

Guidebook for Local Authorities on PPP in Heritage Revitalisation Strategies

Daniela Angelina Jelinčić, Sanja Tišma, Neva Makuc,
Aniko Noemi Turi, Mitja Steinbacher, Matjaž
Steinbacher

Final version
09/2017

With contribution of Anna Wojtych, Dana Tombitášová
and Domagoj Dodig





Contents

1.	Introduction - why this Guidebook and who for?	3
2.	Defining the key concepts and principles.....	3
2.1.	What is an integrated built heritage revitalisation plan (IBHRP)?.....	3
2.2.	Key principles in creating an integrated heritage revitalisation plan	4
2.3.	Key principles of good governance in a public-private partnership.....	5
2.4.	Key characteristics of integrated heritage revitalisation strategies.....	6
2.5.	Key stakeholders for an integrated heritage revitalisation plan by using the PPP model	6
3.	Structure and contents of the IBHRP - what is necessary to define with the IBHRP?.....	7
3.1.	Strategic urban development context.....	7
3.1.1.	<i>Review of the existing strategic and planning documents of the local authority.....</i>	8
3.1.2.	<i>Review of the existing heritage issues in the city strategic planning documents.....</i>	8
3.2.	Strategic framework for IBHRP.....	9
3.2.1.	Scope and goals of the integrated built heritage revitalisation plan.....	9
3.2.2.	Key drivers of the plan.....	9
3.2.3.	Key benefits of the plan.....	9
4.	Action plan - Defining the list of heritage revitalisation projects/ideas.....	9
5.	Financing heritage revitalisation - different delivery options.....	10
5.1.	Contractual PPP model.....	12
5.2.	Institutional PPP model	12
6.	Procedures for heritage revitalisation strategies by using the PPP model.....	13
6.1.	Assessment of the justification for using the PPP model.....	13
6.2.	Preparation and approval of the project proposal.....	15
6.2.1.	Different countries - different approaches.....	18
7.	Procurement of the private sector	23
8.	Concluding the PPP contract	25
9.	Implementation of the PPP project.....	26
10.	Monitoring of the PPP contract	27
11.	Additional info and useful links	27



11.1. European Union.....	27
11.2. Croatia.....	28
11.3. Poland.....	29
11.4. Slovakia	29
11.5. Slovenia	29
12. References:.....	30
Annex 1 - Steps in preparing and implementing PPP projects in heritage revitalisation.....	31
Annex 2 - Example of a PPP project in heritage revitalization: the case of Varaždin County Palace, Croatia	33



1. Introduction - why this Guidebook and who for?

The lack of financial resources of most of the governments remains one of the main burning problems in the protection and maintenance of cultural heritage. This issue is of particular importance to Central Europe region, where the turbulent history and the geopolitical reconfiguration resulted in a large number of neglected or abandoned historic buildings, which suffer from steady decay. One of possible innovative ways to secure funds for heritage protection and maintenance is public-private partnership (PPP) since it allows to combine the assets and skills of the public and private sector, while protecting heritage resources at the same time.

The purpose of the “Guidebook for Local Authorities on PPP in heritage revitalisation strategies” is to offer local authorities guidelines for preparing and implementing *Integrated Built Heritage Revitalisation Plans (IBHRPs)* including principles and procedures to accelerate revitalisation with the use of public-private partnerships (PPP). Thus, it offers step-by-step insight into procedures necessary for heritage revitalisation based on PPP. It starts with defining the *Integrated Built Heritage Revitalisation Plan*, as a most contemporary tool of heritage revitalisation, and draws on key principles in creating them. As well, it sets key principles related to good governance in a public-private partnership. Further on, IBHRPs are put in relation with the overall strategic urban development context, and the necessary structure of the IBHRP is proposed ending with the listing of heritage revitalisation projects/ideas gathered in the Action plan. This serves as a basis for the possible implementation of the public-private partnership. The next step entails the analysis of different delivery options for revitalisation plans (from traditional public procurement schemes, public-private partnerships models, up to the full privatisation options) which is followed by concrete procedures for heritage revitalisation strategies by using PPP model (Assessment of the justification for using the PPP model and Preparation and approval of the project proposal). Finally, procedures for the procurement of the private partner as well as conclusion, implementation and monitoring of the PPP contract are explained.

The Guidebook structure is designed as to accommodate basic ‘how-to’ information in the process of preparing and implementing PPP projects in heritage revitalisation divided in 10 basic steps. A wider textual explanation is always followed by a framed brief procedural information. In order to provide a clear visual information on all the steps to be followed in one place, Annex is introduced as a supplement to the text.

The Guidebook is developed within the Interreg Central Europe project RESTAURA: Revitalising Historic Buildings through Public-Private Partnership Schemes bringing together 4 countries: Croatia, Poland, Slovakia and Slovenia. It is also available in local languages.

2. Defining the key concepts and principles

2.1. What is an integrated built heritage revitalisation plan (IBHRP)?

IBHRP is a newly, although still not widely accepted, governance framework which entails heritage revitalisation planning in relation to a wider strategic urban development context.



What is meant by “integrated”? The integrated approach is three-fold and entails:

- **participatory governance** ensuring citizen participation in decision-making and management related to the heritage field;
- **public management of heritage** which includes **horizontal integration** across various sectors and departments, and **vertical integration** by addressing local, regional and national spheres of government;
- gradual **integration of sustainability aspects** into the heritage management which allows managing social and economic dimensions. This includes spatial planning, education, science, tourism, entrepreneurship, employment, etc.

Thus, cultural heritage policies should be repositioned and placed at the heart of an integrated approach focusing on the conservation, protection and promotion of heritage by society as a whole, by both the national authorities and the local and regional communities. The approach is desirable since it ensures sustainability and possibly fosters innovations.

Step 1.

The first step to be completed in heritage revitalisation strategies based on PPP is to prepare the IBHRP.

2.2. Key principles in creating an integrated heritage revitalisation plan

Key principles in creating IBHRPs are based on the newly adopted Council of Europe’s “European Cultural Heritage Strategy for the 21st century” which envisions the promotion of a „shared and unifying approach to cultural heritage management, based on an effective legal framework for the integrated conservation of heritage”¹.

The main principles underlying revitalisation planning and management are the following:

- Responsibility - communities share responsibility for their heritage;
- Participation, transparency and inclusiveness - communities should be involved in planning, managing and enjoying the opportunities heritage offers while promoting transparency and communication in decision-making and evaluation;
- Relevance - integrated revitalisation plans address the needs of all relevant actors and stakeholders;
- Functional perspective - integrated revitalisation plans address the urban area, irrespectively of administrative boundaries considering that impacts on heritage and sustainable development of the municipality focus both on impacts within the municipality’s responsibility (involving the private economy and citizens) as well as on the impact of activities of all actors (municipality and stakeholders) on neighbouring municipalities and cities;
- Continuous evaluation - results of revitalisation need to be continually measured and improved in order to meet sustainable goals;

¹ The working group nominated for drafting the CoE Strategy has adopted, adapted for their needs and substantiated an integral vertical-horizontal intervention logic proposed by the Slovenian Evaluation Society (Radej and Pirkovič, 2016). Their Working paper No. 1/2017 “SMART HERITAGE POLICY”, November 2016 has been taken into account while drafting this Guidebook.



- Strategic orientation - revitalisation plans need to be integrated in strategic (political) decision making and as such be supported in implementation which means that they have to focus on strategic rather than operational issues; therefore, integrated revitalisation plans have to provide a strategic framework for sustainable urban development;
- Mainstreaming - revitalisation plans need to be organised centrally in the city management which means that regular involvement of the central political body in target setting and evaluation will ensure political commitment, legitimisation and maximised impacts;
- Decentralised implementation and integration - coordination of the revitalisation plan has to be based within the local administration ensuring horizontal integration across various sectors and departments;
- Complementarity - heritage revitalisation plans take into account the existing documents and plans provided for other sectors and in line with the urban development vision and strategic aims;
- Evolution - heritage revitalisation plans take into account the existing experiences and not starting from a scratch;
- Sustainability - heritage revitalisation plans are drivers of social, territorial and economic development.

2.3. Key principles of good governance in a public-private partnership

Although finding the private partner in heritage revitalisation strategies is a step which comes in a later process, it is necessary to reflect on the principles of good governance in a PPP already when developing the IBHRP as to satisfy the participation principle (see 2.4. and 2.5.) as well as sensitisation of a possible private partner.

Six key principles, which have been widely accepted, are to be considered in achieving good governance in public-private partnerships:

- Participation: the degree of involvement of all stakeholders;
- Decency: the degree to which the formation and stewardship of the rules is undertaken without harming or causing grievance to people;
- Transparency: the degree of clarity and openness with which decisions are made;
- Accountability: the extent to which political actors are responsible to society for what they say and do;
- Fairness: the degree to which rules apply equally to everyone in society; and
- Efficiency: the extent to which limited human and financial resources are applied without waste, delay or corruption or without prejudicing future generations (UNECE 2008²).

These issues are related to different governance arenas: government; public administration; judiciary; economic, political and civil society. Good governance is based on the principle of sustainable development, respecting the environment.

Key principles lead to key objectives of good governance objectives in PPPs which should be set:

- A fair and transparent selection process;
- Value for money;
- An improvement of essential public services;

² UNECE (2008). *Guidebook on Promoting Good Governance in Public-Private Partnerships*. New York and Geneva. Accessed 5 April 2017 at: <http://www.unece.org/fileadmin/DAM/ceci/publications/ppp.pdf>



- Fair incentives to all parties and fair returns for risk takers, combined with the achievement of commercial success;
- Sensible negotiation of disputes; and
- Enhanced security in the face of the new threats (UNECE 2008³).

2.4. Key characteristics of integrated heritage revitalisation strategies

This newly adopted IBHRP governance framework calls for a greater citizen participation in decision-making and management related to their heritage. Heritage is, thus conceived as a shared responsibility based on the participation principle.

The following three components are the key in integrated heritage revitalisation strategies:

- The “social” (S) component which sees heritage as the key to promoting diversity, and empowers communities for participatory governance;
- The “territorial and economic development” (D) component stresses the contribution of heritage to sustainable development, based on local resources, tourism and employment;
- The “knowledge and education” (K) component focuses, through heritage, on education, research and training issues.

These “components” are in mutual interaction: between S and D; between D and K; between K and S, and lastly, between all three components.

2.5. Key stakeholders for an integrated heritage revitalisation plan by using the PPP model

Key stakeholders in creating an integrated heritage revitalisation plan by using the PPP model concern representatives of public, private and civil society. In order to ensure participation of the public while respecting the principles of integrated revitalisation strategies as well as those of good governance in a PPP, it is necessary to include a variety of local stakeholders. This may be done by establishing the Local Stakeholders Group (LSG) comprised of representatives of each sector important for the strategic development of the city and heritage revitalisation based on PPP such as: representatives of the local public authority, sectoral agency (if existing), civil society representatives, private enterprises, SMEs, heritage specialists, urban planners, representatives of higher education and/or research sector as well as general public, etc.

The task of the LSG is to contribute, through its knowledge and experience, to the development, subsequent implementation and monitoring of the IBHRP implementation. It works closely with the coordinator of the IBHRP development.

Once the IBHRP is completed, it should be available to public as the main bearer of cultural heritage. It is advisable to publish the text on the City's website and to organise a public presentation in order to achieve greater involvement of the community. After reaching the consensus, it is considered that public participation principle in creating the IBHRP is achieved. In order to ensure the IBHRP

³ UNECE (2008). *Guidebook on Promoting Good Governance in Public-Private Partnerships*. New York and Geneva. Accessed 5 April 2017 at: <http://www.unece.org/fileadmin/DAM/ceci/publications/ppp.pdf>



implementation and in order for the document to achieve the official status for future PPP investments, it is necessary that a City Council passes the document.

Step 2.

After the completion of the IBHRP, it is necessary to reach the consensus of the public. Once it is agreed upon, the City Council passes the document.

3. Structure and contents of the IBHRP - what is necessary to define with the IBHRP?

3.1. Strategic urban development context

Strategic urban development context is a key framework in which strategic development goals are defined with the aim of achieving integrated and sustainable economic, social, cultural, spatial and environmental development of urban centres in accordance with the needs and interests of citizens and society. Therefore, any IBHRP that is prepared in the urban community necessarily relies on an existing urban development strategy and other relevant sectoral strategies in the community (e.g. urban development strategy, tourism development strategy, etc.).

In this way, integrated strategic planning allows every development area to influence the future changes in the urban environment and by careful consideration use them for its benefit.

Strategic urban development planning generally gives answers to four key questions:

- Where are we now?
- Where do we want to be?
- How do we get where we want to be?
- How will we measure progress on the path to the desired vision?

In the context of strategic urban development planning, IBHRP fits into a broader strategic development context and takes on the vision and key development guidelines by deepening and elaborating them in a section related to heritage issues.

Creating a vision is the central point in the process of strategic planning and strategy development which represents a long-term expected result that will be achieved by identifying and solving problems that stand on the path to its realization.

The vision is a desirable situation in the future and IBHRP should contribute through its activities to its realization.

The vision represents an immediate basis for shaping strategic goals. The strategic goal is the ultimate goal that affects the overall development trend of the community and represents a clear course of movement in a long-term, mostly five or ten-year period.



IBHRP should follow the main strategic framework, and actively participate in achievement of urban development strategic goals and priorities by actively proposing projects and activities.

3.1.1. Review of the existing strategic and planning documents of the local authority

IBHRP should enable achieving social impacts defined by strategic framework and preserving public good, achieving set strategic development goals or results and demonstrate the resources needed to implement the development strategy in the field of heritage issues.

The key framework for the development are the existing urban strategies and existing relevant sector strategies.

The integration of IBHRP into the strategic goals of other urban development planning documents requires horizontal and vertical alignment. Horizontal alignment requires cross-sectoral alignment of development goals across different sectoral strategies, and vertical alignment is realised by achieving coherence of the strategic goals of the development area with the goals of supreme strategies and plans of higher levels of government.

The achievement of strategic goals directly affects the realization of the vision. Once set up, strategic goals should not be radically changed. However, it is necessary to analyse them from time to time and, if necessary, to revise them, taking into account possible changes within the community and changes in the environment that affect their realization.

Development priorities are created within the framework of the vision and strategic development goals as well as development goals from hierarchically higher plans and strategies. Moreover, in considering development priorities, account should be taken of the principle of viability which requires that economic priorities should not jeopardize the priorities of social development, conservation of cultural heritage and environmental protection, but should be aligned with them.

A description of the strategic goals and priorities should be supported by the vertical linkage of a specific objective with top ranking strategic documents.

3.1.2. Review of the existing heritage issues in the city strategic planning documents

In addition, the IBHRP should be aligned with the urban development context through alignment with the overall vision, strategic goals and priorities, and in the process, it is imperative to prepare a matrix of all relevant heritage issues through relevant development documents, according to the following table.

A brief overview of the relevant documents

Title of the document	Duration	Level of document (national, regional, local) and relevant sector	Cultural heritage issues	Related goals, priorities, measures
<i>For example,</i>				



City development strategy				
...				

3.2. Strategic framework for IBHRP

This section focuses on strategies which are to be achieved for the preservation, protection, maintenance and development of heritage in the context of the overall city development. Therefore, these strategies should be harmonised with the city’s general development strategies (see 3.1), define the scope and goals of the IBHRP, its key drivers and benefits for the city.

3.2.1. Scope and goals of the integrated built heritage revitalisation plan

It is necessary to explain what city wants to achieve with the IBHRP in the overall development. Main goals should be expressed. It is necessary to focus only on strategic goals and no more than five goals are advised.

3.2.2. Key drivers of the plan

This section explains the strategic goals to be achieved for the built heritage of the city. Different from the previous chapter which focuses on the overall development and built heritage’s role in it, key drivers of the plan focus on the development of the built heritage itself. Again, no more than five goals are advised, therefore the focus in on the strategic and most important ones.

3.2.3. Key benefits of the plan

It is necessary to explain the key benefits of the plan. These may be in the field of social, economic, tourist, employment, education, industrial, scientific or any other policy. The benefits are in close relation with the strategic urban development and should be regarded in this context both for the preservation, protection, maintenance and development of heritage as well as other sectors important for the city development.

4. Action plan - Defining the list of heritage revitalisation projects/ideas

The process of developing the Action Plan follows the strategic planning, but it gives more emphasis on how the project area will realise strategic objectives. It also includes reflection on what is to be achieved in the future, but the focus of planning is to find ways to reach the desired future. The process of developing a detailed action plan provides an overview of key activities / heritage revitalization projects



/ ideas for IBHRP implementation, and it is crucial that all indicators are measurable, realistic and achievable.

Many strategic development plans have not been implemented due to the lack of a systematic and coordinated effort by all key actors in their operationalization. A necessary advance measure for the successful implementation of each development strategy is to provide preconditions for their effective implementation. This in practice means that the action plan should be based on the principle of integration of priority projects and measures. An action plan is drawn up each year for the so-called "rolling" or 2 + 1 principle that relates to the annual budget estimation of an urban area envisaged for the revitalization of the heritage and a preliminary projection for the following two years.

IBHRP defines how to make the desired changes in the future, and the action plan as the final outcome of the plan has the role of defining the implementation of set projects. Operational programming is the process of developing an action plan that is usually represented by a simple table of the following content:

- Key activities/projects related to the implementation of a particular priority and strategic goal from the IBHRP;
- Activity or project implementation actors;
- Timeframe for implementation;
- Projections of financial resources and sources of funding;
- Performance Indicators.

For projects/activities whose implementation is foreseen in the action plan, the following elements important for planning and monitoring the implementation process are included: contribution to the relevant IBHRP strategic goals and priorities, expected impact on target groups, main activities and implementation period, key implementation actors, assessment of required financial resources and sources of funding, as well as the status of project preparation that is planned to be prepared, funded and implemented.

Step 3.

Once the IBHRP is passed by the City Council, it is necessary to define the list of heritage revitalisation projects/activities which are gathered in the Action plan.

5. Financing heritage revitalisation - different delivery options

The previously prepared list of heritage revitalisation projects/activities serves as a basis from which to choose priority projects. In the project selection stage, different delivery models should be analysed.

Most agencies or governments have their own approaches for deciding whether to engage in a traditional procurement or in a PPP. Their methodologies have been developed over time and they reflect their particular needs and visions for the specific project. Value for Money (VfM) analysis is at this time the most common (and popular) evaluation approach undertaken for comparing PPP procurement to traditional procurement (Public Sector Comparator). It is an approach that attempts to estimate/maximize all benefits (measurable and also non-measurable to the extent possible) to the



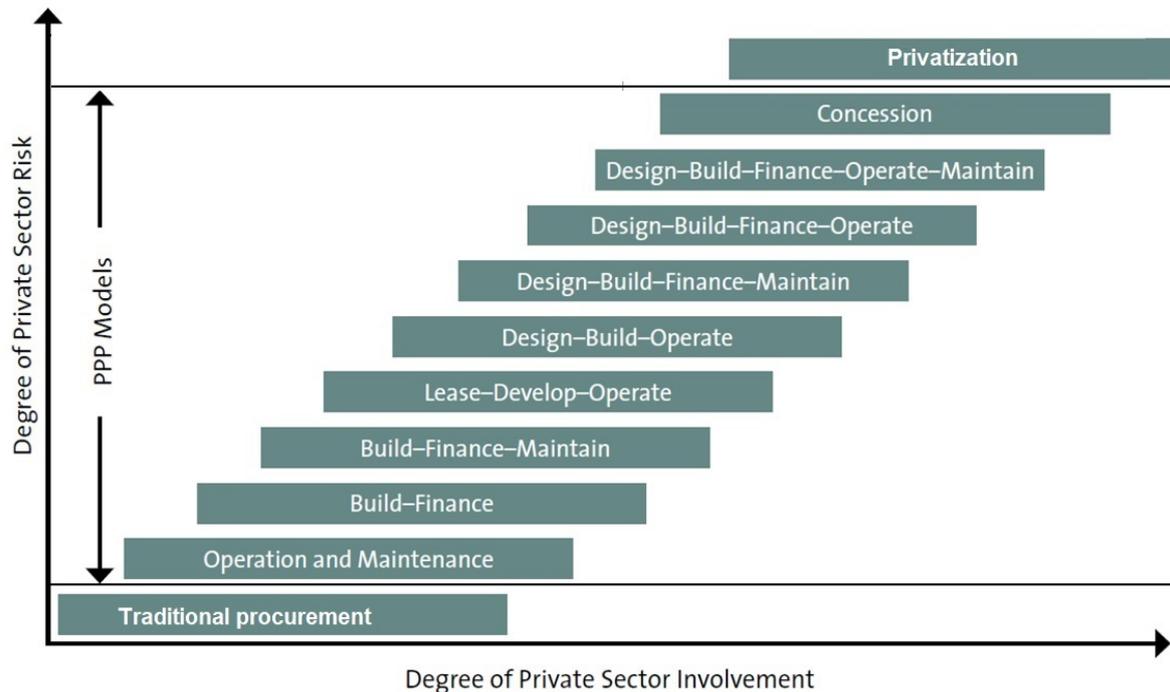
public sector associated with engaging in a specific partnership. The best value is determined through a careful analysis of aggregate costs of the PPP that considers factors such as overall risks, project quality, timing and lifecycle costs. A rigorous VfM analysis is typically able to reveal with a certain degree of accuracy whether or not a PPP is the best procurement option for a given project.

Methodologically, VfM, although technically complex, is rather intuitive. The public partner develops several procurement models through the so called Public Sector Comparator (PSC) (e.g. Traditional Procurement, Franchise DB, BOO, BOT, DBOM, DBFOM, Concession) and then attempts to forecast (through econometric modelling or mathematical algorithms such as Monte Carlo Simulations) the estimated costs and risks under each model (Roman 2015). Obviously, assumptions and base models will vary on a case-by-case basis (as will statistical approaches being employed). The timing of this analysis is also not rigid. It is based on the institutional preferences as well as previous experiences. As a result, it can be conducted both before and after bids are received. The success of the VfM analysis hinges in large part on the ability to make ‘apples to apples’ comparisons among different models being considered (hence the criticality of making appropriate and realistic assumptions).

The main strength of the VfM approach is that, if done correctly, it can provide a very detailed comparison of different procurement options. It also provides both the public and the private partners with a much needed opportunity to genuinely evaluate the degree of risk to which they are exposing themselves.

At the same time, however, one should not be carried away by the rigor and ‘objectivity’ associated with VfM analysis. As a technique, it remains a demanding approach and its sophisticated forecasting models do not guarantee success. The models being employed are only as reliable as the assumptions on which they are constructed and only as useful as their ability to make likes-for-likes comparisons. In the following Graph different delivery options through VfM approach are presented. The graph shows the function of risk interdependence and the involvement of the private sector, which are usually employed for development of PSC.

Graph 1. Different delivery options through VfM approach



Source: Canadian Council for public-private partnership

Still, the usual delivery option which contains certain level of private sector participation is one of the models based on Public-private partnership scheme. Most EU countries recognise two different types of PPP: the first is called contractual PPP model and the second one is called institutional PPP model.

5.1. Contractual PPP model

This model of PPP is based either on taking availability or demand risk. PPP model based on taking availability risk presume that the private sector is fully responsible for design, building, financing, operating and maintenance of the assets and where the majority of revenues is coming from public sector. On the other side, PPP model based on taking demand risk presume that the majority of revenues of private sector is coming from the end users, instead of public sector budget. Typical type of this model is works and service concessions.

5.2. Institutional PPP model

Institutionalised PPPs refer to a specific type of PPP where public and private parties establish an entity with mixed capital in which the private party takes part actively in the operation of contracts awarded to the partnership. Usually, the public Authority controls the company either as a shareholder or through special rights it may hold and the private partner operates the service. This kind of cooperation between public and private partners can be very positive since the public partner is responsible for control over the infrastructure service, while the private partner is mainly providing their know-how (Marques and Berg, 2011). The European Commission has released a specific Interpretative Communication to address the application of EU procurement law in this instance.



Once the delivery options have been analysed, the priority project is selected.

Step 4.

After the analysis of different delivery options, the priority project for PPP in heritage revitalisation is selected.

6. Procedures for heritage revitalisation strategies by using the PPP model

6.1. Assessment of the justification for using the PPP model

After defining the key features and specifications for the selected project, different preliminary studies should be done such as: supply or demand analysis, cost-benefit analysis, environmental assessment of the potential impacts of the project, etc. as to justify the use of the PPP model in heritage revitalisation. PPP projects focus on the *outputs*, whereas traditional project procurement usually focuses on the *inputs*. In order to be able to attract private investors, it is necessary to present a clear set of output requirements and service quality standards. These will be an integral part of PPP contract.

The key principles in justifying the decision on the PPP option are the following:

- affordability,
- risk allocation,
- bankability,
- value for money analysis, and
- EUROSTAT treatment.

This means that a number of questions need to be answered on each of the mentioned principles, such as:

1. Affordability - Is the project affordable, who will pay for the project (public procuring authority, users, both?) and how it will be paid for (e.g. operating subsidies, public sector or EU grants, user charges, etc.)?
2. Risk allocation - What are the risks in the project? If the risks exist, how they can be managed?
3. Bankability - What sources of financing will be used for the project and will it be capable of raising debt finance? Is the project attractive for investors?
4. Value for money - does the project represent value for money?
5. EUROSTAT treatment - Has the issue of the “balance sheet treatment” of the project (i.e. the classification of the project as a public sector investment for the purposes of national debt and deficit under the “excessive deficit procedure” of the Maastricht Treaty) been considered (EPEC PPP Guide 2015)?

These are the general questions, however the assessment of the PPP option depends on the specific case.

The key principles are further explained in more detail.

Affordability

Affordability of the heritage revitalisation project is assessed by analysing the expected operating and maintenance costs as well as the cash flow required to repay the loans and provide a return to the



investors. Usually, different financial models are developed which simulate different scenarios. If the PPP project involves users' charges, the financial model should investigate the capacity and willingness of users to pay. If the payments are to be paid by public procuring authority (the so called 'service-fee'), payment obligations represent a long-term commitment which has a direct impact on the design of the transaction. Both approaches may be combined (user charges and service fees). Therefore, affordability is a larger issue which should not be assessed only according to the financial aspects of the PPP but also takes into account the issues of public expenditures. In conclusion, a PPP project is affordable, if the public budget can provide for the expenditures linked to it in the arranged period of time.

Risk allocation

It is inevitable to identify, analyse and allocate possible risks of the heritage revitalisation project. The previously mentioned affordability certainly falls into the risk category, but besides that there may be other risk types which should be identified. Generally, they can be sought for within commercial, legal and political environment. *Commercial risks* are related to supply and demand; supply risks entail the ability of the PPP company to deliver the service, whereas demand risks are related to the insufficient target users of the service. *Legal risks* are in close connection with *political risks* and relate to legal and regulatory framework, government policies, dispute resolution, taxation, etc.

It is advised to use a risk matrix and is not done only at the beginning of the PPP heritage revitalisation project planning but is rather performed throughout the whole life of the project. It usually consists of five phases: risk identification, risk assessment (involves determining the likelihood of the risk), risk allocation (entails allocating responsibilities for the risk), risk mitigation (trying to reduce the risk), and risk monitoring/review.

Bankability

As to be able to carry out the project, it is necessary to find its sources of financing. Most PPP projects are financed on a project finance basis and includes a long-term debt (typically from 70% - 90% of the total funding). Senior Debt, in comparison with equity finance, is a cheaper source of financing since it accepts a lower level of return, at the same time carrying relatively less risk. The so-called limited-recourse finance entails lending to PPP projects and is based on the estimate of the project cash flow as the principal source of security.

Value for money analysis

A heritage revitalisation project results are considered as value for money if ends in a net positive gain to society which is greater than if other procurement routes have been used. It is advised to perform the cost-benefit analysis in the initial phase of the preparation of a project (for more, please see chapter 7.1).

EUROSTAT treatment

The Maastricht Treaty defines the economic convergence criteria in the Stability and Growth Pact and the Excessive Deficit Procedure and requires that the debt and deficit treatment of PPPs are in line with the European System of Accounts ("ESA"). EUROSTAT gathers reliable statistics on the debt and deficit position of Member States. The purpose of the rules on the statistical treatment of PPPs is to allocate a PPP to the balance sheet of the economic owner of the PPP asset which is examined at financial close of the project (PPP arrangements are examined against the prescribed ESA rules).



However, if the majority of the project revenues are user charges, separate rules apply. EUROSTAT treatment is not conditional for PPP projects; it is important for classifying the project as a private sector asset and not the public debt.

Step 5.

It is necessary to justify the use of the PPP option for the heritage revitalisation project by analysing its affordability, risk allocation, bankability and value for money analysis.

6.2. Preparation and approval of the project proposal

Once it has been decided to use the PPP option in the heritage revitalisation project, preparations and approval of the project proposal may start. The initial approval is sought from the relevant public authority which should support the development of the heritage revitalisation project within the framework of the PPP.

Preparation refers to (1) organisation and (2) finalisation of preparation before launching the tender. Organisation is focused on the following:

- Setting up the team and governance structure
- Engaging the team of advisers
- Project plan and timetable development.

When it comes to the governance structure, best practice examples have proved their success by establishing a project board. Such a board or steering committee usually consists of representatives of the public sector, coordinated by a senior officer. At the same time, a project management team needs to be established whose responsibility is the every-day management of the heritage revitalisation PPP project. It is necessary to appoint a project director whose full-time job is managing the project during the procurement phase.

Once the expertise needs of the team have been identified, it is advised to engage advisers who will provide PPP project with their services. In majority of cases, these services relate to law, business, financing and tax but also technical issues. Thus, law firms, financial advisory companies, technical advisory firms as well as national PPP units are engaged.

The main task of the project management team is to develop a project plan together with the timetable for the project preparation and procurement. This includes the development of the document with the consultation of stakeholders, the bidding process, private partner engagement and the approval process. It is advised to use the 'Gantt' chart since it defines a clear view of all phases and their assigned periods.

The second preparation phase includes finalisation before launching the tender and refers to the steps explained previously:

- further studies which are advised to be completed,
- preparation of the PPP arrangement,
- selection of the procurement method,
- defining the bid evaluation criteria, and
- preparation of the draft PPP contract.

Further studies serve to carry out a detailed assessment of the PPP project risks. The type of studies which need to be carried out depends on the type of the project. They may be of a technical,



financial and economic nature (such as financial feasibility study, cost-benefit analysis, but also those relating to technical conditions of the individual heritage asset. Also, a detailed business case is advised to be prepared.

The design of the PPP arrangement entail outlining the main commercial terms of the PPP contract, development of the risk matrix, and detailed commercial and financial analysis. This phase is focused on the determination of all aspects of the PPP arrangement (e.g. responsibilities, risk allocation, payment mechanism) and develops it in a more detailed way. The goal is to produce the draft PPP contract.

After the analysis of different forms of PPP arrangements, the procurement method is selected. Four procurement procedures are envisaged according to the EU legislation: open, restricted (these two are also sometimes referred to as “standard procedures”), negotiated (an exceptional procedure) and competitive dialogue (the use of which is subject to conditions). They vary in the possibility to limit the number of bidders; discussions during the process; discussions after the final bid is submitted; and basis for award.

The table below offers a comparison of the different procedures.

Table 1. A comparison of EU procurement procedures

	Open Procedure	Restricted Procedure	Negotiated Procedure	Competitive Dialogue
Possibility to limit number of bidders	No prequalification or pre-selection is permitted. Any interested company may submit a bid.	The number of bidders may be limited to no less than five in accordance with criteria specified in contract notice (prequalification and shortlisting permitted).	The number of bidders may be limited to no less than three in accordance with criteria specified in contract notice (prequalification and shortlisting permitted).	The number of bidders may be limited to no less than three in accordance with criteria specified in contract notice (prequalification and shortlisting permitted).
Discussions during process	The specifications may not be changed during the bidding process, and no negotiations or dialogue may take place with bidders. Clarification is permitted.	The specifications may not be changed during the bidding process, and no negotiations or dialogue may take place with bidders. Clarification is permitted.	Negotiations permitted throughout process. Successive stages can be used to reduce the number of bidders (further shortlisting).	Dialogue with bidders permitted on all aspects (similar to negotiated procedure, including further short-listing). When dialogue is concluded, final complete bids must be requested based on the solution(s) presented during the dialogue phase.
Discussions after final bid is	No scope for negotiations with a bidder after bids are	No scope for negotiations with a bidder after bids are	Not relevant because the negotiations can continue until the	Only permitted to clarify, fine tune or specify a bid. No changes permitted to



submitted	submitted.	submitted.	contract is agreed. There need be no “final bid” per se.	basic features.
Basis for award	Lowest price or most economically advantageous tender	Lowest price or most economically advantageous tender	Lowest price or most economically advantageous tender	Most economically advantageous tender

Source: EPEC PPP Guide, <http://www.eib.org/epec/g2g/ii-detailed-preparation/22/223/index.htm>

Further on, the bid evaluation criteria need to be developed. This phase relates to the establishment of the bidding committee who will also select the criteria for scoring bids. The representatives of the committee are usually subject to the national law and should ensure that the procurement process is carried out transparently which includes the decision on the selection of the preferred bidder. The criteria may vary but must be specified in advance. They may include i.e. the largest payment of the public procurement authority, the lowest service fee, the highest performance, the shortest duration of the PPP contract, etc. However, the broad aim of the EU procurement regime is to select the 'most economically advantageous tender'.

In the final phase of the preparation of the draft PPP contract, generally, the required service standards, risk allocation and payment mechanisms are defined. Although, the contracts always depend on the case, they should cover the following:

- the rights and obligations of the parties;
- risk allocation;
- service performance standards and targets (need to be objective and measurable);
- the procedure for permitted modifications, as well as their scope and nature;
- payment mechanisms (e.g. tariffs, subsidies, grants) and adjustments to payments in response to various contingencies;
- penalties (eventually leading to termination of the PPP contract);
- security and performance bonds;
- project insurances;
- the term of the PPP contract;
- the conditions for termination and compensation upon termination;
- step-in rights;
- the definition and impact of force majeure and changes in law; and
- the dispute resolution procedure (EPEC PPP Guide 2015).

Step 6.

In order to prepare and get the approval of the project proposal, it is required to set up the team and governance structure who will develop the project plan and timetable with help of the advisers. They also commission further studies related to the project, prepare the PPP arrangement, and decide on the selection of the procurement method. Then, the bidding committee is formed who defines the bidding criteria. A draft PPP contract is usually prepared at this stage.



6.2.1. Different countries - different approaches

Public private partnerships, according to the Green Paper (EC, 2004) are not defined at the Community level. In 2014, two new directives of relevance to PPPs were adopted by European Commission. The first one is the Public Procurement Directive 2014/24/EU and the second one is the Concession Directive 2014/23/EU. All EU member states had to adopt these directives in their national legislation system within two years. The following few chapters describe in more detail Different approaches across observed four project countries.

6.2.1.1. Croatia

The first strategic document regarding PPPs in Croatia was set out in the „Strategic Framework of Public-Private the Republic of Croatia, which was adopted by the Croatian Government in 2008 (Javna nabava, 2008). This framework recognised that PPP has an important role in fostering public sector investments as well as accelerating local economic development within public administration reform. Shortly after the Strategic framework was adopted by the Government, the first Croatian PPP act (Official gazette no. 129/2008) was put into the force. Although, since 2008 there were two more changes and amendments to the law on public-private partnerships (in 2012 and 2014), the PPP model, as a way of delivering public services represented the combination of best European practice in the field of PPP investments. In 2012, Economist intelligence unit made a research of the PPP framework in Eastern and the Commonwealth of Independent States market (The Economist Intelligence Unit, 2013) and recognized Croatian legal and institutional PPP framework as the best one of the 23 observed countries.

Although at the EU level there is no common opinion on how the PPP framework at the member states' level should be regulated, there are certain recommendations on how to enable the PPP investment model. Croatia recognized complexity of the PPPs and identifies “bottlenecks” of the whole process described in EU documents, and decided to form, by the PPP law, a fully independent PPP unit - as a strong regulatory body.

The main task of PPP unit is evaluating, approving and monitoring PPP projects as well as the implementation of education for the purpose of strengthening administrative capacity in the area of PPP. This regulatory body (Agency responsible for PPP), is not under any ministry and political influence on making decisions. The PPP process in Croatia is divided in three steps (i) PPP project preparation - only public body is responsible for preparing PPP projects (unsolicited proposal from the private sector is not allowed). The process of preparation includes the development of all PPP relevant documents, such as Public sector comparator, Payment Mechanism, Standards of Services, Risk Analysis, Draft of PPP Contract, etc. At the second step (ii), PPP project approval starts with evaluating PPP project proposals by the regulatory body - Agency responsible for PPP and in some areas by the Ministry of Finance (fiscal risk issues). After the project is approved by the Agency, the public authority may start the tender procedure and selecting a private partner. The final step is (iii) monitoring of the PPP project.

It is necessary for all PPP projects to cooperate with relevant institutions throughout their realization; in case of heritage revitalization, it entails local, regional and/or national cultural bodies such as conservation institutes and other public bodies in charge for culture and heritage. Therefore, the private partner must comply with the conditions prescribed by legal acts on the protection of cultural heritage concerning the specific heritage asset which is to be revitalized.



Specifically, according to the Act on the Protection and Preservation of cultural property, for projects related to individual protected buildings or those which are planned within conservation areas, before taking any action, it is necessary to obtain special conditions based on the conceptual project by the body in charge of the protection of cultural heritage. Also, the same body issues the confirmation of the main project prepared under the special conditions previously issued (for projects which are subject to the issue of building permits according to the Construction Law), or the Decision on prior approval (for projects not subject to the issue of building permits) respectively. The Conservation Department may, in the process of issuing special conditions, request the preparation of a conservation study (in the case where it is not possible to issue special conditions on the basis of existing knowledge of the building). During the execution of the work, conservation supervision is carried out ex officio.

When it comes to projects related to protected archaeological sites or areas, in addition to the above-mentioned construction-related procedure, it is imperative to carry out previous protective archaeological research, and the results of the research may affect the modifications or rejection of the project.

Before the procedure, it is possible to request a general opinion about the project itself and the measures for the protection of the cultural heritage to which the project relates. Information on the status of the protection of the building or project location can be obtained on the website of the Ministry of Culture or by request to the Conservation Department in charge or the Department for the Protection of Cultural Heritage of the Ministry of Culture. Data on the protection of cultural heritage are also available in the local spatial planning documentation.

6.2.1.2. Poland

The PPP projects implementation procedure in Poland is typical and based on international and EU standards of conduct. The Polish authorities do not give guidelines for the projects' preliminary analyses (value for money, risk, organizational, or technical), so either relevant economical tools adjusted to the needs or dedicated PPP solutions can be applied (Public Private Scan, Public Private Comparator, Public Sector Comparator type). Due to complexity of the matter, it is recommended to use expert advisory services throughout the project duration.

In Poland the body responsible for PPP is within the Ministry of Development. Pursuant to the Act on PPP, tasks of the Ministry include disseminating and promoting public-private partnership, performing analyses and assessments of the public-private partnership functioning, including the status and prospects of financial involvement of the private sector. Within the framework of these tasks, the Ministry of Development will run the PPP Platform which on one hand constitutes a forum for discussion and cooperation between representatives of government administration with local governments and PPP experts, and on the other - due to the Internet website (www.ppp.gov.pl), it constitutes a source of information about development of the PPP market in Poland.

Cooperation with relevant heritage protection institution/conservation inspector on revitalisation of historic buildings is obligatory in Poland. So it also concerns PPP in revitalisation projects. It is performed according to the general rules of cooperation with the conservation inspector on cultural heritage. The investor/owner of a heritage building should follow the four steps while applying for the works permission:

1. In a monument registry for the voivodeship, check if the object is under protection of a conservation inspector;



2. Apply to the conservation inspector in the related voivodeship (or its representation office) for obtaining the conservator's recommendations;
3. Gather all documentation necessary for obtaining the works permission;
4. Apply for the permission document.

It is recommended to keep maximum due diligence in this cooperation and strictly follow the conservation inspector's suggestions in order to avoid delays and additional costs in the progress of works.

The general procedures of both preparation and implementation of a PPP project and cooperation with a conservation inspector are described in the "Handbook on Public-Private Partnership in Built Heritage Revitalisation Projects", prepared within the RESTAURA INTERREG CENTRAL EUROPE project (accessible online in English soon).

6.2.1.3 Slovakia

On 23 November 2005, the Government of the Slovak Republic approved by Government Resolution no. 914/2005 Policy for the implementation of public-private partnership projects. This policy declared as a basic condition for PPP projects the demonstration of "value for money" compared to the implementation of the project in a traditional manner and stated the necessity to set up a PPP regulation that will limit the risks to the public administration budget.

The regulation of PPP projects is mandated by the Ministry of Finance, which in addition to this function has the function of providing (i) methodical, support and control and (ii) the function of the knowledge and communication centre in the area of PPP.

Within its regulatory PPP framework, The Ministry of Finance issued methodological documents (<http://www.finance.gov.sk/Default.aspx?CatID=6649>) for the preparation of PPP projects, of which the two documents described below are decisive. These documents are important for the preparation of PPP projects in Slovakia. The first one (i) describes in detail the process of approving the PPP project by the competent authorities, depending on which public organization is preparing the PPP project.

The process of preparation and implementation of the PPP project takes place in 8 individual stages and is described in detail in the document. It is about:

1. Identify the occasion
2. Consider the occasion
3. Preparation of a competing PPP project
4. Public procurement
5. Conclusion of the contract
6. Infrastructure construction / investment evaluation
7. Monitoring the performance of the PPP project
8. Completion and evaluation of the PPP project

Due to the valid legislation regulating PPP, the approval process is included among the stages. These are the key decisions or the obligation to approve the feasibility study, the project taking into account



the conclusions of the feasibility study of the feasibility study or the concession contract (for concessions for construction works).

The second document (ii) is named: “Content and requirements for feasibility study and public sector comparator” and presents a methodical document which defines the binding elements of a feasibility study for a PPP project.

6.2.1.4 Slovenia

At the national level, the question of public-private partnership is regulated within the Public-Private Partnership Act (ZJZP, UL RS 127/2006), which transfers the content of the Directive 2004/18/EU and Directive 2005/51/EU into the Slovenian legal order. The new law about PPP is still in the preparation phase.

The principal idea of the PPPs is that private funds can be used to finance projects that are considered to be in the public interest.–Slovenia has the ambition to see the PPPs as a partnership between the private and public entities, acknowledging the profitable interests of the private sector on the one side and keeping the monitoring role of the public sector, on the other. PPPs in Slovenia are defined either as public investments into the private projects that are of a national interest or private investments into public projects or a combination of both. Public interest for the purposes of the PPP is defined by the Government or local authorities.

Besides the well-developed legal framework for the public-private partnership, Slovenia has also a specific institution dedicated to this mechanism. In the framework of the Ministry of Finance, the Public Property Management is in charge for public-private partnership mechanism. Moreover, there is also a specific council, the Council of the Government for public-private partnership, which joins experts on legal, economic and other fields (Ministrstvo za finance 2016). A private institution, the Institute for public-private partnership also operates in Ljubljana. It is a research institute established in 2008 with the belief that legal and economic scientific research in the field of public-private partnership should be encouraged and that the results of the research should be systematically transferred into practice.

Concerning general guidelines for PPP, the public partner that starts the PPP must not provide unlawful aid to private partner via the PPP. The implementation of PPP is contractual, and the PPP contract must include relevant standards. Further, the quality of services offered must be comparable to those that would have been offered by public sector. Contracts are expected to be on the longer term, reaching up to 30 years and more.

However, no particular PPP-related legislation guides the implementation of the PPP for the revitalisation of the cultural heritage. The general procedure for the PPP model to be used for the revitalisation of cultural heritage is thus the same that applies to all PPP-related projects. The procedure includes the following major steps:

- Preliminary procedure;
- The *PPP-related* Act;
- The issue of the exclusive right to offer services in the public domain by the decree, issued by government or local authorities;
- Public procurement;
- The conclusion of the procurement by the selection of PPP-partners;
- Setting up the PPP contract.



Still, although there is no particular PPP-related legislation from the field of cultural heritage, public authorities must take into account the legislative demands from the field of cultural heritage already during preparations of the PPP Act. The list of legislative provisions and necessary steps is long and the procedure to adopt changes in the culturally protected sites is not always straightforward and it can take from a couple of weeks up to several years.

Prior to interventions in the cultural heritage or land for construction within a registered archaeological site, an application for cultural protection conditions and official consent must be submitted at the appropriate regional unit of the Institute for the Protection of Cultural Heritage of Slovenia.

In the application for obtaining cultural protection conditions, the purpose of the intervention in the cultural site should be stated and the project documentation necessary for implementing construction works must be attached. In the case of activities for which a building permit is not needed, the application form must be accompanied by a corresponding sketch and a description of the intervention. The application is submitted directly or sent by post to the appropriate regional office of the Institute for the Protection of Cultural Heritage of Slovenia.

Under the cultural protection conditions, the obligation to prepare a conservation plan may be determined as the additional condition for obtaining the consent. The design department at the Institute for the Protection of Cultural Heritage of Slovenia (ZVKDS) Restoration Centre plans interventions in the cultural heritage infrastructure and prepares conservation plans. They monitor the operations by guiding and coordinating works and by supervision.

6.2.1.5 Comparative analysis of the PPP framework in Croatia, Poland, Slovakia and Slovenia

Table 2. PPP framework in Croatia, Poland, Slovakia and Slovenia

COMPARATIVE ANALYSIS	CROATIA	POLAND	SLOVAKIA	SLOVENIA
Legal PPP framework				
PPP Act	Yes	Yes	No ⁴	Yes
Institutional PPP model	+	+	-	+
Contractual PPP model	+	+	+	+
Service based model	+	+	+	+
Availability based model	+	+	+	+
Government PPP policy strategy	+	-	-	-
PPP project pipeline approved by government	-	-	-	-
Institutional framework				

⁴ PPP in Slovakia is mostly regulated by the Act no. 25/2006 Coll. on Public Procurement and the Act no. 523/2004 Coll. on the Public Administration's Budgetary Rules



Independent PPP Regulatory body	Yes ⁵	No ⁶	No ⁷	Yes ⁸
Public body responsible for fiscal risk issues	Ministry of finance	Ministry of finance	Ministry of finance	Ministry of finance
PPP promotor	AIC	PPP institute	PPP Association	PPP institute
PPP project proposal (application)	Public body only	Public body only	Public body only	Public body only
Available funding mechanisms				
State budget	+	+	+	+
EU funds	+	+	+	-
National investment bank PPP program	+	-	+	-
Project bonds	-	+	+	-
Commercial banks	+	+	+	+
PPP projects in Culture Heritage sector				
Projects in preparation	2	0	0	0
Projects in implementation	1	0	0	0

Source: Jelinčić, Tišma, Senkić and Dodig 2017

7. Procurement of the private sector

Procurement process starts with the publication of the procurement notice. This is also called the bidding process and is divided in four steps:

- Procurement notice, prequalification and shortlisting
- Invitation to tender
- Interaction with the bidders
- Evaluation of tenders and preferred bidder selection.

Procurement notice, prequalification and shortlisting

Procurement process begins when the public procurement notice is published. As to follow the EU regulations, it is advised to publish it in one or more international periodicals. Usually, interested parties which respond to the procurement notice should be sent a brief description of the project together with the so called prequalification questionnaire. Pre-qualification questionnaires (PQQs) are used to help public sector buyers/purchasers shortlist suppliers to invite to tender where a certain level of technical ability is required, and form part of the restricted tendering procedure. Typically, the invitation should contain minimally the following information: project description; its overview together with risk allocation and responsibilities of each party; documentation to be available to bidders; information about the procurement process; list of required qualifications; evaluation criteria; and a timetable.

⁵ Agency for Investments and Competitiveness, Croatia

⁶ Ministry of Development, Poland

⁷ Ministry of Finance, Slovakia

⁸ PPP Council, Slovenia was established but never really came to life.



In the shortlisting process, the number of bidders is usually reduced between three and five. Since bidding for a PPP project is complex and costly for a bidder, sometimes, the public sector may decide to partially reimburse the bidders for the costs of bid preparation. This encourages candidates to bid.

Evaluation of submitted qualifications focuses on the technical capability, business capability and financial position of the potential bidders. Usually, consortiums are preferred to individual bidders. The submission usually contains information on the business activities of the bidder together with financial information, legal information about the bidder, and qualifications of its personnel.

The process ends with a report which serves as an audit trails. It is also advised to inform unsuccessful bidders of the decision made.

Invitation to tender

Then, the invitation to tender may begin starting with the finalisation of the invitation to tender documentation. It should at least include:

- detailed information about the project;
- a summary of the key principles to be followed, including the obligations of each party and risk allocation;
- detailed output specifications and the minimum required technical design and technical features;
- the level of commitment required from the candidate's lenders and investors;
- a full draft PPP contract;
- instructions on the information which must be submitted and the detailed procedures for submission;
- the evaluation criteria; and
- requirements for bid bonds or equivalent security (EPEC PPP Guide 2015).

Interaction with the bidders

As to foster innovative solutions from different bidders, to clarify possibly unclear issues, and to provide feedback to all bidders on key aspects of their bids, it is advised to provide a high degree of interaction between the public procurement authority and the bidders. Usually, the so called 'data room' is provided, where bidders can get detailed information on all aspects of the project.

Evaluation of tenders and preferred bidder selection

The evaluation on the pass/fail criteria is done whereas it is very important to choose the criteria which best fits the scope of the project. It sometimes happens that only one bidder submits a tender. It is either due to lack of clarity in the tender documents (these can realistically be amended and tender may be repeated) or can realistically reflect the situation (then the procurement is continued with the sole bidder).

After selecting the preferred bidder, a minimum "standstill period" of 10 days is required before concluding the PPP contract. This allows rejected bidders to hand in possible complaints.

Step 7.

As to start the bidding process, it is necessary to publish the procurement notice together with the prequalification questionnaire. Then, the number of bidders is shortlisted and invited to tender. As to



provide bidders with detailed information on all aspects of the project, interaction between the public procurement authority and the bidders. Then the evaluation of tenders is done and finally the preferred bidder selected.

8. Concluding the PPP contract

Once the preferred bidder has been selected, it may be proceeded with the conclusion of the contract. This process is divided in three steps:

- Finalisation of the PPP contract
- Conclusion of financing agreements
- Financial close.

Finalisation of the PPP contract

After the selection of the preferred bidder, the PPP contract can be finalised. Some final adjustments to the PPP contract should be limited to clarifications and confirmation of commitments. Negotiations may include issues on the timetable, definition of remaining issues, and recording matters already agreed or settled.

Conclusion of financing agreements

Although one would expect that fully committed financing packages would have already been to obtained at the time of bidding, this is sometimes not the case, often due to difficult financial market conditions (e.g. reduced liquidity). This may mean that the PPP contract may be signed without financing agreements. They often involve many cross-references and should be prepared as a coherent package but typically entail:

- senior loan agreements setting out the rights and obligations of each party regarding the senior debt;
- a common terms agreement clarifying the multi-sourcing of finance for a PPP project;
- subordinated loan agreements provided by the project sponsors and/or by third party investors;
- a shareholders' agreement;
- a direct agreement between the lenders and the public procurement authority allowing the senior lenders to take over the project under certain circumstances;
- an accounts agreement involving a bank which will control the cash flowing to and from the PPP Company in accordance with the rules set out in the agreement;
- an inter-creditor agreement;
- hedging agreements enabling to fix the interest rate on all or part of the debt or to limit its exposure to exchange rate risks;
- security agreements (e.g. share pledge, charge over accounts, movables pledge, receivables pledge);
- parent company guarantees and other forms of credit enhancement; and
- legal opinions defining the enforceability of the contracts (EPEC PPP Guide 2015).

Financial close

This step begins with the signature of financing agreements and having met all the required conditions. The project implementation actually starts with the financial close.



Step 8.

As to conclude the contract with the preferred bidder, it is necessary to check if some final amendments to the contract are needed. Then financial agreements are settled and the contract is closed.

9. Implementation of the PPP project

Implementation of the PPP project refers to the phase from the financial close to the conclusion of the PPP contract. After the conclusion of the PPP contract, a **contract management team** (separated from the project management team) has to be established by the public procuring authority. The contract management team has to develop management tools and processes (contingency plans) and perform day-to-day contract management activities. Timeframes and responsibilities have to be determined. The development of a **contract management manual** is recommended (EPEC PPP Guide 2015).

Regular and effective monitoring of the implementation of the PPP project, i.e. PPP company's performance and opportune actions in accordance with the PPP contract are of key importance. The PPP Company has to present to the contract management team financial and operational information on an ongoing basis. The request for information should be limited to data necessary to achieve successful monitoring and retrospective evaluation of the project. Excessive information collection should be avoided (EPEC PPP Guide 2015).

In the implementation phase, the contract management team should develop day-to-day relationship with the PPP company, monitor the achievement of basic performance indicators, review quality control and quality assurance procedures and report to the stakeholders (EPEC PPP Guide 2015). Also in the phase of the implementation of the PPP project, a dialogue with different stakeholders, especially with local population, is of key importance in order to avoid conflicts (Kolenc 2017:1).

The **contract administration manual** is the tool to be used in case problems occur. It needs to define the escalation of the procedures to be implemented. Moreover, it has to specify administrative and logistical details in order to manage **changes permitted in the PPP contract** (e.g. refinancing, consequences of a change in the law).

The contract management team could have to manage **changes not expected in the PPP contract**. In these cases, protocols related to contingency plans should be carried out. Contract re-negotiations of the important aspects of the PPP contract are undesirable and, in principle, forbidden under the European Union law. They necessitate careful analysis and a dialogue among the parties (EPEC PPP Guide 2015). Unforeseen events can originate from physical or social sources. Externally oriented management responds to social events (with the close involvement of stakeholders) and a cooperative stance between a private and a public partner is recommended because they generate satisfactory outcomes in response to unforeseen events (Verweij, Teisman, Gerrits 2017: 119-136).

If the contractual disputes occur, common dispute resolution mechanisms are used: litigation, arbitration, expert determination of some kind, mediation or conciliation and decision by a relevant regulatory body. Effective relationship management in the project assists the process of resolution of disputes (EPEC PPP Guide 2015). Already in the contractual phase, it is possible to decide on the so called "independent engineer" whose role is to interpret the contractual provisions in the disputed situation for the entire duration of the contract (therefore during the construction phase as well as in



the period of use). His services are provided for both by public and private funds. In case the parties disagree with the opinion of the independent engineer, they can define the second stage of dispute resolution. It is most often arbitration for large infrastructure projects, while for small projects the jurisdiction of the competent court is prescribed.

When the **PPP contract ends** (usual grounds for termination are e.g. default by the PPP Company and/or by the public procuring authority, expiry of the PPP contract term) the following issues should be addressed:

- the circumstances in which the contract may be terminated by a party before its agreed expiry;
- the payment (if any) that must be made by the public procuring authority to the PPP Company upon termination (depending on the circumstances); and
- the condition of the assets when they are ‘handed over’ to the public procuring authority following termination (EPEC PPP Guide 2015).

Step 9.

In order to ensure proper implementation process of the PPP project, the contract management team is established with the aim to perform day-to-day contract management activities and their regular monitoring. They also deal with possible changes of the contract as well as disputes, if they occur. The termination of the contract is the final phase of the implementation process and its issues should be clearly addressed.

10. Monitoring of the PPP contract

Regular monitoring of the implementation of the PPP project is necessary, as already explained in chapter 9. It is also advised to carry out a retrospective (ex-post) evaluation of the PPP project. It serves to improve future decisions about PPP projects. Usually, an independent reviewing body (a public body or a consulting firm) is engaged to do the job. The analytical framework of such a document will focus on identifying both the benefits derived from project outputs and the cost of delivering those outputs, but also on qualitative data such as service quality, contract design and risk allocation. The PPP projects should be normally defined in terms of value for money. The retrospective evaluation may also try to identify alternatives (EPEC PPP Guide 2015).

Step 10.

Two types of monitoring are expected: regular monitoring of the implementation of the PPP project and ex-post evaluation which presents lessons learned and serves to improve future decisions about PPP projects.

11. Additional info and useful links

11.1. European Union

<http://www.eib.org/epec/library/index.htm>

European Commission, 2004



<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2004:0327:FIN:EN:PDF>

11.2. Croatia

Public bodies in charge for the PPP:

Sektor za JPP, Agencija za investicije i konkurentnost, www.aik-invest.hr

Consulting agencies:

PPP Centar, www.pppcentar.com

Handbooks on PPP:

Priručnik 1: Diskontiranje i diskontna stopa kod projekata JPP-a, <http://www.aik-invest.hr/wp-content/uploads/2015/11/p1-diskontiranje-i-diskontna-stop-a-1-1.pdf>

Priručnik 2: Financijski model kod projekata javno-privatnog partnerstva, <http://www.aik-invest.hr/wp-content/uploads/2015/11/p2-financijski-model-kod-projekata-jpp-1.pdf>

Priručnik 3: Komparator troškova javnog sektora, http://www.aik-invest.hr/wp-content/uploads/2015/11/p3_-komparator-tro%C5%A1kova-javnog-sektora-1.pdf

Priručnik 4: Struktura ugovora o JPP, http://www.aik-invest.hr/wp-content/uploads/2015/10/p4_struktura-ugovora-o-jpp.pdf

Priručnik 5: Utvrđivanje sposobnosti plaćanja JLPRS u projektima javno-privatnog partnerstva, http://www.aik-invest.hr/wp-content/uploads/2015/11/p5-utvr%C4%91ivanje-sposobnosti-pla%C4%87anja-jlprs-u-projektima-jpp_final.pdf

Priručnik 6: Značenje i postupak izračuna vrijednosti za novac kod projekata javno-privatnog partnerstva, <http://www.aik-invest.hr/wp-content/uploads/2015/11/p6-v2-vfm-finalno-za-objavudoc.pdf>

Priručnik 7: Postupak odabira privatnog partnera - specifičnosti provedbe projekta po modelu javno-privatnog partnerstva, http://www.aik-invest.hr/wp-content/uploads/2015/10/p7_postupak-odabira-privatnog-partnera_final-za-objavu.pdf

Priručnik 8: Rizici u projektima javno-privatnog partnerstva (identifikacija, kvantifikacija i alokacija), <http://www.aik-invest.hr/wp-content/uploads/2015/10/p8-v2-rizici-kod-jpp-projekata-final-za-objavu.pdf>

Priručnik 9: Priprema i provedba javnih investicija (projekti javno-privatnog partnerstva), <http://www.aik-invest.hr/wp-content/uploads/2015/11/p9-priprema-i-provedba-javnih-investicija-v3-final.pdf>

Priručnik 11: Kombiniranje modela javno-privatnog partnerstva s fondovima Europske unije, <http://www.aik-invest.hr/wp-content/uploads/2015/11/p11-kombiniranje-modela-jpp-a-s-fondovima-eu.pdf>

Heritage protection, preservation and revitalization acts:

Zakon o zaštiti i očuvanju kulturnih dobara, http://narodne-novine.nn.hr/clanci/sluzbeni/1999_07_69_1284.html



Pravilnik o uvjetima za fizičke i pravne osobe radi dobivanja dopuštenja za obavljanje poslova na zaštiti i očuvanju kulturnih dobara, http://narodne-novine.nn.hr/clanci/sluzbeni/2003_05_74_892.html

11.3. Poland

PPP in general:

PPP Platform (Platforma PPP): www.ppp.gov.pl; in Polish

Publications on the PPP projects' lifecycle:

https://www.ppp.gov.pl/Publikacje/E_przewodnik/Strony/Cykl_zycia_projektu.aspx; in Polish

List of conservation inspectors in the voivodeships:

<http://www.mkidn.gov.pl/pages/strona-glowna/dziedzictwo-kulturowe/ochrona-dziedzictwa/konserwatorzy-zabytkow.php>; in Polish

Filipowicz Paweł, *Rola zaleceń konserwatorskich w procesie inwestycyjnym realizowanym w obiekcie zabytkowym w świetle oczekiwań projektanta i inwestora*;

<http://www.nid.pl/upload/iblock/c2b/c2b2fca61064f9ffd13c8a35b6f25def.pdf>; in Polish

A step-by-step instruction for applying for the works permission in a heritage building:

<http://www.tonz.olsztyn.pl/?id=92&Prace%20konserwatorskie>; in Polish

11.4. Slovakia

Brochure-Public private- partnerships:

http://www.asociaciapp.sk/upld/brozura/000003/PPP_brozura_110404.pdf?PHPSESSID=838e7e45d4f9c77cffc37b8a38784650

Case studies of PPP projects:

http://www.asociaciapp.sk/upld/brozura/000002/PPP_brozura_091121.pdf?PHPSESSID=838e7e45d4f9c77cffc37b8a38784650

Materials regulating PPP approved by Ministry of Finance SR:

<http://www.finance.gov.sk/Default.aspx?CatID=6676>

Methodical documents prepared by Ministry of Finance SR:

<http://www.finance.gov.sk/Default.aspx?CatID=6678>

11.5. Slovenia

Public-private partnership Act (ZJZP), <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO4323>

Institute for the Protection of Cultural Heritage of Slovenia (ZVKDS), <http://www.zvkds.si/en>

Rules on the Register of Cultural Heritage (OJ RS 66/2009), according to which the cultural heritage object must be entered in the Register of Immovable Cultural Heritage (RKD) and have a register number of heritage (EŠD), <http://www.pisrs.si/Pis.web/pregledPredpisa?id=PRAV9583>



Conservation Plan Rules ([UL RS 66/2009](#)), <https://www.uradni-list.si/glasilo-uradni-list-rs/vsebina/93598>

Ministry for Culture, www.mk.gov.si

Application for obtaining cultural protection conditions ([form](#)),
http://www.zvkds.si/sites/www.zvkds.si/files/u5/application_form_to_obtain_cultural_protection_conditions.pdf

Application for obtaining cultural consent ([form](#)),
http://www.zvkds.si/sites/www.zvkds.si/files/u5/application_form_to_obtain_cultural_protection_consent.pdf

[Annexes](#) to applications, <http://www.zvkds.si/sites/www.zvkds.si/files/u5/undertakings.pdf>

Revitalisation Dossier ([case study](#)),
http://www.zvkds.si/sites/www.zvkds.si/files/u6/dosje_objekta_kd_0.pdf

Subsidies, loans and calls to tender for renovations and maintenance

Websites listing calls to tender:

<http://www.eu-skladi.si/portal/razpisi/aktualni>,

http://www.mk.gov.si/si/aktualni_razpisi_ministrstva_za_kulturo/,

http://www.mgrt.gov.si/si/o_ministrstvu/kako_do_sredstev/javni_razpisi/,

http://www.mkgp.gov.si/si/javne_objave/javni_razpisi/,

http://www.mkgp.gov.si/si/delovna_podrocja/ribistvo/evropski_sklad_za_ribistvo/aktualno/javni_razpisi_za_ukrepe_v_okviru_evropskega_sklada_za_ribistvo

http://www.mizs.gov.si/si/javne_objave_in_razpisi/javni_razpisi/

12. References:

European PPP Expertise Centre PPP Guide. *How to Prepare, Procure and Deliver PPP Projects*. Accessed 5 June 2017 at: <http://www.eib.org/epec/g2g/iv-project-implementation/>.

Jelinčič, Daniela Angelina; Tišma, Sanja; Senkić, Matea and Dodig, Domagoj (2017). *Public-Private Partnership in Cultural Heritage Sector* (manuscript, scientific research paper).

Kolenc, Nataša (2017). *Project partner's report from the meeting of the country advisory boards' members regarding RESTAURA Guidebook (O. T2.2)*. Municipality of Nova Gorica.

Radej, Bojan and Pirkovič, Jelka (2016). *Working paper No. 1/2017 "SMART HERITAGE POLICY"*. Ljubljana: Slovenian Evaluation Society.

Roman, A. V., 2015. *The Guide to Public-Private Partnership (PPPs): What Public Procurement Specialists Need to Know*. The NIGP Business Council. Accessed 22 June 2017 at:



[https://www.nigp.org/docs/default-source/New-Site/research-reports/guidetopublic-privatepartnerships\(ppps\)-whatpublicprocurementspecialistsneednowfinal.pdf?sfvrsn=4](https://www.nigp.org/docs/default-source/New-Site/research-reports/guidetopublic-privatepartnerships(ppps)-whatpublicprocurementspecialistsneednowfinal.pdf?sfvrsn=4)

UNECE (2008). *Guidebook on Promoting Good Governance in Public-Private Partnerships*. New York and Geneva. Accessed 5 April 2017 at: <http://www.unece.org/fileadmin/DAM/ceci/publications/ppp.pdf>

Verweij, Stefan; Teisman, Geert R. and Gerrits, Lasse M. (2017). Implementing Public-Private Partnership: How Management Responses to Events Produce (Un)Satisfactory Outcomes. In: *Public Works Management and Policy*, vol. 22 (2), pp. 119-139.

Marques, R. C., & Berg, S. (2011). Risks, contracts, and private-sector participation in infrastructure. *Journal of Construction Engineering and Management*, 137(11), 925-932.

Javna nabava (2008), *Strateški okvir za razvoj javno-privatnog partnerstva u Republici Hrvatskoj*, available at:

http://www.javnabava.hr/userdocsimages/userfiles/file/STRATE%C5%A0KI%20DOKUMENTI/Strateski_okvir_za_razvoj_JPP.pdf

The Economist Intelligence Unit (2013), *Evaluating the environment for public-private partnerships in Eastern Europe and the Commonwealth of Independent States (The 2012 EECIS Infrascope, Findings and methodology)* available at: http://infrascope.eiu.com/wp-content/uploads/2017/02/Europe_Infrascope_Report_2012_English.pdf

Annex 1 - Steps in preparing and implementing PPP projects in heritage revitalisation

Step 1.

The first step to be completed in heritage revitalisation strategies based on PPP is to prepare the IBHRP.

Step 2.

After the completion of the IBHRP, it is necessary to reach the consensus of the public. Once it is agreed upon, the City Council passes the document.

Step 3.

Once the IBHRP is passed by the City Council, it is necessary to define the list of heritage revitalisation projects/activities which are gathered in the Action plan.

Step 4.

After the analysis of different delivery options, the priority project for PPP in heritage revitalisation is selected.

Step 5.

It is necessary to justify the use of the PPP option for the heritage revitalisation project by analysing its affordability, risk allocation, bankability and value for money analysis.



Step 6.

In order to prepare and get the approval of the project proposal, it is required to set up the team and governance structure who will develop the project plan and timetable with help of the advisers. They also commission further studies related to the project, prepare the PPP arrangement, and decide on the selection of the procurement method. Then, the bidding committee is formed who defines the bidding criteria. A draft PPP contract is usually prepared at this stage.

Step 7.

As to start the bidding process, it is necessary to publish the procurement notice together with the prequalification questionnaire. Then, the number of bidders is shortlisted and invited to tender. As to provide bidders with detailed information on all aspects of the project, interaction between the public procurement authority and the bidders. Then the evaluation of tenders is done and finally the preferred bidder selected.

Step 8.

As to conclude the contract with the preferred bidder, it is necessary to check if some final amendments to the contract are needed. Then financial agreements are settled and the contract is closed.

Step 9.

In order to ensure proper implementation process of the PPP project, the contract management team is established with the aim to perform day-to-day contract management activities and their regular monitoring. They also deal with possible changes of the contract as well as disputes, if they occur. The termination of the contract is the final phase of the implementation process and its issues should be clearly addressed.

Step 10.

Two types of monitoring are expected: regular monitoring of the implementation of the PPP project and ex-post evaluation which presents lessons learned and serves to improve future decisions about PPP projects.



Annex 2 - Example of a PPP project in heritage revitalization: the case of Varaždin County Palace, Croatia

Photo 1. View of the main facade of Varaždin County Palace (present condition)



Source: Varaždin Tourist Bord, <http://www.tourism-varazdin.hr/en/the-historic-core/>

Revitalization of the Varaždin County Palace is the first and only example of Public Private Partnership Investment in revitalization of cultural heritage in Croatia. The Palace is on the list of protected cultural goods of the Republic of Croatia from 1974 (Register of cultural goods of the Republic of Croatia / Z-897). It was built in the Rococo style in 1768 by the master builder Jacobus Erber for the conditions and needs of the City of Varaždin and destroyed in the fire of 1776. Over the years it gradually dwindled in significance and this resulted in its being neglected and inappropriately used and furnished.

Renovation of the Palace began in the 1990s. It was a slow process due to the lack of funding. The greatest amount of renovation took place in **2006**, when sufficient funding was assured through a **public/private partnership**. This allowed the Palace to be renovated in a relatively short period of time.

Public partner: Varaždin County

Private investor: Meteor-Privatno Partnerstvo d.o.o.

Expected duration of contract: 20 years

Contract subject: Private investor finances the construction and maintenance of the Palace owned by the County for a period of 20 years, while the County pays a monthly rental fee to private partner covering the cost of financing investment and maintenance of the Palace.



The estimated capital value: 1.197.000 EUR (excluding VAT)

After the adoption of the Public-Private Partnership Act (OG 129/08) in 2008, the Varaždin County Palace project has been submitted and registered to the **national Register of PPP contracts** managed by the Agency for Investment and Competitiveness (AIK).

A great restoration and conservation project has returned the Palace to its original condition, and now it once again houses the Varaždin County Headquarters - its original purpose for which it was built.