



Grim(m) Fairy tale of Public Private Partnerships in Bosnia and Herzegovina - Analysis of Healthcare Sector

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Once upon a time, in a distant land of Bosnia and Herzegovina, the story of Public Private Partnerships (PPPs) begins, where the public sector identified the need for private sector involvement in order to ensure improved quality and better value for price of public services. Numerous PPPs were implemented in line with all of the good governance principles. The citizens received better service due to innovations from the private sector and they all lived happily ever after...

Tale of PPPs in Health in Bosnia and Herzegovina

Fiscal constraints in Bosnia and Herzegovina (BiH) are nothing new to anyone who is familiar to the country's realities. And neither is the fact that its healthcare sector is seriously overstretched. Depressing unemployment figures, financial crisis and crippling economy greatly impact budgetary provisions for health care. Added to this are the rising costs of modern medical diagnostics and treatment, which is why such situations make an ideal background for the government to look for ways to involve private investors in the field.

Private sector engagement has been obtained through public-private partnerships (PPPs), broadly referred to as long-term cooperation between public authorities and the world of business, which aim to ensure the funding, construction, renovation, management or maintenance of an infrastructure or the provision of a service (EC, 2004) that are traditionally provided by the public sector (Kamau, 2013) in which the private party bears significant risk and management responsibility (WB, 2012). In view of poor public service provision in many low- and middle-income countries, BiH being one such example, PPPs are (correctly or not) increasingly seen as one of the ways to address the issue of a lack of financial resources, while also increasing the quality of service. The use of private finance globally has grown almost fivefold over the last decade (PWC, 2010), which raises the question of

whether similar arrangements would work in BiH. Implementing PPPs is a difficult task. It entails identifying and appraising PPP projects, structuring them (identifying and allocating risks), designing PPP contracts, managing PPP transactions and contracts, including monitoring, and managing PPP delivery and risk (World Bank, 2012). In order to implement this, the legislative framework, institutional capacities as well as political will and other "external" factors (public support, private sector engagement, NGO involvement) are essential. In the healthcare sector, findings from field research suggest that, while crafting these new governance structures, governments seem to fail in protecting the public interest (Cruz et al., 2012).

PPPs in RS	Initial private investment (EUR)	Contract duration	Expected Gov't expenditure for PPP Contract (EUR)
Int'l Dialysis Centre	4 mil* (Kerschbaumer, 2007)	22 (7+15) years	339.768.000,00
Radiotherapy Centre	20 mil	15 years	Information not made publicly available

Summary

This policy brief highlights findings and recommendations from the policy study about Public Private Partnerships in health in BiH. It looks into current challenges for efficient health sector PPPs in the country's two entities, focusing on policy and legislative framework, institutional capacities and external factors. Our policy recommendations tackle the biggest myth surrounding PPPs by developing a PPP strategy and consequently creating PPP Units within entity and cantonal ministries of finance (where needed), in order to ensure long-term feasibility through adequate cost-benefit analysis. Recommendations also involve monitoring and evaluation provisions through multi-sector project teams, as well as recommendations for raising the general level of understanding of PPPs in the private sector.

Table 1.
PPPs in RS, Authors' table.

Without these prerequisites in place, BiH started with the implementation of long-term PPP contracts in 2001. Entity of Republika Srpska (RS) started two PPPs (Specialized Clinical Services (WB, 2014)), both initiated by the (same) private investor. The first PPP contract in RS in health focused on dialysis was extended for additional 15 years in 2008, while a radiotherapy contract was signed in 2009 for the duration of

¹ According to the RS Health Insurance Fund: EUR 110 is a fixed price for hemodialysis in RS, and more complex is EUR 130; while according to public partner delivery of hemodialysis in FBiH costs cca EUR 85.

15 years, thus providing a service that had not been available earlier in the RS. A brief overview of financial arrangements accompanying these PPPs is given in *Table 1*, while *Table 2* briefly provides a rough calculation of expected government expenditure for a PPP contract in dialysis¹. Drawing more specific conclusions related to government expenditures is not possible, because PPP contracts are not made public.

Approx. no. of patients	900
Yearly number of dialysis treatments per patient	156
Min. cost per standard dialysis (EUR)	110
Number of years of contract	22
TOTAL COST (EUR)	339.768.000,00

Table 2.
Total cost of PPP in dialysis, Authors' estimates.

An attempt at PPPs in the entity of Federation of BiH has resulted in fewer and much smaller contracting out partnerships, focusing on clinical support services. In the Sarajevo and Tuzla cantons, contracts for clinics are renewed on a yearly basis. Because of vague approval and monitoring procedures, one clinic in particular benefited by being awarded a Contract for all pathohistology diagnostics by the University of Sarajevo Clinical Centre (see *Table 3*).

Table 3.
Contracting out in FBiH, Authors' overview.

PPPs in FBiH	Approx. gov't expenditure in 2013 (in EUR)
Moja Klinika – pathohistology diagnostics for the University of Sarajevo Clinical Centre	400.000,00 (Slobodna Bosna, 2014)
Other 11 clinics – PPPs for diagnostics, radiology.	75.000,00 (Slobodna Bosna, 2014)
BH Heart Centre Tuzla	3 mil

It is true that dialysis through PPP is administered in newly renovated and equipped premises, thus resulting in improved patient satisfaction (e.g. a decreased number of hepatitis infections, daily meals etc.). Moreover, with Radiotherapy PPP, patients do have an option of receiving treatment closer to home; and waiting lines in the Sarajevo Canton have been somewhat reduced for radiology checkups – but at

what cost? Looking at the figures in the tables above, it is evident that the myth of PPPs bringing additional private finance needs to be busted – because the public always pays. It should be made clear that if the public sector cannot afford to pay directly for infrastructure/service, then it cannot afford PPPs (Gallop, 2013). The attraction of off-balance sheet accounting for PPP investment is understandable, particularly in the context of a fiscal crisis or where fiscal targets apply. Nevertheless, while accounting rules can permit such treatment of expenditure under PPP, the underlying economic position does not necessarily change as what is bought now must be paid for later (Reeves, 2013).

There is no PPP strategy on any level in BiH, nor is there a state-level PPP framework, while the two entities have very different PPP legislation. RS has adopted the Law on PPPs of RS ("Official Gazette of RS", no. 59/09), and introduced its amendments in 2011, but its weakest link remains the monitoring and risk sharing provisions. FBiH has had a draft version of the Law on PPPs since 2009 (proposed by the Federal Ministry of Transport and Communications), which was adopted in April 2014 at the House of Peoples of the Parliament of FBiH, and is now awaiting public hearing. FBiH-level Law on PPPs has been initiated mainly with Corridor Vc projects in mind, which not only explains why the above mentioned Ministry proposed it, but also why it is politically such a difficult but nonetheless important law to pass. Cantons, on the other hand, were quicker to jump on the PPP board, and 8 out of 10 cantons have already adopted PPP laws through their ministries of finance or economy. Findings of the *Questionnaire for the assessment of PPPs in health care in BiH* reveal that 83% of the respondents (PPP experts and professionals) find that the current (or proposed) legislation governing PPPs is bad and very bad, which identifies the need for improvement.

These PPP contracts raise the crucial question of evaluation and monitoring provisions – especially in the sector where literally one's life is at stake. The overall notion is that evaluation and monitoring of PPPs is largely missing. While the



RS is conducting some sort of ad-hoc quasi-independent monitoring, FBiH and its cantons are conducting virtually none. Starting from 2001, when the dialysis PPP started, the RS State Auditor has never conducted an official audit even though this provision is included in its PPP law. Dialysis patients in RS raised their concern over hemodialyzers running at much above 15,000 hours (maximum defined by the law) as well as centralized dialysis solution, and that monitoring by the public partner was not objective (They only managed to change the person in charge recently). None of the monitoring reports are made available to the public. The draft FBiH Law on PPPs does not even oblige the Federal Auditor to audit a partnership and (almost unbelievably) calls for a private partner to pay a fee to the Commission for Concessions for the monitoring service.

After conducting research, it was clear that institutional capacities in BiH in the field of PPPs are very poor. The questionnaire that was distributed to relevant public institutions revealed that 84% of respondents do not have anyone employed fulltime for PPP projects, and that 80% of institutions have never had their staff attend any PPP-related education. That the level of PPP understanding is very low confirms the recent statement by the Minister of Transport and Communications of FBiH, saying that the "The Law on PPPs will bring foreign investors to the country, citizens of FBiH will profit the most out of *this arrangement, because we will get infrastructure (roads) without taking out loans*".² This suggests that key decision makers in BiH still do not fully understand that PPPs do not bring additional private finance, but rather are an off-balance sheet debt.

Last but not the least (f)actor in this fairy tale is the international donor community. Given their extensive experience in both legislative reforms as well as institutional capacity building, they could have a lot to offer in terms of strengthening the PPP field. It is clear that they are pursuing different strategies to enhance PPP development in BiH at the moment, which is why it would be very useful if their approach were more focused.

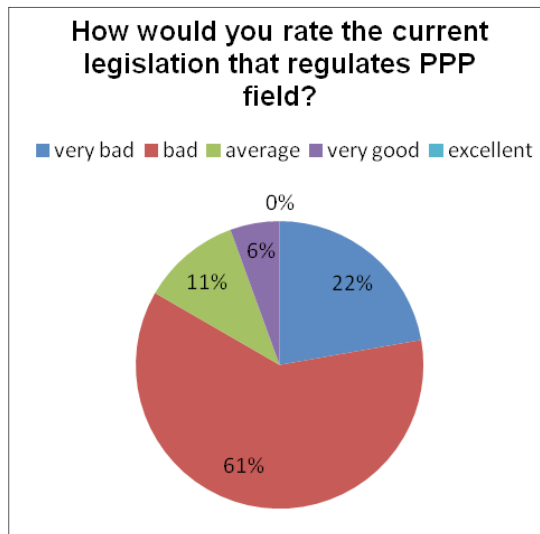


Chart 1.
Questionnaire for the assessment of PPPs in health care in BiH, Authors' overview.

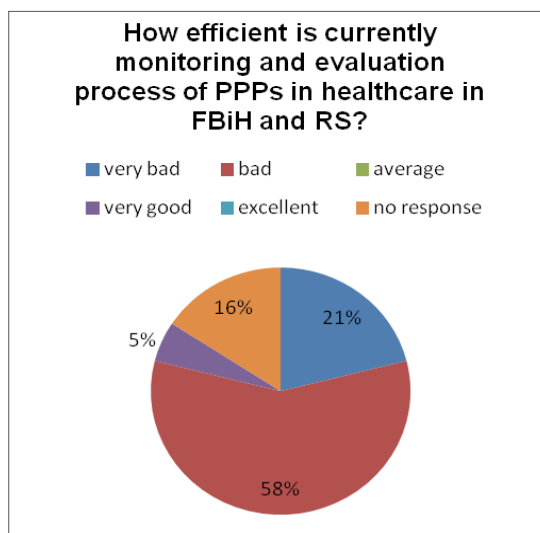


Chart 2.
Questionnaire for the assessment of PPPs in health care in BiH, Authors' overview.

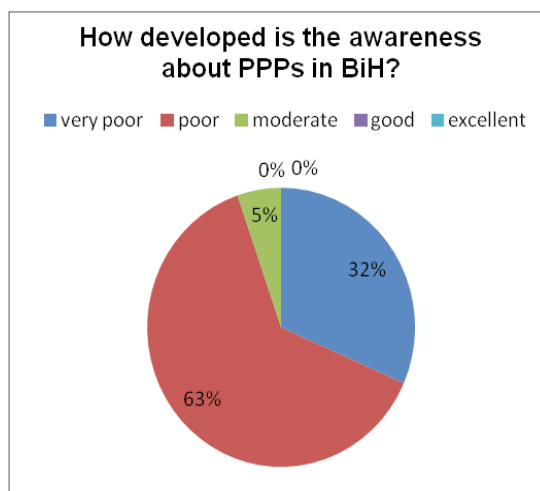


Chart 3.
Questionnaire for the assessment of PPPs in health care in BiH, Authors' overview.

²<http://www.sdp.ba/novost/21714/nacrt-zakona-o-javno-privatnom-partnerstvu-treba-bi-omoguciti-da-se-ne-zaduzujemo>, accessed on 30.04.2014.

Policy Options – Ministry of Finance vs. Commission for Concession

Even though improvements in the policy and legislative framework, as well as institutional capacities in both entities (and cantons) are urgently needed, our concern remains that this will not solve the biggest problem with PPPs – the accumulation of off-balance-sheet debts and the impossibility of truly transferring risk to the private sector when essential public services are at stake. We thus focus on two policy options that could have the biggest impact on public finance responsibility – establishing PPP Units through commissions for concessions (as proposed in the draft Law on PPPs in FBiH) instead of forming a PPP Unit within ministries of finance (similar to RS). Our policy options propose the harmonization of both legal as well as institutional frameworks in the two entities in order to ease future PPP activities with the EU-level institutions.

Our first policy option focuses on utilising opportunities that current entity and cantonal commissions for concessions provide, given the complementarities between fields of concessions and public-private partnerships. However, the ability of commissions for concessions to appraise and allocate risks connected to PPPs brings to light problems with this option. Cantonal-level bodies for concessions, similar to national authorities, lack adequate capacities for project planning and oversight (Economist, 2012). Commission for Concessions of RS has been the most active in including private participation in infrastructure, and has developed capacity and experience as a result (Ibid) but that does not instantly make it equipped to manage PPPs. As for the FBiH Commission for Concessions, there are no signed contracts for concessions and there is an inadequate level of planning and lack of coordination in concession management (FBiH Public Auditor, 2009). Also, the Commission lacks developed evaluation methods and there is a lack of activity to improve concession management (Ibid). At the cantonal level, the audit concludes that the concession awarding pro-

cedure is inefficient and takes very long (Ibid). Given such realities on the ground, it is hard to anticipate much more efficient PPP implementation. Finally, even if a ministry of finance (entity and cantonal) were incorporated into this option as financial decision-making stop, we are questioning the efficiency of unnecessary duplication of responsibilities.

Hence, our proposed policy option focuses on creating PPP Units within the ministries of finance (entity, cantonal). A PPP Unit's location is crucial, because of the importance of inter-agency coordination and political support for a PPP Unit's objectives. International best practice suggests that a PPP Unit will be effective if located within a ministry of finance (e.g. UK, South Africa) (World Bank, 2007), especially where there is low political will for supporting agencies/commissions to tackle this problem, which is exactly the case in BiH. A ministry of finance is a powerful central ministry that could be able to spread best practices across different line ministries, creating greater consistency across the programme as a whole, enabling lessons learned from one sector to be reapplied to another, and thus providing credibility and legitimacy to the whole process (WB, 2007). The biggest advantage of this option is exercising spending control, consistency and approval role more effectively than an independent commission.

Contract management and monitoring proposed by this option involves a PPP Unit, representatives of the line ministry (in our case Ministry of Health), other public bodies where appropriate (e.g. health insurance funds), a public partner (e.g. a hospital) and a civil society representative (e.g. a patient representative). Establishing such a multisectoral project team, headed by a ministry of finance, would be the most feasible and realistic monitoring option at the moment. A PPP awareness raising campaign would focus on building understanding and trust with the private sector, as well as an educational campaign for NGOs and the society at large about the potential benefits and roles of each stakeholder in the process.



RELEVANT PPP ASPECT	POLICY VARIABLE	Policy 1: Commissions for Concessions	Policy 2: Ministries of Finance
PPP policy	Institutional Capacity	FBiH and RS: Policy/strategy developed by the commissions for concessions, supported by external consultants	FBiH and RS: Policy/strategy developed by the ministries of finance, supported by external consultants
	Cost	FBiH and RS: Moderate	FBiH and RS: Moderate
	Political Feasibility	FBiH: Moderate RS: Low	FBiH and RS: Moderate
	Public Acceptability	FBiH and RS: Low to moderate	FBiH and RS: Moderate
PPP UNIT	Institutional Capacity	FBiH and RS: Commissions for concessions on entity (and cantonal) level act as PPP Units	FBiH and RS: PPP Units within Ministries of Finance (entity, cantonal)
	PPP Unit Legislation	FBiH: minor amendments to the draft Law on PPPs (and cantonal Laws) RS: major legal amendments of the Law on PPPs	FBiH: major amendments of the draft Law on PPPs (and PPP laws in cantons) RS: moderate changes to the Law on PPPs
	Cost	FBiH and RS: Moderate to significant increase	FBiH and RS: Moderate to significant increase
	Political Feasibility	FBiH: Moderate RS: Low	FBiH: Low RS: Moderate/High
	Public Acceptability	FBiH and RS: Low public support.	FBiH and RS: Moderate to high
PPP COST BENEFIT ANALYSIS	Institutional Capacity	FBiH and RS: Low, additional staffing required	FBiH and RS: Moderate, additional staffing required
	Cost	FBiH and RS: Significant increase	FBiH and RS: Moderate increase
	Political Feasibility	FBiH and RS: Difficult to achieve	FBiH: Difficult to achieve RS: Realistic change
PPP CONTRACT MANAGEMENT AND MONITORING	Institutional Capacity	Done by the Commission for Concessions, a line ministry, public partner and end users (where appropriate) FBiH: Realistic change RS: Moderate	Done by the Multisectoral body, headed by the PPP Unit and involving a relevant line ministry or government entity, public partner and end user representatives (where appropriate) FBiH: Moderate RS: Realistic change
	Cost	FBiH and RS: Moderate increase	FBiH: Moderate increase RS: Minor increase
	Political Feasibility	FBiH: Moderate political will RS: Low political will	FBiH: Low to moderate political will RS: Moderate to high political will
PPP AWARENESS	Institutional Capacity	FBiH and RS: Campaign implemented by the Commissions for Concessions, supported by external consultants. FBiH and RS: Low, additional staffing required	FBiH and RS: Campaign developed by the ministries of finance, supported by external consultants FBiH and RS: Moderate, additional staffing required
	Cost	FBiH and RS: Significant increase	FBiH and RS: Significant increase
	Political Feasibility	FBiH and RS: N/A	FBiH and RS: N/A
	Public Acceptability	FBiH and RS: Moderate to high	FBiH and RS: Moderate to High

Policy Recommendations

In order to implement Policy Option 2, the following policy recommendations are given:

Legal framework:

- Develop a clear PPP Policy and adopt a PPP Strategy that will define areas for PPP involvement and then propose incremental introduction of PPPs in sectors – starting with simpler arrangements in the utility sector, before moving on to more complex sectors such as health.
- Harmonize PPP laws with laws on public procurement as well as laws on concessions, so that any overlaps or irregularities are avoided.
- Amend the draft of the Law on PPPs in FBiH in line with Policy 2, adopt it and harmonize all cantonal laws.
- Make changes in the legislative framework in RS to implement Policy 2 and ensure that the Law governing PPPs is clear and comprehensive.
- Develop secondary legislation and comprehensive guidance for each specific field of PPPs – with health sector specifics focusing on monitoring, as well as patient satisfaction.
- Provide efficient and clear dispute resolution procedures for project contracts.
- Ensure that the public auditor of each entity audits PPPs on an annual basis.
- Ensure that, by law, all PPP contracts and monitoring reports are available on the website of the PPP Unit.

Institutional capacity:

- Form PPP Units in entity ministries of finance (and in the cantons interested in pursuing PPPs).
- Civil service agencies (entity) organize comprehensive and specialized trainings and workshops for PPP Unit staff at the MFs on the entity and cantonal level. Comprehensive training on the topic of PPP needs to be delivered also to the line ministries and other public institutions involved in the PPP process.

- Ensure that PPP Units become centres of excellence and knowledge houses, establishing cooperation with the European Investment Bank and its PPP Excellence Centre.

External factors:

- Strengthen the understanding of the private sector about the possibilities that PPP projects offer.
- Strengthen capacities of civil society organizations (e.g. patient representative organizations), in order to ensure their participation in the monitoring and evaluation of PPPs (especially relevant for health sector).
- Public promotion of the societal benefits reached through efficient PPPs.
- Ensure coherence among foreign donors with interest in further advancing PPP field in BiH.

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Zana Karkin was born in 1984 in Sarajevo. She obtained her bachelors diploma in Information Systems, with minor in Economics at Sarajevo School of Science and Technology, and she continued further education at the same institution, having obtained MSc in Economic Sciences. She is passionate about the development of BiH and pursues her career in academia and with international organizations such as UNDP, OSCE, currently serving as Country Representative of HOPE'87 in BiH, Austrian INGO. She is co-founder of NGO doIT, which aims to contribute to the development of the information society in BiH



A "Policy Development Fellowship Program" has been launched by the Open Society Fund BiH in early 2004 with the aim to improve BiH policy research and dialogue and to contribute to the development of a sound policy-making culture based on informative and empirically grounded policy options. The program provides an opportunity for selected fellows to collaborate with the Open Society Fund in conducting policy research and writing a policy study with the support of mentors and trainers during the whole process. Over hundred fellowship have been granted since the starting of the Program. All policy studies are available at www.osfbih.org.ba