PPP for Sustainable Development Goals: Still Untapped Potential

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Recently, attention to the issue of extending the role of public-private partnership (PPP) in achieving the Sustainable Development Goals (SDGs) has significantly increased. There are several reasons for this: a serious lag behind the planned indicators for achieving the SDGs, largely due to the unsatisfactory state of life support infrastructure in countries of developing economies; a constantly widening infrastructure gap; and the insufficient use of private businesses to create the infrastructure critical to achieving the SDGs. To ensure the active participation of private businesses in this process, new institutional mechanisms are needed. Some of these mechanisms, providing for the assessment of compliance of projects with the SDGs, have already been created and are actively promoted for the implementation of PPP projects. This article contains an analysis of these mechanisms and recommendations for incorporating new approaches to assessing the sustainability of businesses interested in implementing infrastructure projects of public interest into the PPP process, based on the principles laid down in the Corporate Sustainability Reporting Directive and European Sustainability Reporting Standards.

Keywords: Public-Private Partnership; Sustainable Development Goals; Infrastructure; Sustainability Reporting; Corporate Sustainability Reporting Directive; European Sustainability Reporting Standards.

I. Introduction

The importance of business participation in achieving the Sustainable Development Goals (the SDGs) was emphasised the day after their approval. At the United Nations Private Sector Forum on 26 September 2015, UN Secretary-General Ban Ki-moon (2007-2016) expressed his hope that private businesses will make it possible to accelerate progress in achieving the SDGs, noting that:[1]

> Now is the time to mobilise the global business community as never before. The case is clear. Realising the Sustainable Development Goals will improve the environment for doing business and building markets. Trillions of dollars in public and private funds are to be redirected towards the SDGs, creating huge opportunities for responsible companies to deliver solutions.

In his speech, Ban Ki-moon emphasised that the approval of the SDGs had set new challenges to businesses related to developing new approaches to align their activities with the needs of people and the improvement of the environment, respect for the employees, zero tolerance for corruption, active implementation innovations, etc. Eight years have passed since that time. The task of mobilising business to achieve the SDGs has not only not lost its relevance – it has become even more important.

In the summer of 2023, the United Nations published the report 'The Sustainable Development

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1 Ban Ki-Moon, 'Secretary-General's remarks at the United Nations Private Sector Forum' (*United Nations*, 26 September 2015) <https://www.un.org/sg/en/content/sg/statement/2015-09-26/secretary-generals-remarks-united-nations-private-sector-forum> accessed 13 March 2024.

Goals Report 2023: Special edition. Towards a Rescue Plan for People and Planet' (the SDG Report 2023),[2] which analysed progress in achieving the SDGs and provided recommendations to international organisations and national governments on acceleration of this process.

The findings were disappointing:[3]

> It is time to sound the alarm. At the midpoint on our way to 2030, the Sustainable Development Goals are in deep trouble. An assessment of the around 140 targets for which trend data is available shows that about half of these targets are moderately or severely off track; and over 30 per cent have either seen no movement or regressed below the 2015 baseline.

Of particular concern is the fact that the targets that are severely off track include the fight against poverty, hunger and climate change.

Among the recommendations presented in the report, an important place was given to increasing the efficiency of private business participation in achieving the SDGs, including when creating/modernising infrastructure. And this is not surprising.

Creating sustainable and reliable life support infrastructure is a prerequisite for achieving the SDGs in developing economies, where the SDG progress is a major concern. In accordance with the World Bank:[4]

> ... globally, 675 million individuals are without electricity, 2.3 billion lack drinking water, 3.6 billion lack safe sanitation, 1 billion live more than 2 kilometres from an all-season road and 450 million live beyond the range of a broadband signal. Addressing these challenges requires about $1.5 trillion every year through 2030 - 4.5% of the GDP of low- and middle- income countries.

As of 2022:[5]

> ... the global infrastructure financing gap is estimated to be around $15 trillion by 2040. To provide basic infrastructure for all people over the course of the next two decades, every year the world would need to spend just under $1 trillion more than the previous year in the infrastructure sector. Most of this spending must happen in low-income economies.

The gap between the available resources and the needs for climate financing is also especially large in the developing economies. According to the flagship report of the Global Center of Adaptation,[6] for adaptation projects "between now and 2035, developing countries will need USD 3.3 trillion. However, at current levels of financing, only USD 840 billion will flow." At the same time, the share of the private sector in financing adaptation activities globally in 2019–2022 was less than 3%.[7]

Private businesses can play an important role in creating life support infrastructure in developing economies. They have the necessary finances, technologies and competencies. They are more flexible, innovative, and in many cases more efficient, than the public sector because they need to make a return on their capital. And they are interested in participating in large-scale and long-term projects.

Simultaneously, infrastructure projects usually require significant investments, have a long payback period and are subject to political, social and financial risks, which are quite high in developing countries. Therefore, it is unlikely that businesses will implement such projects without mutual obligations and support from public authorities.

The mechanism of public-private partnerships (PPPs) fixes long-term obligations on the parties (public sector and private business) and ensures the risks associated with the implementation of infrastructure projects are shared. In addition, in the case of PPPs, private businesses undertake not only the financing and construction of an infrastructure facility, but also provides infrastructure services, of which the requirements for volume, quality and reliability are established by the public authorities. The latter

2 "The Sustainable Development Goals Report 2023: Special edition. Towards a Rescue Plan for People and Planet" (*United Nations*) <https://unstats.un.org/sdgs/report/2023/The-Sustainable-Development-Goals-Report-2023.pdf> accessed 13 March 2024.

3 ibid 4.

4 Sustainable Infrastructure Finance (*World Bank*, 20 September 2023) <https://www.worldbank.org/en/topic/sustainableinfrastructurefinance/overview> accessed 13 March 2024.

5 Amin Mohseni-Cheraghlou and Naomi Aladekoba, "The global infrastructure financing gap: Where sovereign wealth funds and pension funds can play a role" (*Atlantic Council*, 31 October 2022) <https://www.atlanticcouncil.org/blogs/econographics/the-global-infrastructure-financing-gap-where-sovereign-wealth-funds-swfs-and-pension-funds-can-come-in/> accessed 13 March 2024.

6 Ede Jorge Ijjass-Vasques and Jamal Saghi, "State and Trends in Climate Adaptation Finance 2023" (2023) 1 <https://gca.org/wp-content/uploads/2023/12/State-and-Trends-in-Climate-Adaptation-Finance-2023_WEB.pdf> accessed 13 March 2024.

7 ibid.

allows public authorities to focus business on creating sustainable and resilient infrastructure and, as a consequence, improve people's quality of life whilst protecting the environment as much as possible. But to take advantage of this opportunity, appropriate institutional mechanisms must be created.

II. Consideration of PPPs in the Context of the SDGs

Ensuring the positive impact of PPPs on achieving the SDGs has long been the focus of attention of international institutions whose activities are related to infrastructure development and PPPs. In particular - the United Nations Commission on International Trade Law (UNCITRAL), the European Bank for Reconstruction and Development (EBRD), the United Nations Economic Commission for Europe (UNECE).

Along with the Model Legislative Provisions on Public-Private Partnerships,[8] the recently updated UNCITRAL Legislative Guide on Public-Private Partnerships,[9] is the bible for PPP legislators. It notes that:[10]

> Of particular importance is a consideration by the Government of the extent to which the project, whether or not carried as a PPP, is in line with relevant United Nations Sustainable Development Goals.

To reinforce this principle, the EBRD together with the UNECE has prepared a Model Law for Public-Private Partnerships/Concessions aimed at assisting governments drawing up or refining their legal frameworks for PPPs, "in ways which will advance and give effect to the United Nations Sustainable Development Goals (SDGs)".[11] This document has been approved not only by the EBRD, but also by the UNECE Working Party on PPP with the title "Standard on Public-Private Partnerships/Concession legal framework in support of the SDGs."[12] This document defined the special term "PPPs for the SDGs" as "the type of PPP is stated in the UNECE Guiding Principles on PPPs in support of the SDGs".[13]

As it is known, the PPP process can be divided into stages such as initiation and assessment of the feasibility of implementing the project as a PPP, selection of a private partner for the implementation of the PPP project and implementing the project. At each of these stages, it can be envisaged the activities to maximise the positive impact of the PPP project on achieving the SDGs. And for each of these stages, different mechanisms can be used to achieve this goal.

Let's talk about what mechanisms are already applied and can be applied at each of these stages to ensure a positive impact of PPPs on the achievement of the SDGs.

III. Analysis of the Compliance of PPP Projects with the SDGs in the Process of Their Structuring and Evaluation by the Public Authorities

The most important part of orienting the PPP projects towards achieving the SDGs is the first stage, at which the structuring of the project takes place (by public authorities or a private initiator) and the assessment of the feasibility of its implementation is carried out by public authorities. The activities of the UNECE, which is one of the leading players in promoting the concept of "PPP for SDGs", are today focused mostly on this stage.

Shortly after the approval of the SDGs, the UNECE has introduced an innovative concept "People-first Public-Private Partnerships" (PfPPPs).[14] Later, Pf-

8 UNCITRAL Model Legislative Provisions on Public-Private Partnerships (*United Nations,* January 2020) <https://uncitral.un.org/sites/uncitral.un.org/files/media-documents/uncitral/en/19-11011_ebook_final.pdf> accessed 13 March 2024.

9 UNCITRAL Legislative Guide on Public-Private Partnerships (*United Nations,* January 2020) <https://uncitral.un.org/sites/uncitral.un.org/files/media-documents/uncitral/en/19-10872_ebook_final.pdf> accessed 13 March 2024.

10 ibid cl 18, 51.

11 EBRD PPP Regulatory Guidelines Collection, 'Chapter 2: UNECE EBRD Model Law for Public-Private Partnerships Concessions' <https://www.ebrd.com/sites/ContentServer?c=Content&rendermode=preview&cid=1395312943603&pagename=EBRD%2FContent%2FContentLayout> accessed 13 March 2024.

12 UN Economic Commission for Europe Committee on Innovation, Competitiveness and Public-Private Partnerships, 'Standard on Public-Private Partnerships/Concession Model' (ECE/CECI/WP/PPP/2022/52, December 2022) <https://unece.org/sites/default/files/2023-02/ECE_CECI_WP_PPP_2022_05-en.pdf> accessed 13 March 2024.

13 ibid art 2(xviii).

14 Revised Guiding Principles on People-first Public-Private Partnerships for the UN Sustainable Development Goals (UN, 3 May 2018) <https://unece.org/fileadmin/DAM/ceci/documents/2018/PPP/Forum/Documents/Revised_Guiding_Principles_for_People-first_PPPs_in_support_of_the_UN_SDGs-Part_I.pdf> accessed 13 March 2024.

PPPs were renamed to "PPPs for Sustainable Development Goals" or "PPPs for SDGs".

This approach provides for that to be included in this category projects must meet the criteria within the framework of five outcomes: access and equity, economic effectiveness and fiscal sustainability, replicability, environmental sustainability and resilience and stakeholder engagement. In this case they can be considered as those that will have a positive impact on the achievement of the SDGs and therefore deserve the support of their implementation from both the public authorities and financiers and donors.

The UNECE has produced not only theoretical recommendations in this area. For screening projects for these five outcomes, the Infrastructure Evaluation and Rating System (PIERS) had been developed.[15] This methodology has been applied by the UNECE for assessing infrastructure projects implementing as PPPs in the process of selecting the best PPP projects with focus on achieving the SDGs.

To one degree or another, a similar idea was supported by private business associations that share and promote the ideology of sustainable development. For example, on the initiative of the FAST-Infra Group (Finance to Accelerate the Sustainable Transition-Infrastructure) a unifying key tool for driving capital into sustainable infrastructure, the so-called FAST-Infra Sustainable Infrastructure Label (SI Label) has been designed.[16] The purpose of its application is to evaluate infrastructure projects in terms of their significant positive sustainability performance, the results of which will help attracting investors to the creation/renewal of sustainable infrastructure.

The use of PIERS, as well as other methodologies such as SI Label, is voluntary. Mandatory use of such assessments is not provided for by documents containing recommendations of international institutions in the field of PPP, as well as national legislation regulating the implementation of infrastructure projects under PPP conditions.

However, more and more financiers take into account the results of such assessments in the process of prioritising their investments in infrastructure. Currently, the Global Infrastructure Basel (GIB) and Bloomberg mentioned their intention to implement and run the FAST-Infra "Sustainable Infrastructure label" starting in 2023. The Green Investment Group (GIG), a specialist green investor within Macquarie Asset Management, announced its plan to join GIB and Bloomberg in using this labelling. Importance of proposed approach was supported by the World Bank and the HSBC, one of the largest banking and financial services institutions in the world.[17] This trend encourages public authorities and private business (in the case of unsolicited proposals) to structure PPP projects in a way that they meet the criteria used for such assessments.

In addition, today in many countries, for example, in Ukraine, the legislation provides for the consideration of the impact of a project on achieving the SDGs as one of the criteria for evaluating the feasibility of implementing the project as a PPP.[18] The use of the above, as well as other approaches to assess the extent to which the project meets the SDGs, will make it possible to justify the project's compliance with this criterion and, as a result, to make a balanced decision about the expediency or inexpediency of its implementation as a PPP. Therefore, the UNECE methodology is becoming more and more in demand today by financial institutions and public authorities to decide whether the projects proposed for implementation are worth financing or supporting based on the public interest.

The PIERS methodology evaluates PPP projects at any stage of their implementation, starting from project structuring and ending with the results of its implementation. At the same time, in our opinion, the application of this methodology will be especially useful for justifying the expediency of implementing PPP projects at the stage of their initiation and approval. If at this stage the correct KPIs are set for the project and then the results of their achievement

15 UNECE PPP and Infrastructure Evaluation and Rating System (PIERS): An Evaluation Methodology for the SDGs User's Guide to the Self-Assessment Tool, Draft Version (February 2023) <https://unece.org/sites/default/files/2023-02/English%20-%20User%20Guide%20-%20PIERS%20Self-Assessment%20Tool.pdf> accessed 13 March 2024.

16 Providing market confidence and fostering investment in sustainable infrastructure through a global label (*FastInfra Sustainable Infrastructure*) <https://assets-global.website-files.com/64869a932dab4d8c36a88774/656c4fc90f0f381df2966da4_Revised-Label-Brochure-22.11.23.pdf> accessed 13 March 2024.

17 FAST-Infra Sustainable Infrastructure official site <https://www.fastinfralabel.org/> accessed 13 March 2024.

18 Procedure for conducting an analysis of the effectiveness of public-private partnership adopted by the Resolution of the Cabinet of Ministers of Ukraine "Some issues of organising the implementation of public-private partnership" dated 11 April 2011 No. 384, cls 6-8 <https://zakon.rada.gov.ua/laws/show/384-2011-%D0%BF#Text> accessed 13 March 2024.

are monitored by the public authorities and the society according to procedures provided for by the PPP/concession contract, then when implementing the project, the application of PIERS can only record the achieved progress but are not likely to result in the project executors correcting their behaviour.

IV. Selection of a Private Partner for the Implementation of a PPP Project

The next stage also requires attention in the context of solving the problem of increasing the positive impact of PPP on achieving the SDGs, but at this stage, in our opinion, other mechanisms will be important.

Without undermining the importance of incorporating the previously discussed mechanisms for making infrastructure projects evaluation compliant with the SDGs in the process of analysing PPP proposals, we do not consider the qualification of the project as a PPP for SDGs will be sufficient to claim that the effect of its implementation will accelerate the world's movement towards achieving the SDGs. For this, the behaviour of the private partner implementing a project in doing business and in relations with the enterprises of its value chain must correspond to the principles of sustainable development:[19]

> Political leaders and public institutions will need to rally all stakeholders around the SDGs and strengthen collaboration, while building trust and accountability. Steps like regulatory innovations that align private sector governance models with sustainable development objectives could spark significant change, if applied soon enough.

It is especially important to take this into account in the PPP process. After all, PPP projects are special projects. They are based on the partnership of public authorities and private business, which, on the one hand, should meet the public interest, and, on the other hand, must be attractive to private businesses.

In fact, when implementing a PPP project, a business performs public functions – it provides services of public interest. In most cases, it receives a monopoly right to provide services that largely determine the quality of life of the population in a certain territory for quite a long period. Such trust is accompanied by the private partner having a high responsibility in the PPP project. That is why it must share the principles of sustainable development and observe them when conducting business both within the framework of the PPP project and in its other activities. Otherwise, despite having a positive impact on some SDGs, it can negatively influence other SDGs that are not directly related to the implemented PPP project. And who knows which of these impacts will be more significant.

Therefore, PPPs for SDGs will support the achievement of the set goals only if the project executor, its behaviour and relationships with the enterprises of its value chain are sustainable. And this can be ensured by analysing a business that claims to participate in a PPP project as a private partner for its sustainability during the procurement phase of PPP when a private partner is selecting.

The possibility of applying such a criterion as meeting bidders' ethical requirements, and other standards applicable in the corresponding state for pre-selection of participants in the competition for PPP implementation, is provided for in the UNCITRAL Model Legislative Provisions on Public-Private Partnerships.[20] The possibility to apply environmental and/or social criteria for procurement in concessions and non-concession PPPs is provided for in the corresponding EU Directives.[21]

Additionally, in the UNCITRAL Legislative Guide on Public-Private Partnerships, it is noted that:[22]

> In line with high level political commitments or treaty obligations towards sustainable development, good governance, transparency and business ethics, contracting authorities often request the bidders to demonstrate that they meet recognised ethical standards (environmental certification, clean anti-corruption records, labour policy declarations).

Thus, it is emphasised that the analysis of the applicant for participation in the competition for the PPP

19 The Sustainable Development Goals Report 2023 (n 4) Introduction of LI Junhua, Under-Secretary-General for Economic and Social Affairs 3.

20 UNCITRAL Model Legislative Provisions on Public-Private Partnerships (n 8) Model provision 10(c).

21 Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts [2014] OJ L 94/1, art 41 cl 2 and Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC [2014] OJ L 94/65, art 67 cl 2.

22 UNCITRAL Model Legislative Provisions on Public-Private Partnerships (n 8) cl 39, 94.

project in terms of compliance of its activity with the principles of sustainable development becomes one of the important components in the tender procedure.

At the same time, it is well known that any criteria used in the pre-qualification process must exclude discrimination and, therefore, be accompanied by requirements that allow it to effectively verify the information provided by applicants for its compliance with the requirements of the tender documentation. It is not so easy when assessing companies' compliance with the principles of sustainable development, their good governance, transparency and business ethics.

The good news is that the basis for conducting such assessments has already been created in the European Union (EU), where the regulatory frameworks to support the alignment of private sector governance models, operating practices and disclosure requirements with sustainability objectives are being actively developed.

What kind of regulation are we talking about?

V. Corporate Sustainability Reporting Directive (CSRD)

On 5 January 2023, the Directive (EU) 2022/2464 of the European Parliament and of the Council of 14 December 2022 amending Regulation (EU) No 537/2014, Directive 2004/109/EC, Directive 2006/43/EC and Directive 2013/34/EU, as regards corporate sustainability reporting, the so-called 'CSRD', entered into force.[23] EU member states were given 18 months to integrate it into national laws.[24]

The CSRD has set new, detailed sustainability reporting requirements to be disclosed by the business according to European Sustainability Reporting Standards (ESRS).[25] The application of this Directive will ensure that investors and other stakeholders have access to the information, they need to prevent/mitigate investment risks arising from climate change and other sustainability issues, that will ensure the positive impact of business on people and the environment.

The first companies will have to apply the new rules of CSRD for the first time in financial year 2024, for reports published in 2025. It will be the companies that currently are subject to the EU Non-Financial Reporting Directive (ie large EU companies with EU regulated market listed securities, EU credit institutions and EU insurance companies with more than 500 employees and non-EU companies listed on a regulated market in the EU within the definition of large undertakings with more than 500 employees).

Then, from 2025 the reporting period will start for the EU companies and EU consolidated groups meeting two of the following tests:
(a) balance sheet total exceeding EUR 25 million,
(b) net turnover exceeding EUR 50 million, and
(c) more than 250 employees.

The EU and non-EU companies (excluding micro-enterprises) with securities (including debt securities with denominations of less than EUR 100,000 or equivalent) listed on an EU regulated market will be obliged to publish their sustainability reports in 2027 upon the results of their activities in 2026. The reporting period for the non-EU companies with (a) an annual net turnover at the consolidated or individual level in the EU exceeding EUR 150 million for each of the last two consecutive financial years and (b) which have a qualifying EU subsidiary (which is either a large EU company, as defined above, or an EU company listed on an EU regulated market which is not a micro enterprise) or a branch in the EU that generated an annual net turnover in excess of EUR 40 million in the preceding financial year, will start on 1 January 2028. Their sustainability reports must be published in 2029.

It should be noted that the use of the CSRD is mandatory. The Directive sets out requirements for auditing and assurance of sustainability reporting. In particular, the Member States shall ensure that:
– the statutory auditor(s) or audit firm(s) shall where applicable express an opinion based on a limited

23 Directive (EU) 2022/2464 of the European Parliament and of the Council of 14 December 2022 amending Regulation (EU) No 537/2014, Directive 2004/109/EC, Directive 2006/43/EC and Directive 2013/34/EU, as regards corporate sustainability reporting [2022] OJ L 322/15.

24 It should be noted that the CSRD is an EU Directive without direct effect that needs to be transposed into local law. Therefore, there may be differences in the manner in which the CSRD is implemented locally, and it will be important to verify how the CSRD applies at the relevant national level. However, the main principles and rules of this directive will find their place in national legislation.

25 European Commission, Implementing and delegated acts – CSRD (2023) <https://finance.ec.europa.eu/regulation-and-supervision/financial-services-legislation/implementing-and-delegated-acts/corporate-sustainability-reporting-directive_en> accessed 13 March 2024.

assurance engagement as regards the compliance of the sustainability reporting with the requirements of the Directive, including the compliance of the sustainability reporting with the sustainability reporting standard,[26]

– where an undertaking is required by Union law to have elements of its sustainability reporting verified by an accredited independent third party, the report of the accredited independent third party is made available either as an annex to the management report or by other publicly accessible means.[27]

It is important that companies that fall under the scope of the CSRD regulation will have to report not only on their activities, but also on the activities of their value chains and be guided by the ESRS.[28]

VI. The European Sustainability Reporting Standards

The European Sustainability Reporting Standards (ESRS)[29] are standards according to which businesses must prepare their sustainability reports. They set the characteristics of companies' activities that must be disclosed in their reports and explain how this must be done. In our opinion, the criteria used in these standards may be applied when improving the existing mechanisms of evaluating PPP projects for their compliance with the SDGs, as well as for preselection of participants in the competition for the PPP project. In the latter case, the ESRS can be used to form criteria for the admission of applicants to participate in the tender, taking into account the specifics of the project and the country in which it is planned to be implemented.

Wherein, a company wishing to become a private partner in a PPP project, especially if it conducts business in the EU and wants to participate in the implementation of large or large-scale projects, will not need to invent something to prove that it deserves being a private partner. When preparing for sustainability reporting, this company will in any case incorporate the ESRS requirements into its strategy and behaviour and reflect this in its annual report.

The approved ESRS include 12 standards: two cross-cutting standards and 10 topical standards (five environmental, four social and one governance). All these standards are sector-agnostic, meaning that they apply to all companies regardless of the sector or sectors where the company operates.

Two cross-cutting standards describe the architecture of all ESRS and set out general requirements for preparing and presenting sustainability-related information (ESRS 1) and establish disclosure requirements on the information that the undertaking shall provide at a general level across all material sustainability matters on the reporting areas (ESRS 2).

Environmental ESRS (ESRS E1. Climate Change, ESRS E2. Pollution, ESRS E3. Water and Marine Resources, ESRS E4. Biodiversity and Ecosystems and ESRS E5. Resource Use and Circular Economy) in our opinion, can be used both for improving approaches to assessing the impact of PPP projects on achieving the SDGs and for evaluating the companies having intention to implement PPPs.

Many of criteria used in ESRS E1- ESRS E5 correlate with those used by the UNECE in its PIERS methodology. But there are some of them that do not relate to assessment of any project including PPP project. They characterise companies in terms of the impact of their business on the environment and therefore can be used in the pre-selection process of PPP procurement, in particular, to evaluate the applicants regarding impact of their business on the environment based on such information as description of the company's past, current and future mitigation efforts in line with the Paris Agreement; any information reflecting climate change issues in the company's strategy and business model, availability of capacity of the company's employees on sustainability issues.

Social standards (ESRS S1- S4) and governance standards (ESRS G1) mainly concern the characteristics of companies' compliance with the principles of sustainable development, their good governance, transparency and business ethics. It is difficult to apply them to evaluate the PPP project planned for implementation. At the same time, it is important to use them when evaluating applicants participating

26 ibid art 34, para 1(2)(aa).

27 ibid art 34, para 6.

28 ibid art 19a, para 2(f)(ii).

29 Commission Delegated Regulation (EU) 2023/2772 of 31 July 2023 supplementing Directive 2013/34/EU of the European Parliament and of the Council as regards sustainability reporting standards [22 December 2023] OJ L.

in the competition on the implementation of the PPP project. The selection of tender participants, based on the analysis of compliance/non-compliance of the applicant with the criteria provided by these ESRS, can significantly improve the expectations of the public authorities regarding the project's contribution to the achievement of the SDGs.

For example, based on ESRS S1 'Own workforce', it is possible to assess the company's attitude towards its own workforce, in particular, the extent to which the company aligns or complies with international and European human rights instruments and conventions. For this, it may be necessary to provide information regarding working conditions in the company (secure employment; working time; adequate wages; social dialogue; work-life balance; health and safety); its policy on ensuring equal treatment and opportunities for all (gender equality and equal pay for work of equal value; training and skills development; employment and inclusion of persons with disabilities; measures against violence and harassment in the workplace), as well as other work-related rights, including child and forced labour.

Assessment of an applicant based on ESRS S2 'Workers in the Value Chain', will provide an opportunity to assess material impacts on value chain workers connected with the company's own operations and value chain, including through its products or services, as well as through its business relationships and its related material risks and opportunities.

The information subject to disclosure in accordance with ESRS S3 'Affected communities', is important in terms of understanding the company's impacts on affected communities connected with its own operations and value chain.

When evaluating the company's previous and current activities in accordance with ESRS S4 requirements, it is possible to understand the company's material impacts on consumers and end-users connected with its own operations and value chain.

It is no less important to take into account the requirements of the ESRS G1 standard in terms of providing information that characterises the company's business ethics and corporate culture, including the anti-corruption and anti-bribery policy; the management of relationships with suppliers, including payment practices, especially with regard to late payment to small and medium-sized enterprises; as well as activities and commitments of the company related to exerting its political influence, including its lobbying activities.

VII. Monitoring and Control Over the Implementation of a PPP Project

At this stage, the public partner cannot impose any additional requirements on the private partner and on the conditions of project implementation, which may affect the achievement of the SDGs as planned at the start of the project.

The private partner has already been selected and it will be possible to replace him only in the cases provided for in the PPP contract. All technical and other requirements for the implementation of the project and the corresponding KPIs should also be reflected in the contract, as well as the procedure for monitoring their achievement and the responsibility of the private partner in case of violation of its obligations.

Therefore, despite the importance and duration of this stage, it is unlikely that it will be possible to propose any new measures that will increase the positive impact of the project on achieving the SDGs or prevent its negative impact at this stage. It is simply necessary to monitor and control the project implementation indicators stipulated in the PPP contract and document all deviations.

VIII. Conclusions

The development of infrastructure critical to achieving the SDGs requires huge funds, especially for low- and middle-income countries, where infrastructure is underdeveloped and does not provide the population with services which allow for a comfortable and high-quality life. The gap between funding needs and available resources is huge and for most governments, it is considered impossible to finance of such projects with national (local) budgets and donor funds.

Private business can attract not only additional financial resources but also new modern technologies and highly qualified personnel for the creation (modernisation) of infrastructure necessary for achievement of most of the SDGs. Flexibility and purposefulness in approving management decisions and achieving results are also important features of the business that can ensure sustainable development.

Considering this, encouraging private business to build sustainable and resilient infrastructure on conditions of PPP is currently one of the important tasks on the way to achieving the SDGs. To solve this problem, new innovative mechanisms are needed.

Currently, the main focus in ensuring a positive contribution of business to sustainable development in the implementation of PPP projects is focused on promoting projects that involve the creation of sustainable infrastructure and provide for the wide involvement of civil society in their implementation, etc. To this end, methodological approaches are being developed and implemented to rank projects in terms of their impact on achieving the SDGs. Among best-known approaches are the PIERS methodology developed by the UNECE and the FAST-Infra Sustainable Infrastructure Label (SI Label).

Discussed in this article and other similar methodological approaches to evaluate PPPs for their compliance with SDGs are important in terms of increasing the role of business in achieving the SDGs. At the same time, the existing potential in this area will not be fully revealed if a business involved in the implementation of PPP projects, in its current activities harms the environment, inefficiently uses non-renewable natural resources, does not strictly uphold human rights in its own company and value chain. Moreover, the impact of such business behaviour on the SDGs indicators may not meet expectations from the implementation of the PPP project, which is considered sustainable, or even neutralise them.

To achieve success and meet society's expectations from PPPs, a comprehensive approach providing for not only assessing projects' sustainability but also the impact of the activity of particular businesses on the SDGs should be considered. Sustainable projects must be implemented by sustainable businesses. To ensure this and fully realise the potential for achieving the SDGs as a result of the implementation of the PPP projects, it is important to include the assessment of the sustainability of companies when prequalifying applicants for participation in the PPP competition.

A good basis for such an assessment can be ensured by the Corporate Sustainability Reporting Directive. Companies operating in the EU will be able to demonstrate their compliance with its requirements using the information provided in their sustainability reports already in the not-too-distant future. To assess the sustainability of companies whose activities are not subject to the CSRD regulation, ESRS criteria (selected considering the project and country specific and those that can be clearly measured) can be used for prequalification.