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DEMOCRACY
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Lebanon's Progress on Public-Private Partnership and the Role of Local Authorities*

Executive Summary

Lebanon's government and international donors have been looking to public-private partnerships (PPP) as a lifeline for the country's ailing economy and deteriorating infrastructure. Authorities in Beirut have sought to implement reforms to unlock over \$11 billion in funds pledged at the April 2018 CEDRE conference where the country presented an ambitious Capital Investment Plan (CIP) for infrastructure development. The CIP, which foresees private sector financing for around 40 percent of its proposed projects, sought to address the needs of Lebanon's local authorities.

In anticipation of CEDRE, the Lebanese government in August 2017 passed long-awaited legislation regulating PPP (PPP Law No. 48). With the aim of attracting foreign investment, the law moves Lebanon a step closer to international PPP benchmarks, such as greater transparency, accountability and competitiveness on procurement processes. The law, which serves as an improvement on Lebanon's previous PPP regulations, offers several advantages such as:

- Providing a comprehensive legal framework for PPP in Lebanon
- Ensuring transparency and competitiveness
- Attracting foreign investment
- Reducing risk borne by the public sector
- Providing assurance to reputable private firms to invest and contract with the public sector
- Preserving the rights of the public sector to monitor and benefit from private expertise

* This publication is based on a paper written by Christina Abi Haidar, attorney and legal expert, based on the findings of the Expert Meeting held at the Higher Council for Privatisation and Partnerships (HCPP), Beirut, on 23 January 2019. It was revised and edited by André Sleiman, Country Representative in Lebanon, and DRI staff. The meeting was organised by Democracy Reporting International in cooperation with SKL International. It was hosted by HCPP and chaired by its Secretary General, Ziad Hayek. Representatives of the EU, the World Bank, USAID, UNDP and the municipalities of Beirut, Qabrikha, Bikfaya-Mhaydseh, Batloun and the Jezzine Union of Municipalities were in attendance.

However, gaps in this law pose challenges to local municipalities in Lebanon, which should play a vital role in strengthening local economic development. In Lebanon, municipalities are unable to properly address local infrastructure needs because they are administratively constrained by and fiscally dependent on the central government.¹

To keep pace with increased local demands and enhance local development, private sector involvement in local governance is key. This, together with reforms to the municipal financial system, would allow the municipalities not to rely as heavily on the support of the donor community and the central government.

Despite the factors constraining local authorities, municipalities have managed to achieve several PPP success stories, which can serve as models for future PPP projects involving local authorities (see Section 2).

The Jezzine Union of Municipalities initiating eco-friendly projects boosting the local economy

The Municipality of Qabrikha demonstrating how local authorities and donors can partner for sustainable energy solutions

The Municipality of Bikfaya-Mhaydseh and Fayhaa Union of Municipalities taking the lead in waste management and offering a model for local solutions to Lebanon's waste crisis

PPP Law No. 48 is not geared for small, short-term, or urgent PPP projects favoured by local authorities in the country because it does not provide for a simplified procurement process suitable for the type of infrastructure projects commonly conducted by municipalities.

As such, several steps need to be taken to create an environment conducive to capital expenditure at the municipal level in partnership with private investors:

- Streamlining the approval process for small-scale PPP projects favoured by municipalities
- Training municipalities to better understand PPP Law No. 48
- Encouraging municipalities to pool resources for joint infrastructure projects
- Bolster the new PPP law with further transparency measures

Transparency is key to the success of PPP as it encourages competition, fairness and efficiency. Lebanon's PPP Law takes positive steps toward ensuring transparency, but more efforts must be taken to ensure transparency in a comprehensive PPP regulatory framework stretching from the central government down to the level of local authorities. These include:

- Facilitating the involvement of civil society and non-governmental organisations in observer roles for PPP projects
- Fully involving all stakeholders, including dialoguing with residents
- Ensuring the transparency, integrity and accountability of implementing agencies, including their organisational structures and procurement processes
- Adopting complaint mechanisms for PPP operations

1 See DRI. (2017). Public Service Provision in Municipal Unions in Lebanon: Solid Waste Management, Municipal Police and Public Safety, Accountability and Participation. Beirut: Final Survey Report. December 2017.

DRI. (2019). Are Lebanese Municipalities Delivering? Survey Results on solid waste management, public safety and citizen outreach at the local level. Beirut: Final Survey Report. July 2019.

1. Lebanon Eyes Private Investment Solutions for Public Sector Woes

Lebanon entered the April 2018 CEDRE conference in Paris seeking foreign aid to address deteriorating economic conditions. Following the 1975–1990 civil war, the country amassed spiralling public debts in a bid to repair its infrastructure. In 2018, Lebanon's debt-to-GDP ratio hit 153 percent. Meanwhile, Lebanon remains mired with sluggish economic growth, political deadlock and turbulence, corruption and an inefficient public bureaucracy. Despite heavy government spending, the country's infrastructure has not seen substantial improvements.

According to the World Economic Forum's 2018 Global Competitiveness Report, Lebanon's quality of infrastructure ranked 95th out of 140 countries. The country ranked an even lower 102nd in terms of utility infrastructure, including water and electricity supply. Lebanon's dense urban areas continue to grow in population while fixed assets, such as buildings, equipment and facilities continue to deteriorate.

These structural problems are compounded at the level of Lebanon's municipalities, which are unable to respond to local infrastructure needs because of understaffing and lack of financial resources.

Lebanese authorities presented to the CEDRE conference an ambitious Capital Investment Plan (CIP) calling for physical infrastructure development and rehabilitation, including ensuring clean water and sanitation, affordable energy as well as making cities resilient and sustainable. Lebanon won over \$11 billion in pledged funds for the CIP at the CEDRE conference, conditional upon the government enacting several reforms.

The private sector is expected to finance around 40 percent of the CIP's proposed infrastructure projects via PPP agreements. Lebanon's CIP proposal to the CEDRE conference specifically flagged the adoption of PPP Law No. 48 of 2017, which provides the legal framework for private sector investment in infrastructure.

PPP is defined as a long-term agreement between governments and private companies for public assets and services that seek to benefit from private sector efficiency, expertise and resources.

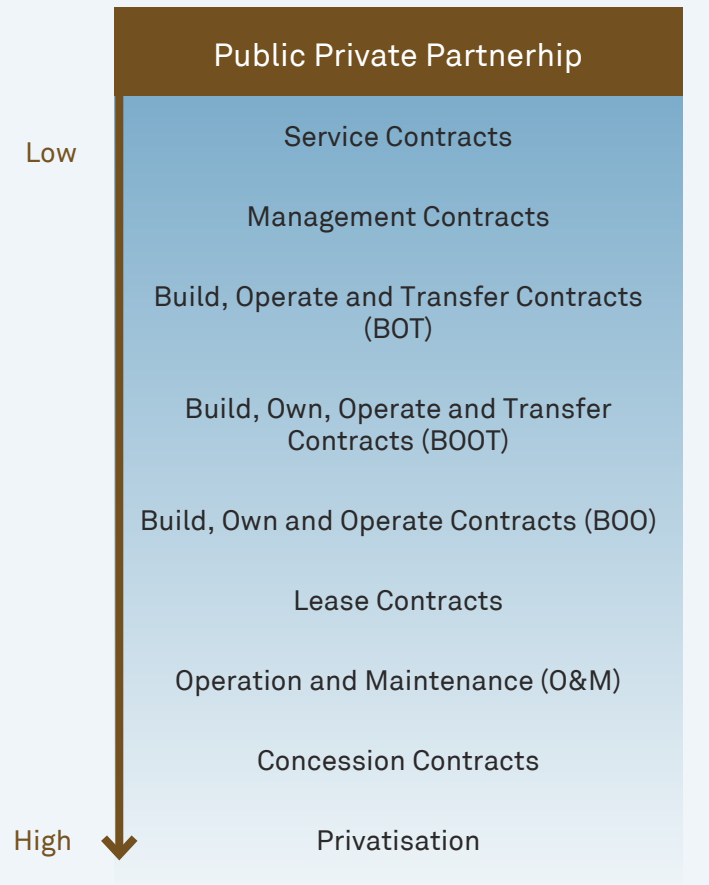


Figure 1. Types of PPP in Order of Extent of Private Sector Involvement

Lebanon's government and foreign donors view PPP agreements as a lifeline for Lebanon's ailing economy. These agreements, in which the private party bears significant risk and management responsibility, offer several advantages for both the central government and local municipalities.

Table 1. Benefits of PPP in Lebanon

Private sector can provide the public sector with the technology, skills and know-how it lacks.	Private sector is more agile and better endowed with resources and competencies than the country's public sector, which is impeded by antiquated laws.
Private sector can help relieve government fiscal burdens as private sector would incur initial costs or contract debt of projects.	PPP can finance projects for municipalities, which are deprived of important funding sources.
PPP can solve the conundrum of contracting loans, which are prohibited for municipalities.	

The PPP Law No. 48, the first to provide a comprehensive legal framework for PPP in Lebanon, moves Lebanon closer to international standards following two decades of faltering attempts at enacting PPP to alleviate public debt.

Since PPPs are public contracts, best practices can be derived from the United Nations Commission on International Trade Law (UNCITRAL), which states that well-designed procurement encourages participation, maximises efficiency, promotes competition, provides equitable treatment for stakeholders, promotes integrity and achieves transparency.

The United Nations Economic Commission for Europe (UNECE), for its part, builds on these practices and recommends that PPP projects enhance resilience, improve economic effectiveness, promote replicability and development of further projects, and fully involve all stakeholders.²

Transparency International recommends that information at every stage of the public procurement cycle be released to the public, from needs assessments to audits of projects. Stakeholders should be informed of all major decisions, while public comment should be requested in hearings, according to the organisation's transparency guidelines.³

PPP Law No. 48 ensures transparency throughout the public tender process and establishes the regulatory outline for contracts by the Lebanese government with private investors to build and manage infrastructure. However, gaps in this law pose challenges to local municipalities in Lebanon, which should play a vital role in strengthening local economic development.

As such, several steps need to be taken to create an environment conducive to capital expenditure at the municipal level in partnership with private investors:

- Streamlining the approval process for small-scale PPP projects favoured by municipalities
- Training municipalities to better understand PPP Law No. 48
- Encouraging municipalities to pool resources for joint infrastructure projects
- Bolster the new PPP law with further transparency measures

2 United Nations Economic Commission for Europe. (2017). UNECE Standard on a Zero Tolerance Approach to Corruption in PPP Procurement. <https://www.unece.org/ppp/standards.html>. Viewed 08-11-2019.

3 Transparency International. (2014). Curbing Corruption in Public Procurement: A Practical Guide. https://www.transparency.org/whatwedo/publication/curbing_corruption_in_public_procurement_a_practical_guide. Viewed 08-11-2019.

2. Lessons Learnt? Lebanese Government's Public-Private Partnerships Experience

Following the end of the 1975–1990 Civil War, Lebanon's government lacked capacities to provide public services and rebuild destroyed infrastructure. This provided an opening for civil society organisations (CSOs) and the private sector to take on public service delivery roles, albeit on a largely informal basis.

While Lebanese governments starting from the late 1990s attempted to activate PPP agreements in response to fast mounting public debt, little progress was made from a legal perspective to facilitate and regulate such agreements.

Prior to the passage of PPP Law No. 48 in 2017, public-private projects lacked the customary guarantees to reduce risk and provide transparency sought by foreign investors and international financial institutions to secure the viability of their projects and reduce risks.

Despite the incomplete legal framework, Lebanon's governments enacted several PPP projects using Management,⁴ Build Operate and Transfer as well as Concession contracts.⁵

Lebanon's PPPs since 1990

Sukleen handling solid waste collection and treatment

SOLIDERE planning and redeveloping Beirut Central District

Ondea awarded management contract for Tripoli Water Authority

Concessions awarded to expand Beirut International Airport

LibanPost operating postal sector

Beirut Duty Free operated by Phoenicia – Aer Rianta Company (PAC)

MAPAS operating Jeita Grotto tourist attraction

Mobile phone network awarded to France Telecom, Mobile Liban and LibanCell

Karadeniz Holding deploys power barge

4 According to the World Bank, in Management/Operation and Maintenance contracts, the “awarding authority engages the contractor to manage a range of activities for a relatively short period (2 to 5 years). Management contracts tend to be task specific and input rather than output focused”. See: World Bank. (2019). “Management/Operation and Maintenance Contracts”. Public-Private-Partnership Legal Resource Center. <https://ppp.worldbank.org/public-private-partnership/agreements/management-and-operating-contracts>. Viewed 08-11-2019.

5 In a Build Operate and Transfer project “the public sector grantor grants to a private company the right to develop and operate a facility or system for a certain period” in which the “operator generally obtains its revenues through a fee charged to the utility/government rather than tariffs charged to consumers”. A Concession grants the “concessionaire the long-term right to use all utility assets... including responsibility for operations and some investment. [...] In a concession the concessionaire typically obtains most of its revenues directly from the consumer and so it has a direct relationship with the consumer”. World Bank. (2018). “Concessions, Build-Operate-Transfer (BOT) and Design-Build-Operate (DBO) Projects”. Public-Private-Partnership Legal Resource Center. <https://ppp.worldbank.org/public-private-partnership/agreements/concessions-bots-dbos>. Viewed 08-11-2019.

Before the enactment of Law No. 48, ministries were able to procure PPPs based on specific laws and policies for major sectors, including water, telecommunications and civil aviation. Until 2017, the regulatory framework was reinforced by the Tenders Regulation (Decree No. 2866 of 1959) and the Public Accounting Law (Decree No. 14969 of 1963).

The passage of Law No. 228 in 2000 established the Higher Council of Privatisation (HCP) to regulate privatisation operations. The law aimed to:

- Ensure competitiveness
- Protect consumer interests and the rights of citizens working for state entities subject to privatisation
- Preserve public funds
- Provide citizens the opportunity to participate in the ownership and administration of privatised state enterprise
- Attract private investment

Passed in 2014, Law No. 288 allowed the government to license power plants. Although the law provided a general outline for privatisation on a case-by-case basis, it did not specify any public entities subject to privatisation. The financial loans and grants given to the Lebanese governments at the Paris I (2001), Paris II (2002) and Paris III (2007) international donor conferences were conditioned upon reforms and privatisation, none of which were implemented.

Failings of PPPs in Lebanon

Most PPP agreements implemented by Lebanon's governments have come under criticism for not achieving their goals of boosting the economy, rehabilitating infrastructure and providing good services to citizens. These failures are rooted in two main causes:

- Lack of standardised project preparation processes as well as contract design
- Inadequate tender processes conducted under sector or project-specific laws

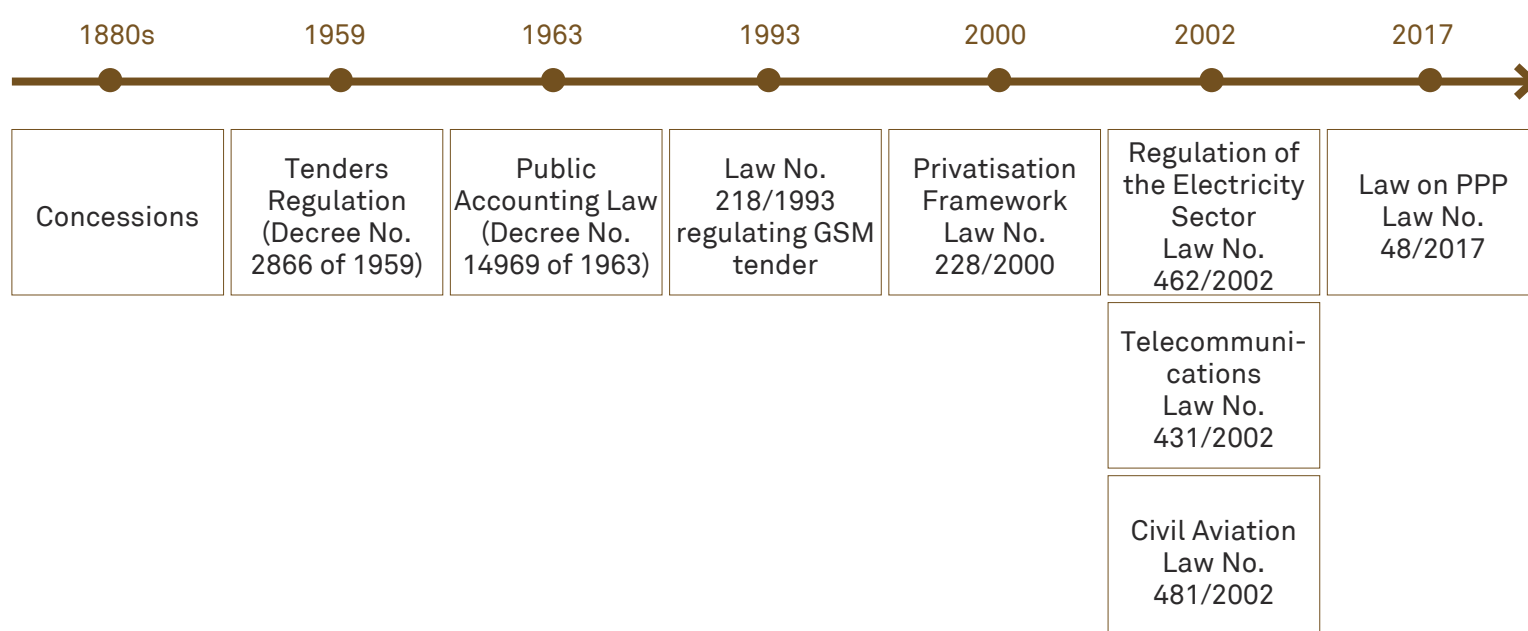


Figure 2. The evolution of the legal framework of Public-Private Partnerships in Lebanon.

Case Study: Failure to Privatise Lebanon's Electricity Sector

Lebanon's electrical power grid provides an informative example of the past challenges to privatise a significant segment of the country's economy. Ratified in 2002, Law No. 462 established a framework for privatising the energy sector, which was categorised into three stages: production, transmission (to remain a public function) and distribution.

The law stipulated the creation of the Electricity Regulatory Authority (ERA), a national entity enjoying technical, administrative and financial autonomy, entitled to issue 50-year licenses for the production and distribution of electricity through public tenders and offerings. Moreover, the ERA was tasked with promoting competition in the electricity sector and ensuring market transparency.

As of today, the ERA has not been established and there has been no progress in the regulation of the privatisation of the energy sector. The sector is at the mercy of illegal private generator owners tolerated by the Lebanese government due to the state-owned Electricité du Liban's (EDL) inability to provide 24-hour electricity.

Without the formation of the ERA, Lebanon's production and distribution of electricity remains monopolised by the EDL, which was founded in 1964. Setting up the ERA would be key to establishing public-private relations in the electricity field and ensuring efficient energy agreements.

Despite the failure to enforce the existing legal framework for the electricity sector, many attempts were made to privatise the electricity sector between 2012 and 2018:

- In 2012, EDL awarded four-year Distribution Service Provider (DSP) contracts to three private firms tasked with operating and maintaining the country's electricity distribution network, including billing and installation of new meters. Despite criticism of the DSP services, the contracts were renewed.
- Starting from September 2013, EDL has contracted Turkish firm Karadeniz Holding for floating power stations to boost Lebanon's electrical output.

The ratification of Law No. 288 in 2014, allowing the private sector to generate electricity, ushered in public-private renewable energy partnerships. Three firms were awarded contracts to build wind turbines in Lebanon's northernmost Akkar governorate. Meanwhile, the Ministry of Energy and Water launched Expression of Interests for solar farms and hydro-electric power stations. Once awarded, EDL will buy the output from the awarded firms via a Power Purchase Agreement.

However, as long as Law No. 462 is not applied, there is no legal framework regulating PPP in the electricity sector nor allowing generation of electricity by entities other than EDL.

3. Local Authorities Seeking Private Partnerships Despite Constraints

Lebanon's local authorities should play a vital role in strengthening local economic development, as several laws specific to municipalities have authorised them to exercise a wide range of functions (see Table 3). However, local authorities are unable to fulfil even the most basic duties, such as providing services and investing in development, since they are administratively constrained by and fiscally dependent on the central government (see Table 3).

Most local authorities suffer from common financial and administrative problems. A significant number are financially distressed and under-staffed, while the majority are small and lack qualified staff; they barely have the capacity to hire employees. Existing financial resources are limited and inadequate to respond to the needs of local infrastructure. Indirect revenues are not distributed regularly by the central government.

Prior to the ratification of PPP Law No. 48, municipalities were able to develop and tender PPP projects pursuant to a regulatory framework of laws and decrees dating back to 1963 (see Table 2).

Specifically, Article 50 of the Municipal Act stipulates that municipalities and unions of municipalities have the legal right to establish joint projects with the private sector. Article 49 of the same decree states that municipalities shall be in charge, without limitation, of executing large-scale infrastructure projects.

While municipalities have been entitled to open bank accounts and profit from financial aid, donations and loans, as per Article 86 of the Municipal Act, their decision-making in this regard is subject to administrative control from the Ministry of Interior and Municipalities (MoIM) and central government agencies. The MoIM has authority over the management, budget and finances of all municipalities through the qaimaqam (district commissioner), the mohafez (governor) and the Minister of Interior and Municipalities, respectively, according to Articles 59–62 of the Municipal Act.

In effect, the Municipal Act denies municipalities the authority to contract loans for public-private projects. As such, municipalities face constraints accessing subsidised loans offered by Lebanon's central bank, Banque du Liban (BDL). BDL helps finance investments potentially useful for municipalities, including energy saving, renewable energy technology and environmental green energy projects. Lebanon's central bank offers subsidised rates for these investments as well as low-cost financing, medium to long-term maturities and exemptions to banks from part of the required reserve requirement to finance these projects at low costs.

The National Energy Efficiency and Renewable Energy Action (NEEREA), a national financing mechanism initiated by BDL, is dedicated to financing green energy projects. NEEREA provides interest-free, long-term loans to residential, commercial, non-profit and industrial users for energy-efficiency and renewable energy projects. BDL Circular No. 399 – issued in October 2015 – tailored NEEREA to meet the needs of municipalities, extending the mechanism to finance environmentally-friendly projects in villages and rural areas.

Another municipality friendly BDL financial mechanisms, the Lebanese Environmental Action (LEA) for Water, Air and the Environment, offers subsidised loans for projects improving air and water quality, including wastewater treatment plants, rainwater collection, landscaping as well as traditional roof tiling and stone cladding systems.

Despite being subject to oversight by the central government, municipal activities and resources remain distinct and unique. In fact, many municipalities have already been implementing projects in partnership with private firms, either donor-driven or based on self-initiative. The following case studies exhibit municipal success stories with PPP.

Table 2. Prior Framework of PPP Regulations for Municipalities

Municipal Act, Decree-Law No. 118/1977	Decree No. 5595/1982 (specifying the accounting procedures in municipalities and unions of municipalities that are not subject to the oversight of the Court of Audit)
The Public Accounting Law of 1963 (for municipalities and unions of municipalities that are subject to the oversight of the Court of Audit)	Municipal Fees and Surtaxes Law No. 60/1988 as amended by Law No. 14 dated 20/8/1990

Table 3. PPPs allowed by the Municipal Act of 1977

Article 49	Article 50
Planning, improving and expanding streets, establishing gardens and public places and executing designs related to the municipality	Public and technical schools as well as nurseries
Establishing shops, parks, racing places, playgrounds, toilets, museums, hospitals, dispensaries, shelters, libraries, popular residences, wash houses, sewers, waste drainage and others	Popular residences, toilets, public wash-houses and swimming pools
Regulating transportation of all types, determining its fees, if necessary, within the municipal area, with observance of the provisions of the laws in force	Museums, public libraries, theatres, cinemas, amusement centres, clubs, playgrounds and other public and sports shops as well as social, cultural and artistic institutions
Entering into contracts to conclude agreements with municipalities	Local means of public transportation
Supervising public utilities and drawing up reports regarding the work progress thereof to the concerned administrations	Public hospitals, sanatoriums, dispensaries and other health establishments and institutions
	Public shops for buying food, refrigerators for keeping them and threshing floors

Table 4. Municipal Decisions Subject to Administrative Control (Articles 59–62 of the Municipal Act)

Not Subject to Administrative Control	District Commissioner	Governor	Minister of Interior and Municipalities
Approval and rejection of donations and ordered funds not related to any charges	Municipal budget, creating and reallocating between budget lines	Authorising transactions regarding supplies, work and services when their value exceeds 80 million Lebanese pounds	Beirut Municipal Council's decisions
	Authorising transactions regarding supplies, work and services valued between 30–80 million Lebanese pounds	Authorising works held in trust and buying supplies through invoices if their value exceeds 50 million Lebanese pounds	Loans
	Approval or rejection of donations and ordered funds related to charges		Creating municipal units, organising them, determining their cadre and competence as well as the scale of salaries and wages
			Creating Unions consisting of many Municipal Councils in order to carry out common tasks of public interest
			Transferring public municipal property to private municipal property, provided that the streets and sections located in the municipal area are considered municipal properties, except for international roads
			General specifications regarding supplies, works and services
			General specifications for buying municipal properties

Environment-Friendly Projects in Jezzine

The Jezzine Union of Municipalities in southern Lebanon has partnered with the private sector on several projects that contributed to local job creation. These partnerships included eco-tourism and eco-agriculture executed and operated by private companies. The first of these projects, La Maison de la Forêt, opened in 2012 and was followed by other similar projects.

These projects were implemented at a regional level, as the Jezzine Union of Municipalities comprises 29 municipalities. In most of these partnerships, the Union offered land as its share in the joint project, while the private partner invested in the execution and operation of the project.

Memoranda of Understanding were signed between both parties whereby the Union imposed their conditions and regulations on the private sector, such as prohibiting waterpipe smoking on the premises of the sites and adhering to environmentally friendly practices.

These projects succeeded due to the Jezzine Union of Municipalities developing clear business plans to attract investors. The Union also involved the local community, encouraging transparency by holding public consultations on the projects.

Table 5. Jezzine Union of Municipalities Projects

La Maison de la Forêt	Pine House	Olive Factory	Apply Factory
An eco-touristic project showcasing the forests of Bkassine. It consists of bungalows, restaurants, conference rooms and features activities such as hiking	An eco-agricultural project to boost local agricultural products, such as pine nuts and honey	An eco-agricultural project to support the local Olive Farmers Cooperative to diversify and market their olive products	A planned project to build an apple factory along the lines of the Olive Factory

Solar Farms to the Rescue in Qabrikha

The Municipality of Qabrikha in southern Lebanon is an example how local authorities and donors can partner for sustainable energy solutions. Since 2018, Qabrikha residents enjoy 24/7 electricity coverage thanks to a 250kWh solar farm funded by the European Union, executed by United Nations Development Programme (UNDP) and managed by the municipality, which offered land for the project. Smart meters were installed to supply around 150 houses with green energy. During power cuts, the solar farm provides a power source of variable intensity, depending on the counter installed in every house.

In Qabrikha, UNDP employs a net metering technology. An individual or a collective owning photovoltaic panels can use this “net billing” method to subtract its production of energy from its consumption.

Electricité du Liban (EDL), on the other hand, measures household consumption using a bi-directional meter, with the net difference being billed to and paid by the user. When the production of solar electricity exceeds the village consumption, this surplus is donated to EDL’s power grid.

Apart from the eco-friendly nature of the project, the net-metering process has reduced the residents’ power consumption by 30 percent. This model is a successful example of how electricity supply shortages can be addressed while decreasing carbon emissions. Other municipalities could replicate Qabrikha’s model, replacing the international donors, if need be, with the private sector.

The Integrated Solid Waste Management (ISWM) Law, passed in October 2018, could pave the way for PPP agreements to address Lebanon's solid waste crisis at the local and regional levels. However, it also gives central government authorities the power to override local authorities and conduct their own projects.

The law adopts the principle of decentralisation, placing responsibility on local authorities to handle waste management by designing local and regional master plans in accordance with Ministry of Energy-sanctioned frameworks.

Municipalities have stepped forward to demonstrate the utility of PPP to resolve local waste management challenges amid the central government's struggles to enact sustainable solutions.

Already, the Municipality of Bikfaya-Mhaydseh in the Metn district, in collaboration with neighbouring municipalities, devised its own waste management system by sorting and treating eight tonnes of waste daily in waste-sorting facility inaugurated in March 2016 that is operated by a private company.

In North Lebanon, the central government effectively controls solid waste management (SWM) projects while local authorities are assigned a supportive role. The Solid Waste Treatment Plant of Tripoli, the largest in Lebanon, combines sorting, recycling and composting. The facility receives waste from the Fayhaa Union of Municipalities, which includes Tripoli, Mina, Beddawi and Qalamoun municipalities. It was built with a grant from the EU, is managed by the Office of the Minister of State for Administrative Reform (OMSAR) and operated by a private company. The plant, inaugurated in June 2017, is the first initiative to establish PPP in the field of SWM.

Since local authorities are not allowed by law to impose additional fees to recover SWM-related costs, cost recovery for waste management projects would be indirectly rendered possible in a PPP framework where the service provider would collect fees in exchange for waste collection, sorting and treatment.

4. Improvements and Challenges: Assessing Lebanon's New PPP Law for Local Authorities

PPP Law No. 48 offers several advantages over Lebanon's previous collection of ad-hoc regulations for PPP on the national level. Nevertheless, the law has gaps that pose challenges for the country's municipalities.

In an improvement over existing regulations, the PPP law ratified in August 2017 provides a comprehensive legal framework for PPP agreements in Lebanon. The law establishes a regulatory outline for government contracts with private investors to build and manage infrastructure in several sectors, particularly electricity, telecommunications and civil aviation.

Under the law, the High Council for Privatisation, established in 2000, was renamed the High Council for Privatisation and Partnership (HCPP) and allotted broad powers to manage the development and tendering of PPP projects. The renamed entity is expected to act as a high-level and centralised PPP champion with representation from across Lebanon's government.

PPP Law No. 48 further moves the country toward international standards by ensuring transparency and competitiveness through public tender and procurement processes. Transparency is a key element to ensuring successful PPP, with the aim of attracting private investment to enable quicker mobilisation of capital.

The law brings further improvements over Lebanon's previous PPP framework as it is designed to:

- Attract foreign investments with the potential for creating jobs, increasing revenues and stimulating economic growth
- Provide assurance to private firms to invest and contract with the public sector
- Transfer risk to the private sector and reduce the risk borne by the public sector
- Preserve the rights of the public sector to monitor and benefit from private expertise

Despite these improvements, PPP Law No. 48 still has deficiencies which make it challenging for municipalities to utilise effectively. The law is not geared for small, short-term, or urgent PPP projects favoured by local authorities. This is because the new law does not provide for a simplified procurement process suitable for the projects usually conducted by municipalities.

Under PPP Law No. 48, municipalities have the option of initiating PPP projects according to pre-existing regulations governing local authorities, namely the 1977 Municipal Act. As discussed above, these regulations leave municipalities administratively constrained and fiscally dependent to central authorities.

Municipalities can also pursue PPP projects according to the regulatory framework offered by PPP Law No. 48. The law stipulates that the Council of Ministers is entrusted with final approval of national-level PPP projects and their financial and technical specifications, while Municipal Council or Municipality Union chiefs hold such authorities for local projects. However, once these local projects are approved, they undergo the same complex bureaucratic and authorisation processes as national-level ones, making the process burdensome and very lengthy.

These PPP procurement processes can take a minimum of four to five years before implementation, regardless of project size. Because of these lengthy, and expensive, processes, PPPs may be of little interest to municipal officials, who are elected for six-year terms.

Instead, elected municipal officials usually resort to short-term, "quick-win" projects that increase the chances of earning the recognition of their constituents. Without sound mid- and long-term planning of public services and urban infrastructure at the municipal level, local authorities in Lebanon are unlikely to benefit from the framework of the 2017 PPP Law.

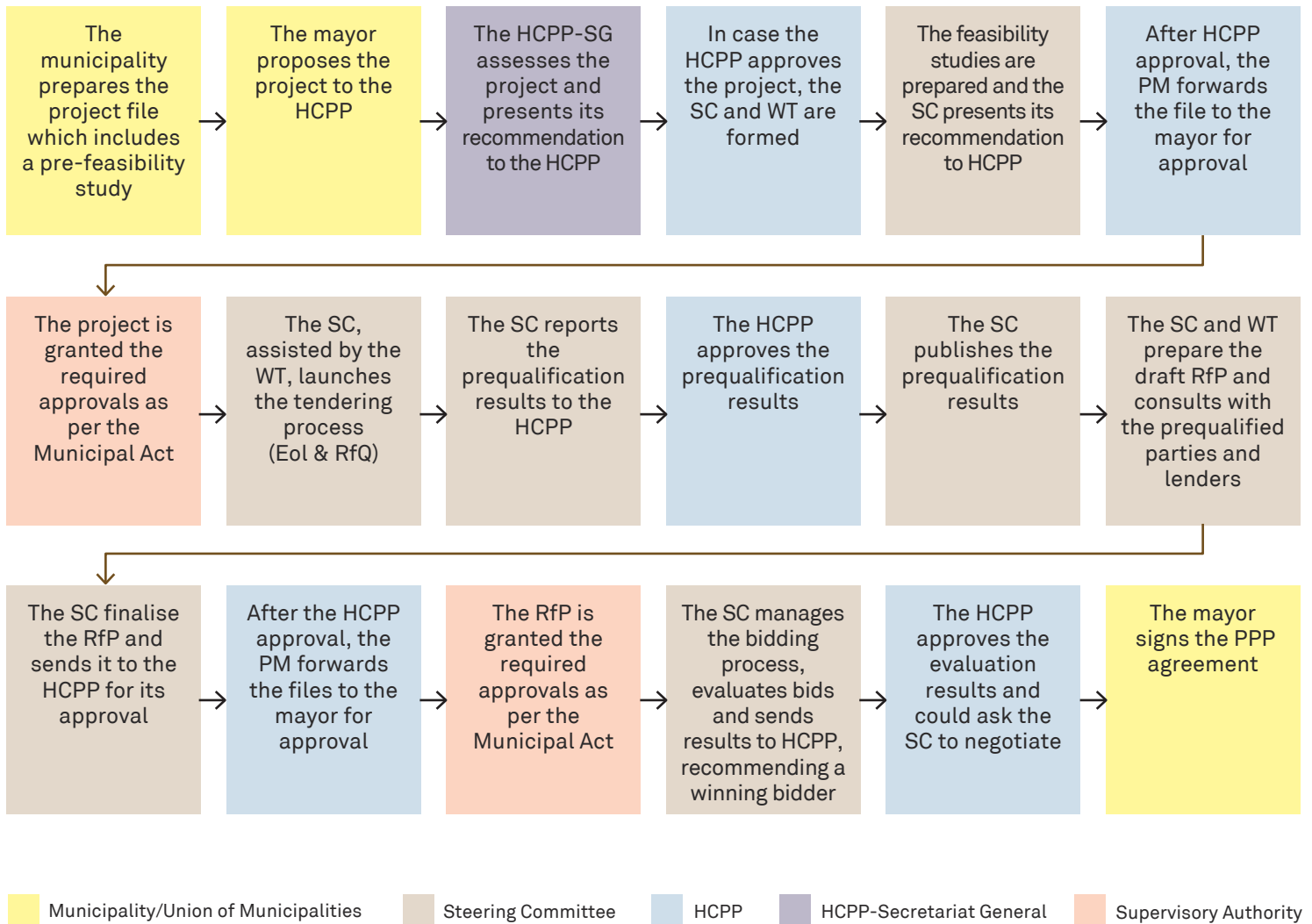


Figure 3. The complexity of the municipal PPP tendering process under PPP Law No. 48. Source: HCPP, 2019.

Table List of Abbreviations

SC: Steering Committee

WT: Working Team

PM: Prime Minister

Eol: Expression of Interest

RfQ: Request for Quotation

RfP: Request for Proposal

5. Looking Forward

Several steps are required for Lebanon's municipalities to benefit from the potential of public-private projects. Efficient private sector involvement complemented by reforms of municipal finances will help municipalities fulfil a much-needed role in local economic development. Such reforms will free municipalities from dependency on the international donor community and Lebanon's central government. Partnerships between the private sector and municipalities, if conducted according to a legal framework and transparent procurement process, will benefit local citizens.

In order to create an environment conducive to capital expenditure at the municipal level in partnership with private investors, Lebanon's PPP Law No. 48 should be reinforced with several steps.

- Streamline the approval process for small-scale PPP projects favoured by municipalities

Special PPP guidelines should be formulated that explain the PPP implementation process in an easy and well-structured manner for municipalities to easily access. These guidelines should provide templates of contracts and board decisions as well as a special section specific to municipalities.

- Train municipalities to better understand PPP Law No. 48

Given the complexity of the PPP process, it is necessary to raise awareness and train municipalities to fully understand the details of PPP Law No. 48 and its advantages and disadvantages. Municipalities struggle to perform traditional public procurement and lack the technical skills to engage in PPP. It is therefore crucial to establish a national training institute or department within or in coordination with the HCPP that helps build competencies among elected municipal officials and municipal staff.

- Encourage municipalities to pool resources

Municipalities should be encouraged to join forces to lead joint projects benefiting from PPP Law No. 48. This would help distribute the costs of proposed projects. Since many municipalities are cash-poor and land-rich, municipal land and properties could be used to attract capital investment.

- Bolster the new PPP law with further transparency measures

Transparency is key to the success of PPP worldwide as it encourages competition, fairness and efficiency. Lebanon's PPP Law No. 48 takes positive steps toward ensuring transparency, however more decrees and measures should be passed to achieve international standards on transparency. Transparency requires a clear and robust regulatory framework extending from the central government to the level of municipalities.

Efforts should be taken to facilitate the involvement of civil society and non-governmental organisations in observational roles within PPP projects. Municipalities should engage and consult with all stakeholders, most importantly, the citizens impacted by the projects.

While the PPP Law No. 48 focuses on the transparency processes of selecting private partners, it does not adequately address the transparency of the Lebanese government's implementing agencies. As such, steps must be taken to make transparent the role, organisational structures and procurement processes of implementing agencies, namely the HCPP. This will help facilitate the professionalism and integrity of these agencies as well as encourage accountability. Furthermore, independent complaint mechanisms must be adopted for PPP projects to combat possible corruption and fraud.

ABOUT DEMOCRACY REPORTING INTERNATIONAL

Democracy Reporting International (DRI) is a non-partisan, independent, not-for-profit organisation registered in Berlin, Germany. DRI promotes political participation of citizens, accountability of state bodies and the development of democratic institutions world-wide. DRI helps find local ways of promoting the universal right of citizens to participate in the political life of their country, as enshrined in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

<http://www.democracy-reporting.org>

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ABOUT SKL INTERNATIONAL

SKL International is an affiliated office to the Swedish Association of Local Authorities and Regions (SALAR) that focuses on developing local governance worldwide, and in the countries heavily affected by the Syrian crisis, such as Lebanon and Turkey. In the framework of its project "Resilience for Local Governance" (Reslog), SKL International promotes good governance, resilience and active citizenship in Lebanon's governorate Akkar by strengthening local authorities' capacities, advocating for national dialogue and engaging community groups in decision-making through an area-based approach.

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Abbreviation Table

CIP	Capital Investment Plan
PPP	Public-Private Partnership
BOT	Build, Operate and Transfer
BOOT	Build, Own, Operate and Transfer
BOO	Build, Own and Operate
O&M	Operation and Maintenance
GDP	Gross Domestic Product
CSO	Civil Society Organisation
ERA	Electricity Regulatory Authority
EDL	Electricité du Liban
DSP	Distribution Service Provider
BDL	Banque du Liban
NEEREA	National Energy Efficiency and Renewable Energy Action
UNDP	United Nations Development Programme
ISWM	Integrated Solid Waste Management
SWM	Solid Waste Management
OMSAR	Office of the Minister of State for Administrative Reform
HCPP	High Council for Privatisation and Partnership
UNCITRAL	United Nations Commission on International Trade Law
UNECE	United Nations Economic Commission for Europe



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