

## Public-private partnerships in Ukraine – new rules

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On 31 July 2025, a new law on public-private partnerships was adopted in Ukraine (hereinafter referred to as the "Law"). The Law will come into effect in 3 months, i.e., on 31 October 2025 (with certain provisions already in force from 1 August 2025).

The new rules should potentially create an effective model for attracting private investment in public infrastructure.

The current regulation of public-private partnerships (hereinafter referred to as "PPPs") has proven to be overly bureaucratized and slow in practice. Among the factors that hampered the launch of projects were:

- a complex and lengthy procedure for approving PPP concepts;
- unclear distribution of risks between partners;
- weak protection of investor rights in the event of legislation changes;
- insufficient transparency at the project and partner selection stage;
- lack of full integration with the public procurement system, etc.

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On top of that, the reality of war called for extra regulation in sectors that are critical for Ukraine right now, such as defence, medical infrastructure, housing, and so on.

## 1. Structure of the new approach

In line with the changes, a public-private partnership is defined as a form of cooperation between public and private partners on a contractual basis, which includes:

- provision by a private partner of full or partial financing, creation and/or construction (new construction, reconstruction, restoration, overhaul, technical re-equipment) and technical maintenance of a PPP asset;
- long-term PPP (except for PPP projects for housing construction, which may be less than 5 years);
- transferring to the private partner part of the risks arising during the implementation of the PPP project.

At the same time, only the public partner (a state authority, local self-government body, public sector enterprise) has the right to formally initiate a PPP.

## 2. Key changes

### 2.1. Private initiatives no longer allowed

According to the new version of the Law, the right to initiate a PPP project is granted exclusively to the public partner. This means that only a state authority, local self-government body or public sector enterprise can formally initiate a PPP procedure. Private companies can only submit proposals for projects that have no legal effect until they are approved by the public partner.

This means that all projects must now come from the state or municipalities, even if the idea or technical solution comes from an enterprise.

Accordingly, private investors should shift their focus from institutional initiative to early dialogue with public partners, support for strategic areas included in the recovery project lists, and the provision of technical and financial expertise.

### 2.2. Simplified procedures for small projects

One of the most practical innovations is the simplification of the preparation of projects worth up to EUR 5.38 million (PPP projects with a sub-threshold value). The Law provides that such projects can be implemented without the preparation of a full technical and economic feasibility study. Instead, it is sufficient to submit a concept note, which significantly reduces the costs of the preparatory stage and speeds

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up decision-making by public partners.

This change is particularly important for communities seeking to implement local social or transport infrastructure projects with the involvement of business. The simpler procedure envisaged by the Law can also be applied to reconstruction initiatives that do not exceed the above threshold.

Furthermore, temporarily, for the duration of martial law and for seven years after its end, a simplified approval procedure will apply to projects included in specific national or local priority recovery lists.

### **2.3. Introduction of an electronic platform**

The Law provides for the creation of a single electronic platform for managing all PPP procedures: from project announcement to completion of competitive selection and conclusion of an agreement. Until its full launch (no later than 1 January 2027), relevant information will be published on the website of the authorised body.

This provision brings the Ukrainian system closer to the EU standards, ensures transparency and accessibility, and reduces corruption risks. Investors will be able to familiarise themselves with all active and upcoming projects and the terms of participation in electronic format, as well as to submit documents.

### **2.4. Hybrid financing models**

Another important element is the permission to use donor funds and international technical assistance both at the preparation stage and during the PPP implementation. The law explicitly stipulates that international organisations, foreign governments and funds may be sources of financing. This creates the conditions for hybrid financing, i.e., a combination of private capital with state support and donor assistance.

This approach is particularly relevant in the context of limited budgets and high risks. Private partners are given the opportunity to participate in projects with less of their own capital, which potentially increases the profitability of such deals.

### **2.5. Availability payments**

The updated Law introduces an instrument known in international practice as availability payments. This mechanism provides compensation to private partners based on performance rather than direct revenues from the operation of a constructed facility.

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This is especially useful when infrastructure projects do not generate enough revenue from fees or charges to cover operating costs and debt servicing, but the availability of the asset to the public is critical.

Under such arrangements:

- the private partner designs, builds, finances, operates and maintains the infrastructure;
- the public sector makes payments based on the availability of the asset and compliance with certain performance standards;
- the state retains control over pricing (e.g., tolls) or user fees, if applicable, while the private partner has an incentive to meet contractual performance and service quality targets.

This mechanism solves the problem of immediate budget shortages and makes it possible to implement long-term social projects such as hospitals, schools and sewage treatment facilities.

For investors, it provides a stable cash flow throughout the term of the agreement, provided that obligations are met.

## 2.6. New PPP sectors

The new Law formalises the possibility of implementing PPP projects in the following areas:

- defence industry;
- housing construction with transfer of ownership to a private partner;
- healthcare and education (construction of facilities, provision of services);
- energy and waste management, including through hybrid financing.

This expands the list of sectors seeking foreign capital in partnership with the state, in particular through consortia or the establishment of local subsidiaries.

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The law expressly stipulates that private partners may acquire ownership of residential infrastructure facilities built under PPPs.

## 2.7. Expanded public partners' list

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Public partners now include state-owned and municipal enterprises. This gives them the right to initiate and implement PPP projects on their own behalf, which is particularly important for enterprises that have infrastructure assets on their balance sheets and need modernisation but lack the necessary funding.

### 3. Implementation details

The changes will come into force on 31 October 2025 (with certain provisions coming into force on 1 August 2025).

Furthermore, for the new PPP system to be fully implemented, several additional bylaws need to be adopted, including:

- rules for the functioning of the electronic platform;
- standard tender documentation;
- procedures for maintaining registers;
- project evaluation methodologies;
- contract forms, etc.

The Ukrainian government must approve the relevant secondary legislation within 3-12 months after the main law comes into force.

Until this regulatory work is completed, many procedures are likely to remain hybrid. For instance, the stages of announcement and submission of applications will continue to be implemented through the website of the authorised body rather than through the electronic system, which is still under development.

### 4. Implications for foreign investors

For foreign companies looking to participate in Ukrainian infrastructure projects, the new Law creates a new logic for interacting with the state, changing entry points, requirements for structuring agreements, expectations regarding financial arrangements, and channels of communication with public partners.

Private companies can no longer initiate PPP projects on their own. The Law explicitly excludes this possibility, leaving it to the public partner. Proposals or concepts submitted by private entities may be accepted, refined or rejected by the public partner.

All PPP and concession agreements are subject to the exclusive jurisdiction of Ukrainian law. The law does not prohibit arbitration as a means of dispute resolution, but the subject matter of the obligations themselves and the procedures for their implementation are subject to

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Ukrainian law.

The prohibition on changes to the agreed risk allocation makes it necessary to clearly define the risk structure (construction risks, operational risks, currency fluctuations, changes in legislation, etc.).

For foreign companies having worked with state corporations in their own jurisdictions, an important novelty is that public sector companies can now act as public partners in PPPs.

This allows projects to be implemented in cooperation with such entities even in cases where ministries or municipalities are not the direct customers.

## 5. Practical recommendations

Taking into account the above changes in the public-private partnership regulatory framework, foreign investors should:

- establish communication with the authorities at the project planning stage;
- offer technical solutions or financial arrangements that can be tailored to the public partner;
- monitor the approval of development plans, state strategies, lists of priority projects, particularly in the field of reconstruction;
- influence the agenda through public mechanisms (by participating in working groups, submitting official requests, providing expertise at the request of authorities, etc.);
- possess local legal expertise for the conclusion of agreements, assessment of tax implications and risk management;
- analyse investment opportunities in new sectors (defence, education, healthcare, etc.);
- closely monitor regulatory changes, in particular the adoption of specialised regulations by the Ukrainian government.