

Public-Private Partnership (PPP) in the Waste Management Sector: Lessons from Kosovo

Florin Peci¹ and Carter B. Casady²

Abstract

Public services are created to satisfy the general needs of citizens. However, in post conflict and newly established states, public services continuously face difficulties in offering adequate service delivery. These difficulties typically stem from poor management and operations, limited budgets, and lack of management capacity under legacy governance systems in planned economies. Given these challenges, public-private partnerships (PPPs) in transitional settings have become an increasingly popular method for offering and improving public service delivery. PPP contracts generally transfer significant risks from the public-sector project sponsor to private, third-party actors and link remuneration to performance of the contracted service. However, PPPs also face their own challenges in transition economies. The purpose of this paper is to highlight some of these challenges through an in-depth study of the formal and informal factors affecting Kosovo's first PPP within the waste management sector, Ecohigjiena Company (*Ecohigjiena sh.p.k.*). As one of the last countries in transition since the 1999 war, Kosovo serves an ideal case for examining institutional pressures on the PPP model. The main institutional constraints faced by this hybrid organization in Kosovo will be analyzed using the theoretical lens of New Public Governance (NPG) and neo-institutional theory. The case study draws upon semi-structured interviews with senior managers and administrative personnel from *Ecohigjiena sh.p.k.* Our analysis shows that the PPP's management faced and overcame many internal and external difficulties, including low levels of professionalism, challenging legal frameworks, poor communication/trust between partners, and inadequate enforcement of regulations. These findings in Kosovo ultimately serve as a useful example for other transition countries confronting similar difficulties in their PPP implementation and operation.

Keywords: Public-private partnerships (PPP); institutional constraints; New Public Governance (NPG); neo-institutional theory; waste management; Kosovo.

¹University of Peja, Faculty of Business Administration, Peja, Kosovo, florin.peci@unhz.eu

²Stanford University, Department of Civil and Environmental Engineering, Stanford, CA, cbasady@stanford.edu

1. Introduction

Around the world, poor government performance and service delivery remains an ongoing challenge. However, underdeveloped and transition economies particularly struggle with poor government management and operations, limited budgets, and lack of management capacity under legacy governance systems in planned economies (Ban et al., 2003; Wisniewski, 2001). Various models have been used to overcome some of these difficulties and improve services via effective management, transparency and accountability. In recent years, public-private partnerships (PPPs) in transitional settings have become an increasingly popular method for offering and improving public service delivery (Zhou et al., 2009; Harris, 2003; Macedo and Pinho, 2006). PPP contracts in transition countries generally transfer significant risk from the public sector project sponsor to private, third party actors and link remuneration to performance of the contracted service. However, in transition economies, PPPs also face a variety of formal and informal institutional challenges.

As one of the last countries in transition since the 1999 war, Kosovo serves an ideal case for examining these institutional pressures on the PPP model. As the country has developed institutional reforms based on the free market economy, private provision of infrastructure services through PPPs has become much more legitimate. Under Kosovo's Law on Public Private Partnership (PPP), No. 04 / L-045, private firms can now partner together with public companies to carry out various services in all economic and social sectors. One of the first PPP companies in Kosovo that operates in the waste management sector is the *Ecohigjiëna sh.p.k.* Based in Gjilan and established in 2012, *Ecohigjiëna sh.p.k.* established cooperation between *KRM Higjiënies sh.p.k.*, the public sector, and *Ecovision sh.p.k.* of Moerser Group in Austria. Since its inception, Kosovo's first waste management PPP has faced a myriad of formal and informal institutional challenges. This research aims to explore these challenges and answer the following research questions:

- 1) What are the main formal and informal institutional challenges affecting *Ecohigjiëna sh.p.k.*?
- 2) How do these formal and informal factors affecting Kosovo's first waste management PPP?

To answer these research questions, this paper uses an in-depth case study to explore the formal and informal factors affecting Kosovo's first PPP within the waste management sector, *Ecohigjiëna sh.p.k.* The paper begins by describing the relationship between New Public Governance (NPG), institutions, and PPPs. Using these concepts as a theoretical lens, we next outline our research design and methodology. Then, we proceed with the case analysis, drawing our results from a handful of semi-structured interviews. Finally, we conclude by summarizing the contributions of our work and areas for future research.

2. New Public Governance (NPG), Institutions, and Public-Private Partnerships (PPPs)

2.1. New Public Governance (NPG)

In the last few decades, public sector institutions around the world have undergone major transformations. Today, many governments have "reinvented, downsized, privatized, devolved, decentralized, deregulated, delayed, subjected to performance tests, and contracted out" in order to improve the delivery of public services, enhance government competency, contain program costs, and improve institutional effectiveness (Salamon & Elliot, 2002, pg. 1). These

new indirect forms of governing—known as “third-party government” or “government by proxy”— have made governments much more dependent on complex, interdependent relationships with private actors, commonly known as public-private partnerships (PPPs) (Salamon & Elliot, 2002; Hodge & Greve, 2007; Kettl, 2013).

For many governments, “[s]uch partnerships may be seen as new forms of governance, which fit in with the imminent network society” (Teisman & Klijn, 2002, p. 197). Structured in the form of long-term contracts between public agencies and private partners, these arrangements increase private participation and risk sharing across various stages of the infrastructure project lifecycle, such as design, construction, financing, operations, and maintenance (Casady & Geddes, 2016, 2019). Although the concept of PPPs has existed for some time, Casady et al. (2019b, p. 2) note that “‘modern’ infrastructure PPPs were conceived in the New Public Management (NPM) era of the 1990s as a way to improve the internal management of government infrastructure provision.” However, since their inception, PPPs have evolved and begun to move away from NPM (Greve & Hodge, 2010; Conteh, 2010). Today, PPPs now fall within a broader public administration paradigm which enables “governments to engage with a number of private agents in often complex and contractually sophisticated relationships” (Greve and Hodge 2010, 150). These increasingly complex, networked environments, collectively known as New Public Governance (NPG) paradigm, capture the fragmented and uncertain nature of 21st century public management. Grounded in organizational sociology and network theory (Haveri, 2006), Osborne (2010, p. 414) notes that NPG has become:

the dominant regime of public policy implementation and services delivery, with a premium being placed upon the development of sustainable public policies and public services and the governance of inter-organizational relationships.

Naturally, this recognition of “the legitimacy and interrelatedness of both the policy making and the implementation/service delivery processes” (Osborne 2006, 384) has begun to (re)define PPPs “as a tool of NPG which provides infrastructure services through a dense network of state–business linkages” (Casady et al., 2019b, p. 2). While many other infrastructure project delivery options still enable public agencies to “[internalize] transactions, [minimize] legalisms involved in complex contractual negotiations with external actors, and [provide] a more stable framework for bargaining,” PPPs are becoming increasingly attractive in developing and transition economies because of their ability to both enhance competition, flexibility, and quality in infrastructure service provision while supplementing the public sector’s technical and financial capacity to deliver projects (Salamon & Elliot, 2002, 31). However, in many countries, the concept of PPPs “is often introduced without much reflection on the need to reorganize policy-making processes and to adjust existing institutional structures” (Teisman & Klijn 2002, p. 197).

2.2. The Role of Institutional Settings

As a result, PPPs in the post-New Public Management (NPM) era have created their own governance challenges. For example, Dutz et al. (2006, p. 1) note that:

[The] shift from traditional public sector methods [to NPG] places new demands on government agencies. They need the capacity to design projects with a package of risks and incentives that makes them attractive to the private sector. They need to be able to assess the cost to taxpayers, often harder than for traditional projects because of the long-term and often uncertain nature of government commitments. They need contract management skills to oversee these arrangements over the life of the contract. And they

need advocacy and outreach skills to build consensus on the role of PPPs and to develop a broad program across different sectors and levels of government.

As governments around the world confront these NPG obstacles associated with PPPs, a handful of scholars have shown that institutional environments significantly affect the degree to which entrepreneurial activities are socially and economically productive (Baumol, 1990; Acs et al., 2008; Dutt, 2011; Williams and Vorley, 2015b; Casady et al. 2018, 2019a, 2019b). Because institutions are influenced by a combination of regulative, normative, and cultural-cognitive pressures (Scott, Levitt, and Orr 2011), they tend to develop and establish the “rules of the game” in society (North, 1990; Chang, 2011). While formal establishments tend to be the dominant form of institutional organization which influences entrepreneurial behavior through the initiation and establishment of rules/regulations, standards, and values (Ahlstrom and Bruton, 2002; Tonoyan et al, 2010), informal institutional factors such as culture are significant in a) shaping the institutional structure, b) planning for the future co-dependence of institutions, and c) preventing or facilitating the acceptance of foreign cultural institutions (Greif, 1994). These informal institutional settings are particularly powerful because they often dictate the unwritten codes of conduct, conventions, norms, and culture that define societies (Baumol, 1990; North, 1990). Within institutional settings, informal institutions also perform three critical functions:

- 1) they complete or fill gaps in formal institutions;
- 2) they coordinate the operation of overlapping (and perhaps clashing) institutions; and
- 3) they operate parallel to formal institutions in regulating political behavior (Azari, 2012).

Strengthening formal institutions and reforming informal institutions is thus crucial for fostering productive entrepreneurship and PPPs (Winiiecki, 2001; Estrin & Mickiewicz, 2011). Yet, improving and/or reforming these institutions remains a challenging and path-dependent process. In practice, policymakers often examine formal and informal institutions separately and prefer focusing on formal institutional changes (Williamson, 1981, 1986, 2000) while neglecting informal institutional transformation.

When policymakers neglect informal institutional transformation, they often fail to consider the interaction between and complementarity of formal and informal institutions. In reality, formal institutions reinforce and are reinforced by informal institutions in ways that enhance their mutual efficiency or effectiveness (Williams and Vorley, 2015a). For instance, when informal institutions emerge spontaneously, they often remain influenced by the calculative assembly of formal rules (Williamson, 1981, 1986, 2000). Together, these interactions can drive economic development.

However, in transition economies, formal and informal institutional arrangements are not always mutually reinforcing. In some cases, they can be substitutive, where informal institutions compete with and undermine weak formal institutions (i.e. not embedded or enforced) or prevail where there is a void in formal institutions (North, 1990; Tonoyan et al, 2010; Estrin and Prevezer, 2011). This is particularly prevalent in states characterized with uncertainties and instability in the institutional structures. In these settings, there is generally “little incentive for entrepreneurs to commit themselves to long term projects forcing them instead to concentrate on the task of surviving” (Smallbone & Welter, 2001, p. 260). Naturally, in cases where entrepreneurs operate in environments fraught with frequent changes in regulations, legal insecurity, and bureaucratic instability, significant increases in operational and transaction costs are bound to manifest (Tonoyan et al, 2010). Unfortunately, for many former centrally planned

economies, such as Kosovo, challenges in adopting, implementing and enforcing NPG tools, such as PPPs, has created a need for the formation of new, aligned institutions.

3. Research Design and Methodology

3.1. Case Overview: *Ecohigjiëna sh.p.k*

To explore some of these institutional challenges, this paper uses a single case study to examine the formal and informal factors affecting Kosovo's first PPP within the waste management sector, *Ecohigjiëna Company (Ecohigjiëna sh.p.k)*. *Ecohigjiëna sh.p.k* is based in Gjiilan, Kosovo. First established on May 23, 2012, *Ecohigjiëna sh.p.k* serves as a public-private partnership (PPP) company—also known as a special purpose vehicle (SPV)—between *KRM Higjiëna Sh.A*, a public company with 49% of the SPV shares, and *Ecovision sh.p.k*, a private company consisting of *Moërsër Group* from Austria with 51% of the SPV shares. Through its license from the Ministry of Environment and Spatial Planning, *Ecohigjiëna sh.p.k* currently conducts all of its services in accordance with applicable legal provisions in the Republic of Kosovo. As the only company in the field of waste management, *Ecohigjiëna sh.p.k* carries out services within a geographical extension of the Gjiilan region.³ At present, its activity extends to the South-East Region of Kosovo—Gjiilan, Viti and Kamenica—and also includes cooperation agreements with the municipalities of Novo Brdo, Partesh, Ranilluk and Kllokot. Its services include the collection, transfer, and treatment of waste as well as the provision of other public services such as cleaning and maintenance of roads, city squares, cemeteries, and markets.

Ecohigjiëna sh.p.k's current hierarchical structure consists of several units and functional lines. The Board of Directors consists of 8 members. The chairman along with 3 other members represent the private partner (Moser Group) while the public partner has 2 members from the Municipality of Gjiilan, 1 member from the Municipality of Viti, and 1 member from the Kamenica municipality. The remaining internal structure of the company includes: 3 Directors (CEO, Director for Finance and Administration, Operations Director), 8 employees in the administration including internal auditors, 25 employees for money collection and about 110 employees in the service sector. In total, the company has roughly 160 employees—109 in Gjiilan / Gnjilane, 21 in Viti, 23 in Kamenica, and 7 in Novobërdë. With a market value of €1.5 million—€926,436 from its private company *Ecovision sh.p.k* and €529,117 from its public company *KRM Higjiëna Sh.A*, *Ecohigjiëna sh.p.k* also last held a positive cash balance of €88,000 at the end of FY 2016 after it covered the losses and past debts of its public partner, *KRM Higjiëna Sh.A*. In that same year, the company accounted for approximately 30,093 tons of waste transfer in Gjiilan and its surrounding contracted service areas.

3.2. Data Sources and Methods

In order to analyse the formal and informal institutional factors affecting *Ecohigjiëna sh.p.k*'s service performance, a case study method was chosen because our research addresses descriptive (“how” and/or “why”) questions about the company and attempts to offer an intensive, overall explanation of a specific phenomenon where the purpose is discovery rather than proving causality (Tellis, 1997; Merriam, 1998; Darke et al. 1998; Yin 2017). Naturally, because case studies focus on the in-depth study of a particular phenomenon, they also often do not constitute a single method but rather a combination of various scientific approaches (Strauss & Corbin, 1990; Feagin et al. 1991, Patton, 1990; Stake, 1995; Gerrin, 2007; Yin, 2017).

³This is stipulated in the PPP agreement.

For this particular case, we obtained qualitative and quantitative information from a series of semi-structured interviews with 6 key senior managerial and administrative personnel within *Ecohigjiena sh.p.k.* This gave us firsthand information on the institutional challenges facing the company. All interviews were conducted face to face at the premises of *Ecohigjiena sh.p.k.* in Gjilan. After the initial interviews we conducted, the interview questions were reevaluated, leading to some small changes and/or additions. Further questions arose during the data analysis process and additional questions were answered by the interviewees via phone.

In total, the interviews lasted on average 60 to 90 minutes and were tape recorded and transcribed. During each interview, three people were present; the interviewee, one researcher asking questions, and another taking notes. The interviews were then transcribed and information from these transcripts was used in the final coding. The interviews were also recorded and listened to in their entirety on the premises of the company in the presence of the interviewees. Conducting the interviews on the company's premises led to a fruitful and open discussion and also allowed us to observe the behaviour of the interviewees in their operating environment. Yin (2009) considers the natural environment and inclusion of the interviewees—through listening of the transcripts—in any case study to be advantageous for conducting reliable qualitative interviews. We also tried to keep the interviews as authentic as possible by using the same questions and asking them in the same order (Bryman & Bell, 2007).

3.3. Coding

Once the interviews were conducted, the data was then coded. In qualitative research, this coding process involves the creation of categories and concepts which are unpacked into smaller analyzable units by compressing extensive data sets in a logical way. In cases where the researchers include themselves as part of the measurement procedure, they also need to consider if the results they obtain are reliable and consistent (Trochim & Donnelly, 2008). In this case, we relied on certain skills of the researchers—e.g. familiarity with the phenomenon, good listening and observation skills, asking the right and appropriate questions, and flexibility—to maintain the validity of our results. However, this research is not without its limitations. Because this work draws on a small set of interviews and codes developed by the research teams, the results of this respective case study still, to some extent, risk being affected by some amount of subjectivity and bias which would negatively impact the case reliability (Yin, 2009). Despite these limitations, this research offers a critical examination of the formal and informal factors affecting Kosovo's first waste management PPP. In the next section, we begin our case analysis of *Ecohigjienash.p.k.*

4. Case Analysis of *Ecohigjienash.p.k.*, Kosovo's First Waste Management PPP

4.1. Informal Institutional Transformation: Internal Cultural Changes and Challenges

After *Ecohigjiena sh.p.k.* was established in 2012 and its 15-year contract was initially signed,⁴ problems began to arise in the management structure and operations of the firm. These issues generally consisted of different boycotts, strikes, and resistance to operations activities and management decisions set by the new Board of Directors. Many of these problems were inherited from *KRM Higjiena Sh.A.*, the public partner, as *Ecovision sh.p.k.*, the private partner, began to install contemporary operations and management methods which departed from traditional management approaches. One interviewee specifically recalled that many of the problems in the beginning for *Ecohigjiena sh.p.k.* came from the public partner's old style of

⁴There were also provisions for extension of the contract up to a quarter of its initial tenure (i.e. ~ 3.7 years).

socialist management. For example, because the public partner had failed to respect certain obligations of key stakeholders and other third parties, the private partner *Ecovision sh.p.k* was forced to assume these obligations and additional costs. Otherwise, the PPP might have failed. This interviewee also stated that “[c]hanging the concept of work within the organization ha[d] been difficult.” In some instances, employees even resisted their work obligations and attempted to shield themselves from dismissal via the support of various municipal directors. Another interviewee noted that “[t]he mix of competencies in the organization ha[d] been a problem from the beginning.” These internal cultural challenges ultimately affected the outset of operations for *Ecohigijena sh.p.k*. One interviewee summarized these struggles succinctly, stating:

We do not have a significant problem with the private sector but with institutional levels we have many barriers and problems of different types, ranging from PPP organization, contractual relations, distrust, negotiation, renegotiation, procurement, auditing, etc.

4.2. *Litigation Issues*

Naturally, some of these internal institutional issues spilled over into the courts. Because labor laws were not very favourable to the company, some employees working on unlimited contracts could not be replaced. At the same, other contracts were “now fixed in time so these elements raise[d] dilemmas, especially in court cases, because the legal aspects of this issue [were] not properly clarified.” As a result, a few interviewees revealed there have been many court proceedings which have dragged on for years with no resolution. These ongoing legal disputes have ultimately “had a negative impact on the performance of the company.” One interviewee put the costs associated with these repeated appeals and ongoing litigation at “somewhere around 60-70 thousand euros.” They also indicated that other damages were very large. Another interviewee also noted “[t]here are about 20 civil court cases with current employees and former employees in the company.” For some cases that received positive judgment from the appeals court, company accounts were blocked without notice or a deadline for appeal. These events, according to another interviewee, delayed the payment of staff as revenues were redirected to service other budget items. On the bright side, only two people caused ~€100,000-worth of damage to the company as a result of dismissal and court rulings against their compensation.

4.3. *Formal Institutional Barriers*

While *Ecohigijena sh.p.k* was dealing with a handful of informal institutional changes and legal challenges, the company also faced some significant formal institutional barriers. Although reductions in the Value Added Tax (VAT)—from 18% to 8%—lowered the company’s billing and general operating costs, *Ecohigijena sh.p.k* had problems with invoicing payments for its services. An additional €500,000 in costs associated with this problem had to be gradually paid back to the Tax Administration of Kosovo (TAK). Likewise, another interviewee indicated TAK was one of *Ecohigijena sh.p.k*’s biggest problems because old debt associated with the public company, *KRM Higijena Sh.A*, was billed to the PPP.

Outside of tax obligations, *Ecohigijena sh.p.k* also faced legislative barriers in its operations. For example, one interviewee noted that the company was unable to contract for the maintenance of public surfaces, worth ~€1 million, because of Section 9.4 in Kosovo’s Public Procurement Law. This disruption has lasted more than two years, and the issue is currently not yet resolved. Additionally, although fairly standard laws on waste management have been fully adopted and implemented by a host of EU countries, implementation in Kosovo has been extremely difficult. One interviewee cited an example that inert waste, pharmaceuticals, etc. must be disposed of in a special landfill specifically constructed for this purpose. However, since there is no such landfill,

this waste is dumped in an ordinary landfill at 10 times the price of other waste. Naturally, this has led to higher company costs. This interviewee went on, saying:

We would like to build such waste dumps, but it is not possible because our public partner (municipality) unnecessarily extends the deadline to arrange documentation for public procurement so the company's work is handicapped in this regard.

Because there is no alliance between the partners on this issue, the company had to reject a bid with hospitals for the disposal of pathological waste because there are no appropriate facilities to dispose of this waste under the terms and conditions of the waste management sector in Kosovo.

4.4. Institutional Reform

Despite all of these formal and informal institutional challenges, the interviewees stressed that *Ecohigjiena sh.p.k*'s business model remains focused on reducing operating costs and increasing performance in the waste management sector. The company is specifically dedicated to improving the standard and service level of waste management in the southeastern region of Kosovo, a model which they hope to "outsource to other regions in Kosovo, and in the surrounding countries."

To achieve this objective, the company has undertaken a host of institutional reforms. While certain aspects of the hybrid organization have created uncertainty and confusion in PPP operation and contract compliance between partners, *Ecohigjiena sh.p.k* has made significant efforts to improve the managerial and operational aspects of the firm. Although some staff needed to be replaced, one interviewee noted:

The number of workers is increasing symbolically, the displaced are replaced by new workers and the efficiency of waste collection has increased significantly as a result of the reorganization and modern management of labor.

The company has also created an atmosphere of trust and fair segregation of duties for each worker in the workplace. This was done through organized trainings via consulting firms (e.g. IBM program training, accounting, electronic procurement setup for preparation of tender dossiers, finance training, etc.). These trainings were coupled with reductions in bureaucracy and a reorganization of the organizational hierarchy into a meritocracy. Professional skills and specialization became essential for staff recruitment and employees assumed increasing levels of responsibility. Although some informal groups dissented to these changes and other staff were ultimately replaced, many of these changes have improved *Ecohigjiena sh.p.k*'s success in the market. Although navigating legal issues and government institutions came at a large cost to the company, totalling approximately €300,000, interviewees note that "the performance of the company has increased and over-the-counter remuneration has increased from 45% in year 2012 to an 85% collection rate in the year 2018."

5. Conclusion

In summary, public-private partnerships have become an increasingly popular method for offering improved infrastructure service delivery in transitional settings. However, PPPs continue to face their own institutional challenges, especially in unstable policy environments. As one of the last countries in transition since the 1999 war, Kosovo serves an ideal case for examining how various institutional pressures affected the PPP model. In this paper, we explore how formal and informal institutional affected Kosovo's first PPP within the waste management sector,

Ecohigjiena Company (*Ecohigjiena sh.p.k*). At the beginning, many problems arose within *Ecohigjiena sh.p.k* during the transition to more contemporary management approaches. Additionally, many of the company's early struggles were exacerbated by unpaid debts resulting from the poor collection of revenues, ongoing litigation, and legal barriers which hindered some of the company's waste collection services. Although these problems proved to be formidable at the outset, effective management of the company's formal and informal institutional factors ultimately enabled *Ecohigjiena sh.p.k* to overcome almost all of its managerial and operational challenges. Today, the company has developed a contemporary and efficient management structure with professional staff and modern equipment. Its service offerings for citizens also embody the emergence of NPG in Kosovo's waste management sector, a new dimension in the delivery of public services within the country as a whole. Moving forward, while this work remains somewhat limited in its scope and conclusions, future research should explore how other transition economies have grappled with institutional pressures on their PPP projects and programs.

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