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PPP in Belarus: legal developments, major issues and opportunities

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LEGAL FRAMEWORK

- PPP in Belarus is regulated by the Law on Public-Private Partnership that came into force on **2 July 2016**.

The first amendments to the Law were made in 2019, taking into account the practical work on the preparation of pilot PPP projects.

- Resolution of the Council of Ministers of the Republic of Belarus on Interministerial Infrastructure Coordinating Board No. 508 dated May 27, 2014.
- Resolution of the Council of Ministers of the Republic of Belarus No. 532 dated July 6, 2016.
- Resolution of the Ministry of Economy of the Republic of Belarus No. 49 “On public-private partnership projects” dated July 27, 2016.

*CIS Model Law “On Public Private Partnership” of 28 November 2014 by IACIS.

PPP in Belarus

PUBLIC-PRIVATE PARTNERSHIP - the mutually beneficial cooperation of the state and private partners which is legally drawn up for certain term for the purpose of consolidation of resources and distribution of risks answering to the purposes, tasks and the principles determined by this Law performed in the form of the agreement on public-private partnership.

Article 1, The Law on Public-Private Partnership

The main DIRECTIONS OF INFRASTRUCTURE DEVELOPMENT using the PPP mechanism:

- **Energy infrastructure** (external supply systems, heat supply systems, gas supply systems);
- **Transport infrastructure** (road, rail, air and pipeline transport);
- **Housing and public services** (external and internal water supply and water disposal systems, heat supply systems, power-supply systems, ventilation and air conditioning systems);
- **Amenity infrastructure** (without taking into account objects of Housing and public services);
- **Education** (kindergartens, centers of child development, pedagogical complexes, schools, etc.);
- **Health service** (hospitals, clinics, ambulatory centers, diagnostic centers, sanatoria, ambulance, maternity clinics, etc.);
- **Sport and tourism** (stadiums, football arenas, sport centers, swimming pools, sports complexes, tourist complexes, etc.);
- **Culture and religion** (cultural centers, cultural and entertainment complexes, museum complexes, samples of architecture, galleries, art centers, libraries, churches, cathedrals, etc.).

PPP in Belarus

INFRASTRUCTURE INTERAGENCY COORDINATING COUNCIL (IICC)

KEY-FACTS ON IICC ACTIVITY

- In order to form the institutional basis of PPP by the Resolution of the Council of Ministers of the Republic of Belarus of 27th May 2014 No. 508 since March 2014, the IICC operates.
- IICC is a collegial body established to coordinate issues of a long-term development of infrastructure facilities, within the framework of the PPP.
- One of the main tasks of the IICC was the development of the National Infrastructure Strategy (NIS).

WHAT IS THE NATIONAL INFRASTRUCTURE STRATEGY (NIS)?

- National Infrastructure Strategy (NIS) is a pilot version of the assessment of the country's long-term infrastructure needs and the improvement of the strategic planning methodology of infrastructure development.
- In 2015, the National Infrastructure Plan for 2017-2030 was approved by the IICC, with the selection of **Top 100 projects**, including possible implementation on the PPP principles.
- Click the link to READ MORE: <https://bit.ly/3o98asg>

PPP agreement

PPP agreement shall be entered between any authorized state body and any private partner – any participant who had won the tender.

Please, note:

A mandatory requirement is that only a commercial entity of the Republic of Belarus can be a private partner.

A foreign investor is still entitled to participate in the bidding process, though, in case it is chosen to implement the PPP project, it will have to establish a company in Belarus.

PPP PROJECT STAGES

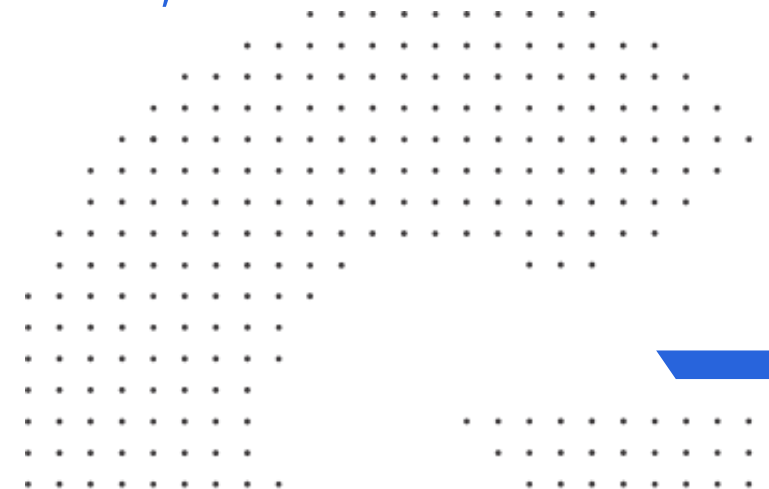
The requirements for the concept of the PPP project, the feasibility study, the competitive tender documentation, as well as the methods of evaluation of proposals for the implementation of PPP projects are established by the Resolution of the Ministry of Economy of the Republic of Belarus of 27th July 2016 No. 49 «On public-private partnership projects».

STAGE 1	STAGE 2	STAGE 3
PREPARATION, EXAMINATION AND EVALUATION OF THE PPP PROPOSAL	TENDER FOR CHOOSING PUBLIC PARTNER IN ORDER TO ENTER A PPP AGREEMENT	EXECUTION AND PERFORMANCE OF A PUBLIC-PRIVATE PARTNERSHIP AGREEMENT
Any offer on public-private partnership project implementation shall include the following: a feasibility study, public-private partnership agreement, any other related documents.	Tender is an obligatory stage of PPP project implementation apart from cases related to ensuring defensive power and national security of the Republic of Belarus and other cases provided by Article No. 17 of the PPP law.	A PPP agreement shall be entered between any authorized state body and any private partner.

GUARANTEES OF PRIVATE PARTNERS'

The following guarantees of private partners' rights are:

- general guarantees offered to investors;
- non-interference into the activity of a private partner except for the cases provided in PPP agreements, legal acts, or in situations calling for protection of national security, public order, morality, health of the population, rights and freedoms of third parties;
- guarantee of state financing, if provided under the PPP agreement;
- guarantee of independent choice of suppliers;
- protection of property and other rights.



PPP PROJECTS

Reconstruction of the M-10 highway: the border of the Russian Federation (Reconstruction of the M-10 highway: the border of the Russian Federation (Selishche) - Gomel - Kobrin, km 109.9 - km 195.15

- The initiator of the project: The Ministry of Transport and Communications
- Preliminary cost of capital expenditures: \$ 200 million
- The current stage of preparation: Contest

- Currently in the Republic of Belarus the legal framework has been created, an institutional environment has been formed, training of specialists has been conducted and the first pilot projects have been selected.
- The reality: none of the pilot PPP projects have been completed to date.

Construction of kindergartens in Minsk Region

- The initiator of the project: Minsk Regional Executive Committee
- Preliminary cost of capital expenditures: \$ 17 million
- The current stage of preparation: Updating proposal documents and preparation of the tender documentation

The background features a blurred financial candlestick chart with blue and yellow bars and a yellow trend line. Overlaid on this are several white geometric shapes: a large 'A' shape formed by two diagonal lines and a horizontal line, and a horizontal bar on the left side. The text 'INVESTMENT AGREEMENTS ?' is centered in a bold, dark blue font.

INVESTMENT AGREEMENTS ?

LEGAL REGULATION OF INVESTMENT ACTIVITIES

- An investment agreement may be concluded directly between foreign investor and the Republic of Belarus.
- Investment agreements may be concluded (and benefits provided) only in respect to projects implemented in priority sectors of economy identified by the Council of Ministers (information and communication technologies, logistics, reconstruction and equipping of state border entry points, grain processing and so on).
- The law lists the particular benefits and exemptions that may be granted under an investment agreement, including those related to acquiring title to a land plot, construction, and exemptions from certain taxes and customs duties.

Particular benefits

In the field of **real estate and construction**, investors can provide the following benefits:

- exemption from the auction procedure for acquiring rights to land plots and real estate objects;
- uncompensated felling of green spaces;
- independent selection of contractors and suppliers during construction, that is, without going through the mandatory competitive procedures;
- simultaneous construction work in several stages, if it is provided for by an approved architectural design.



THANK YOU!

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