

PUBLIC-PRIVATE PARTNERSHIP - A SOLUTION FOR SUSTAINABLE URBAN DEVELOPMENT OF CITIES

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ABSTRACT: *Cities in Romania represent true poles of concentration of population, economic, social and cultural activities constituting an engine of economic development for the entire country. For the last 20 years, they have faced certain problems, namely: poor urban infrastructure, abandoned industrial zones, blocks of flats that have not known substantial renovations since they were given in use, derelict protected areas, inefficient public transportation, insufficient green spaces, unmaintained public spaces, unsatisfactory urban service. Therefore, cities must adapt by a process of adjustment and remodelling aimed at improving living conditions through economic revival, social and economic reintegration of the inhabitants, improving the quality of urban environment, called urban regeneration, framed into a large concept of sustainable urban development.*

City regeneration involves solving problems of urban community, thus there is a need to create efficient and viable modalities of carrying out projects, and from this perspective, the public-private partnership can be an innovative solution for both parties.

Resolving the challenges of contemporary urban configuring requires a new "urban alliance", which is essential for the European Union regional policy and to be successful it needs partnerships between public and private actors which, if they acted separately in such endeavour, would not succeed.

KEYWORDS: *sustainable urban development, urban regeneration, Public-Private Partnership(PPP), sustainable European cities.*

JEL CLASSIFICATIONS: *K00, K32*

1. INTRODUCTION

The advent of Europe 2020 strategy „*A European strategy for smart, sustainable and inclusive growth*” launches¹ new challenges: the economic crisis, globalization, climate change, pressure on resources, uncontrolled urban sprawl, demographic change, aging population, challenges faced by all European Member States.

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¹COM(2010) 2020 final, Bruxelles, 3.3.2010.

In the context of new challenges in the European Union, the problem of urban areas from the perspective of sustainable development is a topic of interest, because more than two-thirds of Europe's population live in urban areas.

The legal framework in Romania on territorial planning and urbanism is regulated by the Law nr.350/2001², that in Article 1 paragraph 1, defines the territory of Romania as “*part of the national wealth enjoyed by all citizens, including the management of development processes by activities of landscaping, urban planning or sustainable urban development of central and local public authorities*”.

The territory is subject to planning by the people who occupy it. However, territories free of population may also be subject to planning if they are of interest to people. Economic and social activities, military imperatives, traditions, religions and geography have required and still do (especially in developed societies) planning, some organization of the space³.

In the literature of international law, territory is an important element of the state, because there is no state without territory and it is directly related to population established between its limits⁴.

Most specialists consider that urbanization is an effect of economic development, namely the economic growth determines the concentration of population in cities. At territory level, the city is a complex form of human settlement with variable dimensions and industrial facilities, usually having administrative, industrial, commercial, political and cultural function⁵.

The city is the administrative-territorial base made up either from a single urban locality or several localities, of which at least one is an urban locality⁶. As a basic administrative territorial unit and as a social-economic and geographical system, the city has two components: a territorial one that includes locality zoning and a demographic and socio-economic one which consists in population groups and economic, social and political-administrative activities taking place in the locality.

Cities in Romania represent true poles of concentration of population, economic, social and cultural activities constituting an engine of economic development for the entire country. For the last 20 years, they have faced certain problems, namely: poor urban infrastructure, abandoned industrial zones, blocks of flats that have not known substantial renovations since they were given in use, derelict protected areas, inefficient public transportation, insufficient green spaces, unmaintained public spaces, unsatisfactory urban service. To solve these obvious problems, it is necessary to promote a sustainable urban development at the level of administrative territorial unit.

²Law no. 350 of 6 July 2001 on spatial planning and urbanism, published in Official Gazette of Romania no. 373 of 10 July 2001.

³Iașu C., *Planificare și amenajare teritorială - Curs pentru Geografie și Amenajarea Teritoriului*, "Alexandru Ioan Cuza" University of Iași, http://www.cse.uaic.ro/_fisiere/Documentare/Suporturi_curs/III_Planificare_si_amenajare.pdf, p. 3.

⁴Chilea D., *Drept internațional public*, Hamangiu Publishing House, Bucharest, 2007, p. 54.

⁵See Dicționarul Explicativ Român.

⁶Ordinance no. 53 of 16 August 2002 on the Framework Statute of administrative-territorial units, published in Official Gazette of Romania no. 633 of 27 August 2002.

2. EUROPEAN DOCUMENTS REGARDING SUSTAINABLE URBAN DEVELOPMENT

The concept of sustainable urban development is a complex activity that requires a set of complementary approaches and appropriate strategies incorporating aspects such as: attractiveness of cities, support for innovation, job creation, development disparities within cities, governance and funding of urban regeneration⁷.

The practical definition of sustainable development leads to new socioeconomic and environmental requirements imposed to urban ecosystems on which cities adapt through a process of adjustment and remodelling aimed to improve living conditions in a city, named *urban regeneration*, in which housing policies play a critical role⁸. In this context, aspirations and demands of the population must be channelled through urban regeneration, which could come to complement the *sustainable development* process (a concept that is appropriate for the current stage of the growth rate of population and living quarters)⁹.

Once Romania joined the European Union on January 1, 2007, to ensure competitive conditions for sustainable urban and regional development, the central public administration authorities have tried to create the necessary legal framework in accordance with European legislation and elaborated public policy by the name of *sustainable urban development* and *urban regeneration* to conduct concrete investment programs financed from EU funds.

Between Member States of the European Union there are huge differences in socio-economic level as well as national inequalities at regional and local level. Therefore, the implementation of sustainable development objectives, strategies must be applied according to particularities¹⁰.

The *Lisbon*¹¹ and *Gothenburg*¹² strategies form the basis of national and regional development programs of member countries of the European Union.

In 2007, the ministers responsible for spatial planning in the Member States of the European Union adopted two political documents: the *Territorial Agenda of the European Union: Towards a more competitive Europe of diverse regions* (Territorial Agenda) and the *Leipzig Charter on sustainable European cities* (Leipzig Charter)¹³ which propose a series of measures needed to enhance territorial cohesion in Europe and for a balanced development of the European regions.

⁷Țenea D., Stan M.I., Vintilă D., *Urban Regeneration in Protected Areas – Solution for Sustainable Development of Cities in Romania*, Ovidius University Annals of Constanta, Series Civil Engineering, vol. 15, 2013, pp. 189-194.

⁸Petrișor A.-I., *Mediul urban: o abordare ecologică*, Revista Urbanistique, 2010, published electronically at <http://www.urbanistique.ro/mediul-urban-o-abordare-ecologica-dr-alexandru-ionut-petrisor/#more-127>.

⁹See Derer P., *Locuirea urbană - Schiță pentru o abordare evolutivă*, Technical Publishing House, Bucharest, 1985, pp. 111-160.

¹⁰See Zsuzsanna K. Szabó, *Analysis of research on sustainable development the goals of sustainable development, practical and theoretical framework in UE and Romania*, in the "Juridical Current" Journal, Petru Maior University of Targu Mures, no. 4 (47), 2011, pp. 253-262.

¹¹Adopted by the Extraordinary European Council in Lisbon on 23 and 24 March 2000.

¹²The European Council in Göteborg in 2001 adopted the first EU Sustainable.

¹³Documents adopted at the Informal Ministerial Meeting on Urban Development and Territorial Cohesion in Leipzig on 24 and 25 May 2007.

In Article 44 of *Territorial Agenda of the European Union* which represents the strategic framework of reference for European territorial cooperation for development, it is mentioned that “*there is a need to encourage public and private stakeholders of territorial development to be engaged in addressing territorial cohesion of the European Union*”¹⁴.

*Leipzig Charter on sustainable European cities*¹⁵ recommends:

- To use to a greater extent the integrated urban development policy approaches such as: creating and ensuring quality public spaces, modernization of infrastructure networks and improving energy efficiency, innovation and proactive educational policies.
- To pay special attention to deprived areas within the City as a whole by: pursuing development strategies of the physical environment, strengthening the local economy and local labour market policy, proactive education and training policies for children and young people, promoting efficient and affordable urban transport.

What transpires from these European documents is the idea that in order to solve the social and economic problems of the cities it is necessary to have actions and programs for sustainable urban development through the cooperation of public and private actors.

Another European document, the *Toledo Declaration*¹⁶ on the use of urban regeneration as a tool for sustainable urban development to implement the Europe 2020 Strategy, was signed to:

- Address the contemporary urban challenges and implement the Europe 2020 Strategy by achieving a smarter, more sustainable and socially inclusive urban development through the suitability of the integrated approach in urban development policies and the need to achieve for a common understanding of this approach; the importance of using integrated urban regeneration and its strategic potential for a smarter, more sustainable and inclusive urban development in Europe;
- Support the carrying out of the Marseilles process and the implementation of the European Reference Framework for Sustainable Cities (RFSC);
- Fulfil the need to consolidate a European Urban Agenda in the future through strengthening the urban dimension of Cohesion Policy, supporting a greater coherence between territorial and urban issues and agendas and fostering the urban dimension in the context of territorial cohesion, continuing to promote research, comparative studies and statistics, exchange of best practices and dissemination of knowledge on urban topics, and strengthening coordination of them all, promoting sustainable urban development and integrated approaches by re-enforcing and developing instruments to implement the Leipzig Charter at all levels, considering the most important challenges that European cities will face in the future.

This document underlines the strategic role of integrated urban regeneration, framed in the broader concept of integrated urban development, as an important perspective for achieving a series of objectives, such as: ensuring citizens’ participation and stakeholders’

¹⁴ The European Commission, *The Territorial Agenda of the European Union*, 2007, p. 10, published electronically at http://ec.europa.eu/regional_policy/what/cohesion/index_ro.cfm.

¹⁵The European Commission, *Leipzig Charter on sustainable European cities*, 2007, pp. 2-8, published electronically at http://ec.europa.eu/regional_policy/archive/themes/urban/leipzig_charter.pdf.

¹⁶Adopted on 22 June 2010 in Toledo, Spain, the Informal Meeting of Urban Development Ministers, with the core topic of “integrated urban regeneration”.

involvement in working towards a „more sustainable and socially inclusive model in the whole built environment and in all the social fabrics of the existing city”; addressing climate change, demographic change and mobility as major urban challenges; ensuring greater coherence between territorial and urban issues; and promoting a common understanding of the integrated approach¹⁷.

Also this instrument aims to achieve the next target: the need to configure a new „urban alliance” which involves all actors engaged in the process of "building the city" for revalorization, recovery and even re-inventing the „existent city”, thereby optimizing human, social, material, cultural and economic capital.

The chapter “*The partnership model of urban regeneration*”¹⁸ shows that urban regeneration establishes a framework to identify and solve urban problems, identify the development potential of an urban area, formulate an overall strategy for an urban area, implement a strategic plan of action, make and maintain contacts with effective urban agents, identify resource requirements, and monitor progress towards goals.

It can be concluded that sustainable urban development is a complex and lengthy process. For this reason, cities need a long term vision for the action of numerous factors such as central and local public administration, business, investors, non-governmental sector and last, but not least the citizens.

3. PUBLIC-PRIVATE PARTNERSHIP (PPP)

Only the urban design is insufficient to generate urban development, it should be subordinated to a long-term development vision assumed by the entire community, it should be correlated with land resources and public investment programs and the private sector must be involved in urban development planning both to coordinate their investments and for its ability to entrepreneurship. It crystallizes as a new structure of roles and responsibilities for the public sector and it configures a new structure of relations with the private sector and the local community¹⁹.

The partnership approach ended up being viewed as necessary because the scale and complexity of urban problems seems to require the combined efforts of the various levels of government and other public institutions, private and community to take into account their solution²⁰.

One of the operational instruments that could facilitate this process is to strengthen the existing forms of public-private partnership (PPP).

Public-private partnership is currently looking to public administration decision makers as an instrument to overcome the financial crisis and is seen as an opportunity to bring added value to economic and social development projects.

¹⁷European Union, Regional Policy, *Cities of tomorrow - Challenges, visions, ways forward*, October 2011, p. 92, published electronically at http://ec.europa.eu/regional_policy/sources/docgener/studies/pdf/citiesoftomorrow/citiesoftomorrow_final.pdf.

¹⁸Critchley P., *The City of Reason vol 5 The Economic Concept of the City* [e-book], 2004, p. 199, Available through: Academia website <http://mmu.academia.edu/PeterCritchley/Books>.

¹⁹Ministerul Dezvoltării, Lucrărilor Publice și Locuințelor, *O șansă pentru orașul tău! – Ghid informativ privind regenerarea urbană – principii și practici europene*, 2007, p. 5, published electronically at <http://www.mdrl.ro>.

²⁰Idem 17, p. 201.

*The National Council for Public-Private Partnerships*²¹ created the following definition: “A Public-Private Partnership (PPP) is a contractual agreement between a public agency (federal, state or local) and a private sector entity. Through this agreement, the skills and assets of each sector (public and private) are shared in delivering a service or facility for the use of the general public”.

The concept of "public-private partnership" represents a form of „cooperation between a public authority and the private sector, respectively non-governmental organizations, business associations or companies, carrying out a project that produces positive effects on the labour market and local development”²².

A definition of "Public-Private Partnership" (PPP), which is internationally accepted, is²³: “a long-term contract between a private party and a government agency, for providing a public asset or service, in which the private party bears significant risk and management responsibility”.

The term "public-private partnership" (PPP) is generally used with reference to any type of operational agreement based on mutual commitments and responsibilities between public bodies and partners that operate outside the public sector²⁴.

An important moment in the crystallization of good practices on Public-Private Partnership was established by the European Commission with the publishing of a document entitled “*Green Paper on public-private partnerships and Community law on public contracts and concessions*”²⁵, in which the term "partnership public-private" refers to forms of 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, and the elements which characterize it are:

- the definition of the public-private partnership mechanism characterized by a relatively long cooperation between the public and private partners on different aspects of a planned project;
- the specific method of funding based on the contribution of financial resources by the public sector and the private sector;
- the important role of the private partner who participates at different stages in the project (design, completion, implementation, funding);
- the distribution of project risks between the public partner and the private partner depending on each party's ability to assess, manage and control a particular risk;
- the obligation to apply specific principles of public procurement contracts in the procedures for contract award public-private partnership;
- the acknowledgement of two types of public-private partnerships, namely: the contractual public-private partnership (which is not implemented through a project company in which the public partner is a shareholder) and the institutional public-private

²¹The National Council for Public-Private Partnerships, <http://www.ncppp.org/ppp-basics/7-keys/>.

²²Institute for Public Policy (IPP), *Parteneriatul public-privat, soluție pentru un mai bun management al comunităților locale din România – ghid practic pentru consiliile județene*, Bucharest, April 2004, p. 14.

²³World Bank Institute, *Public-Private Partnerships Reference Guide, Version 1.0*, The World Bank, Washington DC, 2012, p. 11.

²⁴Poggesi S., *Public-Private Partnership for Urban Regeneration: The Case of the Urban Transformation Companies*, n.2, DSI Essays Series, The McGraw-Hill Companies, S.r.l. Publishing Group Italia, 2009, p. 4.

²⁵COM(2004) 327 final, Bruxelles, 30.4.2004.

partnership (which must be implemented through a project company in which the public partner is a shareholder).

In the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions *“Mobilising private and public investment for recovery and long term structural change: developing Public Private Partnerships”*²⁶ public-private partnerships are forms of cooperation between public authorities and the private sector that aim to modernise the delivery of infrastructure and strategic public services.

In Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions *“Public-private partnerships in Horizon 2020: a powerful tool to deliver on innovation and growth in Europe”*²⁷ it is proposed that the public sector join forces with the private sector and with Member States, to achieve results that one country or company is less likely to achieve alone.

In Romania, the normative act relating to Public-private partnership is Law no.178/2010²⁸, as amended and supplemented, which regulates how to achieve a public-private partnership project that aims public design, financing, construction, rehabilitation, modernization, operation, maintenance, development and transfer of a public asset or service, as applicable. In this sense, in accordance with Article 3, paragraph 2, the project of the public-private partnership considers the following:

- a) the cooperation between the public partner and the private partner;
- b) the financing of the public-private partnership project is private;
- c) in case of a public-private project, the role of partners is to fund and implement the objectives of public interest as well as to respect the provisions of the public-private partnership contract;
- d) the allocation of risks of a public-private partnership project is proportionately and equitably shared between the public and private sectors.

The public-private project is the *“project which is carried out wholly or partly with own financial resources or attracted by the investor, based on a public-private partnership model, which will result in a good or a public service”* as referred to in Article 4, paragraph 1.

Law no.178/2010 has several inconveniences such as: a great similarity with the Government Emergency Ordinance no.34/2006²⁹ regarding the types of contracts, the required contribution of the public partner's share in the capital of the project company exclusively form of a private property good at the end of the public-private partnership contract, any resulting good or infrastructure will be transferred free of charge to public partner. These can contribute to decrease the attractiveness of public-private partnership projects for private investors.

²⁶COM(2009) 615 final, Bruxelles, 19.11.2009.

²⁷COM(2013) 494 final, Bruxelles, 10.7.2013.

²⁸Law no. 178 of 1 October 2010 on Public-Private Partnership, published in Official Gazette of Romania no. 676 of 5 October 2010.

²⁹Government Emergency Ordinance no. 34 of 19 April 2006 regard to the award of public procurement contracts, of public works concession contracts and of services concession contracts, published in Official Gazette of Romania no. 418 of 15 May 2006.

In 2013, the Government proposed to improve the legislative framework in this domain given the need to involve public and private partners in public-private partnership projects as well as for the possibility of attracting European funds in such projects.

The public-private partnership, which involves the government, the private sector and the civil society, is internationally recognized as a solution to problems concerning the use of urban regeneration as an instrument of sustainable urban development. Urban regeneration has functioned as something of a testing ground for the evolution of the partnership approach³⁰.

*“Successful and sustainable development of urban areas requires strong local and regional partnerships”*³¹. There are many reasons to form such partnerships, in order to achieve good results, which take into account the many public policy priorities on urban regeneration and sustainable urban development.

The problems faced by the public sector are the need of construction, rehabilitation, modernization of urban infrastructure of cities, construction of new housing, office buildings, hotels and restaurants, shopping centres, revitalization of historic and abandoned industrial areas. *“Public resources are limited, so there is an urgent need to secure work with the private sector to access sufficient finance and to bring in new expertise”*³².

Involvement of private sector is important, on the one hand for the financial resources to complement public resources, on the other hand for the expertise, skills and experience in management and entrepreneurship.

Among the main benefits of the public-private partnership the following could be mentioned: increasing the supply and quality of services, cost reduction, resource conservation budgetary, risk sharing between partners, social and economic benefits and environmental protection, efficient implementation due to managerial experience of private sector, easier access to European funding programs.

The dissemination of good practices at European level in the field of public-private partnership on urban regeneration within the broader concept of sustainable urban development is an option to attract private investment in public sector partnership projects, which are very important to the development of cities.

Sustainable urban development of cities should be guided by long-term planning and strategic management and the instrument of public-private partnership must be used to create more inhabitable and sustainable communities that protect historic resources, cultural and environmental.

Therefore, urban regeneration requires involvement of all local stakeholders to integrate European with local policies, given that the European Union supports this process through the Structural Funds, which member countries may access by participating in European programs with an incidence in urbanism.

³⁰Critchley P., *op.cit.*, p. 199.

³¹European Union, Regional Policy, *Promoting sustainable urban development in Europe - achievements and opportunities*, April 2009, p. 38, published electronically at http://ec.europa.eu/regional_policy/sources/docgener/presenta/urban2009/urban2009_en.pdf.

³²Idem 31, p. 38.

4. CONCLUSIONS

Sustainable urban development (economical, social and environmental point of view) stated in most of the European documents is essential for the EU's regional policy, and a partnership between the public and private sectors can often lead to viable and efficient solutions for both parties.

Attracting private investments in the public sector as well as accessing structural funds in cooperation can solve not only the problem relating to the economic and social dimension of urban regeneration, particularly the relocation of the population, but also the issues of sustainable development, heritage protection, environmental protection for the cities of Romania.

In conclusion, the opportunities and the key role that cities can play in achieving the objectives of the European Union, particularly regarding the implementation of the Europe 2020 Strategy, require ensuring competitive conditions for sustainable urban and territorial development, in line with European principles. Therefore, to Romanian cities, the development of public-private partnership as an instrument becomes extremely important in overcoming the current economic crisis that tests both the public and private sector and in allowing the fulfilment of the essential needs of the community.

