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Public Private Partnerships in the EU: Widespread shortcomings and limited benefits

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EUROPEAN
COURT
OF AUDITORS





**Background
information**



**Audit scope and
approach**

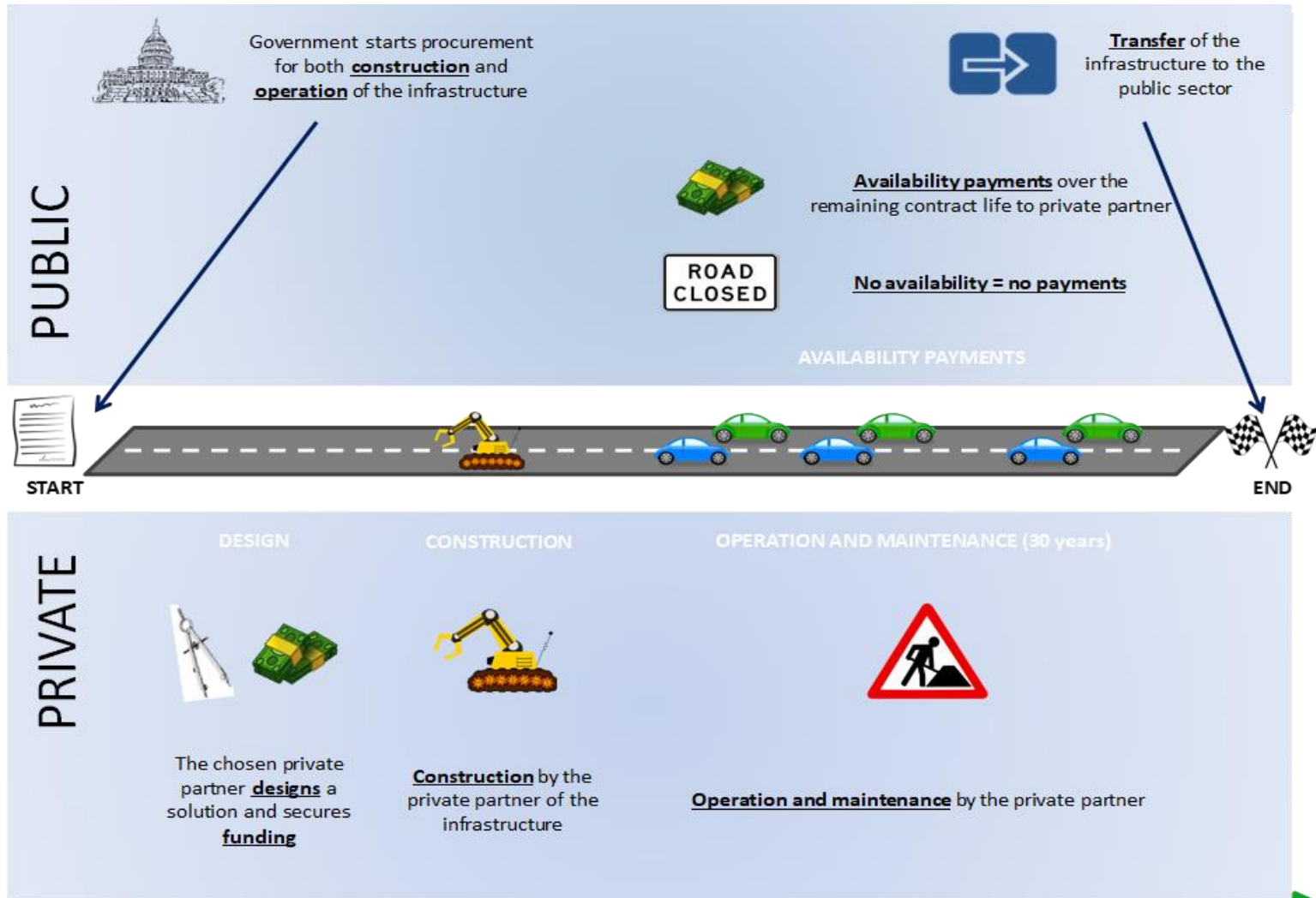


Observations



Recommendations

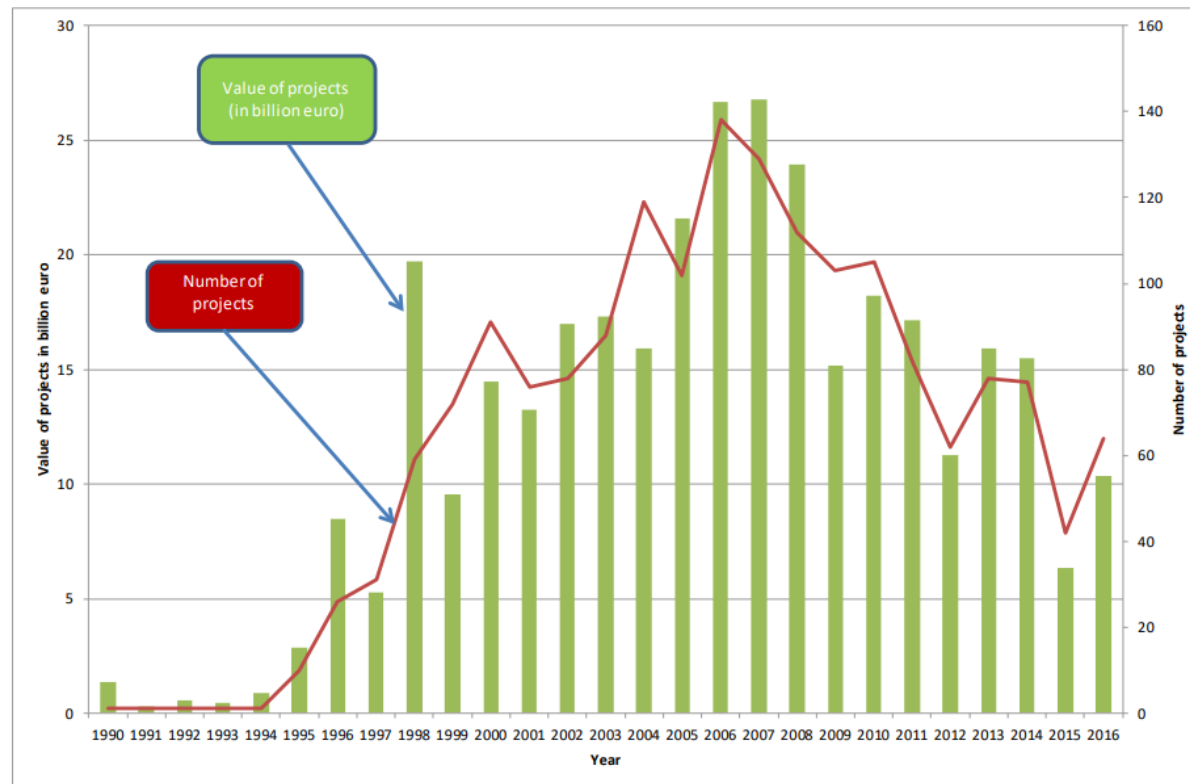
What is a (DBMFO availability-based) PPP?



Key issues and figures (1/3)

- Trend towards **more intensive leveraging of public and private money**
- Stakeholders' interest to know **whether PPPs provide the expected benefits**

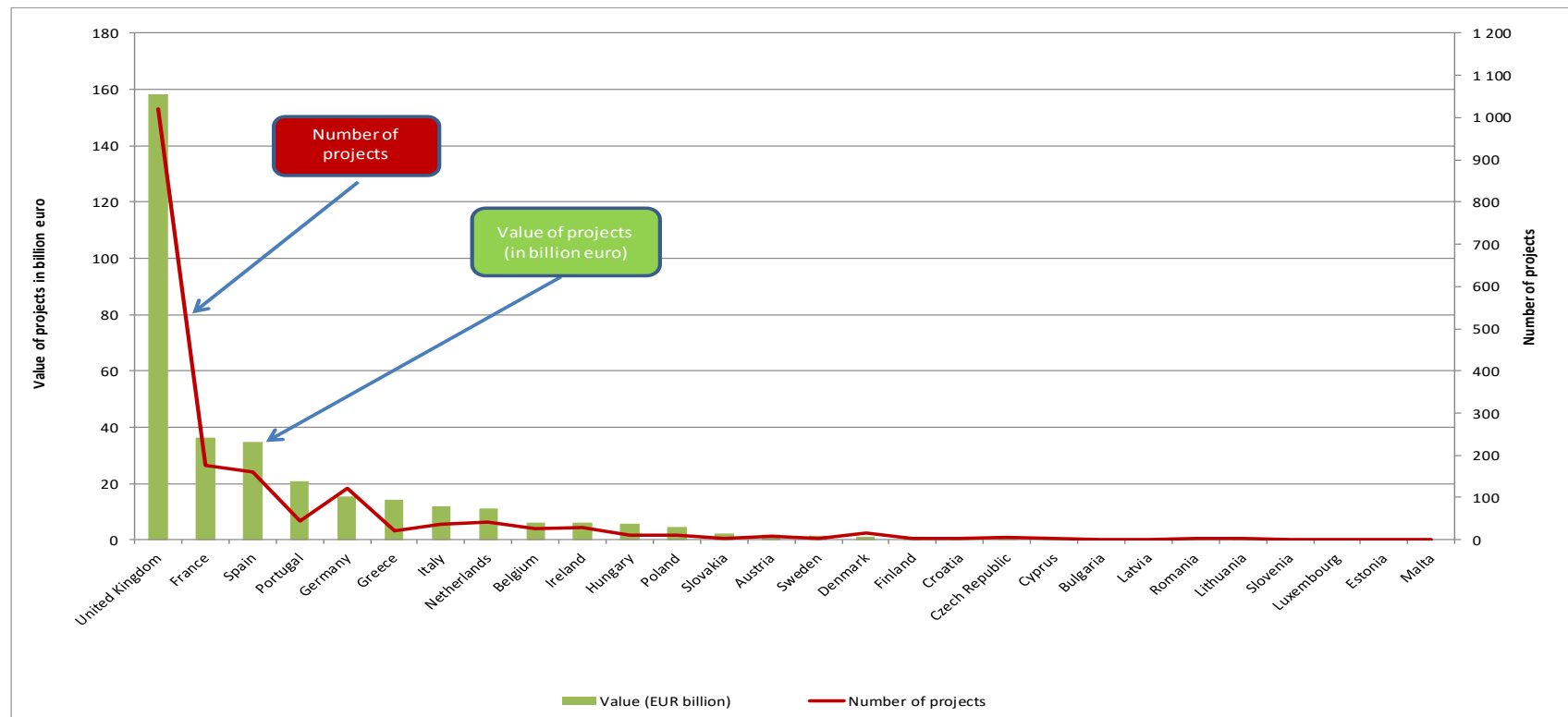
Figure 2 - EU PPP market from 1990 to 2016



Key issues and figures (2/3)

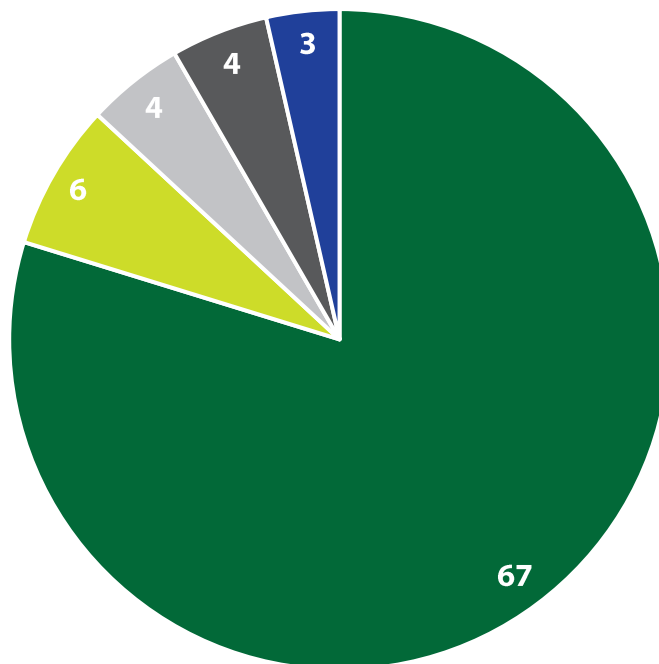
- PPP market **mostly concentrated** in few countries (the United Kingdom, France, Spain, Portugal and Germany implemented projects worth 90 % of the entire market).

Figure 3 - EU PPP market per Member State from 1990 to 2016



Key issues and figures (3/3)

- Only **few EU-supported PPP projects** (84 out of 1 749) in the period 2000-2014.



■ Structural and Cohesion Funds ■ LGTT ■ PBI ■ Marguerite Fund ■ JESSICA

Audit Questions

Overall audit question:

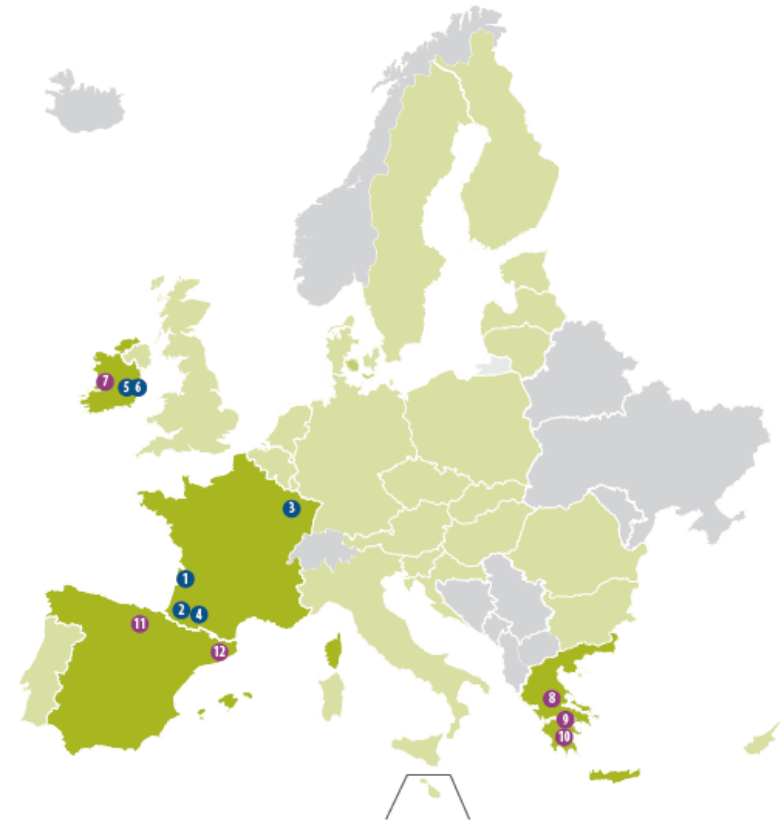
Have EU-funded PPPs been effectively managed and provided adequate value for money?

Sub-questions:

1. Have the audited projects been able to exploit the benefits PPPs are expected to deliver?
2. Were audited projects based on sound analyses and suitable approaches?
3. Were the overall institutional and legal frameworks within the audited member states adequate for the successful implementation of PPPs?

Planning the audit: our sample

- 12 EU co-funded PPP projects in the fields of roads and ICT
 - ➔ **The two sectors accounted for 93% of all EU-supported PPPs in the period 2000-2014**
- **4 Member States visited** (EL, ES, FR, and IE) accounting for **71% of the EU contribution to PPPs** over the period 2000-2014
- 9.6 billion euro total cost audited (2.2 billion euro of EU co-funding)
 - ➔ **39% of total EU co-funding allocated to PPPs in 2000-2014**
- We selected projects supported either through shared management (Cohesion Policy) or by financial instruments



ICT	
1	Le numérique au service des Girondins
2	SPTHD Communauté de l'agglomération de Pau Pyrénées
3	Proximit-e broadband in Meurthe-et-Moselle
4	Hautes-Pyrénées numériques
5	National Broadband Scheme
6	Metropolitan Area Networks

Transport	
7	N 17/N 18 Motorway
8	Central Motorway E-65
9	Olympia Motorway
10	Moreas Motorway
11	A-1 Motorway
12	C-25 Motorway

The main findings

Widespread shortcomings & Limited benefits

1

The audited PPP projects enabled **faster policy implementation** and had the **potential for good standards** of operation and maintenance, but were **not always effective** in achieving their potential benefits

2

Delays, cost increases and underuse were partly attributable to **inadequate analyses and unsuitable approaches**

3

The institutional and legal **framework was not yet adequate** for EU supported PPP projects

Observations

1 PPPs enabled faster policy implementation and had potential for good operation and maintenance standards

- Large infrastructure plans could be procured in **one procedure** (in Greece, 744 km of motorways through only 3 procedures)
- A potential for good maintenance and operation standards was in place, as there existed **contract incentives and penalties (often automatic)** that could impact on the amount of the annual payments.



Observations

1

However, they were not always effective in achieving their expected benefits

The choice of the PPP option **did not bring about the expected benefits** of PPPs in terms of on-time and on-budget completion

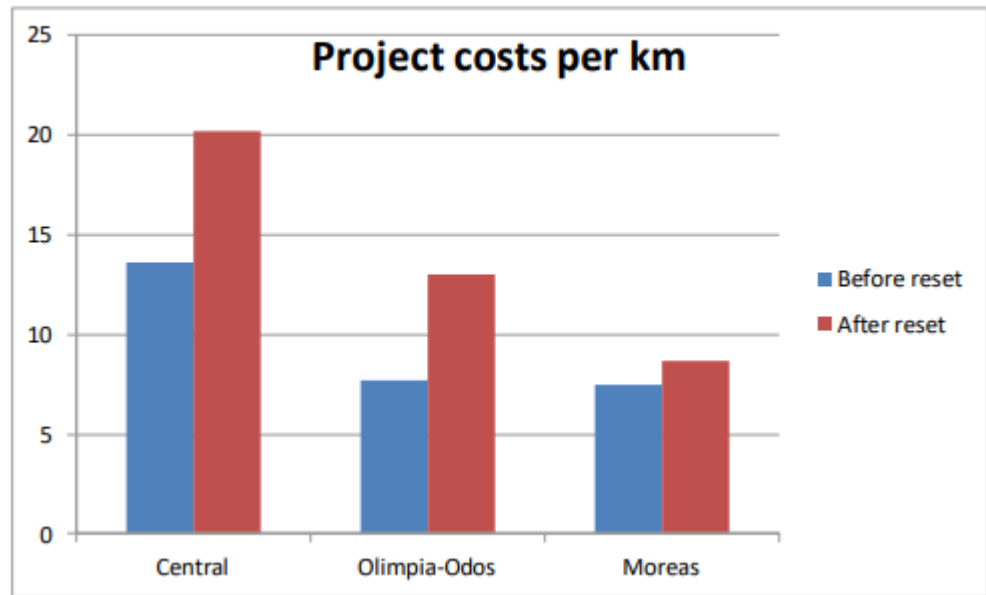
Long procurements
(up to 6.5 years)
and renegotiations

Delays in the construction
phases (up to 52 months)

Additional costs for the
public partner
(1.5 billion in total)

Figure 6 - Cost increase per km following the 'reset'

**The case of
the Greek 'reset'**



Observations

1

Procurement of large PPP projects increased the risk of insufficient competition and did not protect from over-optimism

- In one procurement procedure, of the four companies invited to submit an offer, two did so, but **only one offer was evaluated** at the final stage of procurement.
- Moreover, the choice of the PPP option reduced the pressure to **optimise project scope** and increased the risk of **entering into bigger projects than needed**

Project	Measure of uptake	Latest data vs. original estimates
A1 Motorway	Traffic	- 35%
Gironde	Revenues	- 16%
Meurthe-et-Moselle	Revenues	- 49%
Hautes-Pyrénées	Revenues	- 10%
NBS Project	Customers	- 69%

The PPP option was chosen without any prior comparative analysis

- Good management practices envisage performing **comparative analyses** between different procurement options (e.g. traditional vs PPP) in order to select the one that offers best value for money. A commonly used tool is the **Public Sector Comparator (PSC)**.
- Out of the 12 projects selected for the audit, **only 3** had comparative analyses carried out before choosing for the PPP option. For the remaining 9 projects, (i) 3 projects were exempted under national legislation as they did not envisage direct payments from the public partner; (ii) 5 projects did not carry out a comparative analysis; (iii) for 1 project, this aspect could not be assessed due to lack of access to the documentation.
- Also in cases when a PSC was performed, the analyses were hindered by the lack of reliable data on costs and by a **systematic over-optimism** in the envisaged revenue levels.

- We found one **good practice** (in France), where the public partner provided for penalties if customer uptake turned out not to be in line with the financial models submitted in the procurement bid.
- We found however **risks which were not allocated in a coherent manner**, e.g.:
 - one ICT project where the commercial risk was borne by the public partner, notwithstanding the fact that the commercialisation models were developed by the private partner;
 - one motorway project where the private partner bore the availability risk and not the demand risk. While the former is not an exogenous risk, capital remuneration for the project was still among the highest rates observed in our sample;
 - projects where the risks allocated to the private partner were excessive, triggering a risk for bankruptcy and a need for further public-sector intervention;
 - one road project where both demand and availability risks were shifted to the private partner with clauses mostly offsetting any potential financial disadvantage for the private sector.

Observations

2

Long-duration PPP contracts were poorly suited to the rapid pace of technological change

- We found that the audited broadband projects were implemented as PPPs mainly because the public partners considered that they did not have the technical capability to implement them in a traditional manner without running a high risk of technical interface problems.
- However, this exposed the projects to considerable **risk of technological obsolescence**, and decreased revenue as soon as a new technology becomes available.

Three out of four selected ICT projects in France had a lifespan of 18 to 24 years, but included extensive use of wireless technologies (such as satellite or Wifi-MAX)...

...when already in 2013 France committed itself to achieve 100% coverage with broadband infrastructure.

Observations

3 Though familiar with PPPs, not all of the Member States we visited had well-developed institutional and legal frameworks

- As at the time of the audit:



Institutional framework only applied to national *Contrats de Partenariat* (e.g. availability-based DBMFO), not to concession-type PPPs and regional schemes



Certain concession contracts were excluded from the PPP institutional framework



The PPP framework operated only for projects with construction cost < 500 million euro

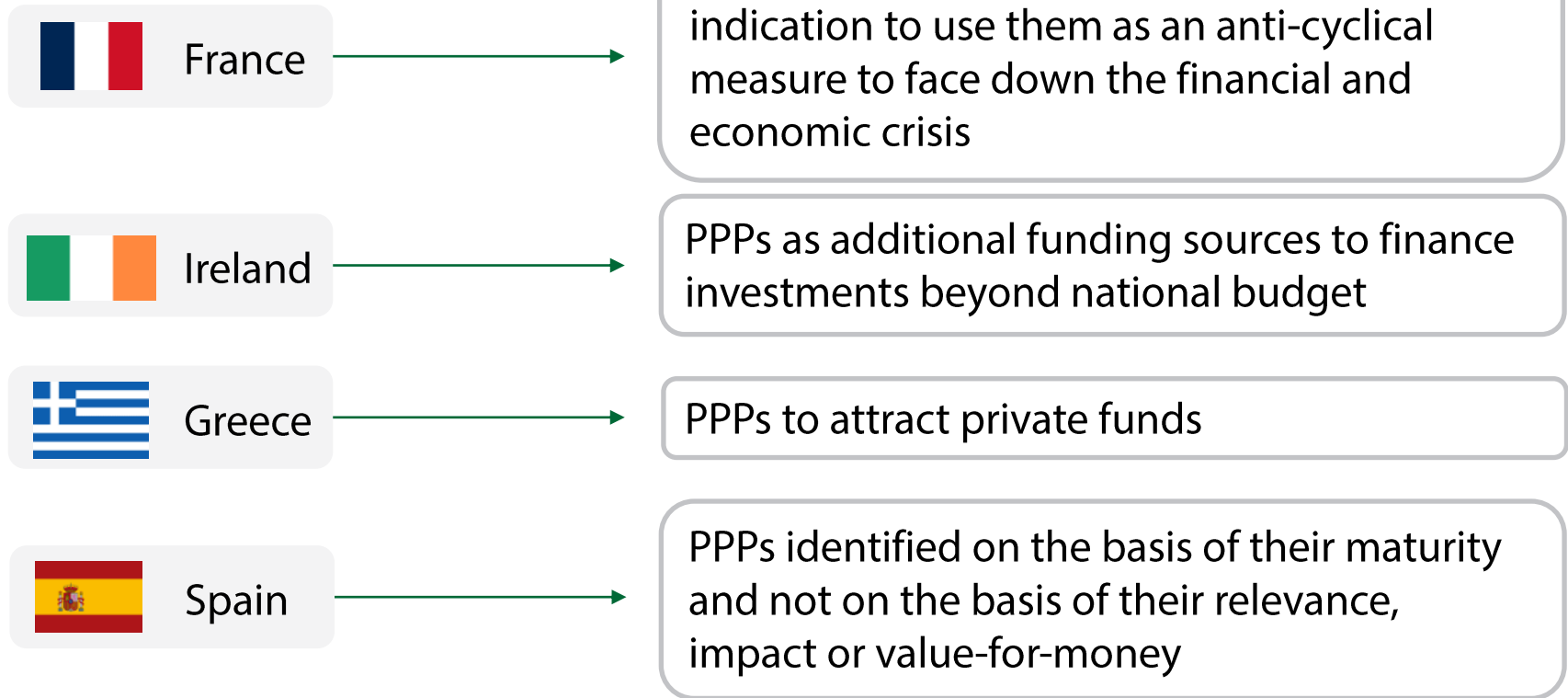


There was no dedicated department or PPP unit at central level to support the implementation of the selected PPP projects

Observations

3 Despite the long-term implications of PPPs, the visited Member States had not developed a clear strategy for their use (1/2)

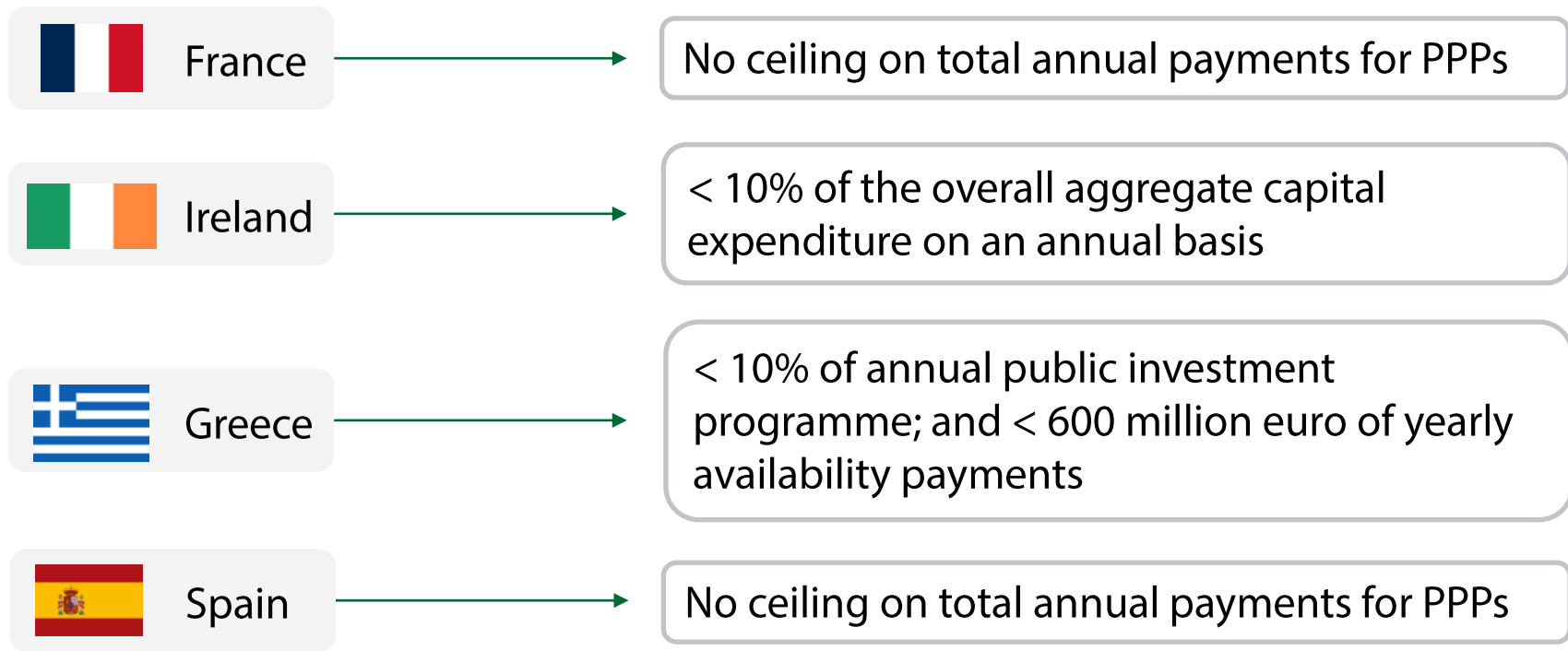
- As at the time of the audit:



Observations

3 Despite the long-term implications of PPPs, the visited Member States had not developed a clear strategy for their use (2/2)

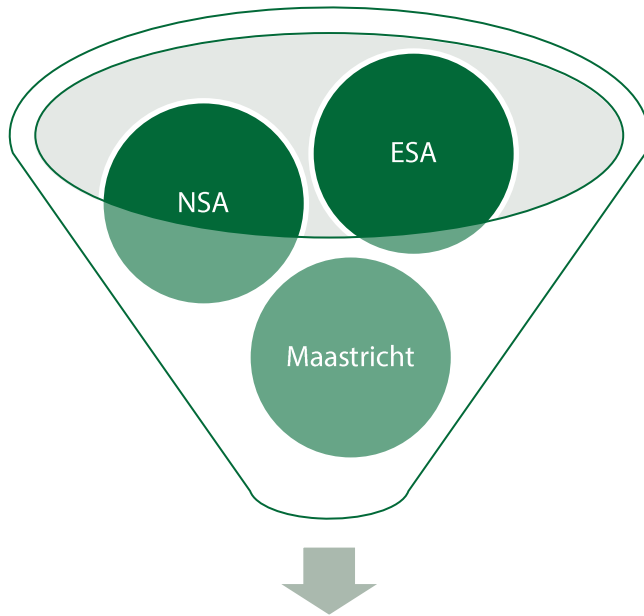
- As at the time of the audit:



Observations

3

The possibility of recording PPP projects as off balance sheet items risked to undermine transparency and value-for-money



For **5 PPPs** (out of 12 examined), important consideration was given to the **possibility to record PPPs off-balance when selecting the PPP option**

The feasibility study for a motorway project approached the risk allocation with the aim of keeping the project off the government balance sheet and thus retaining

“one of the fundamental advantages of PPPs”

Recommendations

1

Do not promote a more intensive and widespread use of PPPs until issues are addressed and recommendations implemented

The Commission and the Member States should not promote a more intensive and widespread use of PPPs until the issues identified in this report are addressed and the following recommendations are successfully implemented; in particular, improving the institutional and legal frameworks and project management and increasing assurance that the choice of the PPP option is the one that provides most value-for-money and that PPP projects are likely to be managed in a successful manner.

Recommendations

2

Mitigate the financial impact of delays and re-negotiations on the cost of PPPs borne by the public partner

In order to better share the cost of delays and re-negotiations between the partners, with the aim to mitigate the financial impact of delays attributable to the public partner and contract re-negotiations on the final cost of PPPs borne by the public partner, we recommend that:

- (a) Member States identify and propose standard contractual provisions that limit the amounts of possible extra costs to be paid by the public partner.
- (b) Member States assess any early contract re-negotiation to ensure that consequent costs borne by the public partner are duly justified and in line with value-for-money principles.

Recommendations

3

Base the selection of the PPP option on sound comparative analyses on the best procurement option

In order to ensure that the PPP option is the one that maximises value-for-money, we recommend that:

- (a) Member States base the selection of the PPP option on sound comparative analyses, such as Public Sector Comparator, and appropriate approaches that ensure that the PPP option is selected only if it maximises value-for-money also under pessimistic scenarios.
- (b) The Commission ensures that the Court of Auditors has full access to the necessary information in order to assess the choice of the procurement option and the related procurement by the public authorities even where EU support is provided directly to private entities through financial instruments.

Recommendations

4 Establishment of clear PPP policies and strategies

In order to ensure that Member States have the necessary administrative capability and clear PPP policies and strategies are in place to implement successful EU-supported PPP projects, we recommend that:

- (a) The Member States establish clear PPP policies and strategies that clearly identify the role that PPPs are expected to play within their infrastructure investment policies, with a view to identifying the sectors in which PPPs are most suitable and establishing possible limits to the extent to which PPPs can be effectively used.
- (b) The Commission proposes legislative amendments to concentrate financial support to future PPPs in sectors that it considers of high strategic relevance and compatible with the long-term commitments of PPPs, such as the Core TEN-T network.

Recommendations

5 Improved EU framework for better PPP project effectiveness (1/2)

In order to mitigate the risk of bias towards selecting the PPP option, to promote further transparency and to ensure that PPPs can be effectively supported by EU funds, the Court recommends that:

- (a) The Commission links the EU-support to PPP projects to the assurance that the choice of the PPP option was justified by value-for-money considerations and thus not unduly influenced by considerations relating to budgetary constraints or to their statistical treatment.
- (b) The Member States improve transparency by publishing periodic lists of PPP projects, including sufficient and meaningful data on the assets financed, their future commitments and their balance-sheet treatment, while preserving the protection of confidential and commercially sensitive data.

Recommendations

5 Improved EU framework for better PPP project effectiveness (2/2)

In order to mitigate the risk of bias towards selecting the PPP option, to promote further transparency and to ensure that PPPs can be effectively supported by EU funds, the Court recommends that:

[...]

- c) The Commission assesses the additional complexity of EU-blended PPP projects in view of further actions aiming at simplifying relevant rules and procedures of EU programmes.

Q&A



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