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# Conceptual principles of state policy of regulation of development of public- private partnerships

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## Abstract

The purpose of the proposed research is to form conceptual state policy foundations of regulating public-private partnerships development of countries with economies in transition. The need for substantiation of the regulating state policy of public-private partnership development in the transition economy and transformation processes has determined the topic relevance. The development of theoretical foundations for the state policy is based on systemic and institutional methodological approaches. There were used the method of comparative analysis, statistical analysis, structuring, method of abstraction and formalization. It has been determined that insufficient activity of countries with economies in transition in the public-private partnership projects implementation is due to imperfect legal framework, lack of clarity in the distribution of risks between agreement participants, political crisis and instability, lack of a unified state policy to develop partnerships. The principles of promoting the public-private partnership relations in countries

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with economies in transition have been identified, which include the formation of advanced legal mechanisms and systems of regulatory bodies, that monitor the public-private partnership implementation; stakeholder support by taking into account private interests, public authorities and end users; careful business partners selection. Basic determinants and a set of conceptual requirements for policy formation have been formed.

**Keywords:** investment; state regulation; state policy; public administration; public-private partnership.

## Principios conceptuales de política estatal de regulación de desarrollo de alianzas público-privadas

### Resumen

El propósito de la investigación propuesta es formar bases conceptuales de políticas estatales para regular el desarrollo de asociaciones público-privadas de países con economías en transición. El desarrollo de los fundamentos teóricos de la política de Estado se sustenta en enfoques metodológicos sistémicos e institucionales. Se utilizó el método de análisis comparativo, análisis estadístico, estructuración, método de abstracción y formalización. Se ha determinado que la insuficiente actividad de los países con economías en transición en la implementación de proyectos de asociación público-privada se debe a un marco legal imperfecto, falta de claridad en la distribución de riesgos entre los participantes del acuerdo, crisis política e inestabilidad y falta de un estado unificado sobre política de desarrollo de alianzas. Se han identificado los principios para promover las relaciones de asociación público-privada en países con economías en transición, que incluyen la formación de mecanismos legales avanzados y sistemas de organismos reguladores, que monitorean la implementación de la asociación público-privada; apoyo de las partes interesadas teniendo en cuenta los intereses privados, las autoridades públicas y los usuarios finales; cuidadosa selección de socios comerciales. A modo de contribución, se han formado determinantes básicos y un conjunto de requisitos conceptuales para la formación de políticas.

**Palabras clave:** inversión; regulación gubernamental; políticas públicas; administración pública; asociación público-privada.

## Introduction

In the context of reforming public administration system, difficult economic situation against the background of pandemic crisis special importance for national economies and individual territories development is intensifying investment activities, which, given limited budget resources, requires additional funding for projects in various economy sectors. Such an effective mechanism for promoting innovation and investment is public-private partnership as an alliance of public authorities and private sector, on the basis of which development projects can be implemented in strategically important sectors of the economy.

However, the realisation of public-private partnership requires an implementation of appropriate measures at the level of public policy and public administration, which will create favorable conditions for attracting and using investment resources, perfect legal framework that can take into account the specifics of government and socio-economic development. Thus, the purpose of proposed study is to form conceptual foundations of public policy to regulate the development of public-private partnerships in transition economies.

### 1. Literature Review

An analysis of literature on the study subject showed that there is no unambiguous definition of this concept, as scholars and practitioners reveal it from different positions. Subjects of public-private partnership are, on the one hand, private partners, and on the other - public sector, which includes not only public authorities but also local governments, as well as non-profit, non-governmental, public organizations, initiative groups, charitable foundations.

Today, there is no common terminology for all countries, which reveals the relationship of partnership between public authorities and business. This is due to differences in goals, objectives, priorities, regulatory framework, economic development level and specifics of individual countries social policy, as well as functions of public authorities and the degree of public administration development. For example, according to Ball R. research, World Bank, world's leading financial institutions, most European countries use the abbreviation public-private partnership (Ball *et al.*, 2007).

In the UK, term «Private Finance Initiative» (PFI) is used, in France terms «concession» and «mixed economy community» (SEM) are common, in US, Australia and Canada - P3 or Public-Private Partnerships. In Canada, the term «public-private partnership» is not used in all economic activity

areas, but only in the provision of public services and public infrastructure. In countries with economies in transition and post-Soviet countries, the term «state-private partnership» is used due to underdeveloped system of public authorities and regulatory framework peculiarities. Thus, in Ukraine, according to the Law of Ukraine «On State-Private Partnership» state is the initiator of most state-private partnership projects, identifies priority economy sectors, the development of which is impossible solely through state efforts (Law «On State-Private Partnership», 2010).

The most common «public-private partnership» term interpretation is given by the World Bank: « it is an agreement between public and private sides on the production and provision of infrastructure services, which aims to attract additional investment and is a means of improving budget funding efficiency» (Ball *et al.*, 2007: 289).

In turn, UN Economic Council defines public-private partnership as a partnership between a state organization and a private company in the form of medium- or long-term relationships, in which partners agree to work closely with each other to improve services for the benefit of population (Green Paper on Public-private partnerships and Community Law on Public Contracts and Concessions, 2004).

European Investment Bank understands public-private partnership as a relationship established between private sector and public authorities, often with the aim of drawing on private sector resources and / or experience in assisting the provision and supply of state sector assets and services. public-private partnership is considered in more detail by the International Monetary Fund, which considers not only the partnership essence, but also its main characteristics:

1. emphasis on providing services and investing by the private sector;
2. significant risk transfer from the government to private sector. European Economic Commission for Good Governance in the field of state-private partnership includes following in characteristics of public-private partnership:
  - long-term provision and providing of services (sometimes up to 30 years);
  - risks transfer to private sector;
  - variety of contracts forms concluded by legal entities with state and municipal structures (Green Paper on Public-Private Partnerships and Community Law on Public Contracts and Concessions, 2004).

A fundamental description of public-private partnership has been provided by the researcher E. Savas, who noted that:

1. public-private partnership is any agreement in which public and private sectors of the economy come together to produce goods and provide services;
2. public-private partnership - complex, multi-partner infrastructure project;
3. public-private partnership defines formal cooperation between business, society and local authorities in order to develop the territory and improve population living conditions, within which traditional roles of the state and private sector are redistributed (Savas, 2000).

However, the author does not specify conditions under which the interaction of public and private sectors will be defined as public-private partnership. In the interpretation of public-private partnership relationship, E. Klein and D. Theisman emphasize the common goal of partners to create a public-private partnership in the joint production form, in the process of which the distribution of risks, costs and future profits is obligatory. However, authors do not find differences between public-private partnership and other forms of cooperation between state and private sector (Klijn and Teisman, 2000).

Transition economies researchers, such as I. Neykova, share US and Western European scholars' views noting that, the concept of SPP can be implemented in the most important economy areas (social sphere, transport, energy, etc.), in particular in the economy innovation sector (Neykova, 2010). In the context of public administration decentralization, it is advisable to pay attention to the definition given by Zapatrina I. and Lebeda T., who consider public-private partnership as an alliance of public authorities and private business in order to implement projects in a wide range of activities - from the development of strategically important economy sectors to providing public services nationwide or on individual territories (Zapatrina and Lebeda, 2011).

According to Karpa M. (Karpa, 2017), activities of the state partner in the model of state-private partnership are in the plane of ensuring primarily public interests, interests of local communities, solution to state and local issues.

The analysis allows us to note that the reason for differences in the interpretation of public-private partnership is the difference in perception of the importance of partnership between government and business in the modern public administration system (Abramova *et al.*, 2007; Koblianska *et al.*, 2020; Kosach, 2017). However, common denominator is the interpretation of public-private partnership as a mechanism for cooperation between public administration and business to achieve a common goal while pooling resources to increase benefits for each side.

It is also possible to identify following public-private partnership characteristics: long-term nature of the relationship, sharing of risks, responsibilities, costs between partners, and defining benefits for each side of the partnership (Alexander, 2010; Alexander, 2012; Ayres, 1992).

These approaches to the consideration of this concept also emphasize the interest in public-private partnership for both state and business, which in the future benefits them both. Thus, public-private partnership is a system of cooperation and promotes the innovation development, the formation of innovation infrastructure, budget funds efficient use.

## 2. Methodology and Methods

The theoretical and methodological basis of the study was formed by scientific works of leading scientists on this topic. The development of theoretical foundations for the state policy formation to regulate the development of public-private partnership is based on systemic and institutional approaches.

To achieve this goal there were used general scientific methods of phenomena and processes cognition: the analysis and generalization of theoretical sources and scientific literature; method of comparative analysis - to compare factors influencing the formation and development of partnerships in different countries; statistical analysis - to study dynamics and identify trends in public-private partnership processes; structuring method - to identify individual factors influencing the formation of policy on certain classification criteria; method of system analysis, method of abstraction and formalization - for the development of state policy conceptual foundations to regulate the public-private partnership development; graphic method - to display the theoretical and methodological material of the study.

## 3. Results

Current trends in public administration in industrialized countries do not focus on competition, but on cooperation and partnership as the basis of business development. Public-private partnership as a form of interaction between public and state sectors is widespread in many countries around the world due to the possibility of implementation in any area where private and public interests are binded (Büthe *et al.*, 2011; Derhaliuk *et al.*, 2011; Eisner *et al.*, 2018).

We are talking about both small and large-scale long-term investment projects. At the same time, in EU countries, public-private partnership

is considered a priority as a mechanism for combating social inequality and as a factor in the society development. In turn, in United States such partnership is primarily associated with the infrastructure modernization and economic development of cities (Gonta *et al.*, 2016; Gechert *et al.*, 2018; Gonta *et al.*, 2017).

In developed countries, the area of public-private partnership projects - transport and communication facilities (USA, Australia, UK, Spain, South Korea), education, information technology (Germany, UK), health care (UK, Canada), recycling waste (South Korea, Canada), water use (USA). In developing countries, priority is given to the use of public-private partnership in the roads and airports construction, as well as water treatment facilities (India, Brazil, Mexico, Saudi Arabia). Post-Soviet countries and countries with economies in transition prefer the construction of roads, airports, subways and tunnels (Bulgaria, Czech Republic, Poland, Ukraine).

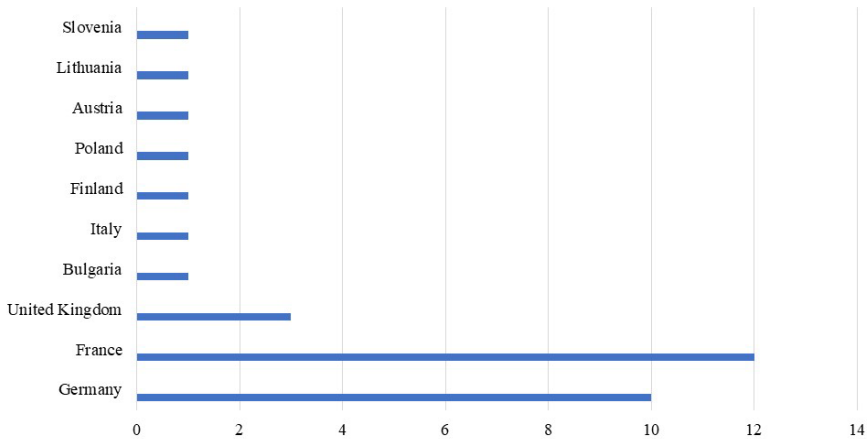
In 2020, Germany came out on top in terms of implemented public-private partnership projects costs among European countries (the total cost of implemented projects was 2.8 billion euros), with 10 projects implemented (Market Update Review of the European Public-Private Partnership Market, 2020). France ranks second in terms of funding, but it is leader in the number of projects (12 implemented projects). In 3rd place, both in terms of quantity and value, the United Kingdom (Fig. 1).

According to Market Update Review of the European Public-Private Partnership Market (2020), the largest number of projects was implemented in the field of education (10), transport (7), cultural and recreational sphere (6). The most significant public-private partnership projects implemented in 2020 include: A3 Road Widening (EUR 1.5 billion) in Germany; - A49 Kassel-Schwalm Motorway - (EUR 1 billion) in Germany - Sofia Airport Concession - (EUR 881 million) in Bulgaria - A465 Dualling Section 5 & 6 - (EUR 716 million) in the United Kingdom - Route Center- Europe Atlantique - (EUR 548 million) in France.

Thus, global trends prove high efficiency of public-private partnership as a form of interaction between the state, business and society. This is confirmed, firstly, by the quantitative growth of public-private partnerships in the world and in the EU (number of projects and total investment in them). Thus, 409 projects worth about \$ 100 billion were implemented in 2019. USA, which is 100 projects more than in 2017 and 74 projects more than in previous period (Market Update Review of the European Public-Private Partnership Market, 2019).



**Fig.1. Number of public-private partnership projects implemented in European countries in 2020**

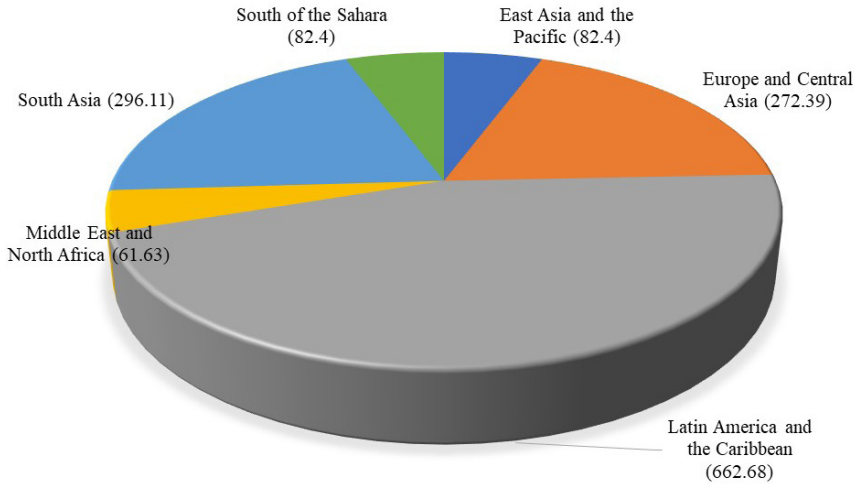


Source: compiled by the authors based on information of the Statistics Service of the European Union.

Another positive trend of public-private partnership processes is the diversification of transaction market by countries and economy sectors. This process has been observed in the EU since 2006. In the United States, public-private partnership diversification has an international focus, meaning that public-private partnerships are used to address socio-economic problems of other countries (for example, projects aimed at developing the medical system in Africa) (Ivanova *et al.*, 2022; Khudolei *et al.*, 2021; Zhavoronok *et al.*, 2022).

If we consider the geographical diversification of public-private partnership projects implementation (Fig. 2), then for the period from 1990 to 2018 Latin American and Caribbean countries are leaders in public-private partnership projects investing – they account for \$ 662.68 billion investments (45% of total investment). In second place - countries of South Asia with investments in the same period of \$ 296.11 billion. Europe and Central Asia account for \$ 272.39 billion in public-private partnership investment (Market Update Review of the European Public-Private Partnership Market, 2019).

**Fig.2. Geographical diversification of public-private partnership projects, billion dollars**



Source: compiled by the authors based on Market Update Review of the European Public-Private Partnership Market.

State sector participation in the financing of major infrastructure projects is a key form of public-private partnership in Latin America and Southeast Asia. Similar experiences are also common in Morocco, Jordan, Moldova and Slovenia. The main problem facing national economies of many countries in the process of establishing public-private partnerships is to reconcile the contradictions between public sector and business and minimize public-private partnership project each side risks (Kosach *et al.*, 2016; Lytvynenko *et al.*, 2020).

If we consider the experience of implementing public-private partnership projects in countries with economies in transition, the formation of their business-government partnerships began much later than in the world. This is due to the transition of these countries to market economies in the 90s of twentieth century and, as a consequence, slow formation of the business sector, appropriate regulatory mechanisms and a proper regulatory framework. For example, in Ukraine as a post-Soviet country, between 1991 and 2012 only 58 public-private partnership projects were launched, 2 of which were terminated. The basic law regulating public-private partnership relations (according to Ukrainian law - public-private partnership) was adopted only in 2010.

It laid institutional foundations for improving the provision of socially significant services in the industry, especially in infrastructure economy sectors, through the participation of business sector on publicity principles, transparency, proportionality, fairness and non-discrimination. The largest number of public-private partnership projects was implemented in 2012 - 21.

Since 2013, there has been a significant decline in the formation of partnerships between government and business - thus, in 2014 only 1 project was implemented, and in 2015-2016 projects in this area were not implemented at all, although contracts were concluded (in 2015 were concluded 177 public-private partnership agreements, in 2016 - 186).

Instead, in 2019 the number of public-private partnership projects was already 13. As of January 1, 2021, on terms of public-private partnership 192 agreements have been concluded in Ukraine, 39 of which are being implemented (29 - concession agreements, 6 - agreements on joint activities, 4 - other agreements), 153 agreements are not implemented (118 - not executed, 35 - terminated / expired) (Official site of the Ministry of Economy of Ukraine, 2020).

Thus, not all public-private partnership agreements (projects) are being implemented in Ukraine. Main reasons for this are, first of all, the imperfection of legal framework, corruption, lack of clarity in the distribution of project risks between the agreement sides, political crises and instability, unattractive investment climate, lack of a single targeted public policy to develop partnerships.

There are several key points that should promote the development of public-private partnerships, especially in countries with economies in transition:

1. Formation of perfect legal mechanisms and controlling bodies systems that monitor public-private partnership projects implementation.
2. Stakeholder support by taking into account interests of the private sector, public authorities and end users, achieved through open dialogue between partners.
3. Careful business partners selection.

These trends require key changes, which will relate primarily to the regulatory framework of public-private partnerships, and increase private investors confidence to the state as a partner in the proposed relationship. The use of public-private partnership as an effective tool for the development of priority industries is determined, firstly, by taking into account interests of business directly; secondly, increasing use efficiency of the state property and budget funds; thirdly, by stimulating private sector to develop entrepreneurial activity in areas that have the greatest potential

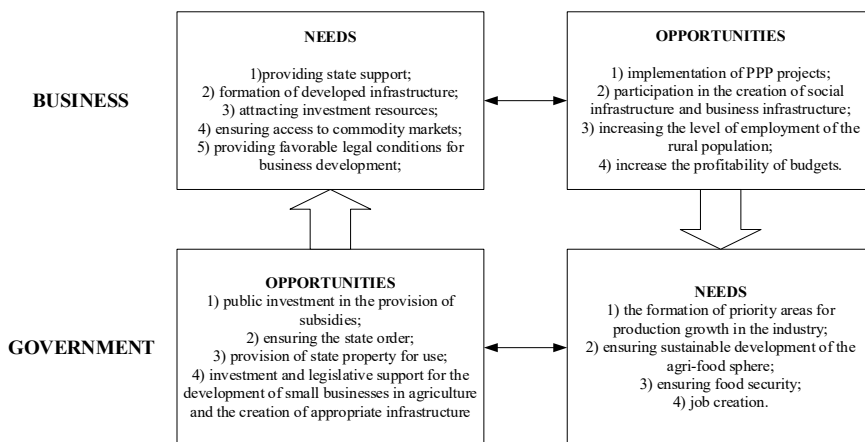
for quality economic growth. These areas are reflected in the state budget expenditures, legislative initiatives and development of strategic programs for public-private partnership.

The state regulation process of public-private partnership relations is accompanied by the formation of appropriate policies and implementation mechanisms.

Public policy goals to regulate the development of public-private partnership are:

- achievement of innovative development, which involves integration of enterprises for the joint development and innovative projects implementation in the priority economy areas;
- expansion of investment opportunities - involvement in public-private partnership relations makes business entities stable and investment attractive by reducing costs and streamlining technological processes;
- development of the institutional environment to ensure effective public-private partnership agreements implementation;
- formation of institutional, economic and legal mechanisms for public-private partnership development, based on the use of appropriate tools;
- formation of strategic guidelines for infrastructure development.
- In this context, the key task of public-private partnership state regulation policy is to find a balance between interests, potential and stimulus of public and private partners, taking into account opportunities of country socio-economic development (Fig. 3).

**Fig. 3. Interaction of interests and opportunities of public-private partnership agreement sides**



Source: compiled by the authors.

Business and state interests, on the one hand, coincide, as both sides of the partnership are interested in improving economic efficiency, increasing prosperity and profitability. On the other hand, social outcome of the public-private partnership project is a state priority, while business is more interested in making a profit. Coordination of the state and business entities interests in the implementation of state regulatory policy of public-private partnerships development is a complex task, that must take into account legal and organizational principles.

Mutual intersection of considered interests, needs and opportunities for both partnership sides under the influence of state regulatory policy mechanisms determines prospects of public-private partnership projects implementation based on the study of opportunities and prospects for the development of certain management areas. Despite priorities of economic sectors, directions of public-private partnership projects implementation should be consistent with the requirements of market environment and the development of market infrastructure in the presence of legislative restrictions (Fig. 4).

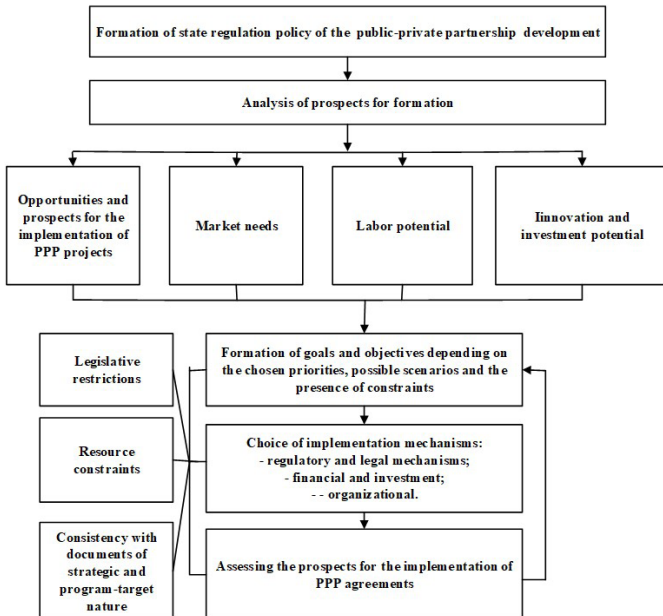
Institutional role of the state is characterized by performing a set of functions and the ability to solve a whole set of issues, arising from changes in internal and external environmental impact on public-private partnership projects implementation. At the same time, market levers, a combination of business development priorities and goals, and state economy sector are

an important factor in intensifying competitive relations, implementing diversification, business integration, reorganization and innovation.

The implementation of state policy of regulating public-private partnership development is influenced by the following factors:

- 1) Exogenous. The influence of these factors should be separated by levels. Thus, mega-level is represented by such factors as international economic integration, globalization, scientific and technological progress, environmental factor. At macro level, the most influential factors are public economic policy, investment climate, budget financing and state support mechanisms. Mesorevel or territorial is characterized by such factors as geographical location, natural and labor resources, climatic conditions, demographic situation.
- 2) Endogenous. Factors of this type include level of business structures' potential production, level of innovation potential development, competitiveness of services to be provided under the public-private partnership project, both partners investment opportunities.

**Fig. 4. Basic formation determinants of the public-private partnership development state regulatory policy**



Source: compiled by the authors.

- 3) System. Factors such as an effectiveness of market mechanisms (competition, price regulation, regulatory support, financial support, investment and innovation attractiveness of a country or region) have a systemic impact on the implementation of state regulatory policy.
- 4) Structural. The most influential factor in this group is the ratio of goods supply with socio-aggregate demand for these goods.
- 5) Institutional (infrastructural support for the public-private partnership projects implementation, the development of public authorities system involved in the regulation of public-private partnership; the degree of public-private partnership capacity development in a particular area; the stability of interaction between public-private partnership entities.

This determines a set of conceptual requirements for the formation of state policy to regulate the development of public-private partnership (Table 1).

The basis for state policy implementation to regulate public-private partnership development is the formation of institutional, economic and legal mechanisms to support and regulate public-private partnership at national, regional and municipal levels. This task is a priority, because without its solution it is impossible to talk about institutionalization of public-private partnership agreements regulation process.

**Table 1. Conceptual requirements for the formation of state policy to regulate the development of public-private partnership**

<b>Requirement</b>	<b>Contents of the requirement</b>
Integrity	The state policy of regulating public-private partnership development is one of strategic development tools of the state and a component of the state economic policy
Consistency	The effectiveness of state policy of regulating public-private partnership development is based on relevant projects implementation, developed in accordance with monitoring measures.
Motivation	Implementation of measures to motivate business and government officials to initiate public-private partnership agreements
Decentralization	Taking into account principles of public administration decentralization in the formation of priority areas for public-private partnership projects

Source: compiled by the authors based on information of the Statistics Service of the European Union.

The most common tools and approaches for quality implementation of this policy are legal regulation of contractual relations, use of short-term and long-term program documents that contribute to public-private partnership agreements conclusion and their effective implementation, strategic management, as well as implementation of financial, advisory, information support measures.

Comprehensive implementation of these mechanisms is the basis of state regulation process, which, subject to local governments involvement, is transformed into a process of public regulation. This will make it possible to form legal, organizational and economic foundations for the development of priority economic areas not only at the state but also at the regional and municipal levels.

### **Conclusion**

The role of public-private partnership in socio-economic development varies for different countries, but there is a clear tendency to increase its impact on the process of improving the functioning of state sector problematic and priority branches. The state policy of regulating public-private partnership development is an important component of the state socio-economic policy. Its focus on public-private partnership, as an object, is in parallel with the state policy in other areas, related to infrastructure projects implementation based on this type of contractual relationship.

This policy provides a creation of partnership system between government and business, which includes a set of measures to support public-private partnership, provided by relevant government programs. The development of public policy to regulate public-private partnerships development involves structuring goals, setting priorities and specifying tools, as well as development guidelines for public-private partnership subjects, including public authorities at all levels, business, scientific and financial structures.

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