



Open Access Repository

www.ssoar.info

Minimising investment risks through optimising public-private partnership: the case of the Kaliningrad region

Aksenova-Sorokhteï, J. N.; Baranovskaya, E. A.; Riekkinen, M.

Veröffentlichungsversion / Published Version

Zeitschriftenartikel / journal article

Empfohlene Zitierung / Suggested Citation:

Aksenova-Sorokhteï, J. N., Baranovskaya, E. A., & Riekkinen, M. (2017). Minimising investment risks through optimising public-private partnership: the case of the Kaliningrad region. *Baltic Region*, 9(3), 15-29. <https://doi.org/10.5922/2079-8555-2017-3-2>

Nutzungsbedingungen:

Dieser Text wird unter einer CC BY-NC Lizenz (Namensnennung-Nicht-kommerziell) zur Verfügung gestellt. Nähere Auskünfte zu den CC-Lizenzen finden Sie hier: <https://creativecommons.org/licenses/by-nc/4.0/deed.de>

Terms of use:

This document is made available under a CC BY-NC Licence (Attribution-NonCommercial). For more information see: <https://creativecommons.org/licenses/by-nc/4.0>


Leibniz-Institut
für Sozialwissenschaften

Mitglied der

Leibniz-Gemeinschaft

Diese Version ist zitierbar unter / This version is citable under:
<https://nbn-resolving.org/urn:nbn:de:0168-ssoar-56346-3>

MINIMISING INVESTMENT
RISKS THROUGH
OPTIMISING PUBLIC —
PRIVATE PARTNERSHIP:
THE CASE
OF THE KALININGRAD
REGION

*J. N. Aksenova-Sorokhtei*¹
*E. A. Baranovskaya*¹
*M. Riekkinen*²



This study undertakes a contextual analysis of economic and legal risks associated with investment in the Kaliningrad region. The authors emphasise the importance of public-private partnership (PPP) in minimising such risks to enhance the region's attractiveness and solve development problems. PPP has never been studied as a means of minimising regional investment risks in current conditions. This accounts for the scientific novelty of examining investment risks minimisation through proving the essentiality of developing PPP mechanisms on a unique Russian territory — the Kaliningrad region. The article analyses current investment risks, conditions, barriers, and avenues to enhance the investment climate in the Kaliningrad region. The authors utilise data on current investment in the region and consider the principles of the region's investment policy. The study stresses the need to develop the regional economy's 'points of growth' within PPP schemes. It is proposed that the region and its municipalities should participate in partner projects in a manner that, firstly, is transparent to national and international investors and concordant with best practices and, secondly, enables the executive authorities and businesses to collaborate in developing the most efficient legal framework for partnership. The article identifies the role of PPP in solving the problem of regional development and gives recommendations on overcoming barriers and implementing PPP projects in the region.

¹ Immanuel Kant Baltic Federal University
14 A. Nevsky Str., Kaliningrad,
236041, Russia.

² Åbo Akademi University,
FI-20500, Finland, Turku,
Tuomiokirkontori, 3.

Submitted on March 30, 2017

doi: 10.5922/2079-8555-2017-3-2

© Aksenova-Sorokhtei J. N.,
Baranovskaya E. A., Riekkinen M., 2017

Key words: public-private partnership (PPP), special economic zone in Russian Federation, investment climate, economic infrastructure, investment risks, law on PPP

Introduction

Amidst the ongoing political crisis in Russia the problem of attracting both foreign and domestic investors beco-

mes increasingly important. Series of reforms targeted at revitalizing business and investment climate have been undertaken in Russia during the last decades. These reforms introduced new rules for property registration, customs and tax procedures, granting construction permits, etc. As the result, the afore-mentioned procedures became less resource intensive and time consuming. These measures were designed to stimulate the investments and overall economic environment in Russia, in line with globally recognizable trends in rebooting national economies.

Although the whole Russian market, and its consumer segment in particular, were attractive and promising for foreign investors, the modern realities reveal cautious attitudes towards Russia as an investment site. Following the UNCTAD World Investment Report, the total volume of foreign direct investment worldwide grew by 36% in 2015 compared with the previous year and amounted to 1.7 trillion USD. At the same time the foreign direct investments in Russia decreased by 92% [2]. Such a "caution" in decision-making regarding investment activities in Russia is associated with the presence of multiple concomitant risks.

In order to pursue a sustainable business model in Russia foreign investors have to overcome many obstacles. The lack of effective legal mechanisms for protection of foreign investors' funds and for implementing financial safeguards coupled with prevailing negative stereotypes about Russian political and economic realities impede the inflow of foreign capital in the Russian Federation. A similar uncertainty accompanies possible domestic investors who are equally weakly protected from all sorts of risks associated with investing. There are still significant issues with implementing administrative procedures, which, combined with low efficiency of executive apparatus and overload of the judiciary, significantly complicate the work of investors. Not surprisingly, over the recent years the interest of foreign and domestic investors in Russian infrastructure projects has dropped. This is not only due to the unfavorable investment climate but also due to various shortcomings on the side of public authorities during the implementation of projects in the process of, for instance, transferring public property in the ownership of private partners, starting with the lack of transparency in transaction and finishing in illegitimate favoring of certain business entities in tender procedures leading to the so-called "predetermined" results. Many investors who have experiences with such violations during public competitions opt not to participate in them any longer. When it comes to legislation regulating investment activities, its lacunae all but guarantee the lack of coherent and systemic mechanisms in protecting the interests of the participants in the investment process that can lead to failures of investment projects as such. The possibility of multiple concomitant investment risks hamper business and ultimately exerts a destabilizing effect on national economic situation.

This is why improving the investment climate and minimizing investment risks are among the top priorities for the state of Russia [3] and optimizing the PPP mechanisms is among the most important means for such improvements [1].

Degree of elaboration of the problem

The issues regarding the PPPs are reflected in a considerable amount of academic literature in Russia. Still systematic research of conceptual and practical problems associated with the implementation of this complex institution are quite rare [29—33]. When it comes to publications by foreign authors, such issues as features of formation, development, current status, legal regulation of the PPP, as well as economic, organizational and managerial aspects of implementing the PPP projects, are studied in those publications in detail [35; 37—40; 43]. These and other specific aspects of the PPP such as the concept, modes and types of the PPP, the use of the PPP in specific areas of public relations (public utilities, education, etc.), are studied by Russian scholars. V. A. Sazonov offers solid research and an in-depth review of existing scientific literature on the PPP [28]. The genuine interest of academicians in the potential of the PPP in minimizing the investment risks at regional level support the significance of further research on this topic.

Development of PPPs in the Russian Federation and abroad

Reliance on the PPP as a long-term relationship in a responsible mode of "state — business" interaction has become one of the major global trends [36; 41; 42]. All over the world, not only in the advanced economies such as the UK, the USA, Germany, or France, but also in developing countries, the PPP has been seen since the end of the twentieth century as an effective means of overcoming "market failures" and market imperfections [34]. The PPP has moved to the rank of the most significant mechanisms for partnerships between the government and the business allowing them to co-operate and solve the problems of national scale in the production of such public goods as education, health, infrastructure, housing, use of modern technologies in management of social institutions, not to mention the process of improving the quality of these services. Private partners and business representatives in the framework of the PPP agreements not only collect but also attract financial resources. Private businesses bring assets in the projects with cutting-edge technology investments, both technical and managerial which have a positive effect on ongoing projects.

Regrettably, having proved its viability in other states, the PPP still remains at the initial stage of development in the Russian Federation. The current number of experts is only 1.3 thousand with 873 projects with the total cost of 2 trillion rubles. Most (757) of the projects are municipal, and 191 are regional. Only 15 PPP projects are implemented at the federal level. The volume of investment in such partnerships in Russia falls short of 1% of Russia's GDP whereas, for example, in such BRICS partners as Brazil and India the figures are 19% and 10%, respectively [18].

It seems that today in Russia, under the conditions of the imposed sanctions and acute shortage of investment resources narrowing the possibilities of the state to produce public goods, as in earlier years, the PPP could become an effective mode for investment giving impetus to the development of Russian economy. Extensive experience in developed states shows that the PPP concession in general and its most developed modes in particular condition the development of vital national systems and sectors of infrastructure while preserving opportunities for the state to hold strategic control over their quality.

The government needs the assistance of the private sector in developing and implementing infrastructure development projects and social services. According to the 2016 data from the research company IPT Group, the volume of private investments in the PPP projects will amount to 2.33 trillion rubles while the annual growth is 37%. The total cost of the projects by the end of 2016 should reach 2.67 trillion rubles, and their number should exceed 1.8 thousand. By the end of 2017, according to the forecast, the volume of investments will amount to 3.1 trillion rubles. In 2017, the new projects will attract 770 billion rubles [19]. The volume of investments in the PPP projects in 2016—2017 will continue increasing but a part of this growth will only be rated by financial "closing" of major infrastructure projects launched in 2015.

Currently, the emphasis in investment incentives has shifted towards the regional level in the sense that the responsibility for a coherent investment policy aimed at enhancing the investment process lies on regional authorities. In this context, the development and use of the PPP appears an attractive alternative for investors to invest their funds while minimizing investment risks, and it becomes the responsibility zone of regional authorities. However, only 48% of the regions in the period of 2013—2015 were implementing from 5 to 15 PPP projects. Less than five projects were launched in 26% of the subjects of the Russian Federation. More than 50 projects were implemented only in 5% of the regions that participated in the study of the IPT Group in Moscow and the Trans-Baikal Territory. This type of PPP projects was applied in 71% of the regions [19].

Investment climate of the Kaliningrad region: specifics and prospects for improvement

In 2006—2008 Kaliningrad region was objectively evaluated as the most attractive area from the investment point of view which was associated with the legal status of Kaliningrad as a special economic zone (the SEZ), in accordance with the Federal Law of 10 January 2006 on special economic zone in Kaliningrad region [4] (hereinafter, the 2006 Act on the SEZ) aimed at creating legal and institutional environment for economic growth and investment in the region as well as the development of capital-intensive export-oriented industries. This Act provides guarantees for investors in terms



of fixing the value of the total tax burden for the duration of the project; fixing rent values for land in the project period; simplifying the procedure for obtaining visas to enter the territory of Kaliningrad region for international investors; providing a special procedure for payment of income and property tax.

As the result, the investment in fixed assets increased from 92.4% to 127% in two years. However, after the economic crisis of 2008 they fell to 87% by 2010. Although the situation since stabilized, the investment rates could not reach pre-crisis level representing a negative trend which continued in 2014—2015. Investments in fixed assets in 2014 amounted to 58.5 billion rubles, or 81.8% of the preceding year. In 2015, investments in fixed assets amounted to 62.3 billion rubles, or 86.9% compared to 2014, of which investments of large and medium-sized organizations were 45.9 billion rubles in total [6].

The 2006 Act on the SEZ played a significant role in the development of the region by increasing its investment attractiveness with the help from tax and customs benefits business, yet the investors in projects are experiencing difficulties related to the implementation of the Act's provisions. An obvious disadvantage of the 2006 Act on the CEZ is the lack of clear requirements for investors. Neither the provisions of the Act nor the resident investment declaration stipulate a clear form in which the investments should be made, i. e., either as transfers of funds, or transfers into the activity, or transfers upon the availability of equipment. The 2006 Act of the SEZ is mostly focusing on large investment projects. Medium and small investors were, in fact, covered by the region's investment policies. Benefits prescribed for investors were insignificant, i. e., the income tax rate of 0% for the first six years, following the 50% tax rate in the next six years. However, in many large projects the terms yield to break even in 7—12 years. All these factors, in practice, hamper opportunities for development of business in the region of Kaliningrad.

In addition, since April 1 2016, in connection with Russia's accession to the WTO, customs preferences used by local entrepreneurs were eliminated. The transition period, providing the residents of the Kaliningrad SEZ with an opportunity of duty free export to the territory of the region, ended thus creating risks for entrepreneurs and introducing new challenges for the region's economy and its social sphere. In order to deal with this situation and minimize losses for of the business after April 1 2016, the federal budget allocated subsidies for "the labor market support." By the end of September 2016, one third of Kaliningrad companies received almost 6 billion rubles in such subsidies designed to create jobs, maintain import, support local assembly factories as well as to improve socio-economic conditions in the region [21]. Kaliningrad authorities concluded agreements on providing subsidies to support the labor market with 271 regional companies enabling secure and continuous employment for 14,816 individuals. The potential recipients of such support funds are 860 companies [22]. 88% of the total assistance provided, or 13 billion and 971 million rubles, were received by two companies belonging to the AUTOTOR group, which are neither the largest by number of

employees, nor fall into the category of “companies” under the Russian law. With more than one thousand employees, these are the leader in terms of exporting goods from the territory of the region. The largest recipients of subsidies for employment in the category of companies employing more than one thousand individuals were “food plant products,” “Viciunai Rus”, “Agribusiness West,” and “Kaliningrad Containerboard Mill” [23].

However, the interest of business community in the regional investment climate is still not lost, as the statistics on the register of the SEZ residents testifies. On 1 January 2015, the number of resident organizations in the Kaliningrad SEZ reached 99 organizations. The amount of declared investments, in accordance with the investment declarations, counted 89 billion rubles of which in 2015—2017 8.8 billion rubles are planned for master capital investment [6]. A single register of the SEZ residents mentioned new business types and included 134 enterprises by the beginning of June 2017. The amount of declared investments by residents of the Kaliningrad SEZ is 102.4 billion rubles [7].

In Kaliningrad, there is a lot of effort undertaken to improve the investment climate and to minimize the investment risks in order to attract foreign and domestic investors. Various investment programs are being developed on the basis of regional legislation which aim to support investment [5]. The investment policy principles of the region are set forth by the “Investment Strategy of the Kaliningrad Region”. This document defines long-term objectives for the period up to 2020 and the anticipated results of the activities by public authorities and economic entities aiming to create a favorable investment climate in Kaliningrad region. Following the outcomes of the 2015 ranking of investment attractiveness of Russian regions, the Kaliningrad region ranks as “3B1,” i. e., an area with the reduced potential — moderate risk [8].

The reasons for insufficient investment attractiveness of the region are manifold, varying from unelaborate regional investment policy, ineffective regional legal framework, undue coordination by executive authorities in the promotion of investors through implementing and promoting the projects, unavailability of land resources, low level of security infrastructure, and, particularly, transport to inability of private investors to purposefully, efficiently and effectively anticipate and manage the risks under the conditions of frequent revision of existing economic legislation..

These problems could be partially addressed by a wider implementation of the PPP concession as the specific mode of minimizing investment risks and a significant strengthening of investment activities on this basis in the Kaliningrad region.

PPP projects in the Kaliningrad region: “early birds”

In the Kaliningrad region, the PPP is entailed in a number of significant infrastructure projects implemented as a part of the so-called “federal target” and regional investment programs. For example, the project of establishing a

cluster full-profile automotive production company AUTOTOR was co-funded with regional budget money equal to 180 mln rubles allocated for infrastructure in the future industrial zone. This project is included in the automotive cluster of the FTP and the state program of regional development and construction of industrial parks.

The PPP format is now increasingly used in regional projects on food security, as well as subsidizing the industry and small and medium-size businesses. Several companies benefitted from such support mechanisms and, in particular, agricultural company "Orbit-Agro", which participates in the largest vegetable production investment project in the region. Construction of a greenhouse complex for growing vegetables was approved by the Investment Council under the aegis of the Governor of Kaliningrad region. It was launched in March 2014. The regional government supported this project with subsidizing interest rates by paying subsidies per hectare of greenhouse area. Hence, effective impulse has been given for the new economy which increased the production capacity of the greenhouse complex and organized possibilities for processing vegetables.

Today, the regional government is considering an option to build a parking complex in the resort village of Yantarnoye within the new PPP. During the summer months, this resort village was visited by almost 100 thousand people and the scarcity of parking spaces became obvious, prompting the necessity to double the parking space. The government committed to provide budgetary support for the project through the development of tourism programs, and the investments can be returned through the further functioning of the object [24].

The Kaliningrad region still belongs to the category of regions with an average level of PPP development. In 2014, Kaliningrad ranked 33 among the subjects of the Russian Federation when it comes to the level of development of the PPP, which was an improvement from 2013, when it ranked 62. In 2015, the region bounced to 38th place in the ranking [13], together with the regions where the PPP is characterized as being at the primary stage of formation but creating the conditions for the harmonious development of the PPP.

Risks associated with the implementation of PPP projects

Factors hampering the implementation of the PPP projects are business risks associated with participation in them. These risks are primarily caused by the fact that during the entire contract period regarding the PPP, the government as both the partner and the regulator, exerts a significant influence on activities of private investors. The most significant of such risks are insufficient accountability on the side of public structures for implementing projects as well as excessive control by government agencies over project implementation, long negotiations concerning various aspects of projects; insignificant competences of business representatives and public authorities in

the area of development, implementation, and management of the PPP projects, risk reduction or termination of project funding in case of alternation the budget spending; not to mention cumbersome procedures of project implementation and returning the investments made. Investors do not engage in projects where they fail to see possibilities for a quick profit or chances to neutralize the risks associated with investments.

Imperfect legal framework and the lack of holistic approach towards the PPP has so far been the main limiting factor causing low investment activity of the private sector in the PPP projects and impeding their full development [14]. More often than not, legal lacunae and contradictions in legislation regulating particular PPP projects and determining their modes and mechanisms of implementation made private investors to opt out of such projects.

Until recently, regulatory authorities kept up with the practice of recognizing contracts based on the alleged non-concessional model of the PPP as invalid, contrary to conditions defined by federal legislation in the area of legal concession agreements and government contracts. Such practices of requalification of the PPP agreements that were trapped by the necessity to turn into public contracts became common. Moreover, if in the beginning stage of the first PPP project the risks challenging the PPP agreements were purely theoretical, later the practice of the Russian courts of law upheld the validity of such practices. Therefore, some subjects of the Russian Federation were cautious to enter into such PPP agreements favoring public contracts and concessions.

Legal regulation of the PPP projects: key innovations

The adoption and entry into force of the Federal Law of 13 July 2015 on the PPP [15] (hereinafter, the 2015 PPP Act) is, in our opinion, the starting point for the process of establishing a legal base addressing all the problems with implementing the PPP and minimizing investment risks. We believe that the Act is intended to be not merely a legal act defining the conceptual framework and general rules for the PPP in Russia but also as a means of solving national and regional infrastructure problems, including of course Kaliningrad region. The 2015 PPP Act establishes that cooperation of public and private partners should rest on the principle of pooling resources and sharing risks that is particularly important for private partners as investors for whom a greater motivation for entering into relationships with public legal entities is needed. This can contribute to enhancing financial attractiveness of the projects and minimizing investment risks. The need for adopting this Act was crucial for Russian economy because it outlines the basic framework of what is called “the PPP” and outlines the scope and the meaning of this concept. At least from the formal standpoint of legal technique, the goal of defining competences and actors involved in the PPP process as well as procedures and regulatory environment for this process is reached.

According to the experts, while bringing a set of novelties into the Russian legislation [16], the 2015 PPP Act will allow to unfreeze almost 130 projects with financing exceeding 1.3 trillion rubles [17]. Without doubt, the transitional period is unavoidable before the first projects launched on the basis of the 2015 PPP Act are fully implemented in the best spirit of this Act. During this period, the state and the business will face the urgency of adapting new modes of relationship. The Act still has room for drawbacks, which is recognized by many experts, and yet the adoption of a consolidate statute on the PPP is *per se* a significant step towards optimizing legal regulation of relations between the state and the private business. Although the 2015 Act on the PPP is not without disadvantages, it spells out the rules for implementing the PPP mechanism as an additional tool with respect to public procurement. The law indicates that the mechanism of the PPP will be assigned an important role in financing infrastructure projects. This indication by federal legislator should be fully implemented in the subjects of the Russian Federation, including the Kaliningrad region.

The 2015 PPP Act mostly meets the expectations of regional authorities and municipalities who hoped that it would define the concept of "public-private partnership" and stipulate its possible legal modes while outlining the competence of the subjects of the Russian Federation and the municipalities, in particular entitling them with the opportunity to win back the competitions and to enter into the PPP agreements in separate tender procedures. It describes the rights and duties of public and private partners, outlines funding mechanisms (or support mechanisms) with respect of regional projects of the Russian Federation and municipal projects of subjects of the Russian Federation, and allows more publicity regarding the arrangement of collaborative competitions and cooperative agreements [25].

Of course, not all of the problems accompanying implementation of the PPP schemes are reflected in the 2015 PPP Act. For example, Art. 2, para. 6 of this Act stipulates possible modes of implementing the PPP projects by fixing the limited but compulsory elements of the PPP agreements. With this the Act requires a clear idea of the object of the agreement with outlining property rights on the subject of the agreement for private partners such object are created. Hence, we insist that with the rapidly changing nature of business environment and possible emergence of new socially significant spheres for investments, the Act should contain an open list of elements of the PPP agreements while preserving general criteria in accordance with which the objects of agreements should be defined, such as social significance of the object, etc. Provided that executive authorities of the Russian Federation, it subjects or municipalities can establish other mode of the PPPs, such a solution appears more viable, since it is not always that construction or reconstruction of the object of the agreement is possible.

The 2015 PPP Act provides for a number of mechanisms which are expected to enhance opportunities for structuring of the PPP projects. The rule regarding private ownership over the objects created, which is a mandatory element of the PPP agreement, is among these mechanisms. Prior to the

adoption of the Act, a considerable share of the PPP projects was implemented in the mode of legal concession [20] either involving state ownership of the property, or as part of regional legislation which has been insufficiently effective without legislative regulation at federal level of the process.

Although the 2015 PPP Act opened the possibility of legal concessions with the subjects of the Russian Federation capable to independently initiate and conclude agreements, the concession agreements have not been as widely used as expected. This is *inter alia* due to limited norms on flexibly structured projects and overtight regulation of procedure for selecting the concessionaires, provided by this Act [12]. The practice of implementation of this Act is steadily increasing because the concession model cannot satisfy all needs of the market as it represents only one of the modes in which the PPP can be carried out [11].

The 2015 PPP Act gives municipalities a significant role in the PPP process. For this, a separate section of the law is reserved defining the powers of municipalities to arrange tender procedures allowing to win the right of signing partnership agreements as well as the rules of implementing monitoring functions regarding the compliance with the terms of agreements by private partners, etc. At the same time, the shortcomings of this Act are in that it fails to address the duty of municipalities to coordinate the PPP projects with government entities, overlook the issue of limited time agreements, and narrow the list of cases when one the public partner can serve several private entities.

It is positive development that the law widens the competence of the PPP parties and legitimizes those procedures that have already been implemented in practice. An uncontested strength of the Act is also in legal entitling of the regions with powers regarding the PPP as it now takes into account serious risks associated with the officials who have been reluctant to take such responsibility when making decisions regarding the conclusion of the PPP agreements.

The most valuable contribution of the 2015 PPP Act lies in manifestation of political will due to the fact that amidst those economic conditions, in which Russia lives today, the business needs guarantees that the state will hold business relationships with it on fair and equal terms. In fact, the PPP is a mutually binding contract. This implies that if for some reason the state which has so far been a stronger party than business does not fulfill its obligations under the contract it compensates all losses associated with this failure.

Partnership projects at local level are of particular importance. Since they carry the main burden of the implementation of projects of social importance, it should be noted that at the municipal level the practice of partnership agreements substantially narrower than at the national level and regions.

Budget revenues of municipalities are insufficient in order to provide guarantees for the execution of agreements. Registration of municipal assets is not always carried out in accordance with the procedure established by

law which impedes the transfer of management of a private person. Unclear is the mechanism of fulfilling the obligations of the municipality to the private partner in the event of a breach of the agreement, or the mechanism of incorporating a large number of participants from the public partner (multiple levels of government).

According to the experts, one of the factors hindering the organization of PPP projects at the regional and municipal level is the lack of qualified personnel authorised for the organization of such projects. According to PPP Development Center [26], 406 concession tenders were announced in 2015. But the quality of these projects in most cases is quite low due to the lack of sufficient competences of the regional authorities. A shortage of qualified personnel in the field of municipal management does not allow professional analysis and support of the PPP projects.

In addition, private capital is wary of the risks caused by the inefficiency of the municipal authorities and the high level of corruption. Lack of trust is the one issue that calls into question the possibility of a partnership.

Conclusions

Our analysis shows that the attraction of investment to Kaliningrad region could benefit from a more favorable investment climate achieved by optimizing economic and legal conditions and implementing a series of administrative and institutional measures building on already existing tools and mechanisms. These measures should be supplemented with the introduction of new institutions and mechanisms, such as the PPP. A clear definition for the term "points of growth," provided by law is desired in order to reboot regional economy, and implementation of these points again should be brought into action through the use of the PPP.

On the one hand, the effect of the 2015 Act on the PPP could be fortified with the adoption of legal norms or even a new Act "On state — private and municipal — private partnership in Kaliningrad region." On the other hand, it is crucial to avoid the so-called "overregulation" in the sphere of the PPP and the MPP for which a clearer declaration of rights and duties of the parties involved in investment process is needed as well as effective mechanisms for implementing legal norms in regulating investment by providing additional guarantees for partners. These measures, if undertaken systematically, could contribute to the creation of a favorable investment climate in Kaliningrad region, especially with the view of involving the private sector in socially significant projects. We believe that this provides desired guarantees for investors in the Kaliningrad region to trust in the validity of legal framework, which was meant to last for at least the next 70 years, according to the Law of 29 December 2014 On the Territories of Advanced Social and Economic Development of the Russian Federation [27].

Legislation of the Kaliningrad region, due to its specific character explained by a specific legal status of this subject of the Russian Federation [9;

10], allows a degree of variation from the model laws governing investment. Yet the statutes, irrespectively of their structure, need to be clear enough for the investors to understand the consequences of their implementation. Hence, we believe in the urgency of an audit of current Russian legislation in the area of public procurement, privatization, concession, land, budget, urban planning, licensing, etc. in order to avoid the conflict of legal norms governing the relationships between the private investor and the public partner.

This study shows that while there is a fairly wide range of tools for implementing the investment projects in cooperation between the state and the private partners at regional level, socially significant projects for the PPP are still scarce. The reasons for this vary from insufficient expertise of the representatives of public partners in regional authorities to a lack of practical experience in the implementation of the PPP projects, and a lack of commitment on the side of public authorities to participate in them.

We are convinced that the development and successful implementation of regional and municipal PPP projects require deeper legal development of the PPP instruments, which started with the adoption of the 2015 PPP Act. Representatives of public authorities — federal, regional and municipal — still need wider legislative competences in order to successfully carry out their professional activities in the field of the PPP. Regional sectoral ministries and municipalities are now entitled with the role of “competence centers” able to identify investment risks, assess risk allocation in the PPP projects and make reasonable suggestions for reducing these risks, as well as to elaborate the tools for risk management in the projects while carrying out subsequent monitoring functions. At the same time, a coherent system of motivating regional authorities is desired in order to stimulate their interest in attracting investors in the framework of the PPP projects at regional and local levels. For successful implementation of the PPP, optimizing legal standards for such projects is needed, which will govern the processes of internal and external control over implementing the PPP agreements.

Focusing on achieving a favorable investment climate for domestic and foreign investors in Kaliningrad will contribute to large-scale implementation of regional PPPs and to reduction of investment risks on this basis, which is significant for stable economic development, notwithstanding possible emergence of other obstacles in implementation of the regional and local PPP projects. Participation of Kaliningrad regional and local authorities in such partnership projects should be carried out in a manner that is transparent and understandable for foreign and domestic investors, consistent with best international practices, and allowing synergy for executive authorities and the business to determine the most effective legal model of cooperation within the partnership.

Establishing clear and transparent “rules of the game” not only for private investors, but also for public partners is the best way to make the Kaliningrad area attractive for investment and increase investment in the region's economy. This should be the criterion of efficiency of investment policy implemented by the government of the Kaliningrad region.

References

1. The plenary session of the St. Petersburg International Economic Forum, 2016, *Official site of the Russian President*, available at <http://kremlin.ru/events/president/news/52178> (accessed 29.06.2016). (in Russ.)
2. Foreign direct investment in Russia collapsed by 92% in 2015, 2016, *Interfax*, available at <http://www.interfax.ru/business/490758> (accessed 29.03.2016). (in Russ.)
3. Baranovskaya, E. A. 2013, Creating a competitive investment climate in Russia as a basis for upgrading: some legal aspects, *Vestnik Baltijskogo federal'nogo universiteta im. I. Kanta* [Vestnik Immanuel Kant Baltic federal University], no. 3, p. 143—151. (in Russ.)
4. On the Special Economic Zone in the Kaliningrad Region and on Amendments to Certain Legislative Acts of the Russian Federation: *Federal law 16-FZ*, dated 10 Jan. 2006 (as amended on 11.03.2016.), available at: <http://www.consultant.ru>. (accessed 29.06.2016). (in Russ.)
5. About the state support of organizations that are making investments in the form of capital investment in the Kaliningrad region: *law of the Kaliningrad region* No. 171 dated 15 July 2002, available at <http://www.garant.ru>. (accessed 29.06.2016). (in Russ.)
6. *The Government of the Kaliningrad region*. Official portal, 2016, available at <https://gov39.ru/ekonomy/investicii.php> (accessed 20.04.2016). (in Russ.)
7. *Invest in the Kaliningrad region*, 2016, available at http://www.investinkaliningrad.ru/?page_id=77 (accessed 20.04.2016). (in Russ.)
8. The investment rating 3B1 region, 2016, *Rating agency "Expert"*, available at <http://www.raexpert.ru/database/regions/kalinin> (accessed 15.04.2016). (in Russ.)
9. Klemeshev, A.P. 2009, Russian Exclave on the Baltic Sea: Evolution of Exclavity and Ways to Overcome It, *Balt. Reg.*, Vol. 1, no. 2, p. 86—97. DOI: 10.5922/2079-8555-2009-2-11.
10. Klemeshev, A.P. 2007, *Exclavity under globalization: Selected works*, Kaliningrad, 211 p.
11. Aksenova-Sorokhtey, J.N., Baranovskaya, E. A. 2015, Institute of concession agreements and actual problems of its legal regulation in the Russian Federation, *Nauchnaja perspektiva*, no. 10, p. 37—38. (in Russ.)
12. Aksenova-Sorokhtey, J.N., Baranovskaya, E. A. 2015, Novels of the concession of the Russian Federation, *Zakon i parvo*, no.12, p. 56—62. (in Russ.)
13. Rating of PPP regions, The National Center for Public-Private Partnerships, available at http://pppcenter.ru/assets/docs/raytingREG2016_B5_Block_04-04-2016.pdf. (accessed 05.07.2016). (in Russ.)
14. Aksenova-Sorokhtey, J.N., Baranovskaya, E.A., Serebryakova, A.A., Serova, O.A. 2016. Actual problems of legal regulation of public-private partnership in Russia, *Uspekhi sovremennoj nauki i obrazovaniya*, Vol. 2. no. 4, p. 147—152. (in Russ.)
15. Public-private partnerships, municipal-private partnership in the Russian Federation and the Introduction of Amendments to Certain Legislative Acts of the Russian Federation: Federal Law 224-FZ, dated 13 July, 2015 (as amended on 03.07.2016.), available at: <http://www.consultant.ru>. (accessed 20.04.2016). (in Russ.)
16. Aksenova-Sorokhtey, J.N., Baranovskaya, E. A., Rusanova, Y.K. 2016, Russian legislation on public-private partnership, *Zhurnal nauchnyh i prikladnyh issledovanij*, no. 4, p. 93—97. (in Russ.)

17. The State Duma adopted a law on PPP. Economy News, 2016, available at <http://www.vestifinance.ru/articles/59538> (accessed 05.07.2016). (in Russ.)
18. Nikolaev, D. 2016, Public-private stagnation, *Kommersant*, available at <http://www.kommersant.ru/doc/2950766> (accessed 22.10.2016). (in Russ.)
19. PPP projects are going to increase, 2016, *Kommersant*, no. 179, 28.09.2016, p. 2. (in Russ.)
20. On concession agreements: Federal law of 21.07.2005 No 115-FZ (as amended on 03.07.2016), 2016, available at <http://www.consultant.ru>. (accessed 22.10.2016). (in Russ.)
21. Kaliningrad authorities have been asked 42 to 45 billion rubles of subsidies in 2017, 2016, *News agency RBC*, available at <http://kaliningrad.rbc.ru/kaliningrad/freenews/57f77f0c9a7947adf96332fe?from=main> (accessed 05.10.2016). (in Russ.)
22. Subsidies "the problem 2016" received only a third of the Kaliningrad companies, 2016, *News agency RBC*, available at <http://kaliningrad.rbc.ru/kaliningrad/freenews/580621a79a794757bb76998e?from=main> (accessed 20.10.2016). (in Russ.)
23. The bulk of the subsidies "to support the labour market" companies won't with the highest number of employees, 2016, *Rugrad*, available at <http://rugrad.eu/news/906757> (accessed 20.10.2016). (in Russ.)
24. The government proposed to attract investors to build Parking lots in Amber], 2016, *News agency RBC*, available at <http://kaliningrad.rbc.ru/kaliningrad/investigation/02/09/2016/57c94c109a79475207b1a963?from=main> (accessed 24.07.2017). (in Russ.)
25. From concession to PPP, 2016, Law firm *VEGAS LEX*, available at http://www.vegaslex.ru/analytiks/publications/from_concessions_to_ppp (accessed 20.10.2016). (in Russ.)
26. PPP-info. Federal portal "Infrastructure and public-private partnership in Russia", 2016, Infrastructure Projects Support Platfor, mavailable at <http://www.pppi.ru>. (accessed 25.11.2016). (in Russ.)
27. On territories of advancing socio-economic development in the Russian Federation: Federal law dated 29.12. 2014 No 473-FZ (as amended on 13.07.2015), 2015, available at <http://www.consultant.ru>. (in Russ.)
28. Sazonov, V. E. 2012, *Gosudarstvenno-chastnoe partnerstvo: grazhdansko-pravovye, administrativno-pravovye i finansovo-pravovye aspekty* [Public-private partnership: civil law, administrative law and financial and legal aspects], Moscow, 492 p. (in Russ.)
29. Belitskaya, A. V. 2012, *Pravovoe regulirovanie gosudarstvenno-chastnogo partnerstva* [Legal regulation of public-private partnership], Moscow, 191p. (in Russ.)
30. Varnavskii, V. G. 2005, *Partnerstvo gosudarstva i chastnogo sektora: formy, proekty, riski* [The partnership of the state and the private sector: forms, projects, risks], Moscow, 315 p. (in Russ.)
31. Kabashkin, V. A. 2010. *Gosudarstvenno-chastnoe partnerstvo: mezhdunarodnyj opyt i rossijskie perspektivy* [Public-private partnerships: international experience and Russian prospects], Moscow, 576 p. (in Russ.)
32. Salikhov, Kh. M., Zverev, A. A. (ed.) 2011, *Gosudarstvenno-chastnoe partnerstvo: Praktika. Problemy. Perspektivy* [Public-private partnership: Practice. Problems. Prospects], Moscow, 398 p. (in Russ.)
33. Popondopulo, V. F., Shevelevaya, N. A. 2015, *Publichno-chastnoe partnerstvo v Rossii i zarubezhnyh stranah: pravovye aspekty* [Public-private partnership in Russia and foreign countries: legal aspects], Moscow, 528 p. (in Russ.)
34. Graeme, H., Carsten, G. 2005, *The Challenge of Public-Private Partnerships. Learning from international experience*, Cheltenham UK, 368 p.

35. Yescombe, E.R. 2007, *Public-private partnerships: principles of policy and finance*. Burlington, USA, 368 p.
36. Link, A.N. 2006, *Public/private partnerships: innovation strategies and policy alternatives*, New York, 160 p.
37. Akitobi, B., Hemming, R., Schwartz, G. 2007, *Public investment and public-private partnerships*, Washington, International Monetary Fund, 23 p.
38. Marks, A.T., Silverman, E.F., Borisoff, A.K. 2010. Project Finance and Public-private Partnership in the United States. In: Delmon, J., Rigby Delmon, V., aan den Rijn, A. (eds.) *International Project Finance and PPPs: A Legal Guide to Key Growth Markets*, p. 7—70.
39. Klijn, E.-H., Teisman, G.R. 2000, Governing Public-Private Partnerships: Analyzing and Managing the Processes and Institutional Characteristics of Public-Private Partnerships. In: Osborne, S.P. (ed.) *Public-Private Partnerships: Theory and Practice in International Perspective*, London, p. 84—102.
40. Akintoye, A., Beck, M., Hardcastle, C. 2008, *Public-Private Partnerships: Managing Risks and Opportunities*, USA, 448 p.
41. Heinz, W. 2006. Public Private Partnerships: Principles, Opportunities and Risks, *Lecture given in the course of AER Centurio Interreg III Conference of the Assembly of European Regions in Ponta Delgada, Azores, 6 May 2005*, German Institute of Urban Affairs, Cologne, p. 8.
42. Fussell, H., Beresford Ch. 2009, *Public-Private Partnerships: Understanding the Challenge*, Vancouver, Centre For Civic Governance of the Columbia Institute, 119 p.
43. Quium, A., *A guidebook on public-private partnership in infrastructure*, 2011, Economic and social Commission for Asia and the Pacific, Bangkok, 76 p.

The authors

Dr Yulia N. Aksenova-Sorokhtei, Associate Professor, Institute of Law, Immanuel Kant Baltic Federal University, Russia.

E-mail: Juliajaksenova@gmail.com

Dr Elena A. Baranovskaya, Associate Professor, Institute of Law, Immanuel Kant Baltic Federal University, Russia.

E-mail: e.baranovskaya163@yandex.ru

Mariya Riekkinen, Researcher, Institute for Human Rights, Faculty of Social Sciences, Business, and Economics, Åbo Akademi University, Finland.

E-mail: mariya.riekkinen@abo.fi

To cite this article:

Aksenova-Sorokhtei J.N., Baranovskaya E.A., Riekkinen M. 2017, Minimising Investment Risks through Optimising Public-Private Partnership: The Case of the Kaliningrad Region, *Balt. Reg.*, Vol. 9, no. 3, p. 15—29. doi: 10.5922/2079-8555-2017-3-2.