

# Co-production of public policies (PPUB) in public-private partnerships (PPP) with social and solidarity economy actors using social complementary currencies in Spain

## MedTOWN Project

Co-production of social policies with social and solidarity economy actors to fight poverty, inequality and social exclusion

**QUESTIONNAIRE PHASES PROJECTS AND LOCAL PARTNERS. MEDTOWN PROJECT. LOT 3.**

**DEMONSTRATION ACTION. NAME: Complementary Public Local Currency for the Channelling of Social Benefits to low income population**

**MUNICIPALITY, REGION AND COUNTRY ACTION: Seville, Andalusia, Spain**

**BRIEF DESCRIPTION OF THE CONTEXT:**

There is no legislation that regulates as such the co-production of public policies through public-private partnerships with social economy entities through the use of social or complementary currencies.

Rather, the general context of PPPs has been for the management of various types of infrastructure. As a result of the Recovery, Transformation and Resilience Plan, other areas more related to the provision of strategic services in the face of current challenges have been incorporated.

**MATRIX TO BE FILLED IN:**

NO	ASPECT TO REPORT	ACTIONS	OTHER ACTIONS/CLARIFICATIONS	OTHER CLARIFICATIONS
1 <sup>1</sup>	<b>Existing applicable SSE legislation</b>	<a href="#">Law 40/2015 on the Legal Regime of the Public Sector</a> <a href="#">Law 9/2017 on Public Sector Contracts</a>	<a href="#">Directives of the European Parliament and of the Council 2014/23/EU and 2014/24/EU of 26 February 2014</a> <a href="#">Royal Decree-Law 36/2020 of 30 December, approving urgent measures for the modernisation of the Public Administration and for the implementation of the Recovery, Transformation and Resilience Plan.</a>	Chapter III of Title II includes a new form of public-private partnership: the Strategic Projects for Economic Recovery and Transformation (PERTES). Given the

<sup>1</sup> Especially related to Social Solidarity Economy (SSE) through social and complementary currencies.

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				<p>multiplier effect on the economy of mobilising resources of this dimension, public-private collaboration will be key to the implementation of the various key projects included in the Recovery, Transformation and Resilience Plan, and it is necessary to adapt the regulatory framework of public-private collaboration instruments to formulas which, while maintaining Community controls and requirements, allow more flexible and adaptive formulas to the requirements of the projects to be financed with the European Recovery Instrument.</p>
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2	<b>Purpose of the regulation</b>	<p>Law 40/2018: this includes the different organisational models that public administrations can adopt to provide their services, the so-called public sector entities, such as consortia, foundations, public business entities, autonomous bodies, independent administrative authorities or public commercial companies.</p> <p>The purpose of the LCSP (public sector procurement law) is to regulate public sector contracting, in order to guarantee that it complies with the principles of freedom of access to tenders, publicity and transparency of procedures, and non-discrimination and equal treatment among bidders; and to ensure, in connection with the objective of budgetary stability and expenditure control, and the principle of integrity, the efficient use of funds earmarked for the execution of works, the acquisition of goods and the contracting of services by requiring the prior definition of the needs to be satisfied, the safeguarding of free competition and the selection of the most economically advantageous</p>	<p>The LCSP (public sector procurement law) establishes the modalities of public procurement, such as works or service contracts, works or service concession contracts, the different procedures, open, negotiated, competitive dialogue, partnership, etc. for innovation, etc.</p>	<p>The purpose of this Royal Decree-Law is to lay down the general provisions to facilitate the programming, budgeting, management and implementation of the actions which can be financed with European funds, in particular those coming from the European Instrument for Reconstruction and Development (EIRD). European Recovery Plan, endorsed by the European Council on 21 July 2020 with the aim of boosting economic growth and job creation, recovering and to repair the damage of the SARS-CoV-2</p>

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		tender.		pandemic crisis, and to promote a process of structural transformation by boosting public and private investment and support for the productive fabric, the acceleration of the dual ecological and digital transition and the strengthening and enhancing resilience and economic, social and territorial cohesion in the framework of the European single market.
3 <sup>2</sup>	<b>Theoretical consideration- Definition PPUB and PPP (according to regulation)</b>	Various legal formulas for Collaborative Governance are defined. A) Competitive dialogue B) Innovation Partnership C) Negotiation D) Convention E) Mixed-capital commercial company F) Mixed capital consortium		Indicate if there is no regulatory definition

<sup>2</sup> Necessary for making comparative terms of equivalent concepts

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		G) Capital foundation		
4	<b>Regulation on citizen participation in the design of public policies</b>	There are different formulas for public-private partnerships, although they are not usually used at the level of public participation of citizens. Rather, they are used to regulate the private management of public resources.		
5	<b>Scope of application of the PPUB and PPP regulations</b>	Essentially management and operating concessions to private companies.	The application of this Act to contracts entered into by the Autonomous Communities and the entities that make up the Local Administration, or the bodies dependent on them, as well as to contracts subsidised by any of these entities, shall be carried out under the terms provided for in the first final provision of this Act relating to the titles of competence.	
6	<b>PPUB and PPP stakeholders</b>	The following entities make up the Public Sector: a) The General State Administration, the Administrations of the Autonomous Communities, the Autonomous Cities of Ceuta and Melilla and the Entities that make up the Local Administration. b) The Social Security Management Entities and Common Services.	The following entities shall be considered contracting authorities for the purposes of this Law: a) Public Administrations. b) Public foundations. c) Mutual Societies collaborating with the Social Security. d) all other entities having legal personality other than those referred to in the previous	Article 3. Subjective scope of the LCSP (public sector procurement law)

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		<p>c) Autonomous bodies, public universities and independent administrative authorities.</p> <p>d) Consortiums with their own legal personality referred to in Law 40/2015, of 1 October, on the Legal Regime of the Public Sector, and local government legislation, as well as consortiums regulated by customs legislation.</p> <p>e) Public foundations.</p> <p>f) Mutual Societies collaborating with the Social Security.</p> <p>g) The Public Business Entities referred to in Law 40/2015, of 1 October, on the Legal Regime of the Public Sector, and any public law entities with their own legal personality linked to a subject belonging to the public sector or dependent on it.</p> <p>h) Mercantile companies in whose share capital the direct or indirect participation of the entities mentioned in letters a), b), c), d), e), g) and h) of this section exceeds 50%, or in cases in which, without exceeding that percentage, the aforementioned</p>	<p>points which have been set up specifically to meet needs in the general interest other than those of an industrial or commercial nature, provided that one or more entities which must be regarded as contracting authorities in accordance with the criteria of this paragraph 3, either finance their activity for the most part, or control their management, or appoint more than half of the members of their administrative, management or supervisory body.</p> <p>e) Associations formed by the entities referred to in the previous points.</p>	

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		<p>entities are in the situation provided for in Article 5 of the revised text of the Securities Market Act, approved by Royal Legislative Decree 4/2015, of 23 October.</p> <p>(i) Funds without legal personality.</p> <p>j) Any entities with their own legal personality that have been created specifically to meet needs of general interest that are not of an industrial or commercial nature, provided that one or more subjects belonging to the public sector finance the majority of their activity, control their management, or appoint more than half of the members of their administrative, management or supervisory body.</p> <p>k) Associations formed by the entities mentioned in the previous points.</p> <p>l) For the purposes of this Law, the Provincial Councils and the General Assemblies of the Historical Territories of the Basque Country are also understood to form part of the public</p>		

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		sector as regards their procurement activity.		
7	<b>Existence of specific legal figures PPUB and PPP?</b>	As a result of the Recovery, Transformation and Resilience Plan, specific forms of Public-Private Partnership are articulated	Public-private partnership instruments for the implementation of the Plan 1- Groupings of people natural or legal persons, public or private, without legal personality 2- Consortia 3- Mixed Economy Companies	Chapter VII
8	<b>Key figures for the creation of PPUBs and PPPs</b>	<p>Typology of Contracts:</p> <ul style="list-style-type: none"> <li>-Work contracts</li> <li>-Work and service contracts</li> <li>-Supply contracts</li> <li>-Service Contracts</li> <li>-Mixed contracts</li> </ul> <p>Award typologies</p> <ul style="list-style-type: none"> <li>-Open procedure</li> <li>-Restricted procedure</li> <li>-Procedure with negotiation</li> <li>-Competitive Dialogues</li> <li>-Innovation partnership process</li> <li>- Project competitions</li> <li>- Preliminary market consultations</li> </ul>	<p>Social and environmental clauses are also included, criteria that can be assessed for the awarding of contracts that are relevant for the Social Economy.</p> <p>There are also contract reservations and contract reservations for certain types of services and entities. There are contract and market reservations for two types of Social Economy entities, Special Employment Centres and Insertion Companies.</p>	
9	<b>Administration-legislative</b>	General cuts		

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	<b>body responsible PPUB and PPP</b>			
10	<b>Administration-Competent executive body PPUB and PPP</b>	<p>Social and environmental clauses are also included.</p> <p>There are also contract reservations and contract reservations for certain types of services and entities.</p>	<p>In the case of public works concessions and service concessions, the administration shall designate a person to act in the general interest, to obtain and verify compliance with the concessionaire's obligations, especially with regard to the quality of the service or work provided.</p>	
11	<b>Administration-Competent control body PPUB and PPP</b>	<p>Consultative bodies</p> <ul style="list-style-type: none"> <li>- State Public Procurement Advisory Board</li> <li>- Cooperation Committee on Public Procurement</li> <li>- Consultative bodies in the ACs</li> <li>- Independent Office for Regulation and Oversight of Recruitment</li> <li>- National Recruitment Office</li> </ul>		
12	<b>Certifications/registration of PPUB and PPP actors</b>	<p>The resolutions relating to the classification of companies adopted by the Classification Commissions of the State Public Procurement Advisory Board shall be registered ex officio in the Official Register of Tenderers and Classified Companies</p>	<p>Classification of companies according to CPV and type of contract and contract value</p>	<p>The Ministry of Finance shall, by ministerial order, establish and put into operation the State Register of entities interested in the Strategic Projects for the</p>

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		<p>in the Public Sector. Resolutions relating to the classification of companies adopted by the competent bodies of the Autonomous Communities that have assumed this competence shall be registered ex officio in the Register of Tenderers of the respective Autonomous Community, if it has such a Register, and communicated by the body that adopted them to the Official Register of Tenderers and Classified Companies in the Public Sector for their registration.</p> <p>Decisions relating to the classification of companies shall be taken, with general effectiveness vis-à-vis all contracting bodies, by the Classification Committees of the State Public Procurement Advisory Board. These decisions may be subject to appeal to the Minister of Finance and the Civil Service.</p>		Economic Recovery and Transformation.
13	<b>Measures to promote or encourage PPUB and PPPs</b>	Within the framework of the RTR Plan, the simplification of the		One of the advantages of the use of

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		<p>processing of administrative agreements is incorporated, with development in the second final provision, which includes the structural modifications made in Law 40/2015, of 1 October, on the Legal Regime of the Public Sector.</p>		<p>agreements in the management of the European Recovery Instrument is that they allow the actions required for the fulfilment of general interest objectives to be articulated through entities that collaborate with the Administration, whose procedures are much more agile. In the proposed reform of the legal regime for administrative agreements, the aim has been to make the processing of these agreements more agile, eliminating those formalities that are possible. It is also possible to process in advance the files of agreements to be</p>
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				<p>executed in the following financial year or subsequent years, which may go as far as the formalisation phase, provided that payment is delayed until the following financial year.</p> <p>It also provides for the possibility of receiving advances for preparatory operations that are necessary to carry out the actions financed, up to a limit of fifty percent of the total amount to be received.</p> <p>Finally, the maximum duration of the administrative agreements has been lengthened to adapt it to the temporary needs involved in European Recovery Facility projects.</p>

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14	<b>Other legislation related to PPUB and PPPs</b>			
15	<b>Possibility to create new PPUB and PPP regulations</b>	The whole regulatory development of the RTR Plan is being elaborated according to the different areas of work through the PERTES.	<p>The PERTE are <b>strategic projects with a</b> great capacity to drive economic growth, employment and competitiveness of the Spanish economy, with a high component of public-private collaboration and transversal to the different administrations. The following are currently being developed:</p> <p><a href="#">PERTE for the development of electric and connected vehicles</a></p> <ul style="list-style-type: none"> <li>• <a href="#">PERTE for cutting-edge health</a></li> <li>• <a href="#">Renewable energy, renewable hydrogen and storage PERTS</a></li> <li>• <a href="#">PERTE Agri-Food</a></li> <li>• <a href="#">PERTE New economics of language</a></li> <li>• <a href="#">PERTE Circular economy</a></li> <li>• <a href="#">PERTE for the shipbuilding industry</a></li> <li>• <a href="#">PERTE Aerospace</a></li> <li>• <a href="#">PERTE of digitisation of the water cycle</a></li> <li>• <a href="#">PERTE of microelectronics and semiconductors</a></li> </ul>	

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			<ul style="list-style-type: none"> <li>• <a href="#">PERTE of the social and care economy</a></li> </ul>	
16	<b>Possibility to amend existing legislation PPUB and PPP</b>	<p>The criteria and requirements of the LCSP (public sector procurement law) have been modified to integrate the proposals of the Structure, Transformation and Resilience Plan into the regulations and immediate actions. The motivation has been the COVID health crisis with the economic impact it has meant at a global level, added to the specific needs at a systemic level to work from other models and paradigms. Urgency has been the key factor.</p>		
17	<b>Possibility of regulatory implementation (new or amended) PPUB and PPP</b>			
18	<b>Problem Identification/implementation of PPUB and PPP regulations</b>	<p>There is no legal or practical regulation and development to facilitate public-private participation processes beyond large investments and strategic issues. There is no dialogue with grassroots social actors to facilitate the co-production of public policies from below.</p>		

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19	<b>PPUB and PPP and other regulations applicable to the demonstration action (concrete project)</b>	It would be possible to include the philosophy of action of the Demonstration Action under different headings of the key projects detailed in the PERTEs.		
20	<b>Other PPUB and PPP-related issues and policy areas</b>	Lack of commitment or political will: short-termism in partnership policies. Lack of capacity on the part of local actors to access the PPPA to establish co-production agreements and practices.		
21	<b>Examples of PPUB procurement in co-production with SSE actors</b>	Call for tenders for land for the creation of a housing cooperative for the transfer of use by EMVISESA for Social Economy organisations.	<a href="#">Seville City Council opens, through Emvisesa, the first call for proposals to develop a cooperative housing project for private entities with social purposes in San Jerónimo.</a>	
22	<b>Other issues to highlight</b>	Issues considered relevant to PPUB and PPP regulation		

### CHALLENGES AND RECOMMENDATIONS:

Expanding partnerships between public authorities and local social actors for the co-production of public policies with local impact, beyond major public works, public tenders and public procurement, and strategic areas linked to collaboration with large companies and corporations.

### **MEASURES TO BE IMPLEMENTED:**

Cohesive, active, structured and creative social and institutional advocacy by the Social Economy and its agents.

### **OTHER INTERESTING SUGGESTIONS/NOTES:**

To be completed by the local partner

### **CONFLICTING ASPECTS DETECTED (if any):**

To be completed by the local partner

### **EXAMPLES OF ACTIONS DEVELOPED IN THE COUNTRY IN THIS AREA OF SSE, REFERENCES AND HOW THEY HAVE BEEN DEVELOPED (if any)**

PERTE of the social and care economy

PERTE is articulated around **three objectives**:

1. Promotion and development of the Spanish Social Economy and its transformative potential.
2. Development and promotion of advanced, accessible and people-centred care services.
3. To create a "Cutting-Edge Hub", a benchmark in the Social Economy at the service of knowledge transfer and exchange with social economy organisations.

Governance will be organised through an inter-ministerial working group and a strategic alliance to boost public and private investment, through the coordinated action of public administrations, universities, research centres and entities and associations that include social economy entities.

