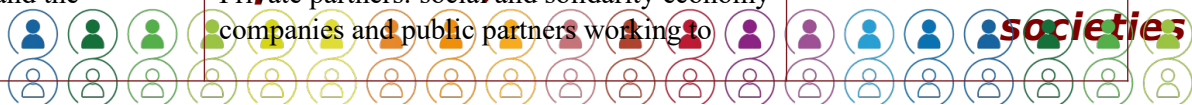
4	<p>Regulations for citizen participation in the design of public policies</p>	<p>Point out specific regulations and articles</p> <p>On a national scale:</p> <p>Decree No. 2018-328 of March 29, 2018, on the organization of public consultations.</p> <p>https://www.cktaudit.com/wp-content/uploads/2018/05/D%C3%A9cret-2018-328-Consultations-publiques-Arabe.pdf</p> <p>At the local level: Organic Law No. 2018-29 of May 9, 2018, on the local government code</p> <p>https://legislation-securite.tn/law/104277</p> <p>Participation in the development program and land use planning (art. 29 of the CCL) - a concrete example of co-production of public policy at the local level since the development plan cannot be valid without respect for the principle of participation</p> <p>Local referendum (art. 32 of the CCL)</p>	<p>Enshrined in the former constitution of January 27, 2014, the principle of participation in the design of public policy has been elevated to constitutional status.</p> <p>One of the tools for citizen participation in the design of public policy is participation in public consultations. In this regard a government decree was issued aimed at achieving the following objectives:</p> <ul style="list-style-type: none"> • The openness of the administration to its environment • The strengthening of communication mechanisms with citizens and civil society; • The consecration of the principle of transparency and the principle of participation in decision making; • The reinforcement of the legitimacy of public policies; • Strengthening citizens' confidence in the public administration; • Improving the quality and efficiency of public policies 	
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C At the local level, all development and land use plans are elaborated in a participatory manner during several sessions including **fair and sustainable societies**



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			citizens and civil society to choose the projects to be realized in their locality.	
5	Scope of application of PPUB and PPP regulations	<p>Territorial (Supranational, State, Regional, Local)</p> <p>The scope of the PPP legislation applies on a national as well as regional and local level. Local authorities (regional councils and municipalities) also make use of this type of partnership.</p>	<p>Public/Private/Both</p> <p>PPP contracts include both the public and private sectors. The public sector is represented by the signatory state entity, whether it is the State, the local authority or the public establishment and the public company having obtained the prior agreement of the supervisory authority to conclude the partnership contract. The private sector is represented by the companies responsible for carrying out the services.</p>	<p>Referred to, enshrined in the Constitution or basic state law</p> <p>The constitution of July 25, 2022 promulgated in the JORT n92 on August 18, 2022 provides in its article 7 that the State guarantees the cohabitation between the public and private sector and works to the realization of the complementarity between them on the basis of social justice.</p>
6	Stakeholders involved PPUB and PPPs	<p>Administrations, Companies, NGOs, Associations, Collectives, etc...</p> <p>The two strategic actors and the ministries involved</p>	<p>Identify the actors involved in the functioning and development of the SSE</p>	

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-Strategic Council of Public Private Partnership (CSPPP) at the Presidency of the Government

- General Instance of Public Private Partnership (IGPPP) at the Presidency of the Government

- General Direction of PPP (Ministry of Finance)

- The National Committee for the Approval of Public Projects (MDCI)

The public entities

The public signatory: the State, its branches and the collectivities.

-The special commission validates the tender documents and the conducting of the procedures (article 25 of the decree).

External experts :They accompany the public entity

Private persons in charge of carrying out the services

implement SSE

There is no specific structure in charge of developing SSE within PPPs

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		<p>Financial institutions (banks)</p>		
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7	<p>Existence of Specific Legal Figures PPUB and PPP Sector?</p>	<p>Are there special figures for PPUB and PPPs? oui il existe trois types de partenariat</p> <p>Institutionalized PPPs</p> <p>Scope of the mission: These IPPPs consist of entrusting a co-contractor with the task of carrying out a mission for the public entity via a legal structure in which the public entity takes a stake (e.g. mixed economy companies).</p> <p>PPP</p> <p>Scope of work: Financing, Design, Construction, Maintenance. The outsourcing of the management of a public service is forbidden. Nevertheless, it is possible to envisage the operation of the equipment or the management of a public service that is accessory to the main mission (article 62</p>	<p>Indicate these specific figures and in which norm they are regulated</p> <p>The Tunisian legislative model distinguishes between two forms of PPP: concessive and non-concessive models.</p> <p>In accordance with this "concessive - non-concessive" dualism, two fundamental laws set the PPP regime: Law 2008-23 of April 1, 2008, on the concession regime; Law 2015-49 of November 27, 2015, on public-private partnership contracts</p>	
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		<p>of the decree). The core of the partnership contract remains the construction and maintenance of a facility.</p> <p>Concession</p> <p>The delegation of public services (DSP) is central to concessions. It involves the complete transfer of governance of the service (construction of equipment, operation and responsibility for the service). The concession may include the construction of the facility to be operated</p> <p>source: http://www.igppp.tn/Guide%20PPP-flip/Guide%20PPP.pdf</p>		
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8	<p>Main Figures for PPUB and PPP creation</p>	<p>Relate the most common and most used figures</p> <p>The concessionary model is more frequent and more widely used, given the earlier legislative and regulatory framework for this type of partnership, even though there is no complete and reliable database to list all PPP contracts:</p>	<p>Despite the creation of the concession monitoring body in 2008 and its integration into the general public-private partnership body, there is no database to date that lists all partnership contracts before 2008 or even after.</p> <p>Census of 228 concessions, State institutions and public companies between the year 2017.</p>	
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		http://www.finances.gov.tn/sites/default/files/2022-01/br177521.pdf		
9	Administration-legislative body responsible PPUB and PPPs	<p>Determine which bodies are responsible for creating applicable regulations</p> <p>The new constitution of July 25, 2022</p> <p>Proposed legislation: priority given to the president of the republic</p> <p>The first chamber of parliament is also competent to propose laws related to the co-production of public policies and PPP</p> <p>Advisory and support role</p> <p>The PPP strategic council and the general PPP body</p>	<p>To which administrative-territorial areas do these bodies belong and with what competence?</p> <p>The president of the republic and the first chamber of parliament have national jurisdiction</p> <p>The PPP Strategic Council is under the authority of the President of the Government</p> <p>Its mission is to study the modifications and improvements necessary to the legislative and regulatory framework of public-private partnership contracts, in coordination with the general body of public-private partnership.</p>	
10	Administration-Competent executive body PPUB and PPPs	<p>Determine which bodies are responsible for implementing and enforcing the existing PPUB and PPP regulations</p> <p>General PPP Body</p>	<p>To which administrative-territorial areas do these bodies belong and with what competence?</p> <p>General PPP body: Under the authority of the President of the Government</p>	<p>At the practical level, there is a failure in the monitoring and evaluation function due to the absence of an effective information system for processing data on PPP contracts.</p>

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			<p>The body is composed of 4 units and a control and monitoring commission:</p> <p>The unit of control and monitoring of PPP is responsible for studying and issuing a preliminary opinion on :</p> <ul style="list-style-type: none"> - the preliminary study and the descriptive form justifying the recourse to the partnership contract mode, - the technical and financial offer evaluation reports, - the reports of the statement of reasons justifying the recourse to the direct negotiation for the conclusion of a partnership contract, - the explanatory reports justifying the use of competitive dialogue for the conclusion of a partnership contract, - the draft partnership contracts to be concluded in accordance with Law No. 2015-49 of November 27, 2015, on public-private partnership contracts - the draft annexes to the partnership contracts. 	<p>Insufficient human and material resources</p> <p>First meeting of the body in 2017</p> <p>:http://www.finances.gov.tn/sites/default/files/2022-01/br177521.pdf p29</p> <p>http://www.gbo.tn/ar/node/1097</p>
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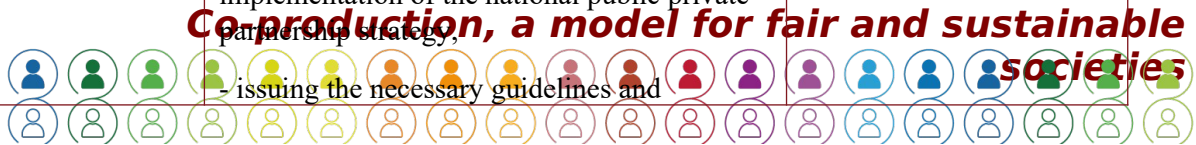


The public authority and the private partner are jointly responsible for ensuring the periodic and regular monitoring of the execution of

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			concession contracts and partnership contracts,	
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11	Administration-Competent supervisory body PPUB and PPPs	<p>Determine which bodies supervise and control the actions carried out in PPUB and PPPs</p> <p>The Strategic Council for Public Private Partnership plays a supervisory role</p> <p>Mission: The council decides on national strategies and policies in the field of public-private partnership and sets priorities according to the orientations of the development plans.</p>	<p>To which administrative-territorial areas do these bodies belong and with what competence?</p> <p>A council attached to the presidency of the government</p> <p>Prerogatives: Art 3 of the government decree n° 2016-771 of 20 June 2016, fixing the composition and prerogatives of the strategic council of public private partnership</p> <p>It is responsible, to this end, for the following</p> <ul style="list-style-type: none"> - the approval of the national strategy of public-private partnership and the proposals aiming at its updating and development, - monitoring and evaluating the implementation of the national public private partnership strategy - providing the necessary support for the implementation of the national public private partnership strategy, - issuing the necessary guidelines and 	<p>Until 2021 the board has not held any meetings</p>
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			<p>recommendations to develop the strategy and the modalities of its implementation</p> <ul style="list-style-type: none"> - Set sectoral and regional priorities for public private partnership, - set the five-year programmes of public-private partnership projects and ensure their follow-up and updating within the framework of the development plans, - studying the modifications and improvements necessary to the legislative and regulatory framework of public private partnership contracts, in coordination with the general public private partnership body - proposing all procedures and measures concerning the prevention of and fight against corruption in the field of public-private partnerships, in coordination with the body for good governance and the fight against corruption. 	
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12	<p>Certifications/Registration of PPUB and PPP Actors</p>	<p>Are there official registers or certificates attesting to membership of the PPUB and PPP sector?</p> <p>Yes</p>	<p>What are they and where are they regulated? (If they exist)</p> <p>There is a certification of PPP experts</p>	
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 International Finance Corporation.
 The objective of the PPP Certification

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			<p>Program is to push for a common base of knowledge about PPPs among industry professionals worldwide. The aim of the programme is to demonstrate through a certificate of in-depth knowledge of the PPP Certification Programme Guide (the "PPP Guide"), which leads to the CP 3 P © (Certified PPP Professional) accreditation.</p>	
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13	<p>Measures promoting or encouraging PPUB and PPPs</p>	<p>Are there any specific measures, grants or incentives to encourage actions in PPUB and PPPs? Yes</p>	<p>Indicate which ones and where they are regulated (indicating articles)</p> <ul style="list-style-type: none"> - Promotion of private initiative through the adoption of incentive provisions for initiators of unsolicited bids (Article 11 of Law 49-2015) <p>The public entity is required to examine the possibility of carrying out the project or activity subject to the offer within the framework of a concession and must inform the holder of its fate in writing within a maximum period of ninety (90) days.</p> <ul style="list-style-type: none"> - Adoption of specific measures for concessions for small projects 	<p>Including tax benefits, social security, subsidies, etc.</p>
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Co-production relating to the use or exploitation of public property or facilities without the

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			<p>management of a public service.</p> <p>The amount of the investments of the project does not exceed fifteen (15) million dinars.</p> <p>Concessions dedicated to young promoters (graduates less than 35 years old) and which is subject to an exclusive competition between this type of investors.</p> <ul style="list-style-type: none"> - Encouragement of the participation of Tunisian SMEs <p>The minimum percentage of subcontracted activities provided for by the concession for the benefit of Tunisian small and medium-sized enterprises cannot in any case be less than 15%, in all cases where there is a works component and where the national industrial and economic fabric is likely to take over part of the project</p> <ul style="list-style-type: none"> - Establishment of a mechanism of administrative pre-contractual referral <p>Administrative authorisations</p> <p>The award of the contract prevails over all authorisations unless the contract</p>	
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			stipulates otherwise	
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14	<p>Other legislation related to PPUB and PPPs</p>	<p>Point out Regulations</p> <p>Sectoral legislation</p> <p>Decree No. 2005-3280 of 19 December 2005, setting the conditions and procedures for granting the concession for financing, building and operating sanitation facilities to private persons</p> <p>http://www.igppp.tn/sites/default/files/Decret%202005-3280.pdf</p> <p>Decree N°99- 2318 of 11 October 1999 approving the convention of concessions of the public domain of railways concluded on 9 September 1999, between the State and the national company of Tunisian railways.</p> <p>http://www.igppp.tn/sites/default/files/Decret%201999-2318.pdf</p> <p>Law n°2004-33 of 19 April 2004, on the organisation of land transport</p> <p>http://www.igppp.tn/sites/default/files/</p>	<p>Relationship-Influence with PPUB and APP</p> <p>La nécessité d’harmoniser la réglementation sectorielle avec le nouvel arsenal juridique se rapportant au PPP</p>	
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		<p>Loi%202004-33.pdf</p> <p>Decree of 20 April 1987 n° 87-654 determining the forms and conditions of the concessions of occupation of the public road domain of the State and Decree 87-655 of 20 April 1987 on the road infrastructures</p> <p>http://www.igppp.tn/sites/default/files/Decret%201987-654.pdf</p> <p>Decree-law n°62-8 of 3 April 1962 creating STEG as modified by law n°70-58 of 2 December 1970 and completed by law n°96-27 of 1 April 1996</p> <p>http://www.igppp.tn/sites/default/files/Document%2012.pdf</p>		
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15	Possibility of creating new PPUB and PPP regulations	How to carry it out, phases and persons to be involved	What Territorial-Administrative Scope?	
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16	Possibility to amend existing legislation PPUB and PPPs	Way to do it	What Territorial-Administrative Scope?	
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		<p>Propose the necessary amendments to the public accounting code to take into consideration the accounting treatment of resources from concessions.</p> <p>Revising the tax system to take into consideration the specificity of public-private partnership contracts and setting up an adequate tax system for this type of contract</p>	Ministry of Finance	
17	Possibility Regulatory implementation (new or amended) PPUB and PPPs	Way to do it	What Territorial-Administrative Scope?	
18	Problem Identification/implementation of PPUB and PPP regulations	<p>Point out if there are any specific problems or any loopholes in PPUB and PPP regulation</p> <p>Several problems have been identified, not in the text of the law but in its application:</p> <ul style="list-style-type: none"> - The multiplication of PPP stakeholders and the difficulty of communicating between them - Insufficient financial and material resources for the PPP body 	Identify such problems, loopholes and other regulatory conflicts.	

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- Lack of a comprehensive information system capable of processing data on PPP contracts
- Insufficient logistics between the public entities and the body to provide it with the necessary data and statistics.
- The banking system is reluctant to support investors in PPP projects
- Absence of the role of the Council and of a clear national vision in this field
- The very long duration of the study preparation phase and the preparatory phase of partnership projects and a consequent delay in the processing of files
- Lack of effective monitoring and evaluation of PPP contracts
- Insufficient identification of priority projects

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19	<p>PPUB and PPP regulations and other applicable to the Demonstration Action (Concrete Project)</p>	<p>Providing legislation that regulates and conditions the execution and development of the project</p> <p>National Sanitation Board</p> <p>http://www.igppp.tn/fr/dynamique-ppp/appel-la-concurrence/avis-g%C3%A9n%C3%A9ral-%C3%A0-candidature-n%C2%B00012020-ppp-projet-de-la-station</p> <p>Partnership contract for the design, construction, operation, maintenance and upkeep of the future wastewater treatment plant located in El Hessiane, North Tunis investment value 257300000</p> <p>- wastewater treatment plant Gabes investment value 175 000 0000</p> <p>Société Nationale des Chemins de Fer Tunisiens</p> <p>- Integrated redevelopment of the Sousse railway station</p> <p>- Gabès-Medenine railway line: This link will allow, in a first phase, to serve</p>		
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		<p>the city of Tataouine and the port of Zarzis.</p> <p>- Kasserine-Sousse railway line</p> <p>Tunisian Chemical Group</p> <p>The Tunisian Chemical Group (GCT): a sea water desalination plant in Gabes, worth 150 million Dinars (MD), as part of a public-private partnership (PPP) programme.</p>		
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20	Other matters and policy areas linked to PPUB and PPPs	Point out which other matter and policy area can be affected by PPUB and PPP	<p>Taxation, Competition, Economic and Monetary Policy...</p> <p>Competition, Economic and Monetary Policy...</p>	
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21	Examples of public procurement of PPUB co-production with SSE actors	Point out successful practices/examples of public procurement of PPUB co-production with SSE actors in the country	Provide references and functional and territorial development framework of such actions and explain reasons for success, differences and similarities with demonstrative action	
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22	Other issues to highlight	Issues considered relevant to PPUB and	<p style="text-align: center;">Co-production, a model for fair and sustainable societies</p>	
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		PPP regulation		

CHALLENGES & RECOMMENDATIONS:

To be completed by the local partner

Report of the Ministry of Finance (2021) on the PPP investment project and concession contracts

<http://www.gbo.tn/ar/node/1097>

Obstacles to implementing public-private partnerships

- The multiplication of PPP stakeholders and the difficulty of communicating between them
- Insufficient financial and material resources for the PPP process
- Lack of a comprehensive information system capable of processing data on PPP contracts
- Insufficient logistics between the public entities and the body to provide it with the necessary data and statistics.
- The banking system is reluctant to support investors in PPP projects
- Lack of a clear national vision and role for the Council
- The very long duration of the study preparation phase and the preparatory phase of partnership projects and a consequent delay in the processing of files
- Lack of effective monitoring and evaluation of PPP contracts
- Insufficient identification of priority projects

Recommendations:

- Effective establishment of the PP strategic council
- Strengthening the role of the PP authority and the establishment of a specific status for its agents
- Putting in place mechanisms for dialogue and effective cooperation between the various stakeholders
- Better control of deadlines concerning the study preparation phase
- Recruitment of qualified personnel to ensure the monitoring and evaluation of PPP projects
- Implementation of an integrated information system to monitor project implementation

Go-production, a model for fair and sustainable societies



MEASURES TO BE IMPLEMENTED:

To be completed by the local partner

OTHER INTERESTING SUGGESTIONS/NOTES:

To be completed by the local partner

IDENTIFIED CONFLICTING ISSUES (if any):

To be completed by the local partner

