

Strengthening the capacity of the public sector to undertake PPPs in the Western Balkans

WBIF Project Financiers Group
Tirana, 23 May 2019

Agenda

1. Introduction to EPEC
2. Summary of EPEC's **first assignment** for WBIF (2013-2014) – which provides background to the follow-on assignment
3. Purpose, scope and outputs of **second assignment** (2016-2018)
4. **Should time permit**, some observations from our experience of the WBIF assignments/Region (challenges, recommendations)

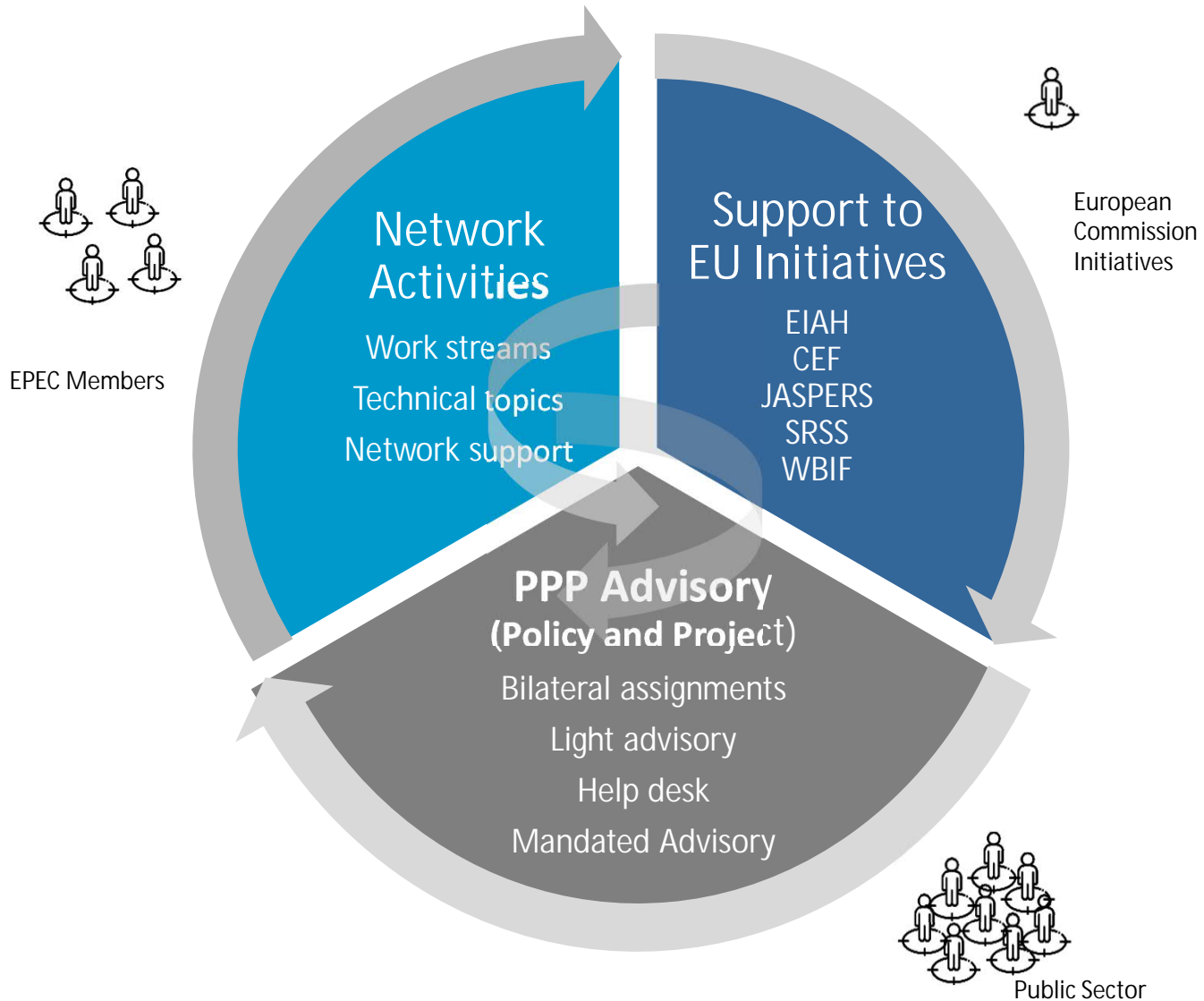
The European PPP Expertise Centre (EPEC)

The European PPP Expertise Centre

- Designed as a capacity building 'public good' PPP initiative
- A unique membership-based PPP expertise network
- With a mission to support the public sector to deliver sound PPPs
- Based on a membership of 41 (30 countries) – typically central PPP units of Member States and Candidate countries – the EIB and the EC
- That is 'neutral' in its approach to PPPs and independent of EIB lending
- An integral part of the EIB's advisory services



EPEC Activities



Key Characteristics of Public-Private Partnerships (PPP)

- Long-term contractual relationship in which a public body and a private sector entity collaborate to deliver public infrastructure and related services
- Where the public authority:
 - makes performance based payments to the private partner linked to the availability or use of the asset and services (“government pay”)
 - grants rights to the private sector to generate revenue (“user pay”)
- Project risk transferred to the private sector
- Involving private financing

Two EIB EPEC assignments for WBIF – bringing European experience and good practice to the Region

EPEC's two linked PPP assignments for WBIF:

Assignment 1:

- “PPP institutional strengthening in Western Balkans”
- One year assignment (2013-2014)
- Lead beneficiaries – Croatia and Montenegro

Providing the context and impetus for:

Assignment 2:

- “Strengthening the capacity of the public sector to undertake PPPs in the Western Balkans”
- Two year assignment (2016-2018)
- Lead beneficiaries – Serbia and Montenegro

Delivered by

- EPEC resources dedicated for the purpose, supported by other team members
- Assignment 2 benefitted from the input legal advisers and external PPP expert review

“PPP institutional strengthening in Western Balkans” (2013-2014) – scope of assignment

Objective: to help strengthen PPP institutional arrangements, bringing European experience to the Region, sharing knowledge/experience

Activities:

- Introduce EPEC network activities to the Region (PPP events and EPEC membership)
- Assess PPP legal and institutional frameworks
- Develop a PPP project preparation assessment tool for the Region

Outputs:

- Analysis of institutional arrangements for delivering PPPs:
 - PPP Unit reports for Croatia, Kosovo*, Montenegro, Serbia
 - An “Overview of PPP legal and institutional frameworks in the WB”
- “PPP project preparation Status Tool”

* This designation is without prejudice to positions on status, and is in line with UNSCR 1244/99 and the International Court of Justice Opinion on the Kosovo declaration of independence.

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“PPP institutional strengthening in Western Balkans” (2013-2014) – key findings

- PPP legal and institutional frameworks are broadly in place and its therefore possible to implement PPPs, though are largely untested
- Countries of the Region face challenges in managing the preparation, procurement and implementation of PPPs => high PPP project mortality rates
- Many staff responsible for supporting the development of PPPs have little or no exposure to PPPs and therefore have a only conceptual understating of PPPs
- Limited practical guidelines available to the Region’s procuring authorities seeking to consider and/or procure PPP project

“Strengthening the PPP capacity of the public sector to undertake PPPs in WB” (2016-2018)

Objective: to help strengthen the capacity of key public sector bodies to identify, prepare and procure sound PPP projects

Activities: 4 components, over two year assignment period:

1. Review of a sample of PPP projects implemented in the Region and draw lessons learnt, including where PPPs failed or are stalled

2. Examination of comprehensiveness of preparation of pipeline PPPs for ‘readiness’ for market launch, using the Project Preparation Status Tool

3. Development of guidance on:
- PPP preparation and procurement
- PPP suitability and Value for Money assessment

4. Develop of guidance on:
- Preparing procurement documents
- Main provisions of an availability PPP contract

Method: activities structured along a series of bilateral exchanges, workshops and training seminars with national and Regional stakeholder

Component 1 – good practice, challenges and lessons learnt about PPP projects

Key outputs and recommendations drawn from regional/national meetings and workshops:

- Data on PPP projects undertaken in the Western Balkans
- Assessment of a sample of 10 PPP projects implemented in the Region, analysing the approaches and processes adopted by the public authorities
- Key lessons drawn from the exercise and recommendations to address the main challenges identified – presented to/discussed with PPP government officials of the Region at a workshop in Luxembourg

Link:

<https://www.wbif.eu/content/stream/Sites/website/library/1-Good-Practice-Challenges-and-Lessons-Learnt-FINAL-310818.pdf>

Component 2 – assessment of PPP ‘readiness’ of a sample of WB projects

Aim: to assist relevant public sector entities to assess the status and quality of the PPP project pipeline

Using EPEC’s PPP Project Preparation Status Tool (PPST), developed in the first WBIF assignment, to examine projects in bilateral meetings with individual public authorities:

- Helping responsible officials to determine the completeness of their PPP project preparation activities and readiness for procurement
- Six one-day national workshops to introduce the PPST, followed by 20 bilateral meetings assessing 31 projects of varying degrees of maturity (both national and regional/local projects) – Albania, & Herzegovina (x 2), FYROM, Kosovo*, Serbia

Components 3 & 4 – preparation of guidance documents

Guidance documents – designed to be accessible to public officials at the national and regional/local level:

- “Guide to Preparing and Procuring a PPP Project”
- “Guide to the Qualitative and Quantitative Assessment of Value for Money in PPPs”
- “PPP Procurement Handbook”
- “Guide to the Main Provisions of an Availability-based PPP Contract”

All guidance documents **uploaded** to the WBIF website in August 2018

“A Guide to Preparing and Procuring a PPP Project”

- Sets out the principal components of a PPP project cycle with an emphasis on best European practice and procurement
- PPP officials can use this document:
 - As an **introductory guide** to project preparation and procurement of PPPs
 - As a **resource** to learn more about general aspects of PPP arrangements
 - As an **introduction** to typical issues that arise when working with PPP advisers

Link:

<https://www.wbif.eu/content/stream/Sites/website/library/3-PPP-Preparation-and-Procurement-Guide-FINAL-310818.pdf>

“A Guide to the Qualitative and Quantitative Assessment of Value for Money in PPPs”

Offers current best European practice in the area of Value for Money (VfM) assessment (“making the PPP decision”):

- Provides an overview of the main objectives of VfM assessment
- Explains how to carry out **qualitative VfM** assessment, illustrating evidence-based approaches to examine the potential of the PPP delivery model to achieve VfM
- Explains and presents **quantitative VfM** assessment approaches, including guidance on the use of a Public Sector Comparator

Link:

<https://www.wbif.eu/content/stream/Sites/website/library/2-Value-for-Money-Assessment-Guide-FINAL-310818.pdf>

“PPP Procurement Handbook”

- Detailed guidance on how to conduct the procurement phase of a PPP project cycle
- Explains features typically included in the pre-qualification information and tender invitation documents issued by the public authority
- Comprehensive guidance on the local (Western Balkans) laws that apply to the procurement of a PPP project
- Sets out good practices that are recognised by the European PPP bidding community

Prepared with the support of:

- Allen & Overy LLP
- In association with Karanovic & Nikolic (Bosnia, Macedonia, Montenegro, Serbian) and Boga & Associates (Albania, Kosovo*)

Link:

<https://www.wbif.eu/content/stream/Sites/website/library/4-PPP-Procurement-Handbook-FINAL-310818.pdf>

“A Guide to the Main Provisions of an Availability-based PPP Contract”

- General guide to the **main provisions and key terms** commonly adopted to manage the principal elements of an availability-based PPP contract
- Considers the **context and legislative environment** for PPPs in the Region
- Provides **guidance on local laws that apply** to each aspect of the contract with references to the relevant legislation and regulations

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Link:

<https://www.wbif.eu/content/stream/Sites/website/library/5-Main-Provisions-of-an-Availability-based-PPP-Contract-FINAL-310818.pdf>

Dissemination of guidance material

- Six dissemination events – Albania, Bosnia & Herzegovina, FYROM, Kosovo*, Montenegro, Serbia
- Around 120 participants from PPP Units, line ministries, procuring authorities, municipalities, WBIF and NIPACs
- Very positive feedback from practitioners, highlighting the practical approach and the useful handbook style of the documents
- English versions of the five documents are available on WBIF and EPEC websites
- Official translation of the five documents into Serbian

Observations and recommendations from the second WBIF EPEC assignment

Challenges to the delivery of PPPs faced by the Region:

- Are consistent with the broader problems faced with conducting public investment in the Region
- Are common to public officials in Europe, but of greater depth and made more complex by the specific characteristics of the Region
- Challenges fall into four main groups:
 - Policy, legal and institutional frameworks
 - Public sector capacity and processes for project preparation
 - Market supply and financing
 - Public funding and financing issues

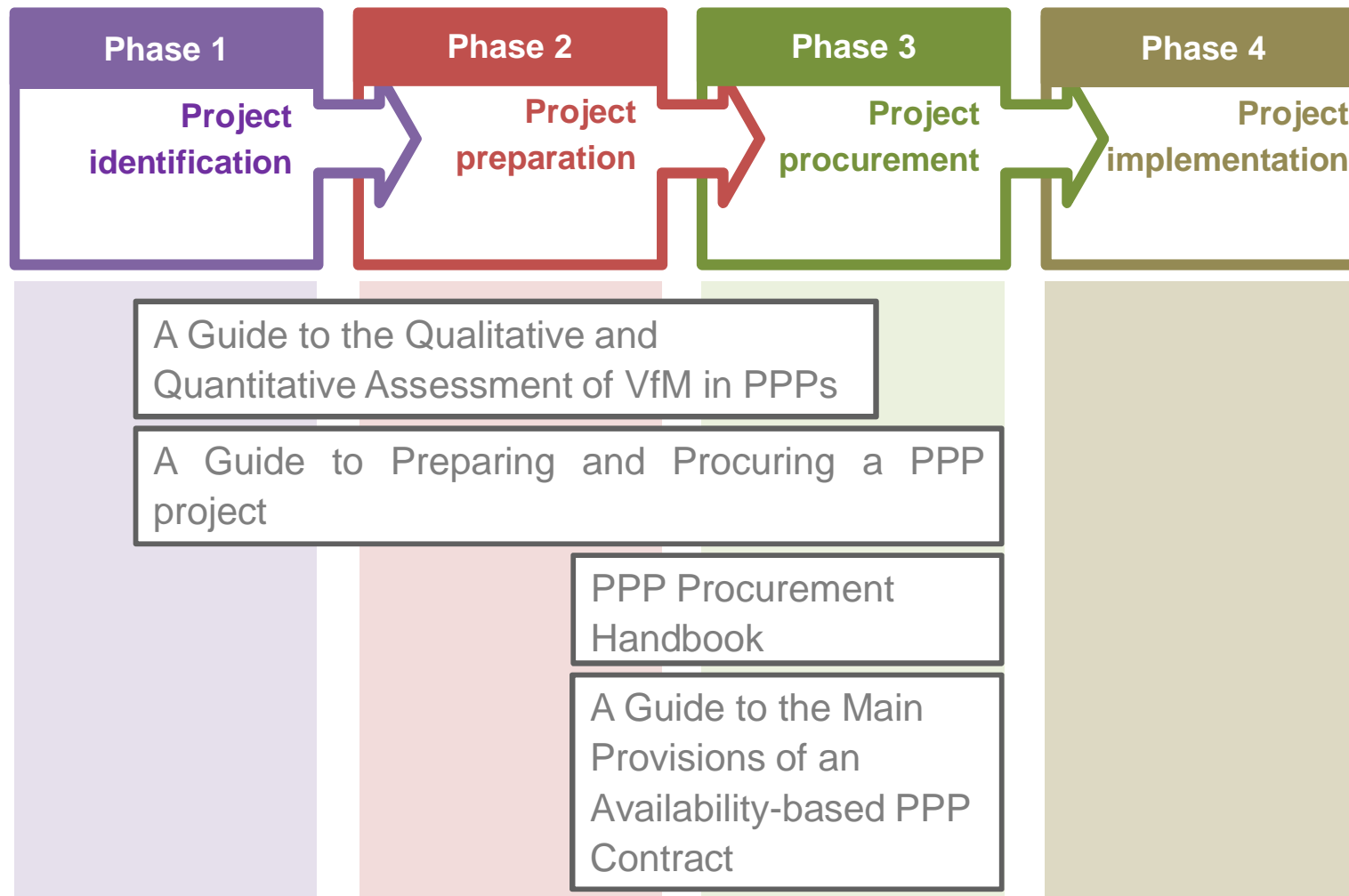
Some observations/lessons

Overall, limited development of PPPs and PPP expertise in the Region since the 2013-2014 assignment:

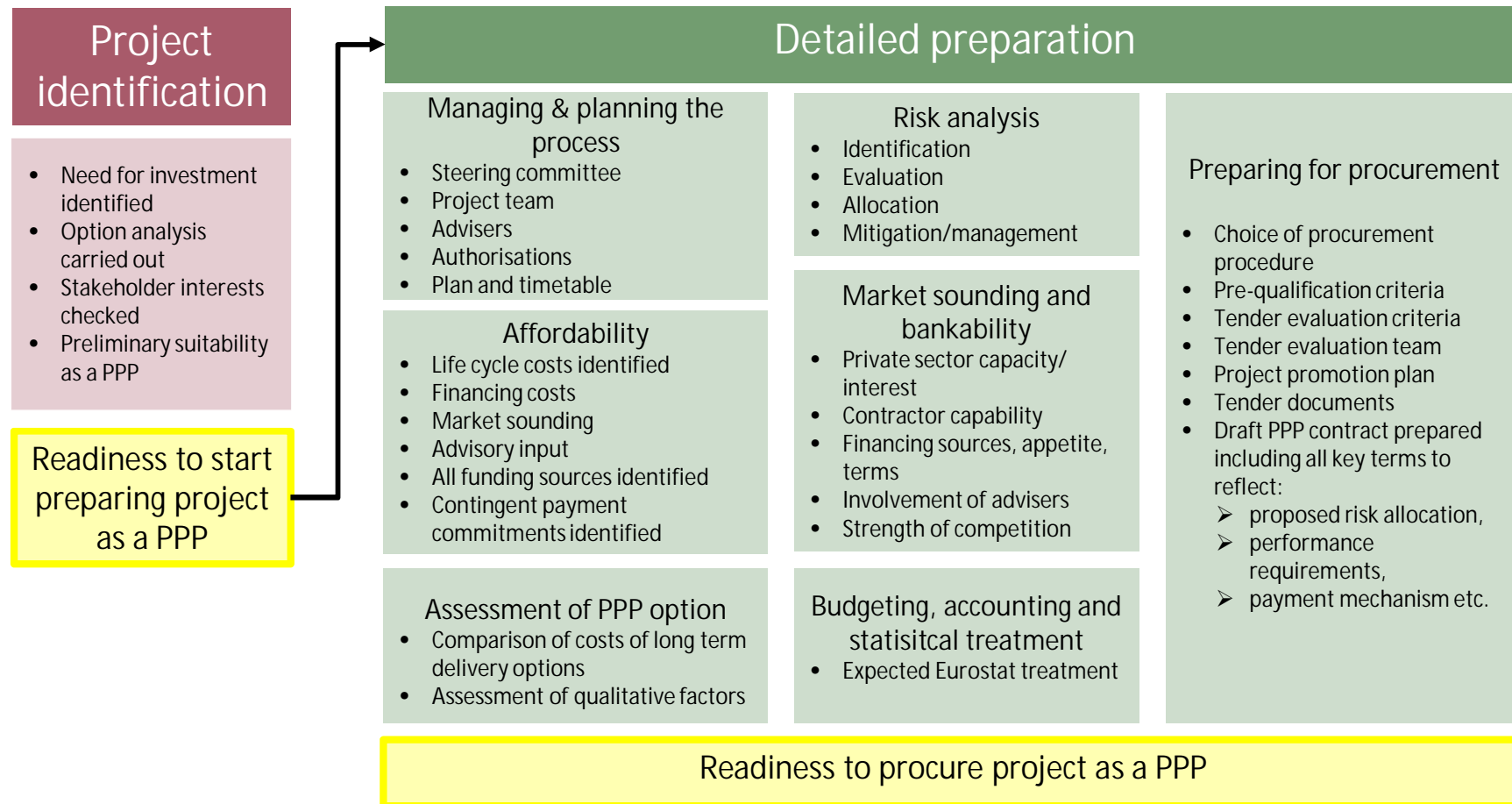
- Legal and institutional arrangements are generally weak and poorly supported
- Limited evidence of:
 - soundly prepared (underlying) projects (though better when advisers are used e.g. major projects)
 - systematic approaches for making the PPP decision (suitability and Value for Money)
- Early involvement of MDBs has been of assistance in preparing projects and PPP procurement, but has not necessarily guaranteed project success/delivery
- Unsolicited proposals are prevalent (inconsistent with EU Directives)
- Local banking and financial markets have limited project finance expertise

Reserve slides

Guidance documents: life cycle approach



Outline of the PPST – Questionnaire



Challenges to the delivery of PPPs

Policy, legal and institutional frameworks - legal and institutional arrangements are weak and poorly supported

Public sector capacity and project preparation processes:

- The motivation of the public authority to use PPP as a method of delivery is often unclear or poorly communicated
- Limited evidence that sound projects are being selected and the decision to use a PPP does not follow a systematic process to assess PPP suitability
- Limited capacity in the public sector may prevent the adoption of good practices that appear overly complex or resource-intensive
- Using experienced PPP transaction advisers has been of assistance, but has not necessarily guaranteed project success/delivery

Challenges to the delivery of PPPs

Market supply and financing

- The involvement of MDBs has been of assistance, but has not necessarily guaranteed project success/delivery
- Using a PPP will not overcome external market factors or make an unsound project better
- The local banking and financial markets have limited project finance expertise and capacity
- Unsolicited proposals from the private sector (not considered as a procurement tool by EU legislation) might not deliver VfM

Public funding and finance

- There is no systematic recording at the central government level of future potential liabilities arising from PPP contracts

Challenges remain: suggestions/recommendations (1)

- Further support to help establish:
 - Appropriate legal frameworks (where needed)
 - Better organised and resourced **dedicated national PPP Units** to help support procuring authorities
- Ongoing **programme of dissemination and capacity building** needed to support:
 - Promotion of EPEC guidance documents and Project Preparation Status Tool
 - Assessment of the 'PPP decision' - suitability of projects for PPP procurement and Value for Money
 - Harmonisation of national public procurement rules with the EU Directives
- Assistance in **developing guidance for procuring authorities** on the appointment and management of PPP transaction advisers

Challenges remain: suggestions/recommendations (2)

- To help improve project selection and preparation of (underlying) projects:
 - Encourage the development of national infrastructure plans and prioritised project pipelines
 - Support to the effective use of grants and financial instruments
 - Further use of JASPERS' technical capability
- To help improve the robustness of the 'PPP decision', PPP preparation and implementation:
 - Greater participation of Western Balkans Members in EPEC network
 - Possibly, establishment of a Regional knowledge exchange forum
 - Secondments from more PPP experienced countries/entities
 - Support relevant staff of public authorities to acquire 'PPP certification' or other PPP training/qualifications
 - Further use of support available by MDBs e.g. Global Infrastructure Facility

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