

Public-Private Partnership as a Paradigm for Building Socially Responsible Business: Successful Implementation and Plotting of Corruption Schemes and Related Criminal Liability

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Abstract

The purpose of the study is to consider the role of public-private partnerships in reducing the number of corruption and crime manifestations and develop recommendations for improving the integrity of government representatives and private partners. In the course of the study, the following general scientific methods were used: analysis and synthesis, graphical method, statistical analysis, comparative analysis, and case study method. The main results include an analysis of legislative support for public-private partnerships, which indicates that the current legislative framework is imperfect and insufficiently detailed. The dialectical analysis of corruption schemes established the duality of the effects of public-private partnership on crime and corruption: in some cases, public-private partnership contributes to the implementation of corruption and crime schemes; in others, it is a means of increasing integrity.

Keywords: Sustainable Development, Government, Private Partners, Social Impact, Environmental Impact, Integrity.

Introduction

Nowadays, a number of political, financial, social, environmental, epidemiological, and other risks threaten the economies of both developed and developing countries. This applies to the latter to a greater extent, because the imperfection of state government and lack of experience in anti-crisis management only exacerbate external and internal problems (Curanovic, 2022). Therefore, the current stage of state-building in Ukraine requires maximum efforts both on the part of officials and authorities, as well as from businesses and society (Dovc et al., 2022; Mansur et al., 2022; Petrychenko et al., 2022).

Socially responsible behaviour of business entities is based on the principles of the concept of sustainable development, namely, the coordination of the current interests of humanity and the interests of future generations (Boyd-Barrett, 2023). This concept considers the world as an integral system in which a balance is maintained between the needs of the economic, social, and environmental spheres.

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Thus, the socially responsible business aims not only to meet its own needs and maximise the value of business and profits, but also to be useful for society and to preserve and restore natural resources.

Today, not all businesses can be recognised as socially responsible. This is conditioned by the lack of motivation, incentives for the transition to socially responsible business conduct, lack of knowledge about the organisational aspects of such a business, etc. (Liadskyi et al., 2022). That is why the main role in this issue is played by the state, whose task is to stimulate the development of social responsibility of businesses by adopting relevant legislative acts and programmes, and encouraging business owners through motivational and informational measures to increase their social responsibility (Potrashkova, 2022; Leshchenko & Leshchenko, 2023). Crime and corruption also lower the social responsibility of businesses, so the state must take action to reduce their prevalence.

First of all, state measures to increase social responsibility should concern state partners, that is, businesses that cooperate with the state on the basis of a financing agreement and other agreements. Such cooperation is defined as a public-private partnership (PPP) and is legally substantiated and consolidated. PPP is used in the fields of mechanical engineering, transport, healthcare, provision of social and educational services, management of architectural monuments, construction, electricity, waste management, water use, heat supply, etc., that is, the most socially significant sectors of the economy. That is why it is critically important to increase the social consciousness of the owners of such businesses, in particular, to take measures to minimise corruption and crime in these areas.

Ukrainian and foreign researchers were involved in the development of PPP. H. Tarasiuk et al. (2020) comprehensively reveal the theoretical foundations of PPP in Ukraine, in particular, the conditions, stages, basic principles, features, benefits for the state and businesses, and barriers to the development of PPP. As a key problem, researchers have identified the lack of budget funds to finance socially significant projects, and the growing dissatisfaction of the population (Riabchuk et al., 2022; Sinaj et al., 2022). However, the researchers did not detail the reasons that led to this problem, in particular, they did not consider the problem of corruption and ways to reduce it. Minimising corruption is indicated only as one of the advantages of using PPPs, but it is not indicated that corruption is also one of the factors hindering the development of PPPs.

Worthy of attention are the studies by Z. Smidova (2020), in which anti-corruption measures are divided into effective, ineffective, and measures with contradictory effectiveness in the practice of developed countries; the study by M. Heydari et al. (2021) reveals in detail aspects of corruption in the context of its

impact on PPP, the approach of game theory to corruption in PPP, decision-making criteria for selecting and evaluating PPP; the study by C. Bavington (2021), which describes the future of anti-corruption mechanisms and the achievement of sustainable development goals by PPP; the study by V. Rudenko et al. (2022), and many others. Summing up the results of the analysis of literature sources, it can be noted that the works of researchers extremely fragmentary describe the possibilities of implementing corruption schemes in the field of PPP, in particular, there are almost no specific examples of such schemes and ways to prevent them, and recommendations on anti-corruption policies require adaptation to Ukrainian realities. Therefore, the issue of building socially responsible businesses-participants of PPP by directing their activities to balance the interests of the economy, society, and the environment and increasing the efficiency of such activities in the Ukrainian conditions of functioning, in particular, through the prevention and minimisation of corruption, is relevant. In this context, the result of the study should be methodological recommendations for minimising and preventing corruption in PPPs, developed as a result of dialectical analysis of examples of successful implementation of corruption schemes in Ukraine (Hribov, 2022; Kisil & Tarasenko, 2022).

The purpose of the study is to consider the role of public-private partnerships in reducing the number of corruption manifestations and develop recommendations for improving the integrity of government representatives and private partners.

Materials and Methods

In the course of the study, methods of analysis and synthesis were used to assess the legislative framework on the issue under study; the graphical method and the method of statistical analysis were used to determine the structure of contracts concluded on the terms of PPP; the method of comparative analysis, which served to study foreign experience with PPP; the case-study method – to investigate examples of the implementation of corruption schemes.

The complex nature of the study determines its division into several consecutive stages. The first stage contains an analysis of the legislative support of PPP, including the key characteristics of the Law of Ukraine No. 2404-VI “On Public-Private Partnership” (2010) and the Draft of the Law of Ukraine No. 9015 “On the Strategy of Sustainable Development of Ukraine until 2030” (2018), defining the areas in which it is applied, outlining the main features of PPP, etc. Moreover, at the first stage, the current state of PPP is briefly analysed and the share of contracts that are actually being implemented out of the total number of PPP contracts concluded today is determined, and it is indicated in which areas these contracts are concluded.

At the second stage, the foreign experience of using PPPs is analysed on the example of such developed countries as Great Britain, USA, Canada, France, the Netherlands, and Denmark. It is determined that developed countries use PPPs not only for the purpose of the mutually beneficial partnership between the state and private partners, but also to achieve sustainable development goals, namely, to balance the interests of business, society, and the environment.

At the third stage, the advantages of PPPs in reducing corruption manifestations, and the disadvantages of PPPs in the context of applying new corruption opportunities in this area, are considered. In the context of this, it is established that PPP at the current stage of development in Ukraine can both contribute to corruption and reduce its level, so its legislative support requires further revision and improvement. In addition, at the third stage of the study, a dialectical analysis of the successful implementation of corruption schemes was carried out on the example of two often used schemes.

Results

PPP in Ukraine: legislative support and the current state

PPP is used in various fields of activity, the main feature of which is the provision of socially significant services, in particular, transport, education, culture, health, environmental protection, utilities, etc. (Bidolakh, 2023; Dzyba & Saveliev, 2023; Prokopenko et al., 2023). The legislative support for PPP is primarily the Law of Ukraine No. 2404-VI “On Public-Private Partnership” (2010), in which the following signs of Public-Private Partnership are given: creation and/or construction of a PPP object and/or management of such an object; long-term relationship (5-50 years); transfer of part of the risks to a private partner in the process of implementing PPP; making investments by a private partner in a PPP facility. The principles of PPP include: equality before the law, prohibition of any discrimination of rights, coordination of interests of public and private partners, ensuring higher efficiency of activities than in the case of such activities carried out by a state partner without involving a private partner, etc.

In addition to the Law of Ukraine No. 2404-VI “On Public-Private Partnership” (2010), the directions of PPP development are paid attention to in the Draft of the Law of Ukraine No. 9015 “On the Strategy of Sustainable Development of Ukraine until 2030” (2018), the adoption of which is conditioned upon other inefficient and environmentally dangerous structure of development management in Ukraine, inappropriate economic development and welfare of the population of Ukraine, international Ukraine’s commitments to sustainable development, etc. Among the key tasks of this strategy is the establishment of organisational infrastructure for supporting entrepreneurship in the form of technology parks,

business incubators, and networks for providing services to enterprises, in particular, on the basis of public-private partnerships. One of the guiding principles is the participation of business representatives and social partners, which is to ensure the establishment of social dialogue, the introduction of corporate social responsibility and public-private partnerships to promote cooperation and fulfil common obligations to achieve sustainable consumption and production (Zakharchyn & Sytnyk, 2023). Thus, socially responsible behaviour of business representatives today is not only a recommended or desired area of development, but also acts as a legally fixed requirement, a norm that is supported by the state, although legislative acts on this issue still require development and detailing of organisational and other aspects. However, crime and corruption undermine these efforts, so legislative improvements must address ways to detect and prevent illegal activities.

In addition to the social and environmental impact, PPP is a mutually beneficial partnership between the state and business. For businesses, the advantages are an increase in profits, in particular, through increasing public confidence, stable development, improving business reputation, and due to this – competitiveness and preferences on the part of the state. The state also has its own benefits: increasing the number and implementation of social and environmental projects, increasing public confidence, co-financing projects, etc. (Tarasiuk et al., 2020; Blikhar et al., 2022).

However, the state's activity in concluding and executing contracts concluded on the terms of PPP is not effective enough, as evidenced by the data of the Ministry of Economy of Ukraine: as of January 1, 2022, 193 contracts were concluded on the terms of PPP, of which 31 contracts are being implemented (22 – concession agreements, 5 – joint activity agreements, 4 – other agreements), 162 contracts are not being implemented (119 – not being implemented, 43 – terminated/expired) (Status of implementation..., 2022).

Foreign experience of PPP and social responsibility of businesses

The review of the legislative framework of PPPs in Ukraine and its current state gives grounds to believe that the state's activities in implementing and ensuring PPPs are not sufficiently effective, given the imperfection of the laws providing PPPs and the share of implemented contracts in the total number of concluded contracts. Therefore, it is advisable to analyse the foreign experience of PPPs on the example of the EU countries, the USA, and Canada, where such experience is more successful (Table 1).

Table 1. Analysis of foreign PPP experience on the example of the EU, USA, and Canada

Legislative support/ responsible authority	Features
United Kingdom	
Private financing – 2 (since 2011)	Basic principles and areas: the state acts as an investor in the creation of equity; diversification of sources of financing; transparency; improvement of the risk distribution mechanism; effective price/quality ratio; centralisation.
USA	
National PPP council (since 2005), Federal Highway Agency, Global Initiatives Support Agency, Millennium Corporation, regional PPP centres	PPP has become widespread at the municipal level. Commercial firms attract on average almost a third of all basic municipal government activities in each locality, which saves local authorities from 20% to 50% of funds.
Canada	
Partnerships BC (since 2002), Agence des partenariats public-privé du Québec (2004-2009), Infrastructure Ontario (since 2005), Saskbuilds (since 2012), PPP Canada (2009-2018) (federal authority, its powers were effectively transferred to Canada Infrastructure Bank when it was established in 2017)	A world leader in the use of PPP. From the early 1990s to 2018, more than 220 infrastructure projects were developed through PPPs. As a result of the constitutional distribution of power in the country, most PPPs in Canada are headed by provincial governments, resulting in differences in PPP regulation, practice, and culture across the country. PPPs in Canada can be divided into two waves. The first one began in the early 1990s and was aimed at generating new revenue through user commissions, transferred significant risks and responsibilities to the private sector, and faced criticism for high costs and loss of government control over public assets. The second wave began in the early 2000s and retains significant government control over policy setting and asset ownership, while at the same time striving to achieve profitability by implementing

	pay-for-performance models using pay-for-availability.
France	
French PPP development centre (Mission d'appui aux PPP – MAPPP) (since 2005)	Unlike the Anglo-American model, where three separate tenders are held when choosing private partners, the feature of the French model is one tender for the entire cycle of works or services, which greatly simplifies the procedures of public administration and control and allows implementing large-scale projects.
Netherlands	
Department of public-private partnership	Followers of the British Private Finance Initiative model. As in the Canadian context, the original goal was to attract private investment in public infrastructure. Most PPPs in the Netherlands are implemented at the national level. There are two main ways to organise partnership forms. First: the public sector and private partners join an existing company or establish a joint company (in which the state as a whole has more influence). Second: representatives of the state and private business conclude agreements (contracts) on cooperation and mutual actions.
Denmark	
The first PPPs were implemented by local governments. There is no official specialised government division of the PPP	Denmark has traditionally been a slow country in implementing PPP projects. It was only in the first half of the 2000s that public-private partnerships got on the political agenda in Denmark. The first PPPs were implemented by local governments. Officially, there are currently 47 PPP projects in Denmark, but only 30 include private funding. Ministries and local governments decide for themselves whether they want to continue the PPP model.

Source: Olentsevych and Kovaliova (2014), Warsen et al. (2020).

Politicians in Europe, the United States, and Canada pay much attention to the concept of sustainable development in their countries, in particular, increasing social protection of the population, preserving and restoring natural resources, and

increasing social responsibility, in particular, in business. PPP projects in developed countries are not only beneficial for both parties (the state and business), but also stimulate the development of this concept. Considering the above, the priority measures on the part of the state should be the development of the concept and strategy of PPP, the adoption of laws on the organisation and regulation of relations in PPP (including tax and budget regulations that stimulate the development of PPP), reducing lending rates, increasing social awareness and awareness of civil servants working in PPP projects. In turn, when private partners work on PPP terms, they cannot fail to perform social functions, which also entails social responsibility (Serikova et al., 2022). Thus, the PPP allows combining the regulatory functions and competence of the public sector with the experience, resources and innovations of businesses, which ultimately leads to an improvement in the social and environmental situation in the country and stimulates economic growth (Tarasiuk et al., 2020; Klimenko, 2022; Ivanov et al., 2023).

N. Wang and M. Ma (2021) define socially responsible or sustainable development-oriented PPPs as follows: “Sustainable development-oriented PPPs are PPPs that contribute to one or more dimensions of sustainable development”. Thus, the researchers concluded that a business that cares about a positive effect on the economy, and/or society, and/or the environment is socially responsible. This statement is somewhat contradictory. For example, it is difficult to call a socially responsible business that contributes to the development of the economy or makes a positive contribution to the needs of society, but at the same time pollutes the environment and does not try to prevent it in any way. According to Z. Kisil (2022), it is more appropriate to define socially responsible PPP as follows: socially responsible PPP is a PPP that aims to make a positive contribution to one or more areas of sustainable development – economy, society, environment – without the task of the school in any of these areas.

All of the above is real and effective only if both parties – the state and private partners – completely fulfil their duties on the basis of integrity and social responsibility. However, as practice shows, these aspects are not always considered by individual civil servants or bodies, including in the PPP, as evidenced by numerous corruption schemes implemented in practice in Ukraine (100+ corruption schemes..., 2019). Therefore, it is necessary to determine how PPP can influence corruption manifestations – whether it encourages and opens up additional corruption opportunities, or vice versa – minimises the ways of applying corruption schemes.

Corruption schemes in PPPs and dialectical analysis of examples of their successful implementation

The benefits of PPP for the state and business, and for society and the environment in the case of conscientious and virtuous conclusion and execution of contracts are unconditional, but it is necessary to consider the fact that at any stage of the project implementation there may be a corruption risk. General corruption risks were formed and disclosed by C. Bildfell (2018). The researcher notes that it is extremely important to identify and prevent corruption in the early stages of PPPs, because transactions are often long-term, so corruption schemes at the beginning of a partnership can “set the tone” for the entire period, reduce their effectiveness and positive results, and contribute to new corruption manifestations at the end of projects, when public attention tends to fade. The most vulnerable to corruption risks are the project selection stage and the tender offer evaluation stage. At the testing stage of the project, unethical behaviour comes to the fore, when private partners can apply inappropriate measures to “win” over the public sector. The existence of a link between PPPs and election campaigns is ethically questionable, although this is not a violation of the law in most countries.

The corruption risks can be offset by realising the benefits of PPPs, but the problem is that both parties to transactions are not always interested in this. The following are two specific examples of successful implementation of corruption schemes that took place in Ukrainian practice. A special feature of the analysis of these schemes is that in the first example, PPP is used, but some corruption risks presented in Table 2 are implemented, and in the second scheme, PPP is not present, but its application could, unlike the first example, reduce corruption risks through the implementation of the advantages indicated in Table 2 above.

Example 1. Corruption schemes in the transport sector. The scheme, during which the same buses are declared by carriers for different routes, has become very popular. The possibility of implementing such a scheme exists due to the lack of a unified register of buses and route vehicles in localities, districts, and regions. In addition, there are competitions for different routes in different periods (TOP 20 local..., 2020).

This scheme is just one of many that have been used in the transport sector, in particular, in the field of route passenger transportation. The procedure for concluding PPP contracts in the field of transport is characterised by complexity and duration. Private partners are forced to agree on their proposal in various bodies, which can also accept or reject proposals at their own discretion, without unambiguous explanations about the decision made, because there are no clear

criteria for evaluating proposals. This makes the adoption procedure extremely subjective and is also a risky moment for the manifestation of corrupt elements.

The solution to this problem should be based on creating transparent selection conditions, introducing clear evaluation criteria for determining or refusing to accept proposals from private partners, and simplifying the procedure for concluding PPP contracts in the transport sector as a whole (100+ corruption schemes..., 2019). As can be summed up from the above, this case is associated with the implementation of corruption risk in the course of applying PPP.

Example 2. Corruption schemes in medicine. One of the most commonly used corrupt practices in medicine is the falsification and unjustified issuance of valid medical certificates. Medical examinations are mandatory for the following professions: drivers, employees of education, public catering, trade, etc., as well as for gun owners and students. Representatives of these professions and professions must undergo a medical examination, according to the results of which they must receive a certificate indicating their state of health and ability to perform professional duties or continue certain activities.

Often, such certificates are issued without passing a medical examination or even through an intermediary for a certain “reward”. It is no exaggeration to say that this fact threatens the health of society and creates risks in many areas of public life. In 2018, the government announced the creation of a unified state database of medical examinations of certain categories of persons in the healthcare system, but this system was never put into use.

The introduction of PPP can improve the quality of medical services in almost all areas, in particular, through the creation of an electronic register of medical certificates, which would reduce the possibility of their falsification and guarantee their legitimacy (100+ corruption schemes..., 2019). Thus, the second example is related to the implementation of corruption risk in the absence of PPP, that is, in this case, the use of PPP could reduce corruption manifestations (Dobroskok, 2022; Dudorov & Kamensky, 2022).

Using the example of the two above-mentioned schemes, it is proved that PPP can both contribute to corruption manifestations and minimise them, from which it can be concluded that legislative, organisational, methodological and other support for PPP in Ukraine is not effective enough and requires improvement and detail, in particular, using foreign experience. In addition, the successful application of PPP is impossible without improving the legislative framework for anti-corruption measures in general, without developing and implementing clear rules, codes, etc., that would clearly define what is meant by corruption and what consequences it has for the persons who committed it.

Discussion

As a result of the conducted research, it can be summed up that today PPPs in Ukraine can be considered from two positions: on the one hand, the procedure for concluding and executing agreements in PPPs creates additional opportunities for corruption schemes. This is conditioned by the imperfection of the legislative framework, organisational procedures, lack of transparency, insufficient motivation of participants in the process, etc. However, on the other hand, it is PPP that can become a paradigm for building a socially responsible business. Such a result is possible if both parties to contracts – both the state and business owners – fulfil their tasks, responsibilities, and their interest in the final result for society and the environment, and not just for their own benefit. Minimising these shortcomings and stimulating positive aspects should be the priority tasks of the state and private partners in the further development of PPPs and the creation of socially responsible businesses.

Ensuring transparency and fighting corruption are crucial to gaining a positive public perception of PPPs. The public tends to react negatively by participating in demonstrations where details of the PPP contract and tender process are not made public. Society is even more annoyed when project parties try to justify their lack of transparency with privacy (Osei-Kyei et al., 2019).

The effectiveness of corruption control factors in Europe or other developed countries does not indicate a priori effectiveness in Ukrainian practice. Their general nature, which is manifested in proposals to change the legislative framework, attract public attention, etc., indicates the lack of specific effective measures adapted to the Ukrainian reality. That is, these recommendations are well-known and understandable in themselves: it is really necessary to change the legislative framework, but at this stage, questions arise: who is interested in such changes, whether there are oppositionists, what arguments both sides have, what needs to be done to implement the changes, etc.

In this regard, researchers N. Ushenko et al. (2021) note the following: the existing models of social responsibility of businesses can be applied in Ukraine, since the current stage of development of social responsibility of Ukrainian business is characterised by a blurring of trends in compliance with the principles of socially responsible activities and the lack of support for social initiatives from the state and society in general. Researchers (Mohylnyi et al., 2022; Kryukova et al., 2023) determine priority areas for the development of corporate social responsibility for the national economic system, namely: social, environmental, legal, organisational, and image, and disclose in detail for each of them measures that would help reduce corruption manifestations.

The methods of increasing social responsibility identified by researchers are insufficient, and their social goal is contradictory. For example, regarding the sphere of labour relations: raising wages, flexible working hours, etc., it is difficult to call measures to increase social responsibility. These measures create more comfortable conditions for workers, but their ultimate goal may not be to get a social effect for a wide range of people, but to retain experienced specialists in the company, prevent them from moving to another company with better working conditions and, ultimately, increase the profits of the owners of the company in which they work. Maintaining product quality can also be aimed at retaining existing consumers and expanding their circle in order to generate super-profits. Even such socially significant measures as the creation of charitable foundations at the present stage of state development can contribute to new manifestations of corruption elements.

A thorough study on combating and preventing corruption was conducted by M. I. Inshyn et al. (2020). The study establishes that the existence of corrupt activities is primarily conditioned by the unsuccessful reform of economic relations in the state, the adoption of incorrect political decisions, the lack of responsibility for non-compliance with ethical rules of conduct by civil servants, and the poor financial situation of the population. One of the main and most important measures in the field of preventing and combating corruption is the legislative approval of the procedure for selecting officials of state authorities, and the main areas of work on combating corruption are: development of the institute of public administration, legislative strategy for combating corruption, exposure and punishment for committing corruption acts through the restoration of legal rights and interests of persons, prevention of corruption offences.

As one of the ways to reduce the level of corruption in Ukraine, the study suggests the use of proactive business strategies, which, unlike reactive ones, are designed to anticipate risks and other changes in the environment, and not to respond to events that have already occurred (Thompson, 2019). Such strategies are usually developed in accordance with the concept of sustainable development, because they are focused on future well-being, and one of the guiding principles of such strategies is the search for effective leaders. In the context of PPP, these are leaders among both government officials and business leaders seeking to become private partners on PPP terms. Such individuals should initially aim not at their own enrichment, but at the welfare of society and the preservation of the environment. The problem of finding such leaders lies in the established political elite, which does not allow a different opinion, for which it is profitable to conduct business using the usual methods, and also in the fact that not always those individuals who are most worthy of power strive for it. The solution to this problem may consist in increasing

social responsibility, first of all, not for businesses, but for the overall society. The public can and should actively participate in the creation of the state, for example, through democratic elections of leaders, protests against the conclusion of illegal agreements in its opinion, etc. The leader phenomenon is rather a field of study in sociological science, so to increase the social responsibility of businesses, the political, economic, and social spheres should cooperate in PPP.

Conclusions

The study analysed the current legislative framework for organising and ensuring PPP in Ukraine, and assessed the current state of conclusion and implementation of agreements concluded on the terms of PPP. The imperfection of legislative support and an insufficient share of contracts that are actually implemented out of the total number of contracts concluded on a state scale are shown. A study of foreign experience in relation to PPPs was conducted and key factors of social responsibility in PPPs mentioned in foreign sources were identified, on the basis of which barriers to the use of foreign experience in domestic practice were identified, which are related to the fact that the concept of social responsibility of businesses in Ukraine is at the initial stage of development. A dialectical analysis of examples of successful implementation of corruption schemes was carried out, which showed that PPP can both contribute to corruption and become a way to overcome it.

It is established that both in Ukrainian and foreign practice there are numerous recommendations, programmes, and plans to increase the social responsibility of businesses and reduce corruption and crime. They can be really effective under certain conditions and through effective adaptation to Ukrainian realities. However, as long as the government and business owners are dominated by people who are inclined to solve the issues of cooperation by “shortcuts” and to maximise their benefits, all these measures would not be effective, because they would not be implemented properly.

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