

France's PPP experience: lessons & prospects



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1-Background: a long history of Public-Private cooperation in Infrastructures

- **XVIIth C.** Construction of Canals & Bridges
- **XIXth C.** Railways, Metro, Water, Sanitation, Electricity,...
- **XXth C.** Motorways, Waste management, District Heating,...

=> This experience gave birth to the concept of Concession, and its operating variant Affermage, which took its legal form in the early 19th century, now *Delegation de service public (DSP)*

DSP: A public service (*not just an equipment*) is transferred to a private company, to be financed and operated over a long period, under the control of the administration, the company being paid through user fees.
=> **NOT A PRIVATIZATION**

1-1 A rich & diversified experience

- France is to this day one of the most advanced countries for user-pay PPPs with more than 30.000 contracts in force
- Over 95% at local level (no minimum threshold)
- Has generated strong domestic professional players
 - *Water & Waste/Sanitation*: >20.000 contracts (2/3 of population served by private sector)
 - *District Heating/Energy* : 93% of market
 - *Motorways*: 75% of the 10.000 km network built as concessions
 - *Urban Transports* : 90% of 100 largest French cities & metropolises (over 100,000 inh) *except Paris*, resort to PPPs to *manage* their public transportation systems;
 - +Parkings, IT, sports & cultural facilities, kindergartens,...

DSP: A well settled procedure

- Accessible to all levels of government
- Flexible, negotiated attribution process
- Several options (with or without investment)
- In all cases the public procuring authority remains ultimately responsible
- the underpinning service rendered retains its quality of public service irrespective of who's in charge
- => *favored social-political acceptance*

A tool for optimising & rationalising public investment choices

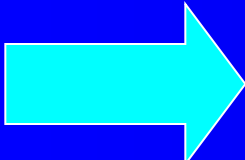
- Optimise allocation of tasks between Public & Private sectors depending on costs, délais, performances & risks
- Avoid the alternative « Public property Vs Privatisation », without jeopardizing the public service mission of the public Authority

1-2 Extension to “social infras”: the 2nd family of PPPs

From 1980 on, Public sector no longer able to handle ever-increasing demands of infrastructure-linked services by citizens and users, both quantitatively and qualitatively



Delayed investments in health, education prisons or transportation networks resulting in deterioration of infrastructures,



Need to extend PPP to services non- or only partly-financeable by end-users (“**social infras**”) on availability-payment basis

Hence Creation of Public-payment PPP (**Partnership contracts**)

1-3 Key drivers for Public-payment PPP reform:

- *Speed-up delivery of public infra to foster economic growth*
- *Achieve value for money & Modernize public administration*
 - by focusing public sector on what it does best, while outsourcing support functions to private sector & limiting immediate financial burden on public sector
 - through risk sharing & innovation best practice by private sector
- *Facilitate transfer of competences to local levels of gov't or autonomous agencies ("de-centralisation"):*
 - by giving them new means of handling their newly transferred responsibilities in Infras, like roads
 - hence: choice of no minimum investment threshold for PPPs

Main constraints for PPP reform(1):

- ***Need to legislate first before experimenting***
 - France is a written law country
 - In practice, limited access to PPPs imposed by Constitutional court
- ***administrative inertia***
 - Slow in adapting fiscal, tax, A/Cting frameworks to PPPs
- ***categorial/professional interests & lobbies:***
 - SMEs, architects,...

Main constraints for PPP reform(2):

- ***Cultural resistance***

- border between public & private ingrained in national psyche
- PPP still perceived as a financing instrument more than a new tool of public management
- many projects still centered on “bricks” , more than services

- ***...But positive factors:***

- ready & willing actors on private side => high level of competition
- well-developed body of thought by think-tanks & foundations paved the way
- quick pick up of new tool by local gov'ts irrespective of political color

1-4 Public-payment PPP

Prerequisites:

- All public structures and all areas of public management are eligible to a partnership contract, *but not all projects*. Access is subject to:

legal criteria: based on urgency (=>restricted tender procedure) or complexity (=>competitive dialogue)

+

value for money test : comparative analysis of alternative procurement routes (PSC)

1-5 A comparative analysis

<i>Procurement contract/Public Tender</i>	<i>Partnership contracts</i>	<i>Concessions/BOT</i>
Short term One object (=>multiple contracts)	Long term Multiple object (=>1 global contract)	Long term Multiple object(=>1 global contract)
No financing Successive tenders Service provided to administration Payment by administration	Pre-financing Design/build/operate-maintain Service provided to administr. Payment (mostly) by administration but toll possible (on behalf of admin)	Financing Design/build/operate-maintain Service provided to users Payment by users
Construction risk	Construction risk Performance risk	Construction risk Performance risk Demand/traffic risk

2- French Government-pay PPP market: track record to date

Building on a long experience of concessions, the new availability-payment PPP toolbox – around the “Contrat de Partenariat” – has managed a quick ramp up since its adoption:

- **2004**, general legislation on “**contrats de partenariat**” (CP),
- **2005**, creation of the MoF PPP taskforce (**MAPPP**)
- New law passed in July **2008** to improve, extend & clarify the legal framework for PPPs
- **2009-10**: PPP used for Economic stimulus package (counter-cyclical investment)

2-1 Feedback & Prospects

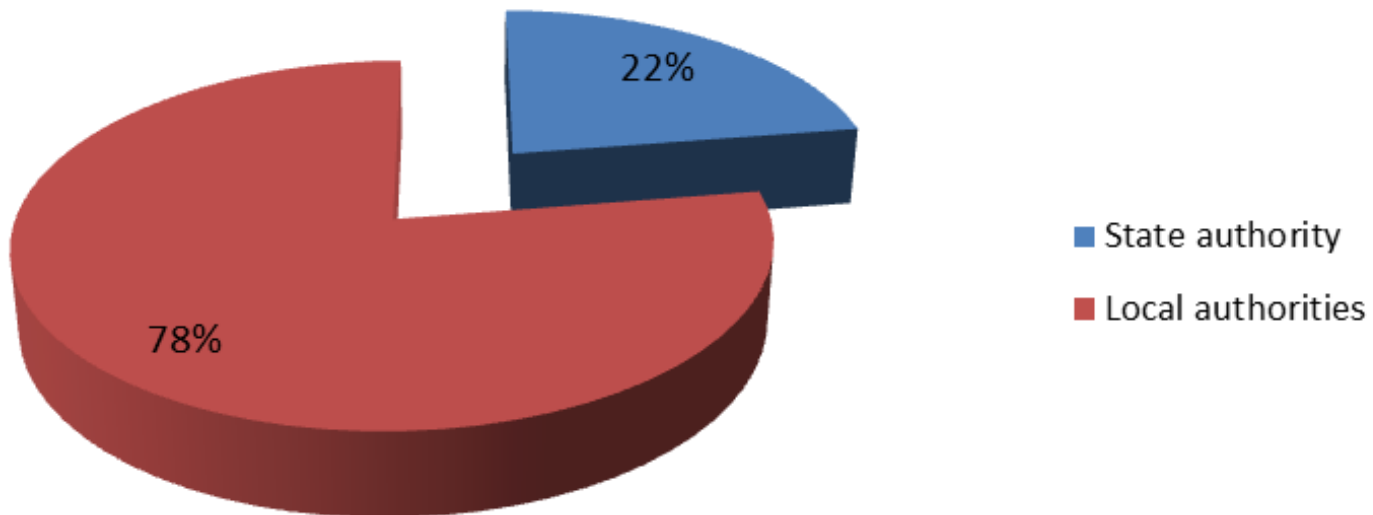
First encouraging assessment for PPPs

- **Over 600 projects attributed** (2004-2013) for an aggregate amount of investment >17 bn€ (x2 incl. Concessions)
 - **France at forefront of EU market by volume** of PPP Capex in 2011-12 (EIB) due to its mega infra projects.
 - But still a **niche** (<5 % of total public investmt)
 - Large number of **projects of limited size** (admin. Buildings, street lighting, road works...) at local level
 - **90% of project equipment delivered on time, on budget** (PWC study of PPP performance June 2011)
 - Still too early to assess operating performance
- ⇒ **First feedback promising quality- & quantity-wise, but limited visibility on future deal flow**

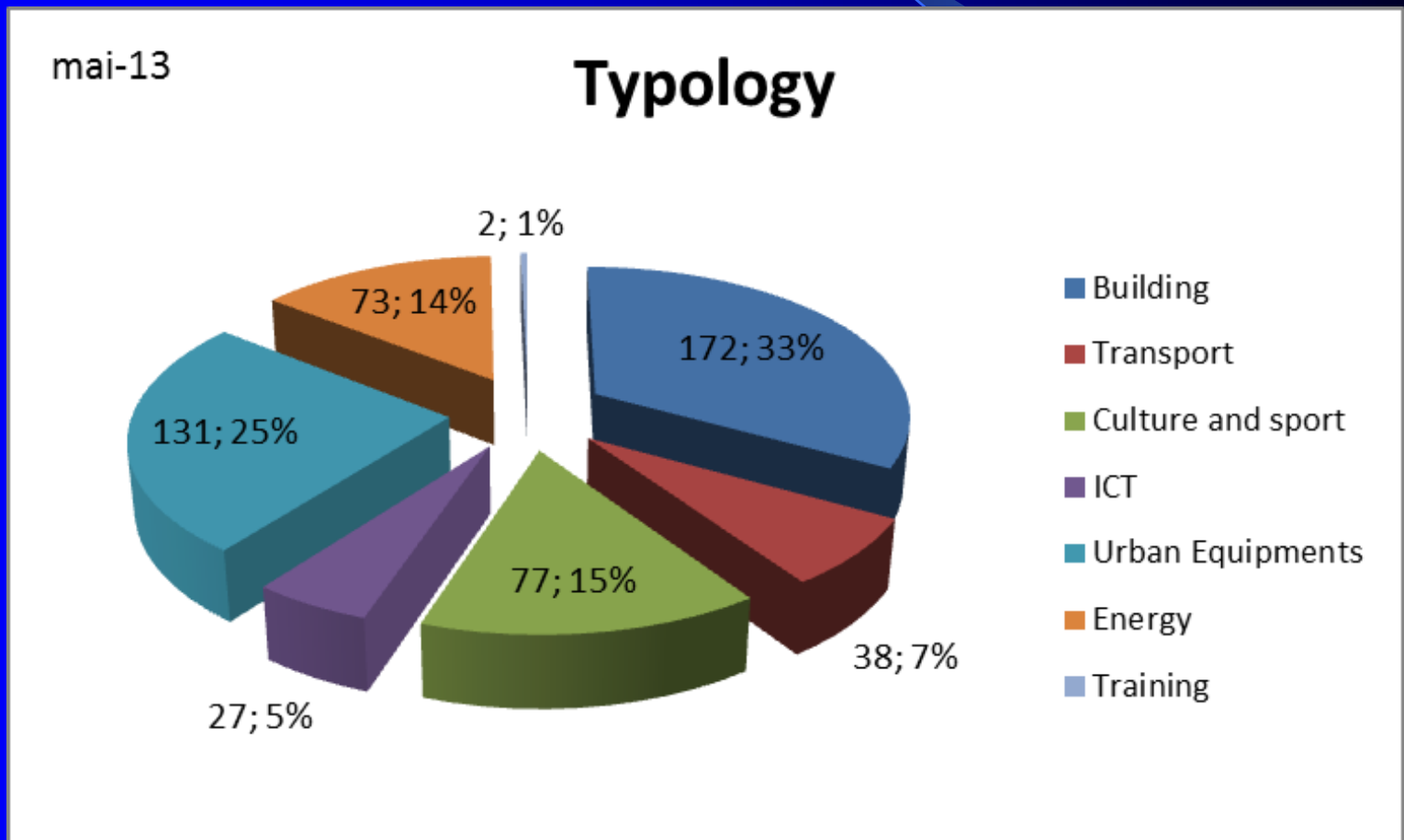
Breakdown of PPP projects signed to date (by number)

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State vs Local authorities



Breakdown of PPP projects signed to date (by sector)



2-2 Main projects signed (by CAPEX)

Local Gov't level

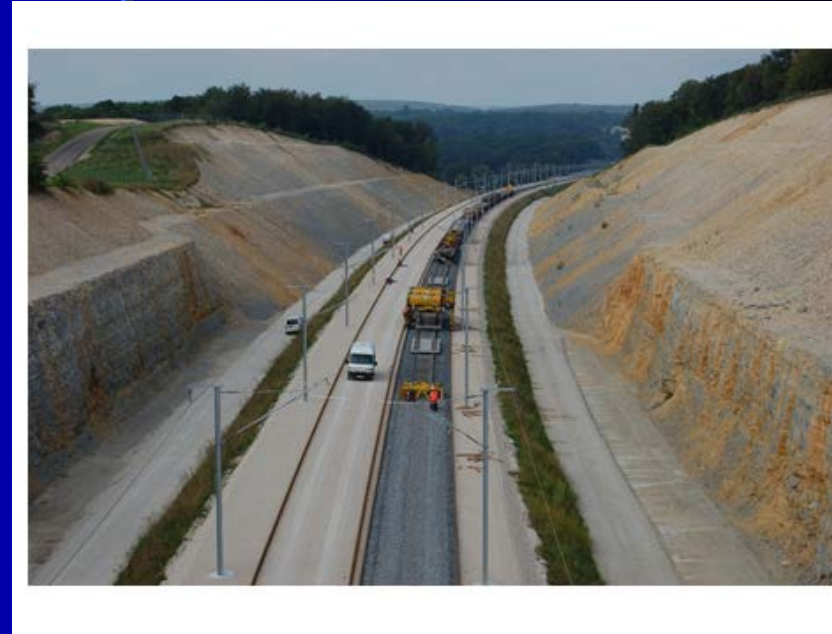
- Departement Seine-St-Denis- schools (290M€ Inv't)
 - Lille, Marseille, Nice& Bordeaux stadiums (from 170 to 300M€)
 - Region Lorraine- lycées (160M)
 - Chalons -Exhibition center (50M)
 - Dunkerque- Arena (80M)
 - Antibes-Waste treatment (60M€)
 - Auvergne-Broadband Internet (25M)
 - Vannes- tunnel under port(60M)
 - Perpignan- Theatre (40M€)
 - Tarbes-Ring road (40M)
 - Biarritz-Museum (35M€)
- But also many Street lighting projects for a few M€ Capex!



Main projects signed (by CAPEX)

Central Gov't level

- High speed line Tours-Bordeaux (8bn€)
- HSL Bretagne (3,5bn€)
& HSL Nimes-Montpellier (1,8bn€)
- GSM-Rail (600M€)
- EcoTaxe/ HGV-Eurovignette(700M)
- Road maintenance centers (130M€)
- L2-Marseille freeway (600M€)
- Waterways upgrade- NE region (300M)



+ Prisons, universities, courts of Justice, Hospitals, Ministry of Defence HQ, ...

3-Overall institutional framework

- PPP structuring complex => PPP unit = logical choice
- General options for the structure of PPP units:
 - Ownership (public or joint venture with the private sector)
 - Coverage (national or decentralized/sectoral)
 - Functions (Investment strategy, policy advisory or project transactions)
 - Authority (mandatory or optional)
 - Financing of operations (national budget or fee-based)

3-1 MAPPP: An expert structure for partnership contracts

- Administrative service (Public ownership)
- Central unit (national coverage)
- Rattached to the MoF (budget financed)
- Light structure (10p), set-up in May 2005
- Cross-sectoral for the whole public sphere
- Not in charge of strategy, but project advisory functions and mandatory authority (Gatekeeper for national projects)
- Promotion/TA role abroad (for all types of PPPs)

3-2 A three-fold mission on partnership contracts:

- **Information/Training** & Promotion of new tool for domestic users (+ international cooperation)
- **Validation** of legal & economic (VfM) case for resorting to PPP for the project & of draft contract before signing (for State-sponsored projects only) (together with Dept of Budget on sustainability of projects)
- **Methodological tools** (Preliminary Check-list, financial spreadsheet, Risk analysis kit, User Guide, sectoral guides) & Support to implementation (assistance in tendering, preparing & negotiating contracts)

3-3 What MAPPP doesn't do:

- Assess socio-economic case for the project
- Prioritize the projects
- Work out the preliminary assessment and comparative «Value for money » analysis
- Manage the bidding process
- Select the preferred bidder
- Sign the contracts
- Oversee directly their implementation

4-New Challenges ahead

Limited visibility for 2014 & beyond,
due to crisis:

1. Budgetary sustainability

Projected Fiscal base of procuring authorities revised downwards

2. Financing issues

Credit crunch still affecting market, with Banks MIA & bonds still nascent

3. Political reassessment & media treatment (PPP bashing?)

+ Beyond the crisis:

- increasing worries about LT adaptability & sustainability of PPPs
- Complexity management both on public and private sides: PPP deals are complex to assess, conduct, structure & control
- limited market share for SMEs (& non-French players)
- Off-balance sheet constraint in view of evolving IPSAS & Eurostat criteria

4-1 Budgetary sustainability

- Fiscal constraint stronger than ever at central & local levels
- Global lifecycle costing in PPPs makes real cost over time appear more clearly

➔ More selectivity required upstream in launching new projects (cf Gallois report)

➔ Budgetary sustainability demo now required for central Govt projects (Decree 27 Sept 2012)

4.2 Financing issues: a lingering crisis impact

- French market for PPP projects impacted in 2008-9 and again in 2011-12 by the Credit crunch
- Several large domestic banks have withdrawn
- Big-ticket PPP projects in the pipe only managed to close in 2010/11 thanks to public banks (EIB, CDC...)+ State guarantee,
- Situation difficult for small to medium projects : increasing spreads+ unavailability of LT financing
- New Stricter financial regulations: Basel 3

In the meantime, cost of sovereign debt at all-time low => increasing gap between public & private financing

4-3 Political reassessment :

- New gov't in place since 2012 => Concerns about previous policies
- Frontier between public & private still very sensitive issue
- Cost of private debt, as PPP are still viewed first as a financing mode
- Some high profile failures blown up by media => public opinion issue

4-4 Audit & recommendations by MoF -Jan 13

- 1 Comprehensive audit performed end 2012
- 2 Critical review of PPP procedures, control & results
 - 3 Proposals to reinforce VfM study stage & better protect public interests (Centralize reporting/follow up of all contracts, Systematize ex post performance assessments, Generalize VfM preliminary comparative study to select & prioritize all large gov't projects)
- 4- But no overall challenging of PPP policy!

4-5 Prospects for 2014 & beyond

- **Less central Govt Projects => more local projects**
- **Nature of Projects:** Better prioritized on socio-economic ground, More brownfield (upgrade of existing infras, ...), less greenfield + Smaller unit size
- **Financing issues:** find new sources of LT financing on capital markets (thru securitization, Project bonds...) + public co-funding (subsidies upfront, milestone payments...) or refinancing + user-fees whenever possible...
- **Smaller , but more realistic Pipeline programming & regular dealflow to attract comp tition**

To sum up:

- PPPs are complex structures and prone to many pitfalls: **Choose PPPs for the right reasons** (not budgetary or accounting window-dressing)
- **Start small** : easier to test on small projects
- **Reinforce public governance** at same time (condition for efficient PPP procurement and contract management)
- Explore the **user-fee model first** (if political & social acceptance of user charges)
- **Set-up central unit** (one-stop window for public & private stakeholders + capitalization of experience)

PPP limitations and precautions needed

- *Not all problems can be solved by PPPs:*
 - funding problems (as the government's fiscal commitments to PPPs can be unclear)
 - project analysis, planning and project selection (remains primarily with the public sector),
 - unclear costs and inflexibility of PPP contracts (contingent liabilities).
 - Advantages of private management also depend on effective PPP contracting and procurement by the government.

Thank you for your attention!

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