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LHSI Labor and Health Social Initiatives

Study Report

Public Private Partnership as a financial mechanism to diversify funding sources for sustainable provision of HIV prevention services to key affected population in Ukraine

Kyiv 2015

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ABBREVIATIONS

AIDS	Acquired immunodeficiency syndrome
ART	Antiretroviral therapy or treatment
AUPLHIV	All-Ukrainian Network of People Living with HIV/AIDS
CSWs	Commercial sex workers
GFATM	Global Fund to Fight AIDS, Tuberculosis and Malaria GF – same as above
HIV	Human immunodeficiency virus
HR	Harm reduction
ILO	International Labour Organization
INGO	International nongovernmental organisation
KAP/MARPs	Key affected population/Most-at-risk population
MOH	the Ministry of Health of Ukraine
MSM	men having sex with men
NGO	nongovernmental organisation
OMI	Obligatory Medical Insurance
OST	Opioid-based substitution therapy
PLHIV / PLWHA	People Living with HIV/AIDS
PPP	Public-Private Partnership
PPP Project	an investment project under a PPP scheme
PWID	People who inject drugs
SC	Social Contract
STDs	Sexually transmitted diseases
TB	Tuberculosis
UAH	Ukrainian Hryvnya
UNAIDS	Joint United Nations Program on HIV/AIDS
USAID	United States Organization**HO** World Health Organization

KEY TERMS USED IN THE STUDY

Competition of social projects - transparent competitive selection of recipient of state earmarked funds (non-repayable financial assistance) to implement community service projects under the agreement (contract).

Concession - a form of PPP to fulfil public needs under which the executive authority or local government grants on the basis of a concession agreement, on fee-based and termed basis to legal entity or physical person (entrepreneurs) the right of establishment (construction) and (or) management (operation) of the concession object (termed paid possession), provided that business entity (concessionaire) takes obligations of creation (construction) and (or) management (operation) of the concession, property liability and possible business risk.

Concessionary – a party of the concession agreement that is represented by executive authority or local government entity authorized by the Cabinet of Ministers of Ukraine or local government to conclude a concession agreement.

Concession agreement - a contract under which the executive authority or local authority (concessionary) provides on the paid basis to the subject of entrepreneurial activity (concessionaire) the right to create (build) a concession object, or significantly improve it and (or) exercise control (operation) over it in order to meet public needs.

Concessionaire - a private investor/entrepreneur who has received concession under the contract concluded according to PPP law (several actors may act on the side of the concessionaire).

HIV prevention services - counseling and information services on HIV prevention; needle distribution and exchange; distribution of condoms and lubricants; HIV counseling and testing; substitution maintenance therapy (SMT)

Investments - any type of property and intellectual value that is being invested in business and other activities, in the result of which a surplus (income) is created or social benefit achieved.

Joint activity – one of the forms of PPP, in which parties (participants) undertake obligation to combine efforts and work together to achieve a particular goal that is implemented under the simple partnership agreement in accordance with paragraph 2 of Chapter 77 of Civil Code of Ukraine.

National HIV/AIDS Programme - National Programme on Combating HIV/AIDS in 2014-2018 that includes funding for HIV prevention services, provided by GFATM.

PPP efficiency analysis - a procedure, used prior to tender competition announcement to determine the private investor, that allows to reveal possible risks associated with PPP project implementation, and identify whether PPP terms are appropriate to be used in project.

Public-Private Partnership (PPP) – a form of cooperation between state or territorial communities in person of the relevant authorities and local government (public partners), and private legal entities, except for state and municipal enterprises, or individual entrepreneurs (private partners) that is based on the agreement between them in the manner prescribed by PPP Law and other legislative acts.

Private partner - legal entities of private ownership or their associations that are selected to participate in a PPP project on the basis of tender competition (except when the selection is allowed without such tender).

Social service quality indicators - a set of indicators used for assessment of entities providing social services, based on the positive impact and the degree of satisfaction of the needs of beneficiaries.

State (public) partner - a party in PPP partnership, on behalf of which following entities may act: the state entity authorized to perform these functions on behalf of Ukraine (for instance, the Ministry of Health in case of delegation of these functions by the Cabinet of Ministers), or local governments that are authorized to represent territorial communities.

State standard of social services – includes the content, scope, norms and regulations, and also conditions and procedures for the provision of social services, and quality indicators, that are defined by legal act of the central body of executive power in social policy.

State support - a way to ensure the rights and interests of the private partner in PPP project, by providing government guarantees of funding from state or local budgets and other sources in accordance with national and local programs, as well as in any other manner determined by tender documentation.

INTRODUCTION

Ukraine has one of the highest HIV rates in Europe. As of October 2015, the Ukrainian Center for control of socially dangerous diseases of the Ministry of Health of Ukraine has registered 277,481 HIV cases. HIV epidemic in Ukraine continues to be mostly spread among key affected population (KAP) groups -- people who inject drugs (PWIDs), commercial sex workers (CSWs), men who have sex with men (MSM); and prisoners. In 2003 Ukraine became a recipient of funding from the Global Fund to Fight AIDS, Tuberculosis and Malaria (GFATM), which remains the largest donor of efforts to address HIV/AIDS epidemic in Ukraine and globally. With GFATM support, together with other stakeholders, packages of HIV prevention services were developed, piloted and implemented among key risk groups and to people living with HIV (PLHIV) to prevent HIV and other diseases transmission. According to the Law of Ukraine on Adoption of the National Programme on Combating HIV/AIDS in 2014-2018 No. 1708-VII from 20/10/2014, up to 2017, GFATM funds are being planned to cover by prevention services at least 48% of the estimated number of PWIDs, 32% of CSWs, and 22% of MSM.

Ukraine is one of few countries in the region with extensive experience of providing HIV prevention services to PWIDs. Together with services to PWIDs, HIV prevention service packages for other KAP were developed and implemented mostly by HIV-service NGOs with donor support. Currently, Ukraine faces challenges regarding sustainability of its HIV prevention services. In 2017, with the anticipated withdrawal of the Global Fund financing of the National HIV/AIDS program, it is expected that the Government of Ukraine and other interested parties will continue financing the National program without external support. However, amidst the economic and financial crisis in Ukraine, continuing of HIV prevention with state funding remains problematic and thus exploring and finding alternative ways to support HIV prevention services is becoming increasingly important.

For HIV prevention to be effective, diversification of funding is very important, as it becomes necessary to ensure the sustainability of HIV service provision for most at-risk-groups in Ukraine. ***Public-private partnership (PPP***) represents an alternative mechanism to state budget financing of health care.

In Ukraine, initial prerequisites for the emergence of PPP in its most common form - concession - were established in 1999 by the Law of Ukraine on Concessions (№ 997 XIV from 16.07.1999). According to the Law's provisions, health services sphere may be an area of introducing concessions. In 2010, the Law of Ukraine on Public Private Partnership came into force № 2404-VI of 01.07.2010 (hereinafter - the PPP Law) that has significantly broadened the scope of partnership instruments, as well as included into the sphere of law application state support of projects, project assessment procedures, and division of risk between the two partners in the health sector as one of the areas of possible PPP application (Art. 4 of the PPP). Within the PPP Law, it is also possible to implement projects of construction and operation of municipal health facilities.

With the view of the above, in 2015 Labor and Health Social Initiatives (LHSI) has studied different financing mechanisms, including ***social contract (SC), Public-Private Partnership (PPP)***, as well as some others that are or may be used to finance HIV/AIDS prevention services under the acting legislation in Ukraine. The study was commissioned and funded by USAID "HIV Reform in Action" project, implemented by Deloitte Consulting in Ukraine. The study reviewed existing PPP definitions and practices, and studied the

possibilities of using the PPP as a mechanism to finance health services provision, with the focus on HIV/AIDS prevention services. The study also included analysis of experts' opinion and attitudes of clients of HIV prevention programs on existing and/or probable sources of funding for HIV/AIDS services in Ukraine. This report includes recommendations to help the Government of Ukraine design sustainable PPP strategies and projects in the sphere of HIV prevention in the context of the anticipated withdrawal of GFATM funding.

METHODOLOGY

Main goal of research – to examine the national and international experience of PPP

and other financial mechanisms and to analyze existing barriers to attracting local budget funding into financing HIV prevention services for the most-at-risk population.

Key research objectives:

- To analyze examples of best international practices of PPP and other financial mechanisms implementation in health sector, and to identify the appropriate ones to use in Ukraine to implement in HIV prevention services;
- To identify, classify and analyze the key barriers that hinder the implementation of health services, including HIV prevention services, in relation to PPP and other financial mechanisms;
- To study the level of awareness of non-state partners and representatives of municipalities of practical and legal opportunities for PPP investment and - where available – of other financial mechanisms;
- To identify the structure of risks and their distribution between private and public partners when implementing PPP model in health care, including in HIV prevention services;
- To develop an algorithm of actions to attract private partner financing for HIV prevention services using PPP model ;
- To develop recommendations and proposals to overcome legislative gaps PPP implementation for delivering HIV prevention services;

To achieve these goals and objectives, the study used the following methods of data collection:

1. ***Desk Review*** included the following steps: a) analysis and study of international practices of PPP implementation, including the UK and other countries, and examples of using PPP financing mechanism -- to identify potential opportunities and barriers of their use for funding HIV prevention services to MARPs in Ukraine; b) review of existing legal framework governing PPP implementation in Ukraine; c) overview of previous studies and/or reports related to the research topic.

2. ***In-depth interviews*** with national and regional level experts to gather their opinion on using PPP as a possible financing mechanism for HIV prevention services, as well as on other existing finance mechanisms. Expert data was collected using a semi-structured interview guide through in-depth, face-to-face interviews with purposively selected respondents with knowledge of financing mechanisms of HIV services, at the national and regional (oblast) level. Interviews were held in places convenient for the respondents. A brief introductory session preceded each interview during which respondents could find out more about the goals of the research from the LHSI information letter and were asked to sign the informed consent forms. The interviewer informed the respondent about the possibility of reviewing the report of the study on the LHSI web page at: www.lhsi.org.ua

The in-depth interviews were transcribed verbatim. Quotations from interviews are used in this report with respondents anonymised. The interview guide is in Appendix 1.

3. A questionnaire-based survey included the following components:

a) Study of the attitude of HIV-service clients about the possibility of financing HIV prevention services at their own expense. The sample included 443 regular customers from risk groups to HIV transmission (PWIDs, CSWs, MSM and PLWHA) receiving a basic package of HIV prevention services within the National HIV/AIDS Programme. Sampling - targeted, quota (based on the main parameters of the above groups). General aggregates - estimated number of at-risk populations considering their share of coverage by prevention services in the regions where the survey was conducted. Respondent recruitment channels included: NGOs, charities that provide health and social services in the sphere of HIV; government entities provide HIV services (regional AIDS centers), other health care institutions; centers for social services for families, children and youth. The nature of the sample - unrepresentative. Sampling method used – Time Location Sample (TLS);

b) study of the attitude of local government representatives at district (rayon) and municipal (city) levels, of business and NGO representatives with knowledge or experience in using of finance mechanisms for social and/or medical service delivery to MARPs and PLWHA (150 representatives surveyed). Sampling - unrepresentative, targeted.

Questionnaire surveys were administered by qualified interviewers who prior to their administration, briefed the respondents on the methodology and tools of the research. To ensure high quality results of surveys, 100% visual inspection of the completed questionnaires was carried out, and 100% of logical control after the input. Compliance with the survey instructions was controlled at all stages of its administration.

4. Case-studies (situation analysis) - Analysis of specific cases of using PPP model under the current Ukrainian law, as well as examples of initiatives in the area of HIV/AIDS on the basis of partnerships between state and private organizations in Ukraine. The

analysis was based on a methodological approach that is used to describe specific situations and contains standardized algorithm for presenting cases.

5. SWOT-analysis[1] of the PPP finance mechanism as a means of diversifying funding sources to provide sustainable HIV prevention services for KAPs/MARPs. Includes a description of internal and external factors, as well as the positive and negative effects on the implementation of PPP as a mechanism to diversify the sources of financing of HIV/AIDS services.

6. Mapping capacity of clients of HIV prevention services to pay for these services with own money. Research data obtained in different regions of Ukraine was graphically visualized to represent the pilot study regions, taking into account the range of HIV/AIDS services provided to MARPs in different regions. Data obtained from in-depth and semi-structured interviews served as the empirical basis to draw the maps.

Research limitations

The geography of the research at the stage of studying the opinion of regional and city level experts, as well as of the attitudes of HIV/AIDS services clients, was limited to regions where the project "HIV Reform in Action" funded by USAID is being implemented, namely: Dnipropetrovsk, Lviv, Mykolaiv, Odessa, Poltava oblasts and city of Kyiv.

A questionnaire survey of clients of HIV-service programs asked about basic HIV prevention services for KAP/MARPs that are delivered by GFATM-funded NGOs under the current National HIV/AIDS Programme, and included: counseling and informing on HIV prevention issues, needle distribution and needle exchange, distribution of condoms and lubricants, HIV counseling and testing, substitution maintenance therapy (SMT).

[1] SWOT analysis is a business tool used to identify strategic issues within an organization by analyzing the Strengths, Weaknesses, Opportunities, and Threats of the organization. (USAID 2014, p.15)

KEY FINDINGS

Part 1. DESK REVIEW: THE USE OF PUBLIC PRIVATE PARTNERSHIP MODELS AND OTHER FINANCIAL MECHANISMS IN THE SPHERE OF HIV PREVENTION SERVICES

Development of effective mechanisms of interaction between the state and business is one of the key prerequisites for the formation of effective economic policy, growth of investment and innovation, increase of the country's competitiveness, and the development of its social infrastructure. The state budget deficit at various levels explains the need to seek alternative sources of financing HIV/AIDS response in Ukraine. The urgency of the research topic is explained by the need to diversify financing sources and to find a sustainable long-term financing mechanism to fund HIV/AIDS services, due to the anticipated withdrawal of funding from the Global Fund and other international donors. Existing international practices show that **Public-Private Partnership (PPP)** may be viewed as **an alternative to budget financing** of healthcare.

The section below presents the results of the desk review of international experience of applying PPP mechanism. Existing PPP definition(s) and models are presented, as well as overview of literature and examples of using PPP in health care and in the sphere of HIV/AIDS. Following that, the existing legal framework in Ukraine is described for PPP and situational analysis of possible PPP applications is done, to ensure sustainable HIV prevention services for KAP.

1.1 THE USE OF PUBLIC-PRIVATE PARTNERSHIP AND OTHER FINANCING MECHANISMS IN THE SPHERE OF HIV PREVENTION SERVICES: INTERNATIONAL PRACTICES

Conceptual framework for interpretation of PPP varies in Ukraine and internationally. While under Ukraine's law its definition is quite narrow, internationally, the term "PPP" is much broader and covers various forms of concessions and partnerships where the basis for PPP lies in investment attractiveness of the PPP project, including in healthcare. Previous publications on PPP in Ukraine were done mostly by international technical assistance projects (including USAID), and despite a significant volume of materials developed, on the whole, the PPP as a mechanism, did not quite get defined. Most publications offer recommendations on the use of PPP in particular spheres (Recommendations for using PPP in e-Government[2], Methods of defining risks in implementing PPP[3] and some others), and

[2] Рекомендації для ДПП в системі е-Уряду: http://ppp-ukraine.org/wp-content/uploads/2015/03/PPPs-in-e-Gov-Guide_ukr.pdf

[3] http://ppp-ukraine.org/wp-content/uploads/2015/03/PPP-Risks-Methodology-Ukr.pdf

did not include health care sector. Given the above, the research team used the key definitions from English language sources.

Prior to the desk review, the literature search was conducted of available sources. The search used the following databases: Google, Google Scholar, PubMed, Scopus, Cochrane Library, as well as links to Publications at the WHO, UNAIDS, USAID websites. For Ukraine's government documents, the search portal of Verkhovna Rada (Parliament) of Ukraine, as well as Ministry of Health of Ukraine, and State Services on HIV/AIDS websites[4] were consulted. The search used the following key phrases: "PPP", "public-private partnership", "PPP in health" and "PPP in HIV/AIDS" and their combinations in English, Russian and Ukrainian languages. Results of the search were limited to the first page of search engine. The search was further narrowed by using phrases "health services" and "HIV prevention services". For the purpose of keeping information up-to-date, and because of the rapid changes in HIV/AIDS policies and other laws in Ukraine, search was limited to the period from 2005 to 2014. Literature sources recommended by Deloitte/USAID program in Ukraine were also consulted.

1.1.1. Definitions. Main features, mechanisms and practices of PPP model implementation: international experience

There is no standard, internationally-accepted definition of a PPP. The term is used to describe a wide range of types of agreements between public and private sector entities, and different countries have adopted different definitions as their PPP programs evolved (World Bank, n.d.). The term "Public-Private Partnership" is commonly used to describe a form of private sector engagement as an alternative mechanism of financing government (public) services or in infrastructure financing. Several scientific and methodological approaches to the definition of "public-private partnership" can be distinguished. In particular, the World Bank defines PPP as "a *long-term contract between a private party and a government entity*, for providing a public asset or service, in which the private party bears significant risk and management responsibility, and remuneration is linked to performance"[5].

Standard & Poor's defines PPP as *any medium- and long-term relationship between the public and private sectors,* based on sharing of risks and benefits, combining professional expertise and joint co-financing, and aimed at achieving certain political results.

In the literature, another type of PPP projects in healthcare is distinguished, namely, Public-Private Investment Partnerships (PPIP). PPIP is a relatively new term, first introduced in 2008 at a Wilton Park conference by Global Health Group[6]. PPIP is an innovative approach to improving the quality of health services and infrastructure in developing countries. PPIPs are a special form of public-private partnership (PPP) that comprise long-term, highly structured relationships between the public and private sectors designed to achieve significant and sustainable improvements to healthcare systems at national or sub-national levels. PPIPs position a private entity, or consortium of private partners, in a long-term relationship with a government to co-finance, design, build, and operate healthcare

[4] Following the decree of the Cabinet of Ministers of Ukraine from 10.09.2014 No. 442 "On optimisation of central organs of executive power", the State Service on HIV/AIDS and other Socially Dangerous Diseases has been liquidated and its functions transferred to MOH. The link to the website with official documents remains active at the time of writing: http://dssz.gov.ua/index.php

[5] World Bank (2014) Public-Private Partnerships. Reference Guide. 2.0, c.14.

[6] https://www.wiltonpark.org.uk/wp-content/uploads/ppip-background-reading.pdf

facilities, and to deliver both clinical and non-clinical services at those facilities over a decade or more.

According to the economist T.Matayev (2014), PPP is a *form of relationships between the state or local governments and private partners* that are formalised through agreement, stipulating joint financing and implementation of socially significant projects on a long-term basis, sharing risks, responsibilities and rewards.

The PPP mechanism stipulates that *the state acts as a customer of services* when it defines the terms for such cooperation, creates opportunities to take management decisions for the private sector, continuously monitors the services, leaving the object of investment in state property. Jointly launched project is being implemented in a competitive environment that creates an incentive to innovation and leads to effective end services delivery.

The main purpose of the PPP is the development of infrastructure in the public interest by combining resources and expertise of each party, the implementation of socially significant projects at the lowest cost and risk, subject to a high quality service delivery by economic entity (Ayrapetyan, 2009).

Despite common principles and characteristics of PPPs, in international practice there is no single definition, nor a standard classification of PPP forms, or a standard scheme of their application. Each state independently determines them for itself, based on the principle of acceptance to its economy.

Although the term PPP commonly refers to voluntary alliances between the private and public sectors, the partnership often includes "Third sector" — the civil sector of non-governmental organizations (NGOs)[7].

In Western Europe, recent years have been marked by a steady growth trend of the volume of PPP projects in quantitative and value terms.

The United Nations Economic and Social Council (ECOSOC) notes that in different countries around the world there is already 51 institutions for PPP operations, 24 of them - in Europe, 2 - in North America, 5 - in South America, 7 - in Africa, 13 - in Asia. In addition, nine international organisations are working, whose mandate includes, along with other functions, the PPP development (UN, European Bank for Reconstruction and Development (EBRD), International Finance Corporation (IFC) and others.

Most foreign countries have long ago recognized the attractiveness of such projects and actively use them to upgrade infrastructure in such sectors of the economy and social sector as repairs, reconstruction and maintenance of common areas, cleaning services, communal housing services, education, health, municipal transport and social infrastructures. According to Ayrapetyan (2009), in G7 countries (US, UK, Germany, Italy, Canada, France, Japan) out of 615 PPP projects considered, the first place by significance is occupied by healthcare projects (184), second – by projects in education (138), and third – by road construction projects (92).

The variability of PPP forms and models that are used in the world may be explained by the practice of their use. Mechanisms for cooperation between the state and private business in implementing PPP are differentiated according to the scope of the mandate transferred to the private partner regarding ownership, share of investment obligations of the parties, the sharing of risks and division of responsibilities for various types of work.

[7] Lee, S. (2006) Public-Private Partnerships for Development. CED/USAID, p.3.

Among the PPP delivery mechanisms, following main models are distinguished:

- BOT (Build, Operate, Transfer);
- BOOT (Build, Own, Operate, Transfer);
- BTO (Build, Transfer, Operate);
- BOO (Build, Own, Operate);
- BOMT (Build, Operate, Maintain, Transfer);
- DBOOT (Design, Build, Own, Operate, Transfer);
- DBFO (Design, Build, Finance, Operate);
- DBO (Design, Build, Operate);
- Brownfield contract (contract for expansion, renewal or reconstruction of existing facilities without new construction);
- Leasing contract;
- Service contract (management of project without investment obligations). The choice of a particular form is due to specific socio-economic situation and the political orientation of the country.

1.1.2. Countries' experiences in implementing PPP model

The United Kingdom

The United Kingdom was the first country in the world to develop the concept of public private partnerships (PPPs) for public services projects and is the world leader for PPP, with more than 20 years of experience from more than 130 PPP projects (Healthcare UK 2013, p.3). Attracting private capital to investment projects initiated by the state began in the 1980s under the government of Margaret Thatcher. In 1992, John Major's government introduced the *Private Financing Initiative* - PFI, which aimed at attracting private investment into construction of large public facilities, carried out at their own expense. Under PFI, contractors pay for the construction costs and then rent the finished project back to the public sector. This allows the government to get new hospitals, schools and prisons without raising taxes. In many cases, PFI investor is involved in further operation of the facility and organization of its activities, including recruitment. In the UK PFI spread primarily in the areas for which the state is traditionally responsible. Objects that can act as PFI include infrastructure (roads and railways), schools, hospitals, cultural and historic objects, and even prisons. According to the government, these projects provide 17% savings for the budget.

The state usually can not completely give up its presence in these areas and has to maintain control and ownership of the property, or over a particular type of activity. This in any case means funding the projects from the state budgets. Merzlov (2012) and others consider the results of the PPP implementation in the UK effective, which is confirmed by independent audit reports showing that more than two-thirds of all PPP projects were implemented on time and within costs budgeted.

The UK health care sector - the National Health Service (NHS) has probably seen the most of PFI activity where the PFI model has been used to build hospitalsas well as in service provision. The UK government has implemented a range of PFI programmes for acute, primary, community and mental health facilities with a high degree of clinicians and the public engagement. The most famous is a £1.1 billion redevelopment of St Bartholomew's and The Royal London New Hospitals - the largest PFI hospital scheme to be

undertaken in the UK and involves the reconfiguration and re-provision of clinical accommodation across two major inner London acute hospital sites (Healthcare UK 2013, p.6). In this project, in addition to the design, construction and maintenance of the new facilities, the private sector provides high tech equipment, all facilities management and CSSD[8] services. The concession runs until 2048.

PFI has been controversial in the UK and has been subject to scrutiny, including by legislating bodies. In particular, the concept of risk transfer from public to a private partner that lies at the core of PFI model was criticised as 'illusory' — as the government and not private investor, is ultimately accountable for the delivery of public services. According to a report by the Treasury Select Committee published on 19 August 2011, Private Finance Initiative (PFI) funding for new infrastructure, such as schools and hospitals, did not provide taxpayers with good value for money and stricter criteria should be introduced to govern its use.

> *"Although PFI has delivered many new public buildings and services, it has been far too easy for the Government to use it as the only form of financing available without clearly proving whether it is value for money",*
>
> *(Parliament UK 2011, p.5).*

The report noted that using PFI was based on inadequate and insufficiently justified comparisons with conventional procurement. The Committee recommended following measures as an alternative to the standard approach PFI: making sources of funding cheaper; to use elements, and not the whole of PFI contract; attract conventional sources of funding that are appropriate for such projects. Legislators recommended the Treasury to consider alternatives to PFI and carefully study the radical changes in its model.

The PFI was also a concern of health care professionals in UK. An article published in British Medical Journal – the magazine of the medical trade union, the BMA, concluded that the PFI substantially increased the cost of hospital building, while the PFI risk appraisal system was highly subjective in its evaluation of risk transferral to the private sector (Gaffney et al 1999). An example was an NHS project where the risk that clinical cost savings might not be achieved was theoretically transferred to the private sector. In the appraisal this risk was valued at £5m but in practice the private contractor had no responsibility for ensuring clinical cost-savings and faced no penalty if there were none. Therefore, the supposed risk transfer was in fact spurious.

Some PFI deals have also been associated with tax avoidance, including an infamous PFI STEPS deal to sell about 600 properties belonging to the UK government's own tax authority to a private company Mapeley, based in Bermuda. The House of Commons Public Accounts Committee criticised the HM Revenue and Customs on the grounds that it lacked the "commercial skills or business acumen" to manage the contract effectively, while its reputation had been damaged by its involvement with an offshore company (Parliament 2010).

Russian Federation

The Russian Federation (RF) has gained significant experience in implementing PPP where the PPP model was approbated during the implementation of infrastructure projects. There is also a considerable bulk of research on PPP in Russia. The first attempt to

[8] Central sterile services department (CSSD).

introduce PPP was made in St. Petersburg, where its Pulkovo Airport became the first airport in Russia to be developed on the basis of a PPP (Pulkovo Airport, n.d.). There is an online resource "Unified PPP Information System in RF"[9] that contains news, PPP projects database and mapping, and other resources on PPP in Russia. The site is supported by Ministry of Economic Development of the RF.

The study "Barriers to PPP mechanism in Russia", conducted by the Institute of Contemporary Development, concluded that the main hampering factors in the development of PPP in Russia are high levels of corruption and political risks, as well as low levels of skills and lack of qualifications of officials, engaged in PPP projects on behalf of the state.

A. Rassadin, director, St. Petersburg branch of the American Chamber of Commerce, among the causes of failure in PPP projects named: (a) weak political, legal and the executive base, subjective risk assessment, which can all be pushed onto the private business investor, who has no control over these risks; (b) false hopes that the PPP will bring revenue to the state budget without incurring any costs; and others.

In the 1990s, Russia introduced a medical insurance as a mechanism to finance its health care system. Every citizen has a certificate of Compulsory Medical Insurance (MHI). According to the Program of State Guarantees, health care provided is paid at the expense of MHI and includes primary health care, specialized (excluding high technology) health care, as well as providing essential drugs in case of disease (except for STDs, TB, HIV/AIDS), in case of injury, poisoning, birth defects, deformations and chromosomal disorders in pregnancy, childbirth, postpartum, abortion, and some peri-natal conditions in children[10]. Therefore, in the RF treatment of HIV-infection/AIDS is not included into the insurance coverage. The treatment from HIV/AIDS is financed from the state federal and regional budgets[11]. HIV is also not included into the insurance claims and policy for Voluntary Medical Insurance (VMI)[12]. Many publications and online documents cite problems faced by PLHIV when receiving health care[13].

Existing health care system in the RF imposes certain limits on the ability of wide use of PPP in health sector. The complexity of the PPP implementation of PPP lies in the condition that the state should guarantee the return of funds invested by private partner, which is associated with great risks, given that investment in health care in general cannot be seen as fast-return investments.

> *"When entering into PPP projects in healthcare, business should have long-term state guarantees. Depending on the project, we not only supply the equipment, but mostly deliver the complex solution - "turnkey" - with ready-made diagnostic laboratories, technological infrastructure, business-processes and system administration, as well as highly qualified medical, engineering and technical personnel. Under the Russian law it is difficult to implement projects based on PPP model. We face multiple challenges, among them - the inability to spread over the state budgeting period, and no state guarantees at the level of municipalities and federal territories of the Russian Federation. Meanwhile, successful PPPs in health care – are*

[9] http://www.pppi.ru/content/o-proekte
[10] Система ОМС. Общие положения. http://ora.ffoms.ru/portal/page/portal/top/protect/
[11] http://www.help-patient.ru/rights/relations_employer/oms/
[12] http://www.alfastrah.ru/individuals/life/dms_online/group/info/
[13] Вирус отправляют по прописке: http://www.gazeta.ru/social/2015/03/03/6434513.shtml

projects with guarantees from five to ten years "- thinks the director of corporate communications for Philips.[14]

Business is reluctant to invest in health projects. "There are one-off projects, but they are created, mostly at the will of local authorities" - notes S.Anufriev, founder and director of St. Petersburg Medical Forum. One of the first to start using the PPP model was the Government of St. Petersburg together with the city health committee that faced the problem of underfunded health care, and began to look for additional resources. Pilot projects began with the implementation of complex works and building reconstruction in St. Petersburg state "City Hospital No 14" and reconstruction of the building of "City geriatric medical and social center". Reconstruction works were performed by a famous insurance company. In exchange, the city handed over to the company the ownership rights on the building of the former city hospital № 5. " The way these projects were implemented, may not be called a PPP in the full sense of the word, but is is the first step in the PPP development of PPP in health care" - says the Chairman of the Committee on Health Health St. Petersburg.[15]

Ernst & Young analyzed the achievements and obstacles to PPP implementation in the RF[16]. Following factors were mentioned among the key obstacles:

- PPP are long-term projects that are implemented not in two or three years, but in 10-20 years or more, therefore due to lack of transparency and unfavourable business environment investor is not always willing to invest into long-term projects;
- Legislation not in line with modern market requirements;
- Reluctance of government officials to implement PPP projects in practice, and to move away from the usual state procurement mechanisms;
- High cost of financing (raising funds through government bonds is cheaper than a private investor loan);
- Insufficient number of market players to ensure competition.

Criticism of the use of PPP in Russia is linked with the problems arising from different interpretation of the PPP legislation and the gaps in it. According to the head of the PPP Development Center of the RF, in the law "the forms of PPP are not fixed and it is provided that other federal laws may establish specific conditions for particular forms and types of PPP agreements"[17]. Also, specific features of some sectors, such as health care, are not taken into account. Experts fear that the most attractive state and municipal health care properties immediately become potential (and later real) "objects of PPP agreements", which is associated with the proposed changes to the Land Code, where the conclusion and implementation of PPP agreements is planned to be removed from the sphere of law on state procurement. Parliamentary experts also believe that the removal of PPP agreements from the law on public procurement may create the risk of corruption[18].

Several sources analyze the problems that appeared in realisation of PPP model in health care on the example of the famous project "Reconstruction of City Clinical Hospital

[14] Врачи ждут партнеров: http://www.kommersant.ru/doc/1509359
[15] http://wikihospital.ru/pdfs/concession2.pdf
[16] Ernst&Young Как обеспечить успех ГЧП в России, обзор за 2012 г.
[17] Геворкян А., Литвинова А. Государство ищет партнеров, 2013
[18] ИТАР-ТАСС, Вывод соглашений о ГЧП из-под действия законодательства о госзакупках может создать коррупционные риски – эксперты Госдумы, 2013

№ 63" in Moscow[19]. Following the PPP agreement, the hospital was transferred to concession for 49 years. Analysis of the hospital work after the introduction of PPP confirmed initial concerns regarding the possible reduction of the scope affordable care, because now only 40% of health care services are provided in this institution free-of-charge, in comparison to 100% before concession. The share of services that patients receive under the CMI insurance scheme in this hospital is now from 20% to 30% of the total services it provides, while before the concession, health services based at CMI tariffs were received by 100% of the population in the catchment area. Russian League for Protection of Patients's Rights challenged the actions of the Hospital No 63 on provision of health services in a statement to the Procurator General and the Minister of Health of Russia[20]:

> *"The hospital, established to provide free medical care, ends up in the management of a private company that starts uncontrollably (as there is no special control body to track the volume and distribution of free and paid services)to charge for services using CMI as a cover. Statements that it reduces the fiscal burden on the state budget are inaccurate, because the burden is transferred on the shoulders of the sick citizens who have already paid taxes as taxpayers, and therefore have the right to free health services. Besides, the private business will eventually dictate working conditions, including rising prices and imposing health services, while receiving revenue from multiple sources for the same service (from MHI, from patients, and from the budget), thus increasing the load on budget even more" - said the statement.*

Therefore, on the example of using the concession in Russia, it can be concluded that one of the possible consequences that may appear following implementation of the PPP projects can be limiting patients' access to medical services.

Kazakhstan

According to World Bank, Kazakhstan concentrated the largest volume of PPP projects and experience among Central Asian countries (Cuttaree, V. and Mandri-Perrott, C., 2011). In the mid-1990s, the country attracted significant investment into electricity and natural gas sectors. Since 2007, Kazakhstan has broadened PPP experience to transport with a railway concession in 2005, a BOT for Aktau airport in 2007, and other projects.

PPP in Kazakhstan is a recognized part of relations between the state and business, including in health care sector. Launched in 1991, health care privatization passed several stages of its development and in 1996 reached a new level - transition to sectoral programs. From 1996 to 1999, 614 health facilities were privatised, which had a significant impact on the formation of multidisciplinary health care and expansion of market for health services. With the adoption of a comprehensive privatization plan by the government in July 2014, Kazakhstan began the second wave of the privatization process. It is anticipated that the engagement of the private sector in health sector in Kazakhstan will increase competition in the sector and facilitate the introduction of innovative methods of diagnosis and treatment, efficient use of resources, improve infrastructure and medical equipment supplies, raise the level of service and introduce the autonomy of health institutions. The national health sector has potential and the necessary conditions for the successful implementation of PPP mechanism. Moreover, over ten projects are currently at

[19] http://neravenstvo.com/?p=847
[20] http://ligap.ru/articles/zayavlenia/za6/

the planning stage and development of necessary documentation, according to Temyrbekova (2014). It is important that the terms of provision of health care will not change: the patient retains the right to choose the hospital and the provider, and the entitlement to a guaranteed amount of free-of-charge services.

Conditions exist in the country for successful collaboration between public and private sectors, there are specialized programs, and however, businessmen mostly do not have an active position on PPP projects, particularly in health care. A Share Holding Society, "Kazakhstan PPP Center"[21], has been created, whose functions include economic assessment of projects and work to improve the legislative environment.

To summarize this section, the PPP model has been facing challenges in different country settings, with successfull and less successful examples in existence. More examples of PPP country cases are contained in Resource Book on PPP Case Studies by EC [22] and other sources.

1.1.3 Key founding principles of using PPP model in health

Government-run health systems across the developing world are often in poor condition, and are unable to provide proper quality health services. The need to optimize the government spending on health in the context of limited budget resources compels governments around the world to engage with private sector companies to improve the efficiency of medical services provided (Sazonov 2012).

The need for development of PPP in healthcare may be explained by the following:

- Developing countries face a growing burden of chronic diseases in addition to their ongoing struggle against AIDS, TB, malaria, diarrhea, and other infectious diseases;
- Governments lack the resources to maintain and expand infrastructure commensurate with need;
- The skills required to deliver health services efficiently exist in most countries, but are often concentrated in the private sector and underutilized by governments;
- Governments lack the experience and technical knowledge to effectively leverage existing private providers. (PUBLIC-PRIVATE INVESTMENT PARTNERSHIPS 2009, p.4)

The model in which a public authority contracts with a private company to build or run a hospital can be seen mainly in countries with national health services (McKee et al. 2006). In developed countries, approximately 2/3 of the projects implemented in health are done using the PPP model. Various models have been developed. The main areas of investment are: construction of health facilities, implementation of IT-technologies, development and production of medical equipment, etc. (Kulikov, 2012). PPP mechanism allows to combine resources (including financial) of public and private sectors, maintain state ownership over important infrastructure facilities in health sector, and to introduce the most advanced technologies used in business into the practice of health institutions.

The state is a dominant party during PPP realization in health care. On the one hand, the state determines the rules of the game, and on the other - its participation in the PPP projects is aimed at addressing important socio-economic problems. To encourage investors to participate in the project, the state partner should provide some benefits to them, and take on some risks of the project, all of which are an integral part of PPP.

[21] http://kzppp.kz/
[22] http://europa.eu.int/comm/ regional_policy/sources/docgener/guides/pppguide.htm

Advantages of PPP model in healthcare

1. Implemented under the responsibility of the state;
2. Directed at infrastructure development, including in social sphere;
3. Provides private investor with more opportunities to participate in the management of projects than in state contracting;
4. Is long-term;
5. Provides for risk sharing between the partners.

From the standpoint of project financing, all possible risks during the project realization should be delegated to the party that can deal with them in the most effective way. In many PPP projects, significant number of failures is caused by lack of agreement on potential risk sharing between partners. As a result, when such risks emerge, each party is trying to shift responsibility on the other partner. Particular difficulties in analyzing risks are experienced by economies in transition because of insufficient economic growth forecasts that complicate forecasting in the long run.

Summarizing the above, it is possible to define the PPP mechanism in health care as *a form of association of public and private investment and joint management*, aimed at addressing important social and economic policy objectives that ensures more efficient capital investment through risk sharing and benefit sharing between the partners.

Following three main subtypes of partnership between the state and private business are distinguished:

I. The state sector allows the private investor into its sphere of responsibility who creates and/or carries out economic activity on site during the particular period.

II. The state sector creates the conditions (infrastructure) for economic activities of the private investor.

III. The public sector is directly engaged in the private investor project through budget allocations, on the condition that the implemented project would solve important social and economic problems.

Experience of some countries in health care sector has shown that among the typical PPP models in hospital provision are the following:

- Franchising - Public authority contracts a private company to manage existing hospital;

- DBFO (Design, Build, Finance, and Operate) - Private consortium designs facilities based on public authority's specified requirements, builds the facility, finances the capital cost and operates their facilities: the example is the PFI in the UK which is a DBFO model.

- BOO (build, own, operate) - Public authority purchases services for fixed period (say 30 years) after which ownership remains with private provider

- BOLB (Build, Own, Lease Back) - Private contractor builds hospital; facility is leased back and managed by public authority; and

- Alzira - Private contractor builds and operates hospital, with contract to provide care for a defined population (McKee et al 2006).

The "Alzira model"

In 1999 a consortium consisting of an insurance company, banks and construction companies was awarded a contract by the regional Government of Valencia (Spain) to construct a hospital to replace an obsolete facility. The key objective of the project was to address the problem of availability of hospital care for the local population, as the nearest hospital was in 40 km.

The consortium was contracted to:

- Design and build a technologically advanced 300+ bed University Hospital - Hospital de La Ribera - and operate the district health network consisting of Hospital de la Ribera, 4 integrated health centres and 46 primary health centres;

- Deliver clinical and non-clinical services for the 250,000 residents of Alzira district and for any out-of-district patients.

Because the PPP was managed by an investors' consortium, it is also referred to as PPIP (Public-Private Investment Partnership). Under this model, the private contractor received *a fixed annual sum per local inhabitant* (capitation) from the Valencia regional government for the duration of the contract and in return must offer free, universal access to its range of health services.

The hospital achieved high levels on standard measures of performance but was afflicted by poor labour relations (McKee et al., 2006). It became clear that the contract was financially unsustainable and in 2002 a refinancing deal was arranged, providing a substantial financial injection. The Alzira model was originally designed for secondary care only, but in 2003, the model was extended to cover primary care in 2003 (NHS European Office, 2011). The hospital is now working well.

Barriers that hinder the development of PPP in healthcare:

- *ineffective legislation;*
- *existing systems of state supervision and controlling in health care;*
- *absence of government guarantees;*
- *limited competition in healthcare services;*
- *limited budgetary resources;*
- *insufficient experience in implementing PPP projects in health;*
- *high level of corruption of state structures.*

A.Semenin, a Russian PPP Center analyst, identifies *monitoring, enforcement mechanisms, accreditation, effective oversight and control by state* as necessary attributes for a successful state-private sector partnership in health sector. A research note he prepared contains a wide range of cases showing examples of PPP projects in health care[23].

[23] http://www.pppi.ru/sites/default/files/library/p2.pdf

1.1.4. Opportunities and barriers in applying PPP model to finance HIV prevention and treatment of HIV/AIDS

Universal access to prevention, treatment, care and support for HIV largely depends on the efficient and equitable health care financing.

The financing mechanism of any health system has to fulfil three basic functions:

- to generate sufficient funds;
- to protect the population from financial health risks; and
- to purchase or deliver services cost effectively. (UNAIDS 2009, p.24)

In most low-income and many middle-income countries, health funding derives from a mix of domestic and external sources. Despite the substantial increases in external assistance for health since 2000, the resources available are still insufficient in most low-income settings to assure universal coverage with even a very basic set of needed interventions (WHO 2008).

Creating a reliable system of health care financing is a major issue for many Low- and Middle-Income Countries (LMICs). About one third of WHO member countries cannot afford a core health package of US$ 40 per person per year (UNAIDS 2009). Without sufficient funds health systems cannot run their services, pay health workers and buy commodities. Without pooling of funds and risks (through health insurance and other mechanisms), citizens need to make out-of-pocket payments for medical services when they become sick that can potentially leading to their impoverishment. Without efficient use of funds, services may not respond to needs, funds may get lost in non-transparent administrative processes or synergies between private and public health service providers may not be used. (WHO 2008).

Prepayment, risk pooling, subsidy of the poor and strategic purchasing of service delivery are mechanisms for fair and responsive health financing (WHO 2000a). It is assumed that insurance schemes are required to ease the pressure on the individual, but also to sustain and co-finance services provided by the private sector. However, Public-Private Partnerships addressing this need are very rare, stresses UNAIDS report HIV-related Public-Private Partnerships and Health Systems Strengthening (2009). In economic settings characterized by low income levels, it is not easy to sell the concept of prepaid risk pooling to a low income population says Hans-Peter Wiebing, Senior Process Manager from the Dutch PharmAccess Foundation: "Health insurance is a totally new concept for these groups of people, not because the idea of solidarity is new but because solidarity is not applied in terms of pre-paid risk-pooling for health care" (UNAIDS 2009, с. 26).

Private health insurances are not always interested in covering AIDS-related care and treatment. Risks involved are often perceived as high.

UNAIDS publication (2009) focuses on the contribution of AIDS-related Public-Private Partnerships to the six building blocks of health systems:

- service delivery;
- human resources;
- information;
- medicines and technologies;
- financing; and
- leadership (UNAIDS 2009, с. 7).

An example of a successful public-private partnership in financing HIV services is represented by HIV prevention program among workers of the coal industry in the People's Republic of China (PRC).

Case 1: Yunxi Mining Company: reaching out to at-risk workers in China[24]

Setting up a sustainable Public-Private Partnership was the goal of the first major workplace programme in the Peoples' Republic of China which the International Labour Organization initiated and promoted with support of the Chinese Ministry of Human Resources and Social Security with seed funds from the US Department of Labour. The workers of the Yunxi Mining Company face elevated risk of exposure to HIV since Yunnan Province in South West China sees 80 % of China's drug traffic passing through, leading to high levels of drug use often associated with commercial sex work. This mix is reflected in rising prevalences of HIV and other sexually transmitted infections in the region. (Guowei, 2007). Qualitative research by ILO showed extremely low levels of HIV awareness, knowledge of services and condom use among the miners.

To tackle HIV among the Geiju mining population a range of partners joined hands in the partnership including the public institutions Geiju Center for Disease Control, and the China Family Planning Association as well as a nongovernmental organization called Humana People to People. The international media company McCann Healthcare and the local media companies Geijiu TV and Gejiu Daily News contributed in-kind informational support and financial resources to an integrated communication campaign to support the programme. The national and provincial labour departments were indispensible for advocating and coordinating the joint activities and contributions of the various partners. On the policy front, the Ministry and its Department of Human Resources and Social Security were key stakeholders in enforcing the National Employment Promotion Law 2008 reducing discrimination for people living with HIV. A company policy at Yunxi ended mandatory testing and guarantees employment rights for HIV positive workers in line with the national law.

To support the provision of comprehensive prevention and care services, a communication strategy was developed to spread key messages about HIV-related services utilizing an overarching conceptual theme of migrant workers solidarity and mutual support. Comprehensive capacity was developed, and peer educators, with participation of the union, integrated HIV into routine occupational health and safety trainings. A company-funded drop-in centre run in partnership with a local nongovernmental organization provides resources on HIV, family planning, and drug dependence. A referral system links the miners up with voluntary counselling and testing, treatment of STDs, ART, OST, and other services of the Geiju Center for Disease Control.

"The partnership has helped us to scale up our response and work through company structures to prevent infections among an important risk population that had not previously been accessible", said Pu Yi, Director of the Geiju Centre for Disease Control (UNAIDS, 2009, p. 13).

When making a decision to use a PPP model in provision of HIV services, it should be understood that internationally, PPPs are now being seen not as a source of finance, but more as a "means to increase efficiency" (Gladov et al 2008, p.45). For the PPP model to work, HIV services need to have a permanent source of funding, either through National HIV/AIDS programme, or from health insurance.

[24] From UNAIDS (2009, pp.12-13).

Case 2: Examples of innovative financing to fund the HIV response: Belarus

Belarus, along other countries in the region, is seeking alternative and innovative financing mechanisms to fund the gaps in HIV response. One of such sources is a levy on airline ticket sales: Enacting a small fee on all outbound flights from Belarus. The amount levied could depend on class of ticket (e.g. France has a €1 tax on a domestic economy ticket, and a EUR10 tax on a domestic first class ticket), whether the flight is domestic or international (e.g. Niger has a USD$1.20 tax on a domestic economy ticket and a USD$4.70 tax on an international economy ticket) . The revenue from this levy is directed specifically to fund HIV/AIDS services.

The number of airport passengers departing Belarus airports per year is around 1.4-1.8 million (see below):

Number of air passenger dapartures from Belarus

Air passengers	1,400,000	1,821,000

Source: Belarus Bureau "PRIME-TASS", publications on tut.by

An airline levy of USD$2 on outbound flights provides the amount of revenue for financing HIV/AIDS that is recommended for addressing the most-at-risk populations (Table 4):

Table 4: Estimate of annual revenue generation from airline levy 2015-2020 (USD $)

Projected number of passengers	$1 Levy	$2 Levy	$3 Levy	$5 Levy
1,821,000	$1,821,000	$3,642,000	$5,463,000	$9,105,000

This levy is comparable to airline levies applied in other countries for financing HIVAIDS. This option could also be a reliable financing strategy and is based on conservative estimates of no growth in passenger movement in the coming years despite a 30% increase in the last calendar year. This strategy also constitutes a relatively small charge on the cost of an airfare and is not a tax on the poor. A USD$ 3 levy would also finance improvements in ART coverage (Wilson et al 2013, c. 24).

1.1.5 Financing of HIV prevention services in Ukraine: challenges

The Law of Ukraine on Adoption of the National Programme on Combating HIV/AIDS in 2014-2018 No. 1708-VII from 20/10/2014 (National HIV/AIDS Programme) provides funding of services in HIV/AIDS sphere from the state and local budgets, as well as other sources: funds from GFATM, funding from other donors (UNDP, UNFPA, UNAIDS, UNICEF, and others)[25]. This program does not regulate the funding coordination between the state and private sectors regarding cooperation of funding sources, delegation to partner NGOs rights in setting priorities, ensuring transparency and accountability in use of public funds.

BUSINESS MOTIVES FOR INVESTING

- **Corporate Social Responsibility motives** range from promoting public relations and company branding, window dressing and altruistic/philanthropic interest from top management.
- **Risk reduction** refers to the necessity or obligation for a company to invest in the public interest in order to counter its business impact – environmental and/or socioeconomic.
- **Business case** refers to the economic advantages of investing in health such as supporting a healthy workforce (reducing absenteeism, retaining experienced workers), decreasing health costs, accessing new markets (e.g. mosquito nets distribution), new product development (drugs, vaccines, health insurance packages), expansion of distribution channels and strengthened relationships with governmental decision makers…

While internationally, recognition of the detrimental effects of the HIV pandemic increased among the business community (UNAIDS 2009), in Ukraine, the role of the private sector in the fight against HIV/AIDS remains undefined. Private sector has multiple motives to engage in fight against HIV/AIDS[26]:

Attempts to move on with business community engagement in Ukraine were made by the National Council on TB and HIV/AIDS, formed by the decree of Cabinet of Ministers of Ukraine from 11 July 2007 r. № 926 as an advisory body under the Cabinet of Ministers, at GFATM request.

The survey on HIV prevention at workplace conducted in 2009 by Labour, Health and Social Initiatives[27] shows that the role of the private sector in the National Council is very weak and needs strengthening. A more successful was an attempt to define the role and bring the private sector to the fight against HIV/AIDS by including appropriate references to HIV/AIDS into the General Agreement governing the relationship between the state, the

[25] Джудіс та ін. (2011) Оцінка політики у сфері протидії ВІЛ. Додаток. С. 8
[26] http://www.pharmaccess.org/FileLib/PPP_brochure.pdf
[27] http://www.lhsi.org.ua/images/uploads/files/ info%20center/biblioteka/case-management%20HIV_AIDS/REPORT%20GTZ_investigation_FINAL.pdf

private sector, and trade unions of Ukraine. Relevant clauses were initiated by the trade unions in 2006 and remain relevant in the acting General Agreement[28].

For the effective division of roles and risk sharing between state and private partner in any sphere of services, the *costing of services* to be delivered represents an important and necessary stage of PPP. The cost and scope of services are important indicators for the private partner (investor) who needs to determine the numbers of populations to be covered, and the scope of services to be delivered, before the project will commence. There are problems existing in this regard. Ukrainian legislation does not explicitly define the terms "service" and "costing of medical services." There is no agreed understanding of the intergrated package of HIV prevention services and no officially approved basic package of HIV services for different risk groups. The costing mechanisms are only being used within the programmes funded by GFATM and in relation to services delivered by NGOs. In order for state finances to be directed at funding these services, it is important *to finalise and adopt at the legislative level the scope and definition of HIV service package/s* and costing mechanism for the state partner.

An example of developing a costing mechanism for HIV prevention services is presented in a UNICEF/UNAIDS study done by T.Gotsadze[29]. The study offers a specially designed excel based costing tool to assist in calculating the costs of the services included in the integrated package for drug-using pregnant women in Ukraine. The author stresses on the absence of approved health or social service packages for pregnant IDU women and calls "*to finalize and legalize the composition of the integrated service package"* (Gotsadze 2014, p. 17).

It should be noted that attempts to legally define the scope and content of HIV prevention services were initiated by other branches of government. In 2007, the approved state standard for provision of social services to users of psychoactive substances, including injecting drug users and their close circle was passed (Decree of the Ministry of Ukraine for Youth and Sports, from 10.10.2007 No. 3611)[30]. In 2010, the joint order of approved standards of social services to KAP/MARPs of the three Ministries was issued (Order № 3123/275/770 by Ministries of Family, Youth and Sports, Labour and Social Policy of Ukraine and MOH of Ukraine from 13.09.2010 on approval of standards of social services to vulnerable groups)[31]. Therefore, a legal framework that defines the standards of HIV prevention services, exists in Ukraine. Efforts should be strengthened towards their further standardization.

1.2 ESTABLISHING FINANCIAL AND LEGAL FRAMEWORK TO IMPLEMENT PPP AND OTHER FINANCIAL MECHANISMS FOR HIV PREVENTION FUNDING

Initial assumptions

In order to establish a financial and legal framework for the PPP project, following initial assumptions were made of the framework model aimed at achieving the main project goal – that is, providing key populations with HIV prevention services:

- Provision of HIV prevention services is to be part of a more complex health care project, which could attract potential investors and provide them an opportunity of the return of investment;

[28] http://www.fpsu.org.ua/images/images/2013/Ugogy/Genugoda/genugoda_2010-2012p.pdf
[29] http://www.unicef.org/ukraine/EN_Costing.pdf
[30] Abolished.
[31] http://zakon2.rada.gov.ua/laws/show/z0903-10

- It is anticipated that the private partner will be obligated to provide the following HIV prevention services: information and training; HIV prevention of workplace; production of test kits, mobile labs maintenance, and other relevant services;
- The project may potentially include construction/placement of production facilities for drug and prevention materials manufacturing, needed for its implementation;
- The project duration may exceed 5 years;
- The project is to be carried out at the premises of the municipal/state health care institution or other municipal/state entity;
- The project may provide for involvement of any party of private property ownership, but their collective participation is possible only through the creation of a business association, particularly, of the consortium, for the duration of the project;
- As sources of compensation for investments in the project, following may act: income received by the private partner from providing paid medical services, operation of manufacturing facilities built during the project for other commercial purpose, or through their ownership acquisition;
- A system established for continuous provision of quality and affordable prevention and diagnostics of HIV infection, primarily for high risk groups to HIV infection;
- Overall goal of attracting a private partner to the project is to overcome the budget deficit and cover for the gaps currently financed by the Global Fund, to introduce new technologies that would enable more efficient and cost-efficient project management.

Implementation of PPP in Ukraine: current situation

According to the central and local state executive authorities, at the end of 2014 on the basis of PPP, 243 projects were implemented in Ukraine (210 concession agreements, 33 joint cooperation agreements). Thus, concession is the most common form of cooperation between the state private sectors.

Following projects were implemented in economic sphere:

- Treatment of waste (116 projects, representing 47.7% of concluded agreements);
- Collection, purification and distribution of water (79 projects, 32.5% of concluded agreements);
- Construction and/or operation of highways, roads, railways, airfield runways, bridges, road overpasses, tunnels and subways, sea and river ports and their infrastructure (17 projects, 7% of the concluded agreements);
- Heating production, transportation and supply (7 projects, 3% of concluded agreements);
- Electricity production, distribution and supply of (5 projects, 2.1% of concluded agreements);
- Search and exploration of mineral resources and their extraction (3 projects,1.2% of the concluded agreements);

- Property management (2 projects, 0.8% of the concluded agreements);
- Tourism, leisure, recreation, culture and sport (1 project, 0.4% of the concluded agreements);
- Operating irrigation and drainage systems (1 project, 0.4% of the concluded agreements);
- Others (12 projects, 4.9% of the concluded agreements).

Meanwhile, in medicine, social protection, provision of HIV prevention services, no PPP projects have been implemented.

1.2.1. Legislation of Ukraine on PPP and other forms of investment attraction from domestic investors

The basic legislation of Ukraine regulating relations in the sphere of investment attraction from private entities into projects implemented in the health sector, including in HIV prevention, includes the following:

1. Law of Ukraine on Approval of the National Programme to Fight HIV/ AIDS in the years 2014-2018, from 20.10.2014, No. 1708-VII, which establishes the system of objectives and mechanisms to reduce morbidity and mortality from HIV/AIDS, provide quality and affordable prevention and diagnosis of HIV infection, especially to groups of high risk to HIV-infection, treatment, care and support of PLWHA within the health sector reform. Funding for this program is from the state budget and the GFATM grants. The current program does not allow raising funds from private investors through PPP.
2. Law of Ukraine on Combating the spread of diseases caused by the human immunodeficiency virus (HIV) and Legal and Social Protection of People Living with HIV, from 12.12.1991, No.1972-XII, which legally regulatres activities and relations in the sphere of HIV/AIDS prevention, treatment, care and support, and appropriate actions of legal and social protection of PLHIV;
3. Economic Code of Ukraine from 16 January 2003 r. No. 437-IV, which provides the legal basis for the development of specific legislation on concessions;
4. Law of Ukraine on investment activity" from 18.09.1991 No. 1560-XII, which defines the concepts and types of investments, the manner to attract them, ways of protection and guarantees to investment activity in Ukraine;
5. Law of Ukraine on Concessions from 16 July 1999 r. No. 997-XIV - defines all the basic mechanisms, procedures and principles of implementing concessions, regulates relations between the concessionary and the concessionaire. All special laws on concessions are adopted in accordance with this law and should comply with the basic principles set forth therein;
6. The basic principles of PPP are provided by the Law of Ukraine on Public Private Partnership from 01 July 2010, No. 2404-VI. The law defines the procedure for interaction of state with private partners and key principles of PPPs in the contractual sphere. Procedures provided by this law differ somewhat from the order and procedures specified by concession law.

To PPP sphere are also included regulations governing the concession, investment, joint venture and other agreements.

Crucial to the implementation of projects on PPP will be a draft law on Amendments to Certain Legislative Acts of Ukraine (regarding the removal of regulatory barriers to the development of PPP in Ukraine and stimulate investment) No. 1058 from 11.27.2014 (passed the first reading in parliament). If it is adopted as a whole, it will expand the list of measures to redress the investment to a private partner, including allowing entry into property rights of newly built objects are created during the PPP project. Under the current Law on PPP, private partner has no right to acquire ownership over properties that are created or reconstructed during PPP project.

Among the legal acts regulating practical aspects of PPP projects and concession implementation following should be highlighted:

- Provision for execution and efficiency analysis of PPPs, approved by the Cabinet of Ministers of Ukraine of 11 April 2011, No. 384;
- Methods for analyzing the efficiency of the PPP, approved by the Ministry of Economic Development and Trade of Ukraine on 27 February 2012, No. 255;
- Decree of the Cabinet of Ministers of Ukraine on the Register of concession contracts of 18 January 2000, No. 72;
- Decree of the Cabinet of Ministers of Ukraine on Approval of Methodology for calculation of concession fees of 12 April 2000, No. 639;
- Decree of the Cabinet of Ministers of Ukraine on Approval of Provisions for concession bidding and signing concession agreements on objects in state and municipal ownership granted to concession of 12 April 2000, No. 642;
- Decree of the Cabinet of Ministers of Ukraine on approval of a Standard concession agreement of 12 April 2000, No. 643;
- Decree of the Cabinet of Ministers of Ukraine on approval of Provision to determine concession objects, where concessionaire may be granted exemptions in concession fees, subsidies, compensations, and their terms of 13 July 2000, No. 1114;
- Decree of the Cabinet of Ministers of Ukraine on approval of Provisions for private to state partner provision of information on the contract concluded under PPP from 09 February 2011, No. 81;
- Decree of the Cabinet of Ministers of Ukraine on Approval of the Methodology to determine identification of risks associated with public-private partnership, their assessment and the form of management of 16 February 2011, No. 232;
- Decree of the Cabinet of Ministers of Ukraine on approval of Provisions for state support of PPP implementation of 17 March 2011, No. 279;
- Decree of the Ministry of Economic Development and Trade of Ukraine on Approval of the form of proposal submission for PPP implementation of 16 August 2011, No. 40.

1.2.2. Legal status of entities that may engage in PPP projects

Due to the specificity of the project, following subjects are identified who may potentially be included into its execution:

- Local government authorities;
- Health care facilities in communal ownership;
- Health care facilities in state ownership;
- NGOs and charitable funds;
- Private investors;
- Clients of HIV prevention services.

Legal status of local government authorities. The role and legal status of local government authorities is determined by their competence and mandate in accordance with the current legislation of Ukraine (Articles 25 and 26 of the Law of Ukraine on Local Government"). PPP Law assigns local government authorities the role of the state (public) partner in PPP projects. In particular, following are included into the mandate of village, town and city councils that may directly impact implementation of PPP projects at the local level:

- approval of contracts awarded by village, settlement, and city mayor on behalf of the council on matters within its competence alone;
- decisions on local borrowing;
- funds transfer decisions from the relevant local government budget;
- decisions to provide local tax and land tax benefits under current legislation;
- establishment by communal ownership entities of joint ventures, including with foreign investments, according to the legislation;
- regulation of land relations according to the legislation;
- granting permission as well as cancellation of the permit for special use of natural resources of local importance, in accordance with the legislation;
- making decisions about the organization of territories and objects from nature reserve fund of local value and other territories under special protection;
- granting consent for placing on the territory of village, town, city of new facilities, including facilities for waste disposal, where the scope of the environmental impact includes the relevant territory.

Legal status of communal healthcare facilities. It should be noted that communal health care facilities are legal entities in communal ownership based on the decision of the respective local councils, led by the respective charter. Typically, communal health facilities are entitled to attract investment through the conclusion of cooperation agreements and investment contracts. However, in some cases, realisation of this

entitlement is due to a local council consent. Under Article 1 of the Law on PPP, communal health care facilities can not be considered a separate party in PPP projects. They can act as a third party in the contract without specific rights and powers (Article 511 of the Civil Code of Ukraine), and act as a balance holder of individual objects in communal ownership involved in the project that participate in the project or on whose premises the project is implemented.

Legal status of state healthcare facilities is determined by the Law of Ukraine on Management of State Property and the Law of Ukraine Fundamentals of Legislation of Ukraine on Health Care. State health care facility is defined as an institution belonging to the health care system, and it does not have ownership over the facility it operates, uses and disposes within the limits set by the Civil Code of Ukraine. Facility owner (state) decides on the establishment of facilities, defines the subject, goals and objectives of their activity, re-organization or liquidation, appoints the head physician (director) of the facility, supervises its activities and asset preservation. State health care facility is financed from relevant state budgets. State health care facility acts under the charter, approved by the facility owner with the participation of the working collective. State health care facility is managed by a head physician (director), who decides independently on all issues related to facility operation.

Legal status of NGOs (public organizations). According to the Law of Ukraine On Public Associations, public organization is a form of association that has as its founders and members individual persons. Public association (NGO) may conduct activities with legal status or without one. Public association with legal status is a non-for-profit society whose main purpose is not profit making. To implement PPP projects, associations with legal status can potentially be considered for participation. NGOs have the right to establish enterprises needed to perform their tasks. Thus, the NGO participation in PPP projects may be considered not just on direct basis, but as a mediated one – acting through the enterprises it establishes.

Legal status of private investor. Legal status of investors (private project partner), his rights and powers will depend on the type of financial and legal model of the project realization. The primary source for determining the scope in effect of the rights and powers is the Law of Ukraine on investment activity and the Law on PPP.

Legal status of consumers (clients) of HIV prevention services. Under the terms of current analysis, as "consumers of HIV services" are defined populations at increased risk of HIV infection (PWIDs, CSWs, MSM). Legal Status of consumers of HIV services is regulated by the Law of Ukraine on Combating the spread of diseases caused by the human immunodeficiency virus (HIV) and Legal and Social Protection of People Living with HIV.

1.2.3. PPP key concepts and features under Ukrainian legislation and their relation to current conditions/expectations of PPP project realisation

Determining an effective financial and regulatory model of the project rests primarily on its legal qualifications, including key issues - whether it is, and under what conditions it can be considered a PPP project, or whether it can only be implemented through state procurement.

According to Article 1 of the Law on PPP, cooperation between the state of Ukraine, Autonomous Republic of Crimea, territorial communities in person of the relevant authorities and local governments (state partners) and legal entities, except state and municipal entities, or private persons-entrepreneurs (private partners), is carried out on based on the contract in the manner prescribed by this Law and other legislative acts.

The key definitive features of PPP include the following:

- ensuring higher technical and economic performance indicators than in case of the activity conducted by state partner alone without the private partner involvement;
- long-term relationship (5 to 50 years);
- risk allocation to private partner during the implementation of PPPs;
- making private investment into state partner sites from sources not prohibited by law;
- specific scope of projects, a list of which is not restricted;
- specific features defined for private partner;
- competitive procedure applied for private partner selection under the PPP law or other law governing relevant relations.

State procurement – an act by customer procuring goods, works and services with the use of state funds in the manner prescribed by law (Article 1 of the Law of Ukraine on public procurement). The key characteristics of the state procurement, according to Ukrainian legislation, include the following.

- It is always conducted on the basis of purchase agreement, concluded between the customer (state) and participant selected on the results of the procurement procedure, and provides for the delivery of services, works or acquiring ownership of the goods procured with state funds.
- Provides customer is a custodian of state (public) funds, which are used for purchase in accordance with the law.
- Assumes the exclusive use of state (public) funds, which may in particula include local government budgets, funds provided by customers for loans under guarantees of local governments, loans granted by foreign states, banks, international financial institutions or co-financing with foreign states, banks and international financial organizations.
- Does not envisage cooperation of a service provider and the customer.

- Does not involve investment on the part of a service provider.
- Does not involve delegation of risks from project execution.
- Applies a special procedure of state procurement.
- Can be a part of PPP.
- Does not involve a long-term relationship.
- State procurement is limited to provision of goods, services and works and does not apply to specific forms of cooperation between public and private entities, such as joint cooperation agreements (section 77 of the Civil Code of Ukraine), management contracts (section 70 of the Civil Code of Ukraine) which, by civil legislation of Ukraine, is not a supply of services (Chapter 63 of the Civil Code of Ukraine), goods (Chapter 54 of the Civil Code of Ukraine) or execution of work (Chapter 61 of the Civil Code of Ukraine).

By comparing the main features of PPPs and state procurement following conclusions are made about the legal qualification of the analysed project:

- The project provides for a long-term cooperation involving the private and state (municipal) entities, which is characteristic of PPP.
- The project involves partial allocation of risks to the private partner.
- The project execution will potentially provide for private partner making an investment, including through advance financing of the third party for providing services that will be delivered at the target object. According to Article 1 of the Law of Ukraine on investment activity, investments are all types of property and intellectual value invested into the objects of investment activity, resulting in the achieved social effect.
- The project is long-term (over 5 years). If the project term will be less there is no legal basis for its implementation under PPP terms.
- The project aims to provide higher technical and economic performance indicators compared with the current situation when prevention services are procured by the budget from different implementers and producers (social contract).
- The project form using management contract provides delegating to steward of risks related to relationships with service providers. If a state procurement procedure applied, the risk of non-performance or poor performance of services by service providers would be risks of the customer (municipal facility).
- As a result of the above analysis of the current legislation it is clear that the private entity will have the status of steward in providing HIV prevention services, and his authority will not be limited to the provision of services, but focus on service function characteristic just for PPP (part 3 article 4 of Law on PPP).

Thus, the legal characteristics of the analysed project can allow to attribute it to PPP projects in accordance with the Law on PPP.

1.2.4. Legal status of public and private partners. Partners' roles in PPP projects

Using financial and legal model of PPP involves particular actors - public and private partners.

• **Public partner** – State of Ukraine or territorial communities in person of the relevant authorities and local governments. State partner is not a state and/or municipal enterprises (Article 1 of the PPP). Background to determine the legal status of the state partner, which is actually a communal ownership partner – is provided by Article 19 of the Constitution of Ukraine, according to which state and local governments and their officials are obliged to act only on the basis of, within the authority, and in a manner that the provided by the Constitution and laws of Ukraine. For the purposes of the project, the local government authorities will be considered as a state partner.

• **The partner** is a legal entity or a physical person - individual entrepreneur, or association of legal entities of private ownership. The limits of legal competence of the private partner are due to the essential terms of the contract concluded with the state partner.

Pursuant to existing law, participation of other parties, including international NGOs and civil society organizations as separate parties in PPP projects is not expressly provided for but is not excluded. Where the NGOs have legal status, they formally meet the key criteria of the definition of private partner - a legal entity of private law. But theoretically, the legal possibility of NGO participation in PPP projects should be consistent with the functions and obligations that are allocated on the private partner. This may include - commitment of funding and investment in the project, inherent to businesses. The question arises about whether non-governmental non-profit organizations will be able to ensure the financial sustainability of the project. However, as there is no direct ban on the involvement of these organizations, the possibility for them to participate in a specific project will be determined by the results of the competition.

Special provisions on the status of the private partner- concessionaire are contained in the Law of Ukraine on Concessions (Article 1), under which this role can be fulfilled by a business entity, which excludes NGOs to be involved in these projects as concessionaires.

The private partner who is usually the economic entity, is not limited in refinancing investments, in selecting and attracting other sides to the project, including by concluding cooperation agreements, receiving donor aid and more.

Optimal legal form involving of a private partner that would meet the purpose of the analysed project and confirm to PPP legislative framework is a consortium. The consortium uses the funds given to it by its members, as well as centralized resources allocated to fund relevant programs, and funds from other sources in the manner specified by its charter. If a goal of the consortium is achieved, it ceases to operate.

The role to be played by investor involved in the project, and the scope of his mandate will depend on the external and internal environment factors that affect the project.

A conceptual model (see below Figure 1.2.1) was developed[32] to help private partners better understand the role of the private company can play according to its internal situation as well as the external context in which it operates. There are four roles a company can play in its engagement in health services. This model is relevant to public decision-makers in estimating how successful the collaboration with potential private partners will be.

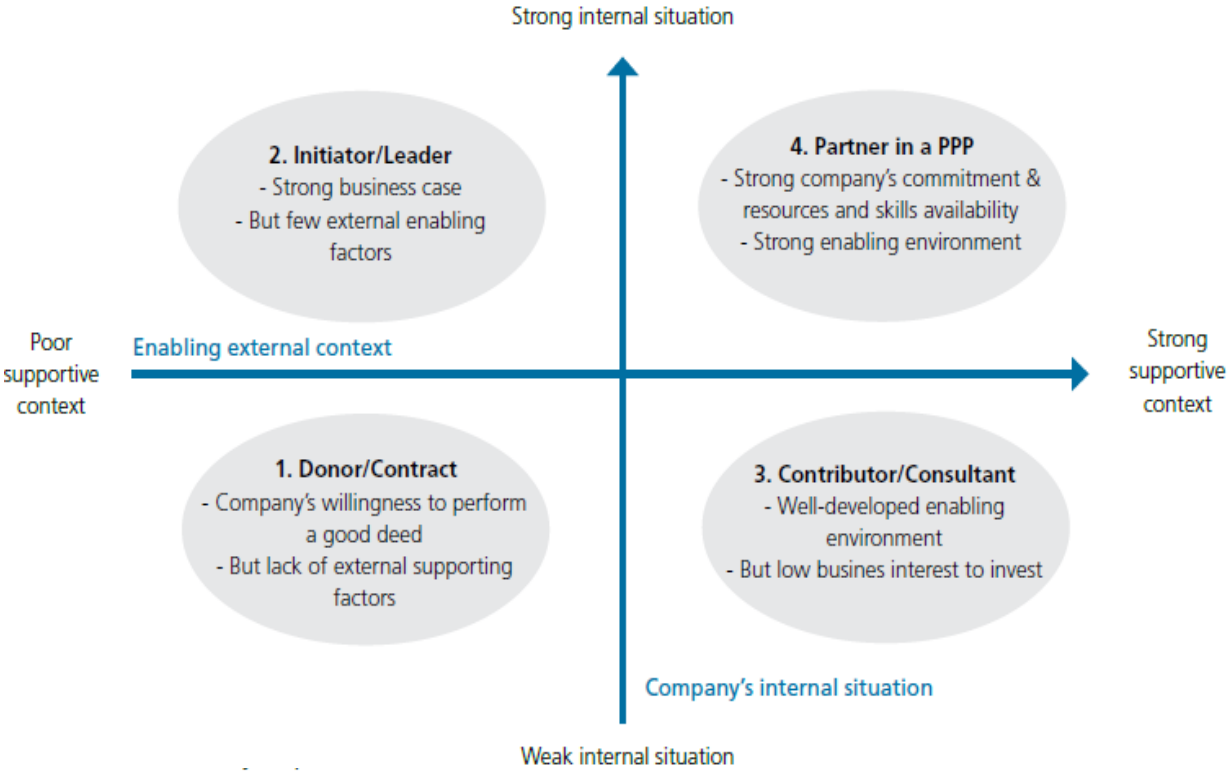

Figure 1.2.1. Roles to be taken by the privite sector

In this scheme, it can be seen that only in one of the suggested environments, the private investor will become a Partner in a PPP: No 4 - Strong company's commitment & resources and skills availability - Strong enabling environment.

1.2.5. Spheres of PPP application and basic forms of PPP partnership between public entities and business

The acting legislation of Ukraine determines the list of spheres of PPP application that includes health care. However, the legislation grants to local government authorities the right to expand the list of PPP spheres of application through making of a relevant decision. Thus, the lack of a clear and unambiguous attribution of the scope of the project to areas in which the use of PPP is permissible, does not act as an obstacle for project realization in terms of PPP.

[32] http://www.pharmaccess.org/FileLib/PPP_brochure.pdf

Types and forms of PPP are defined by Art. 5 of the Law on PPP, which establishes a non-exclusive list of contracts that may be awarded within the PPP framework. The scope should of PPPs includes concession, joint venture, investment contracts, management contracts and other contractual tools.

The most common is the use of PPP in infrastructure projects, which are mainly implemented in the form of concessions. One of the problems appearing already at the stage of determining the optimal form for cooperation, is the relation between general PPP mechanism and other legal tools in PPP sphere, including in terms of their legal regulation. Based on the current state of legislation in this sphere, the most appropriate is the approach in which PPP applies if the tool is not defined, the use of which provides for special legislation (for instance, on concessios).

Specific form of PPP implementation is determined by the authority conducting the efficiency analysis of the PPP project, and after approving the conclusions with the Ministry of Economic Development and Trade, decides if the project may be implemented using PPP.

Provisions for holding a competition for private partner selections for PPP projects

Deciding on the choice of private partner on competitive basis, except cases defined by law, is the principle of PPP, provided by Art. 3 of the Law on PPP. The basic principles of competitive selection include:

- Transparency,
- Fairness,
- Non-discrimination.

The PPP Law defines the terms of the tender to select a private partner. Local councils are authorized to make decisions on the PPP implementation, to hold tender to determine the private partner and approve the results determined in relation to onjects in communal ownership (ch. 2, Art. 13 of the PPP). The decision to hold the competition is taken after the efficiency analysis of the PPP project.

It is important to fully determine the conditions for partnership at the stage of the competition for a private partner. Participants should have full understanding of the terms of contractual relationships in the project, defined in tender documentation. Revising terms in the course of further negotiations can be considered as a contract without competition. Under such approach, the state partner who prepares tender documentation faces considerabkle workload and responsibility of structuring the contract and its relationships before putting the the project to the competition.

PPP mechanism also provides for the development of project proposals by private partner. However, the legislation does not provide for any compensation for the development of the project in case of losing the competition.

Therefore, the state authorities who develop and approve tender documentation, carry a lot of responsibility for issues attractiveness and effectiveness of the project.

1.2.6. Sources of PPP financing

According to Art. 9 of the Law on PPP, financing of PPP can be made from:

- financial resources of the private partner;

- funds borrowed in proper manner;
- the state and local budgets;
- other sources not prohibited by the legislation, including the GFATM, or allocated by international NGOs, etc.

The financial model is determined during the feasibility study stage to analyse the efficiency of PPP project. Information about the forms of financial participation of public and private partners are part of the tender documentation. Given the limited local budgets, in practice, usually the most optimal is financing through borrowed funds.

1.2.7. State support for PPP

The program to develop investment and innovation activity in Ukraine, approved by the Cabinet of Ministers of Ukraine on 01 February 2011, No. 389, provides for the use of PPPs as one of the possible mechanisms to implement investment and innovation projects, as well as government support to implementation of investment and innovation projects in the form of:

- State guarantees to provide complete or partial performance of debt obligations on borrowing by state sector entities;
- Direct budget financing and co-financing;
- Compensation of interest rates on loans received by entities in commercial banks;
- Partial reimbursement of the cost of production;
- Loans from the state budget funds;
- Subventions from the state budget to local budgets;
- Loans (loans) and grants from international financial institutions, loaned to state or under state guarantees;
- Tax, customs and currency preferences.

Providing of state guarantees and state funding is determined by due procedures established by the Budget Code of Ukraine and the annual budget for the respective year. Current legislation does not provide mechanisms to address the situation if the annual budget does not include the necessary expenditures.

Opportunities for receiving the state guarantees for a specific project should better be included in the tender documentation during the selection of a private partner.

According to Art. 11 of the PPP Law, executive authority of the local government authorized by the village, town, city, district or regional council, conducts an analysis of the efficiency of the PPP project, and identify possible risks in regard to objects in communal ownership, associated with the project implementation.

Analysis of the effectiveness of the PPP project implementation should be guided by Procedures to conduct the PPP efficiency analysis, approved by the Cabinet of Ministers of Ukraine of 11 April 2011, No. 384, and by Methods of analyzing the efficiency of the PPP, approved by the Ministry of Economic Development and Trade of Ukraine on February 27, 2012, No. 255.

1.2.8. Legal analysis of PPP project scenarios and legal foundation for them

PPP projects may be implemented on the basis of agreements in various legal forms in accordance with Article 5 of the PPP Law. Current legislation does not provide an exhaustive list of contractual forms of cooperation between state and private partners. Moreover, it assumes the possibility of a separate legal regulation of various PPP forms by other laws (concessions, investment, etc.).

Among the potential forms of cooperation of the local government authority as the state partner and the private partner in the project, following can be identified: joint venture, concession, project management.

Financial and legal model of joint activities provides for pooling actions and contributions of partners with the aim of receiving profit or achieve other objectives without establishing a legal entity under the contract of simple association (articles 1130, 1132 of the Civil Code of Ukraine). The joint activity involves the formation of joint property of partners in a separate balance sheet with a separate bank account and conducting joint business by partners.

For joint business activities, it is characteristic to have joint liability of partners (Article 1038 of the Civil Code of Ukraine), which is unacceptable for the state partner. If a contract for the simple association is not connected to its participants conducting entrepreneurial activity, everyone is responsible for the joint contractual obligations with all his assets in proportion to the value of the contribution to the joint property. On joint obligations arising not from the contract, participants respond jointly. That is, in case of financial insolvency of a private partner, his obligations before third parties and not executed properly, will be the responsibility of the state partner.

For the analysed project and its subjects, financial and legal model of joint activity is not possible in practice because:

- Local government authority, following its legal status, may not be a party to the joint venture agreement;
- Partners do not share a common goal (for local government the goal is social – to address the problem of providing timely and quality care services), while the goal of the private partner – is to gain profit (commercial goal);
- Nature of relationships in the project does not provide for pooling financial inputs from partners;
- Joint liability of partners;
- Legislative definition of the right of partner to refuse further participation in the partnership agreement or termination of contract at the request of one of the parties (Articles 1141, 1142 of the Civil Code of Ukraine).

The model of joint activities is more relevant for projects aimed at attracting resources of state and private partners to manufacturing and distribution/sales of production of such cooperation, such as search, exploration of mineral deposits and their extraction, heating production, transportation and supply, and the distribution and supply of natural gas. This model is not to optimal for the analysed project, considering the above features of the model.

Financial and legal model of concession provides granting by executive authority or local government on the basis of a concession agreement, on a fee and termed basis to legal entity or physical person (private enterpreneur) the rights of management (operation) of the concession object(termed paid possession), to address the community needs, provided taking by business entity (concessionaire) obligations for creation (construction) and (or) management (operation) of the concession, property liability and possible business risk (Article 1 of the Law Ukraine on Concessions).

The private partner is granted the status of concessionaire in concession projects. Private entrepreneur who has received concession under the contract may act as one. Several people may act on the side of the concessionaire. Given the status concessionaire as a business entity, it can be concluded that non-profit organizations can not be concessionaires.

Providing health and some social services falls in the scope of the concessions pursuant to Article 3 of the Law on concessions. The relevant local council, exclusively at the plenary session, may decide on the additional list of sheres of economic activity where objects in communal ownership may be given into concession.

Based on the legal preconditions for concession, it should be noted that concession provides for the right to manage the object of concession as a whole, not for partial provision of services. In order for concession law to apply, a transfer of state facilities into temporary ownership of a private partner needs to occur in order for the latter to provide services. Despite the existing provision that concession may be granted for certain types of business activities in economic sphere, following the Law on concessions, Ukraine has no experience implementing such concessions. Practice of concession-based relations in Ukraine testifies insufficiency of legal norms of the concessions Law for the implementation of this model in the areas mentioned. There is a need for a special law to regulate specific applications of the model in a particular sphere. The need to adopt such a law is due to the fact that: (a) special safeguards and controls are required to ensure stable and uninterrupted provision of prevention services by private partner, which are not envisaged by existing legislation; (b) special requirements are needed for the private partner, to establish his ability to provide services; (c) the need for a mechanism of private partner replacement in case of violation of service provision terms; (d) overall, concession provides for the concessionaire to pay concession fees that is not consistent with the format of project analysed and should have the special regulation to allow the private partner be released from concession fees payment. This explains why all existing concession projects are being implemented in the spheres based on a special law.

To apply concession model in the context of the project, there needs to be an adopted Procedure of concession bidding to transfer the communal property or rights to communal property operation into concession, passed by the respective city council (Article 6 of the Law of Ukraine on Concessions).

Advantages of variant

In contrast to the general principles of PPP projects implementation defined by the Law on PPP, the legislation allows concessions in the sphere of services, where the right to provide services acts as the object of concession, implementation of which is the right of state/communal entities and is delegated to private partner.

Disadvantages of variant

The main shortcomings of this variant are the presence of concession fees as a mandatory condition to engage private partner (concessionaire); overregulated legal mechanism; and limited number of entities that can act as concessionaires.

Financial and legal project management model uses the *management contract*, which needs to consider the relationship between the manager and the balance holder of the target objects where services are provided. The requirements and procedure for concluding management contracts are governed by Chapter 70 of the Civil Code of Ukraine.

Following the Civil Code provisions, cooperation of the private partner and the local government is based on *partial delegation* by local government to private partner of functions, responsibilities and risks associated with management and operation of appropriate health facilities, including their upgrade and reconstruction, with imposing on private partner the obligation to provide prevention services in the scope, within the terms and in the manner defined by the contract. In return, private partner ensures the proper implementation of delegated functions and aims to receive investment compensation and profits due to the right to provide private health services on the premises of the manageded object, as well as through acquiring ownership of some of newly built facilities, according to the tender documentation and the management contract (this option will be available provided the entry into force of the draft law No 1052).

Advantages of variant

- Lack of precise, detailed legal regulation of management contract, which creates conditions for flexible application of the law.
- The model is optimal to address the complex health care objectives in on the basis of individual facilities, which include provision of HIV prevention services as a separate component of the project. This is due to the fact that PPP projects involve using objects in state/municipal ownership.
- Implementation of the model would allow to combine sources of funding defined by National HIV/AIDS program with the private partner investment.

Disadvantages of variant

- No tax preferences for private partners involved in the project.
- No practice of the application of this model in Ukraine.
- Competitive selection of the private partner does not relieve the parties from the need to engage with the state budget through state budget procurement.

According to Article 19 of the Constitution of Ukraine, the state and local governments are obligated to act only on the basis of, within the authority and in the manner prescribed by the Constitution and laws of Ukraine, therefore the financial model of project management is the form of PPP that most closely considers specific aspects of a project.

The PPP project engaging private partners on the pilot basis may be a supplementary measure and will not become an alternative to using the financing model defined by the National program, including financing of PPP project from state budget. The

introduction of PPP model is aimed primarily at providing more efficient and economical use of budgetary funds with the focus on results, that is to be achieved during the project.

1.2.9. Risk Management in PPP projects

Analysis of PPP project, risk identification and risk assessment requires use of the Methods of identification of risks, associated with Public-Private Partnership, their assessment and defining the form of risk management that was adopted by Resolution of the Cabinet of Ministers of Ukraine from 16 February, 2011, No. 232.

Indicative risk allocation between partners in PPP

Private Partner Risks:

- Untimely or incomplete implementation of budget payments due to a delayed adoption and approval of the local budget for the year of project that is beyond the control and authority of the private partner (the only preventive measure being a municipal guarantee for the project);
- Suspension of the program implementation following a decision of the local council, which is the political risk and lies beyond the control and authority of the private partner (court protection of rights and compensation being a response method);
- In the unlikely event, if a Prosecutor issues a protest on the local council decision due to the fact that the decision lies contrary to the interests of territorial community, this also lies beyond the control and authority of the private partner (court protection of rights and compensation being a response method);
- Unilateral termination of the contract by state partner, which is controllable and preventable at the stage concluding the contract, as existing legislation as a general rule does not allow for unilateral contract termination, except cases directly stipulated in the contract or by law (acceptable provision in the contract of sanctions and compensation of damages caused to private partner).

State Partner Risks:

- Private partner providing smaller or lesser quality services (to prevent definition of risk in the contract legal consequences of providing private partner substandard services, including the introduction of penalties or grounds for early termination and trustee replacement);
- Noncompliance by private partner of terms and order of works (services), preventable by defining in the contract the legal consequences for private partner providing poor quality services, including application of penalties or grounds for early termination and trustee replacement;
- Poor management by private partner of processes executed under the contract (preventable by defining in the contract the legal consequences for private partner providing poor quality services, including application of penalties or grounds for early termination and trustee replacement.

Conclusions to Part 1

- PPP model looks as an attractive investment cooperation opportunity and has many examples of successful realization in the world. However, evidence also shows that obstacles may emerge to PPP model implementation in those spheres and countries where relationship between the state and the business has not been completely established and where business sees no benefit in cooperation with the state neither in health nor in HIV prevention, and therefore is unlikely to initiate the partnership. The state should create mechanisms and demonstrate to business the importance and social benefits of such partnerships.

- In Ukraine, existing legal framework for PPP and practices of its application in some sectors of the economy may be expanded onto the projects to provide HIV prevention services. This sphere is mainly regulated through the Law of Ukraine on Public Private Partnership. At the same time, there are limitations to the PPP ability to attract private finance into HIV/AIDS sector, due to: lack of the regulatory framework and experience in the distribution of responsibilities and risks in health services between public and private partners, lack of qualified staff in public health sector to do the project and financial activities as well as legally approved package of integrated HIV services, making it impossible to do costing of services.

- Given the need to develop practical application of PPP model for the provision of health services, it should be pointed out that Ukrainian legislation does not explicitly define the concept of "service" and "costing of medical and social services". There is no definition, including through regulations, of the basic package of HIV/AIDS services, which makes it impossible to cost the services to be provided and makes the whole sphere unattractive for private investment. To increase the attractiveness of HIV/AIDS sector for private investments, further efforts should be directed at standardization of services, especially of 'outreach', field-based HIV services that are currently provided by NGOs, by developing referral protocols, as well as other regulations.

- In Ukraine, there is no single and open information space where the public significance and urgency of HIV prevention in combating HIV/AIDS epidemic are articulated, leading to lack of awareness of society, including business community, to support this activity. Existing stereotypes may cause fear in partners to cooperate with MARPs, therefore additional measures and motivation may be needed to show to investors the significance of investing into HIV prevention. A key role in this process should be played by media, and volunteering movement.

- When making decisions on the use of the PPP model to provide HIV prevention services, we must realize that PPP is not a source of funding as such, but is a model for more efficient use of partners' funds. In order for the model to work, HIV prevention services should have a permanent budget funding source, which can be achieved through introducing taxes to fund the National HIV/AIDS program or through a system of state health insurance. The PPP realisation involving private partners is possible on a pilot basis, and will represent a support measure rather than a full replacement to financial model that is defined by the National HIV/AIDS program and stipulates funding for HIV prevention to be provided through the state budget. It should also be mentioned that PPP model is not included into the current

National HIV/AIDS program and no public funds may be allocated for HIV prevention services utilising this model.

- Management contract should be considered as an optimal finance and legal model to solve the complex tasks in health sector, with a specific component of providing HIV prevention services, on the basis of some (pilot) HIV care faclities. Management contract may be combined with other mechanisms to attract private investment into HIV/AIDS sphere (for instance, with investment agreement, etc.).

Part 2. IN-DEPTH INTERVIEWS WITH NATIONAL AND REGIONAL EXPERTS ON POSSIBLE FUNDING MECHANISMS TO PROVIDE HIV PREVENTION SERVICES

The health sector reform in Ukraine is creating new administrative, financial and legal opportunities for economic entities of different ownership to address the public health needs of Ukrainian population.

PPP is a new phenomenon in Ukraine. The application of the PPP model promotes social and health care sectors development, along with state (public) funding model, characterized by limited budgetary resources and dependance on the historical and institutional conditions of Ukraine. The development of partnership relations between the state and business can provide to the public sector so much needed additional resources, and primarily - investment. Overall, it will serve as a basis to address health and social problems in Ukraine, including in the sphere of HIV/AIDS.

The goal of the *in-depth interviews* with experts from the national and regional levels on funding mechanisms to provide HIV prevention services was to identify the expert opinion of specialists about existing funding mechanisms, assess possibiliyies for using PPP and other finance mechanisms for prevention and treatment of HIV/AIDS.

During in-depth, face-to-face interviews with experts, a number of issues were discussed concerning the development of PPP, including in the field of HIV prevention, analysis of the current legal framework on PPP, identifying barriers to attracting investors and development of cooperation between state, business or NGOs in HIV prevention in Ukrainec. (Interview Guide and other research tools are included in a Ukrainian language version of this report).

Target group: 17 experts on funding mechanisms to provide HIV prevention services at national and regional levels (a list of experts who participated in the survey – is in Annex 1).

The criterion for the selection of experts for in-depth interviews was the knowledge and experience with various financial mechanisms in the sphere of HIV/AIDS or relevant fields - social care services, health, and others.

2.1. The role of partnerships between government, business and NGOs

Experts expressed common opinion on the importance of the issue in addressing the task of preserving the health of the Ukrainian population, reduce mortality and prevent of socially dangerous diseases, especially HIV.

The need for modern-level and high-quality public health services is disproportionate to the capacity of the state budget to pay for them. Ukraine's health care lacks the potential to address the public health needs, and lacks potent partners. At best, a partnership between business and the health care system happen on the terms of philanthropy, sponsorship or volunteering.

Effective partnership involves pooling of resources, knowledge, experience and most importantly - equal division of social responsibilities between the partners. The basic principle of effective work is trust.

Participants stressed the attractiveness of the PPP model.

"This is - a unique case when the state becomes equal partner in rights and duties, not dominant in the relationship customer - executive. It has a certain value, because the state delegates certain functions to someone who represents it in their delivery. This is a conceptionally interesting format. Actually PPP project allows realizing project transparently and avoiding corruption. Unfortunately in Ukrainian realities state procurement as a funding mechanism does not hold water ".

From in-depth interviews with experts

Division of functions between the state and private sectors in providing health services is urgently needed to find the effective model of health care system.

Excessive pressure on state budget prevents transparency in the structuring of contracts and competitive procedures. However, in order to limit the financial risks, PPP projects should be made public, and tender procedures in case of participation in a single contender – be suspended to allow additional tender participants to ensure the best "value-for-money" services.

Success of PPP projects depends not only on the calculation of budget expenditures, but, according to experts, is also grounded in thorough economic justification for a private investor involvement in the project. After all, private companies can not pursue purely charitable purposes such as improving health care. Preparing justification for project participation usually takes into account such factors as allowing entry to new markets, expanding distribution channels, strengthening credible business relationships with government agencies and support sustainable development of new markets. In this context, the experts noted that the market for medical and social services for HIV/AIDS has not formed in Ukraine.

However, most experts believe that the development of PPP in Ukraine is *constrained.* Important factor is lack of long-term financing mechanisms. Reckless use of state guarantees could lead to shift control of state assets to foreign investors in Ukraine. Compensation of investment to private partner was identified by experts as a major problem in partnership. In modern realities the source for such compensation should be not with the budget, but through commissioning the new capacities that would become private.

Currently there are some signs of cooperation to involve the private sector in the process of improving the legislative field in the PPP. In July 2015, MOH of Ukraine, representatives of ministries and other authorities, the public, experts and business held a meeting to discuss the use of PPP and attract potential investors to health care sector and discuss proposed for amendments to the PPP law.

"One of the major features of PPP is that without the cooperation with private investor the state facility shows lower efficiency than in close partnership with it. First of all, it is important to understand which mutual obligations are assumed by parties in the partnership, and what they get as a result. Ministry of Health plans to select the models of partnership offered by investors, and reflect them in the future Law", - said O.Pavlenko, Deputy Minister of Health of Ukraine

http://www.moz.gov.ua/ua/portal/pre_20150715_b.html

However, during the interviews, experts stressed the existence of legislative barriers that impede the implementation of the PPP in health sector. On the one hand, Ukraine has a Constitution that guarantees free medical care and prevents reduction of the network of state and communal health facilities. On the other - a law on PPP which provides state and municipal facilities becoming objects of partnership.

"There are no mechanisms for the state partner to conclude a private agreement and assume long-term obligations. To enter into an agreement with a private partner to provide health services, for example, for 15 years, it is impossible, because Ukraine has one-year budget planning cycle and state partner cannot take on long-term obligation".

From in-depth interviews with experts

The issue of the usefulness of different subjects of partnership between state and private partners was discussed during the interviews.

Usefulness of partnership for patients. Experts said that the partnership with private business may be considered as a guarantee of higher quality services - this opinion is shared by majority of population in Ukraine. Experts believe that patients often think if the service is provided by a private provider, the quality will be better. Partnership can lead to expand the scope of services and diversification options that would be more suitable to different groups of customers.

Usefulness of partnership for the state party. If there is a need for services, and the state partner is unable to finance them, then partnership makes it possible to perform certain obligations.

Usefulness of partnership for private investors is to create a legal framework that would be comprehended, predictable, enable investors to understand what final result of collaboration they will have, what benefit they will receive from funds invested in the long term. It is also to motivate socially responsible business to provide socially significant services.

The usefulness of partnerships for health and social services is the ability to build a flexible system of services that will be better targeted to meet the needs of the individual patient, while close portebu in socially important services that the state can not provide in full.

Discussing the effectiveness of HIV prevention projects, experts acknowledged that the vast majority of work is done by NGOs implementing projects under the State Program, and funded externally. The state is not always engaged in these projects, and without state engagement, the planned transition from external to domestic financing can not be achieved.

Experts believe that no effective mechanism of interaction between the state and NGOs exists, though NGOs have been raising this issue long enough. It seems that the government does not trust the work of NGOs because of lack of clear legislative mechanism for the transfer of funds and accounting.

The usefulness of partnerships with the state for business was described by experts as "business always has its own interest."

> *"Business worries about their profits, and it is natural. But topical issues also emerge such as social responsibility. It is all over the world, and our business employers are beginning to show concern about this. Part of social responsibility of business is the health of the employees. Of course, when it comes to international projects, they are willing to make themselves involved in the activities/training and give the opportunity to others to show the results of implementation of any programs and projects. Of course, the state should play a lead role in this".*
>
> *From in-depth interviews with experts*

The state at the current stage is in financial and budget constraints. There is a lack of funds for renovation and improvement of quality of some medical services, so there are certain areas where opportunities offered by business may be utilized and business in return, can act to create additional capacity as part of a business plan.

Experts are certain: if businesses see in partnership with the state certain benefit for themselves, that has an effect on the volume of operations, on income, on taxation, trust in the state authorities, such a partnership may happen. In their view, as a unique entity to participate in PPP projects, consortia as an association of legal entities involved on the side of the private partner in the project may can. Those could include not only private companies but also state and municipal enterprises.

The experts' opinions on the benefits of PPP in health care, in cluding in HIV prevention, and their conclusions on interaction between state, business and society, are summarized in the following table:

ADVANTAGES FOR STATE SECTOR	FOR BUSINESS	FOR CLIENTS OF HIV PREVENTION SERVICES
• Attracting private financial, intellectual and human resources into development of the entire health system or of particular branches or health facilities, the use of management expertise and innovative potential of the private sector • risk sharing with business • effective management of state property • Development of competitiveness, creating competitive markets within individual segments of health care that are not subject to privatization • Ability to interrupt the contract in case of violation of terms by private partner • Increase of budget efficiency in case of reduction in state funding for construction and operation of health care objects, increase of the taxable base	• Getting state health facilities in long-term management and operation • Guarantees of profitability provided the investment into state objects is made • The possibility to increase the overall profitability during the contract without the state removing excess profits to the budget • Access to new markets and industries • Risk sharing in PPP project operation with the state • State support and guarantees • Positive social advertising, ability to position the business as socially responsible	• Improving the quality and accessibility of health services by improving quality standards • Promote the social significance of the problem (including HIV prevention), to enable upgrading of health care • Increasing the overall efficiency of public health assets • Choice between public and private health and social service providers • Monitoring and strengthening of responsibility for services provided

2.2. Experts' views on the legal framework

Based on respondents' answers, Ukraine has developed a proper legal framework to regulate the sphere of PPPa, it has an active law on PPP and a number of documents regulating economic relations between the state and business[33]. Unfortunately, in health care sector, this legal framework does not apply.

All interviewed experts underlined the need for an amendment to existing law or adopting a new law. The future project could include provision to enable a transfer into private ownership of newly created or upgraded or reconstructed medical and pharmacological objects. According to the respondents, is is worth introducing a legal norm that would enable existing entities to provide paid services. Under such conditions, according to interview participants, investors will be more willing to provide the necessary range of free medical services.

> *"We need at least a new concept, strategy and model agreement, which would spell out the specific conditions for participants. A special tool such as the comparator of state services may be used. Experts could develop forms of direct comparative analysis for the government to identify how best to develop a project - whether in the form of PPP or the government does on their own or in the form of conventional investment or the non-commercial sector (NGO) will be involved. And then compare. In other countries, such as Holland, this tool is used constantly. If the project costs more than 60 thousand US dollars, the comparator tool should be used to attract the private sector. Ukraine also can consider developing similar tool, and it would be affective ".*
>
> *From in-depth interviews with experts*

Most experts believe that the current legal framework in the field of HIV/AIDS can allow to implement a partnership between three parties: the state - business - public sector.

> *"There is this abstract understanding about what preventionis but nobody clearly defined and legislated such thing as in HIV services and who are responsible for it. There is only a program adopted and that's all. Now there is a strategy being developed that would allow toplace preventive services in the legal framework of the state as health and social service. Prevention remains legally undefined due to the fact that no one is willing to incorporate it into the system - there are no standards.*
>
> *The Ministry of Social Policy is the instrument of social services, the Ministry of Health – instrument of health services, and it remains under the state program. It is the field of NGOs. It represents the project activity, financed mainly by the Global Fund, although there are other donors, but their contribution is negligible. Therefore, the continuation of preventive measures after the suspension of the Global Fund in Ukraine - is the main issue, which includes many components – how prevention will be conducted in the future, what will be meant by prevention services, or whether HIV prevention will be social, or maybe - health services – standards are missing ".*
>
> *From in-depth interviews with experts*

[33] Including, among others Economic Code of Ukraine, Civil Code of Ukraine, Budget Code of Ukraine, Tax Code of Ukraine, Law of Ukraine "On leasing of state and communal property", Law of Ukraine "On Concessions", and others.

Experts noted that in Ukraine's legislation in the field of health there are no special regulations to determine the design and implementation of PPP projects, and this undoubtedly hinders its development. In addition, the current budgeting system of health sector creates high financial risks for the PPP, associated with short (annual) budget cycle and annual planning approval procedure, which sometimes excessively delayed.

2.3. The prevalence of public-private partnership in Ukraine: the potential and resources

According to respondents, the most common in Ukraine are such forms of PPPs as concessions and investments that are used in health sector internationally.

> *"The most common form in the world health - is certainly a concession plus transfer contracts into external management and external service delivery. The largest number of projects was implemented in the UK and Spain. Such projects could be applied in our country in construction sector, management and services. They specify the full range of services, and the state pays for each of them.*
>
> *There is a concession for building a hospital, so the contract may be associated with water supply, power supply, etc., and not necessary medical services. Among the post-Soviet countries of Eastern Europe and a very successful PPP project to provide dialysis in Romania. They converted the state centers through foreign partners, multinational companies and got the opportunity to provide services"*
>
> *"In addition to PPP and Social Contract, there is also such form as investment, budgetary and charitable funding. In Ukraine, this is not enough, as the budget financing dominates. Budget covers all health sector costs".*
>
> *From in-depth interviews with experts*

Some experts also expressed the opinion that the implementation of PPP mechanisms in HIV prevention is on the whole unnecessary.

> *"The new trend is to integrate the topic of HIV wherever possible. It cannot be a separate element. The place for epidemic response within the system should be clearly defined. We should speak carefully about whether there is a need to develop PPP. HIV response should be localized in health sector or in health services sphere".*
>
> *From in-depth interviews with experts*

Meanwhile experts gave ideal examples of possible PPP projects in HIV prevention. For example: support services for children with HIV status, work with HIV-positive orphans, OST and ART service provision. Overall experts believe that the issue of health is not a priority for the country. In view of political changes, it stands the back.

2.4. Ways and sources of attracting funds for HIV prevention

The interview quide included questions about existing methods and sources of raising funds for HIV prevention in Ukraine. Regarding prevention programs, according to experts, their implementation is fully funded by a grant from the Global Fund. Funding in the state budget for HIV prevention is not provided.

During the interview, experts particularly stressed the need to develop specific mechanisms for funding of HIV prevention after completion of GFATM financing in 2017. Most experts think that HIV prevention services must be in the field of Ministry of Social Policy, which should extend its existing standards of serving the people of low income level and in difficult living circumstances and look into how to include into the scope of legally allowed services the people from groups of high risk to HIV – PWID, CSWs, MSM, and others.

"MARPs in projects funded by Global Fund were defined on the basis of bevaviour criteria. But it was necessary to consider the income level of people vulnerable to HIV. Syrynges and other commodities should first be given to those who have low income, who cannot afford them. Income was not a criterium. But many of these people can fall under the mandate of official social services"

From in-depth interviews with experts

According to experts, inly cooperation between the major providers of health care and social services for at-risk groups, implementation of integrated approaches, creating multidisciplinary teams can ensure more efficient use of limited resources and significantly improve HIV prevention.

Without the NGO initiative, funds for prevention and treatment are unlikely to appear in local budgets. Much depends on the active position of NGO leaders in HIV/AIDS sphere and whether the decision makers listen to them when making funding decisions.

"If NGOs work step by step with the regional departments for social protection, they can apply for some funds from the local budget. Before going to the department of social protection, it is necessary to prepare the arguments about the importance of HIV prevention projects. First articulate the need to fund the National program from local budget, and then - propose ways to implement the idea."

"As part of the Global Fund programme, one project was highlighted, which deals exclusively with advocacy on how to obtain funds from local budgets for NGOs. This project was introduced in Poltava (NGO "Light of Hope"). Given the fact that this organization has 17 examples of practices (cases) receiveing funding from the state budget, we regard it as a resource center for other organizations. Applying the advocacy technology of this NGO, other NGOs were able to repeat the same steps path already traversed it".

From in-depth interviews with experts

According to experts, the key factor to improve the situation is the financial and political stability in the country, as well as purposeful, systematic and competent advocacy

of HIV prevention, particularly among high-risk groups; improving the legal framework for the implementation of PPP in health sector and for HIV services.

Experience in Poltava to attract local budget to implement NGO-based HIV prevention programs was positively evaluated by many interviewed experts. The project started from analysis of the local budget and its underutilization. The NGO found that local employment centres budgets were not fully used in the line for public works, and those funds could not cover MARPs who are not clients of employment centers services. Budgetary funds not used by the end of the financial year at the local level, are returned to the state budget and expenditures for next year are reduced. To demonstrate the possibility of using local budget, a strategy was developed with a focus on attracting people to public works (mainly low-skilled work), who were released from prison. Thus the issue of employing the ex-prisoners was addressed, and unemployment and social tensions reduced. This example shows that NGOs have the potential to attract local budgets.

2.5. The attractiveness of HIV service sector for private investors

Discussing the attractiveness of areas and prevention of HIV / AIDS for private investors, experts said that private investors do not see the direct benefits of this sphere. The issue is primarily about a social responsibility of business which needs to be enhanced.

"HIV prevention and treatment sphere does not attract private investors, probably as the whole health care sector. It's very difficult to find an investor, and for HIV – even more difficult ".

From in-depth interviews with experts

However, experts named such prominent investors the Victor Pinchuk Foundation, "Kyivstar", "MTS", large multinational companies. They have capacity for socially responsible business component, including in the fight against HIV/AIDS. Another example could be a pharmaceutical company that will be interested to invest in HIV prevention, provided it receives government order for manufacturing antiretroviral drugs.

"The Center for HIV-positive children and youth was helped by entrepreneur who voluntarily gave money every month to transport mother with a child for examination at AIDS center or to another medical facility. Giving UAH 1,000 a month was not a problem for him, but helped people".

From in-depth interviews with experts

Experts pointed out that if necessary mechanisms are established, attracting investors is possible. An example below discusses the possibility of its spreading on HIV services.

"In oblast there is a big problem of HIV among PWIDs. We know that there is an extensive network of "MTS" and "Kyivstar", and so there are possibilities to agree

with them that, for example 0.5% or 1% of profit they make as specially designated funds will complement the local budget for HIV / AIDS. The benefits for a company will be at the level public relations - positioning itself as a socially responsible business, and the public benefits will be reduction of HIV rates in oblast".

From in-depth interviews with experts

Therefore, experts underlines the importance of attracting private investors and that for them too, HIV prevention can be an attractive field providing supportive environment is created.

2.6. Barriers to attracting investment and developing collaboration between government, business or NGOs

Challenges to establishing PPPs in health care in Ukraine are also linked to existing legal framework in health sector. Some legal provisions have not been revised since the Soviet times, leading to a legal conflict arising as a result of the fundamental contradictions in the regulations when their execution is either complicated, or allthogether impossible.

The most significant barrier to large-scale implementation of PPP mechanisms in Ukrainian practice is the lack of trust between business and state, and existing negative experiences of cooperation between them. In such conditions, state has no real incentive to implement significant projects involving private capital. At local level, such incentives are also lacking, because local budgets are scarce, and institutional health sector reforms have slowed down.

Participants of in-depth interviews pointed at the existing obstacles to attract investors and develop cooperation between government, business or NGOs in HIV prevention. First of all mentioned was lack of an open and transparent information space to highlight the importance of PPPs and explain their benefits to investors, as well as the social significance of investment in HIV prevention. Experts voiced criticisms in the work of mass media in this area and stressed the need for greater involvement of volunteers. Furthermore, government officials and business need to receive training to learn how to cooperate in the sphere of HIV/AIDS.

The private sector does not see the benefits of cooperation with state neither in health sector in general not in HIV in particular. In addition, there are stereotypes and fears of private partners to engage with MARPs. It is to early to talk about loyalty and tolerance to them by business. Private business partner is unlikely to initiate the partnership first so it's essential to motivate him and prove its importance.

The need is urgent to have a working PPP mechanism oriented at mitigation of the interests of state, business and society. Movement towards developing such mechanism is to include reforms to establish institutions that ensure the growth of trust between state and business (including by reducing corruption), as well as structural reforms in health sector to create economically favorable environment for business participation in PPP projects.

2.7. Challenges and threats to the national system of HIV/AIDS prevention and control

Given the fact that starting from 2017, the National Programme provides for HIV prevention only at the expense of local budgets, experts believe that NGOs need to work differently, and coordinate their work with local government and business community, to establish cooperation with them, to engage in civic councils, joint programs with business, marketing analysis, and advocacy work.

Threats to HIV prevention programmes after the withdrawal in 2017 of Global Fund funding for the National HIV/AIDS Programme are significant. Moreover, experts say, the threat is already present today due to existing state funding deficit, leading to inability to maintain existing level of risk groups coverage by prevention services.

"....reduction of the scale of services will have devastating consequences. In the event of termination of the Global Fund grants, if the state does not find other sources of finance and does not create conditions to save the gains already made, epidemic will unfold at critical scale".

From in-depth interviews with experts

However, the interviews also showed that prevention is understood differently by different experts.

"Prevention is easily available. It is quite realistic to raise the level of awareness at workplace: as many people are present in the same room. It is important to make the testing most widely available so that people could timely learn of their HIV status".

From in-depth interviews with experts

The issue of sustainability of HIV services at the moment can not be resolved separately from the health sector reforms in Ukraine. In this context, according to experts, it is difficult to assess the availability of HIV services without knowing how the funding from local budgets will be provided, and how reforms will develop .

Promising was a discussion with experts of possible forms of supporting HIV/AIDS services at state and municipal level. This form of support in the form of social contract (SC) is currently regulated through the Ministry of Social Policy. Experts from AUPLHIV cited examples of NGOs engaging with regional departments of Social Protection that due to the functional limitations of their scope of work can not engage in HIV prevention. These institutions work with many vulnerable populations (pensioners, the homeless, single parents and families with many children, the disabled, and others), which may include among them PLWH and MARPs. Experts noted that currently the personnel working in Social Policy departments cannot work with these populations.

"If they are not ready to expand their target groups, we propose as an alternative to provide funds from their budgets to NGOs under the social contract. It is economically advantageous offer, because NGO staffs are trained, and have access to the target

group. Local budget can allocate funds to pay the personnel and for humanitarian aid. The argument from local division is that the oblast administration has never considered HIV/AIDS at the regional level as a local problem. It was mainly a medical problem".

From in-depth interviews with experts

Thus, according to experts, it is now time for decisive action of NGOs and government agencies engaged in the sphere of HIV/AIDS to develop partnerships and put important issues on the agenda of local governments.

The expert interviews have also included discussion of other social issues, which are now acute in Ukraine. In particular, the issue of *access to health services* to *internally displaced persons and migrants, the homeless, and prisoners* has not yet become a public health priority. All the above population categories need to be actively involved and covered by HIV prevention programmes. But now in Ukraine it is not happening, although the potential of NGOs permits to cover them.

2.8. Forms of cooperation between government, business or NGO sector

Public-private partnerships may occur in different forms depending on the nature of participation, ownership of the object, risk allocation, duration of collaboration. According to experts, basic requirements for joint activities of state and private partner include: a private party to be selected on a competitive basis, control should remain with the state party, the state's share and distribution of risk should be clearly defined in advance.

In Section 1.1, the main contractual forms of PPP were defined, among them: contracts, leases; financial lease (leasing); public-private enterprises; production sharing agreements; concession agreements (contracts); and others.

During in-depth interviews experts mentioned only few of these forms, in particular: concession, management contract, lease, joint activity.

"The form of cooperation depends on exactly where cooperation will be directed. If it's about restructuring medical center – then it's concession. If it's provision of certain medical or social services – it's management contract. The form depends on the client's needs and purpose. Implementation mechanism will also depend on it. It is possible now to use a variety of forms, but not many guidelines are elaborated".

From in-depth interviews with experts

Some experts noted that in various spheres of economy of Ukraine, so-called 'quasi' forms of cooperation between the state and business are in existence.

"There are many 'quasi' forms of cooperation in various fields, including in HIV/AIDS, but it is not a PPP. Such official form provided by the law in Ukraine. There are many non-profit organizations, government agencies, cooperating with the private sector, but this cooperation is not a PPP. This – 'quasi' form. That's way their action is ineffective".

From in-depth interviews with experts

Many experts gave as examples of cooperation between the state and business in recent years large-scale projects to fight socially dangerous diseases. Such projects were actively implemented with private partners' involvement. In particular, experts mentioned Charitable Fund Development of Ukraine (FDU) implementing projects to combat TB and cancer.

Among other forms of partnership that was mentioned by experts in area of HIV/AIDS that is implemented in Ukraine, was a tripartite partnership between employers, trade unions and government to combat HIV/AIDS at work place. In relation to those, HIV prevention services were implemented in the workplace and were expanded to cover all members of labor collectives. This experience is well-represented in state-owned enterprises in Ukraine (Ukrainian railways, ports, hospitals, public schools), all of which have large workforce.

"….involvement of private partners in HIV prevention through the implementation of HIV/AIDS programs at their work place is an effective and stable form of partnership and works well when we want to rapidly cover a significant share of general population, especially by HIV information and councelling services. When HIV is concentrated in groups at high risk of HIV infection that are not organized into work collectives (for instance, in Ukraine "the worker in the sphere of sex work" is not recognized as profession, and this CSWs are not organized in a network), it is necessary to organize access to prevention services based on the principle of maximum proximity to the client of risk group…."

From in-depth interviews with experts

2.9. Funding for HIV prevention services for MARPs using PPP model

Experts were offered a choice of two possible providers to finance HIV/AIDS services. Following medical and social services were offered for evaluation: counseling and information on HIV prevention, distribution and needle exchange, distribution of condoms and lubricants, HIV counseling and testing, social support, OST for PWIDs.

In Ukraine, following entities may act as the key subjects to provide social services, including in sphere of HIV/AIDS: central executive bodies (customers service); local authorities (can act as customers and as providers of service); entities in state and communal ownership; NGOs.

Summary of experts' opinion on possible sources of funding for HIV/AIDS services

HIV service	Who has to provide funding for the service	
	State	Private partner
Information and councelling (including through providing information and educational materials) for prevention of HIV/STDs, TB and Hepatitis B and C	✓	✓ (partially)
Distribution and needle exchange	✓	✗
Distribution of condoms and lubricants	✓	✗
Social support	✓	✗
HIV counseling and testing	✓	✗
ART	✓	✓ (partially)
OST for PWIDs	✓	✓ (partially)

Most experts view as a possibility for private partners to participate in financing such HIV prevention services as information and councelling (including providing information and educational materials) for prevention of HIV/STDs, TB and Hepatitis B and C, and in OST provision for PWIDs. However, services such as distribution and needle exchange, HIV counseling and testing, distribution of condoms and lubricants, according to experts, should be financed by the state.

According to some experts, counseling and information in a basic package of services should be made mandatory, as it won't make sense distributing out condoms and syringes without doing screening. In administering this service, according to experts, well-trained staff should be involved.

"HIV counseling and testing should be financed by the state, and services should be provided only by health care workers, because testing – is a medical manipulation, so the responsibility should not be on private investor".

From in-depth interviews with experts

Some experts believe that the package of HIV services provided by private partner can combine, for example, ART and social support.

"Private partner might be interested in financing ART services. His image as part of corporate social responsibility is an opportunity to present himself as a philanthropist, to demonstrate, here, that's where I'm willing to invest money"

From in-depth interviews with experts

Thus, it can be concluded that all experts agree on the need to introduce a comprehensive package of HIV prevention services.

Rather difficult for experts was the question of who could act as a private partner. Experts suggested that such partner could come from pharmaceutical companies, provided their interests and profits are considered.

"Pharmaceutical companies may be an example of a private investor. They are one of the most effective ways to attract investment. Also biotech corporations. Anything that gives a real result is more attractive for a private investor. Either I provide treatment for an X number of patients, or save a Y number of PWIDs - is much more significant than distributing syringes. Investing – is a case of profit and goodwill. Finding people with the motivation should be done in legal terms. It should also be motivated through regulatory mechanisms. You need to begin from what brings the real results".

From in-depth interviews with experts

Some experts focused on the problem with OST. Currently, funding for OST is provided exclusively by GFATM. Experts expressed concerns that OST program can be stopped after the funding from the Global Fund ends.

"... Patients who receive OST are left to themselves. How this problem will be solved is a big question. Today we can already say that some part of the clients will pay for this service. But the future of other clieants of OST programmes is threatened. Perhaps of 900 people in Kyiv who receive OST through the Global Fund, one third may be morally prepared to pay for it".

From in-depth interviews with experts

Discussing the question of who should initiate PPP, experts unanimously said that it should be the state. In case of a private partner, it will be a private finance initiative, as it operates in the UK.

"There needs to be a register of PPP projects, listing projects and spheres of activity, including on where and when these projects are implemented ... The state should resolve the problem of HIV financing in health care. If under decentralization it will not cover the needs of PLHIV in state budget,it should decide what to do next. Local governments are generally limited in funding and, most probably, HIV will not be a priority for them. Private partnership will exist private entities are motivated".

From in-depth interviews with experts

2.10 Perspectives of cooperation between state, business or NGO sector in providing health and social services

At the end of in-depth interviews participants were asked to assess the prospects of cooperation between state, business and NGOs in providing health and social services for MARPs. The most realistic prospect, according to experts, lies in using the *Social Contract* (SC) mechanism that is based not on partnership as such but on delegation of partial budget financing for performance of certain state functions (like outsourcing in business). Most experts believe that funding HIV services by the state through the SC mechanism looks more promising to use for HIV services than PPP. This view correlates with the findings of desk review that state remains the main provider of funding for HIV prevention.

> *"In case of social contract the funds and the purpose for which they are spent are clearly tracked. In PPP there are other mechanisms, and they cannot be compared with the SC, which some experts consider as the of PPP that is not confirmed by practice. Those are two different mechanisms that can be mutually complementary. PPP as a permanent mechanism of partnership is broader than the SC, which can be for one time use.*
>
> *Perespectives exist for SC in Ukraine, and they are bigger than those of PPP. Officially, PPP is missing in the social and medical spheres, there are only concessions, joint venture agreements, leasing agreements. The responsibility of the private sector to the state in PPP increases – and this is another reason why the private sector is reluctant to cooperate with the state"*
>
> *From in-depth interviews with experts*

If the mechanism of SC will work, according to experts, the issue of HIV funding from local budgets will be resolved. This requires advocacy and work of local organizations to motivate and help the state plan resources.

> *"The main issue in sustainability plan, which will be developed, will be merging HIV prevention and SC, because the state won't be able to fund prevention directly from the state budget. A SC will allow engaging not only NGOs in prevention, but also private business.*
>
> *We are interested in the sphere of prevention because the state will be able to provide treatment. Care and support to ART adherence are now funded by the Global Fund. If we go to the sphere of social services, the Ministry of Social Policy will be able to provide this services. The location of HIV prevention in the future has not been determined. We can recommend, propose, but the main actor in collaboration – is the state initiative".*
>
> *From in-depth interviews with experts*

Assessing the perspectives of PPP, experts were cautious in answers. In their opinion, state structures need to arrive at understanding what PPP is and how this mechanism works, especially in the field of HIV. NGOs need to be trained so that they are also well aware of the basics of PPP, to advocate and lobby for this mechanism at the region, town, village level. It is also necessary to develop and implement pilot PPP projects in the sphere of HIV.

Conclusions to Part 2

- Most of HIV prevention services are carried out by *NGOs* implementing projects under the State Program, but with external funding (from GFATM). The state is not always engaged in them, and without state engagement the planned transition from external to domestic financing can not be achieved. Experts are concerned that effective interaction between the state, business and NGOs has not been established.

- The basis for the partnership between the state, business and the public sector lies in the *existing legal framework*, political will and motivation to act in all areas of society, including HIV prevention. Terms for the division of functions between state and private sector in providing medical and social services should be found urgently in order to carry out effective health and social protection measures. According to experts, Ukraine lacks PPP experience in economic sphere and in health sector. There are no PPP projects in the HIV/AIDS sphere. In Ukraine, the most common of PPP forms, according to respondents are concessions, but this form of PPP will be difficult to implement in the sphere of HIV/AIDS without modifying current legislation.

- The *mechanism of social contract* (SC) appears to be the only state financial mechanism to apply for funding HIV prevention programs in Ukraine after the end of GFATM funding. Urgent and decisive actions are needed from the NGOs and government agencies dealing with HIV/AIDS on the ground, to establish closer cooperation and form long-term partnerships.

- The most significant *barrier* to large-scale implementation of PPP mechanisms in Ukrainian practice is the lack of trust between business and state, and existing negative experiences of cooperation between them. In such conditions, state has no real incentive to implement significant projects involving private capital.

- In Ukraine there is *no single open information space* to highlight the needs and promote the benefits of PPP projects. Experts were critical of the media in this regard and called for more volunteer engagement. The experts stressed the need for cooperation of state and business representatives in the field of HIV/AIDS.

- The *private sector does not see benefits* of cooperation with the state neither in health sector nor in HIV prevention. State should prove the importance of partnership and direct benefits of it to business sector. The only non-state (private) partner in this area may be NGOs but they can not invest their financial resources in these activities and be a party in a PPP partnership under the current legislation of Ukraine.

- The issue of *sustainability of HIV services* at the moment can not be resolved separately from the health sector reforms in Ukraine. In this context, according to experts, it is difficult to assess the availability of HIV services without knowing how the funding from local budgets will be provided, and how reforms will develop.

- Experts see the *possibility for private partners to participate in financing* such HIV prevention services as information and councelling (including providing information

and educational materials) for prevention of HIV/STDs, TB and Hepatitis B and C, and in OST provision for PWIDs. However, services such as distribution and needle exchange, HIV counseling and testing, distribution of condoms and lubricants, according to experts, should be financed by the state. But first of all it is necessary to define the term "HIV prevention service", its value components, and costing methods.

- The state should be given *a leading role in PPP*, because the state agencies' interest is important for overall political engagement and provision of resources to health sector.

- In current conditions the important task is to form *a partnership between the state public institutions and businesses in the sphere of health and social services*, as well as engage NGOs working in the field of HIV/AIDS, to create supportive environment for a dialogue between state, business and civil society on the development of various forms of fundraising, including with the use of PPPs.

Part 3. SURVEY OF CLIENTS OF HIV SERVICES

3.1. Methodological foundations

The main purpose of the survey - identifying alternative financial mechanisms for HIV preventionservices, and assess preparedness of the target group in whole any by different risk groups to pay for services with own funds. The survey questionnaire was developed for customers HIV services, which included questions on basic prevention services and the level of access to them, as well as questions on payments and free-of-charge services.

Target group: 443 regular clients of HIV prevention programs were polled who are receiving basic package of services for PLHIV, PWIDs, CSWs, MSM. A separate poll for the control group was formed by PLHIV. Among PWID the survey has singled out PWID (PLWHA) as a separate group of clients receiving HIV prevention services.

3.2. Key results

Socio-demographic profile of respondents

The survey involved 443 respondents, among them - 58% were men and 42% women. Most respondents (70%) - are young people aged 18-35: 38% - aged 29-35 years, 32% - 18-28 years. One third of respondents were over 36 years. As for the marital status of those polled, 36% indicated that they had never been married, 26% were in civil marriage, 16% - officially divorced. Just 12% of respondents were in a registered marriage. 3% each were being officially divorced, officially non-divorced, and being widows (widowers).

As for the educational level of respondents, the majority of respondents (39%) have secondary vocational education, a fifth of respondents with higher education, 19% have complete secondary education. 15% of respondents reported unfinished college education, and 6% - to unfinished secondary school.

The questionnaire included questions about average income level of respondents. Most clients (64%) have an *average monthly income below UAH 3,000* (about $136 at the time of the survey). 23% of respondents had an income from UAH 2000 to UAH 3000. 20% of respondents indicated income below UAH 2000. Only 8% of respondents indicated their average monthly income exceeding UAH 5000 (over $227 dollars), and 9% had income between UAH 3,000 to UAH 5,000. There were also those respondents who are unaware of their income - 2%. And 16% of respondents refused to specify.

Distribution of respondents by type of employment shows that almost a third had no fixed place of work but worked part time in different jobs, 26% were skilled workers. Handy workers or unqualified labour workers are 18%. 8% did not work or did housework, 5% were private entrepreneurs, and 2% are studying. Regarding residence, living in own separate apartment was indicated by a third of respondents, 42% of respondents lived with parents (relatives), a fifth - in rented accomodation, and 3% in the dormitory.

The majority of respondents (65%) were the native residents of the localities in which the survey was conducted, 18% of respondents indicated a period of residence "over 5 years", only 2% had moved less than a year ago.

Duration of receiving HIV prevention services

As for duration, 65% of clients are recent recepients. 24% are receiving services for less than a year. 41% of clients started receiving HIV prevention services 2-3 years ago. The vast majority of them were among PWIDs (PLWHA) - 90%. 18% of the total respondents started receiving services 4-5 years ago. This was in 24% of PWIDs and in 11% of CSWs and MSM respectively. The largest group of recent recepients (less than one year) is among CSWs 38%. These numbers suggest that those PWID(PLHIV) who started receiving services more recently had a better coverage of services than those who were receiving them for a longer term.

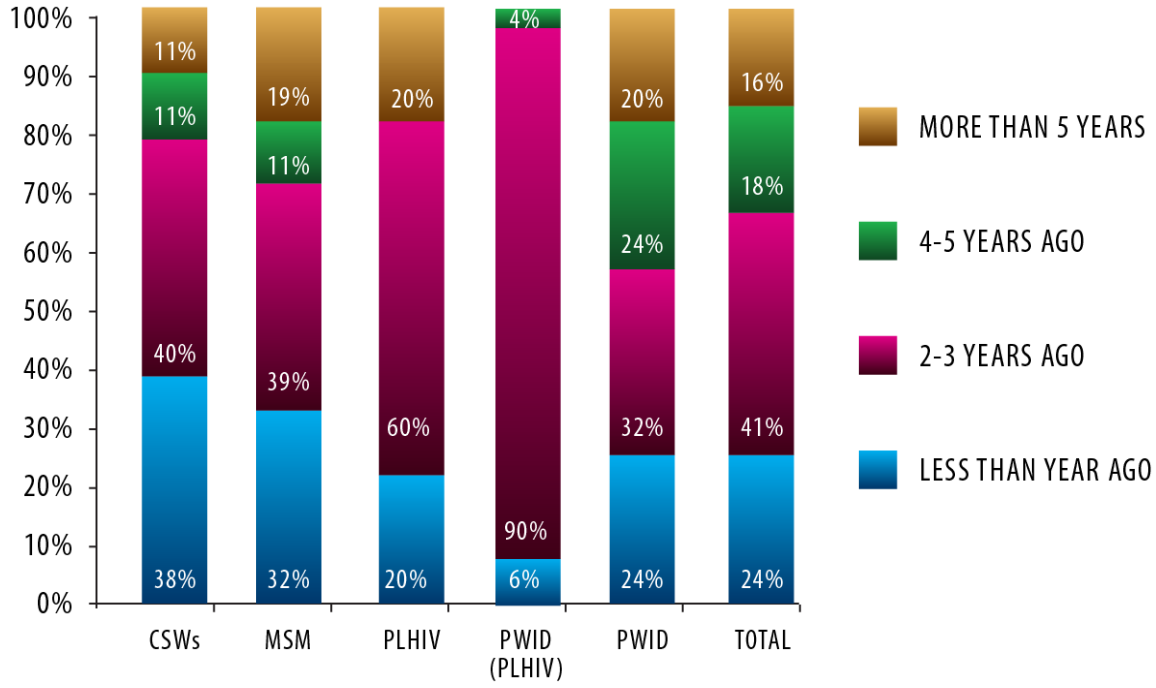

Figure 3.2.1 ***Responses to the question "How long ago have you started receiving HIV prevention services?", %***

The types and frequency of HIV services received

During the survey it was clarified which HIV prevention services and how frequently the clients were receiving. The responses show that most widely received service was counseling and information on HIV prevention, STDs, TB and viral hepatitis (B and C). This service was received by 93% of respondents, with slightly less than half of respondents receiving this service once a month. The second service received was HIV counseling and testing (85% of respondents), with 41% of them were receiving this service less than one in 3 months, and 8% - received it every month.

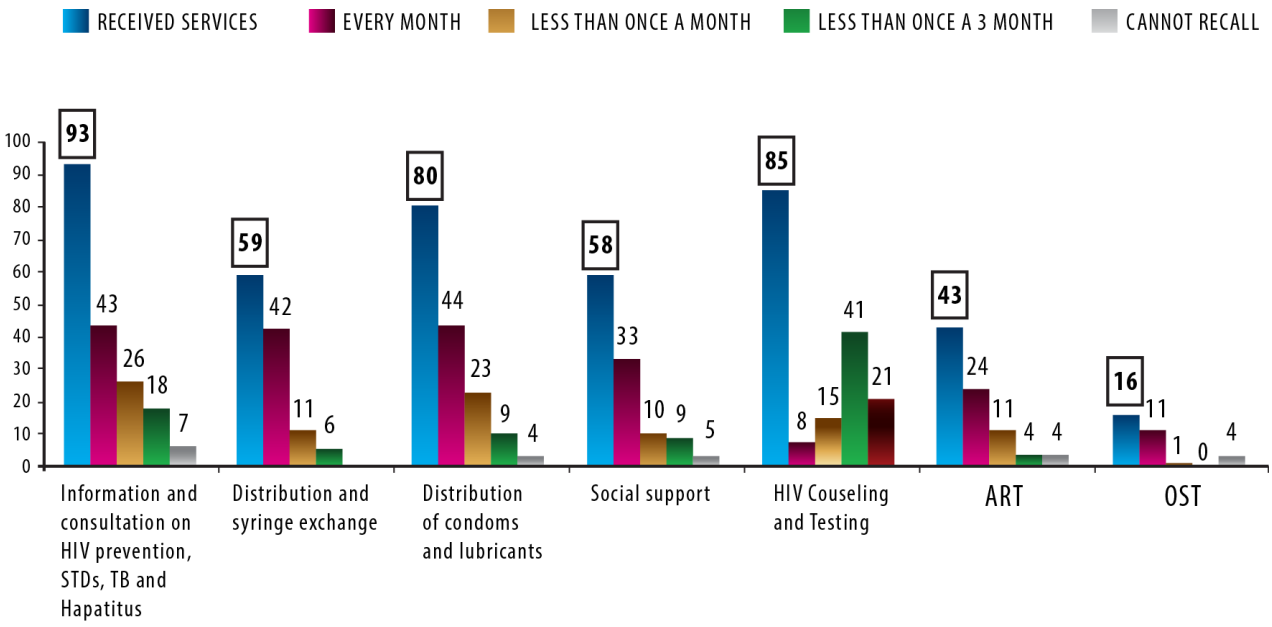

Figure 3.2.2. Responses to the question ***"Which HIV prevention services are you receiving and how frequently?", in per cent***

Distribution of condoms and lubricants was third in reported number of respondents - 80% received this service, of them a half – once a month. Distribution and syringe exchange and Social support services were received by 59% and 58% of respondents respectively, majority of these two groups had reported receiving service once a month. ART was received by 46% of respondents, and OST for PWIDs by 16%.

Clients' expenses to obtain HIV prevention services

To obtain HIV prevention services, clients reported such usual expenses as transportation, expenses for child care-taker or care takers for other family member, paying to specialist at facility (under-the-table payments). The survey results show that 75% of clients spent on transportation on the average UAH 25–30 per visit, 3% of clients paid care taker expenses over child or other relative – on the average UAH 100, and 5% of respondents paid to specialist delivering service up to UAH 90.

In addition to these costs, clients reported the need to pay extra for the required tests and services such as fluorography, Hepatitis and STDs tests (24%), Magnetic Resonance Therapy (MRT), others. The average sum of payment reported by survey participants corresponds to current market price levels at medical industry, which is too high for the population. 9% of clients reported paying donations to a health facility at the request of service provider.

Lab testing or service	% of those who paid	Average sum, in UAH
• MRT	12%	550–650
• Fluorography	40%	60–65

• Screening on STDs	24%	190–200
• Tests on viral Hepatiti	37%	165–175
• Councelling and testing	3%	70–75
• Paying charitable donation	9%	70–75

Barriers to obtaining HIV prevention services

Survey included a question about the barriers in receiving HIV prevention services. Overall one third of the respondents did not feel any barriers, one third of people admitted fearing to reveal HIV status to unknown people. A fifth of respondents fears condemnation from the closest people or friends. 16% of respondents mentioned inconvenient location of organizations providing prevention services. 17% of clients had financial problems and pointed to a lack of money. If we analyze the response of individual groups of recipients, you can see that for IDUs, IDUs (PLWHA), MSM and FSW main obstacle was the fear of disclosure status unknown people. Among PLHIV dominated by those who are afraid to get help and substandard customers who complained about the lack of money.

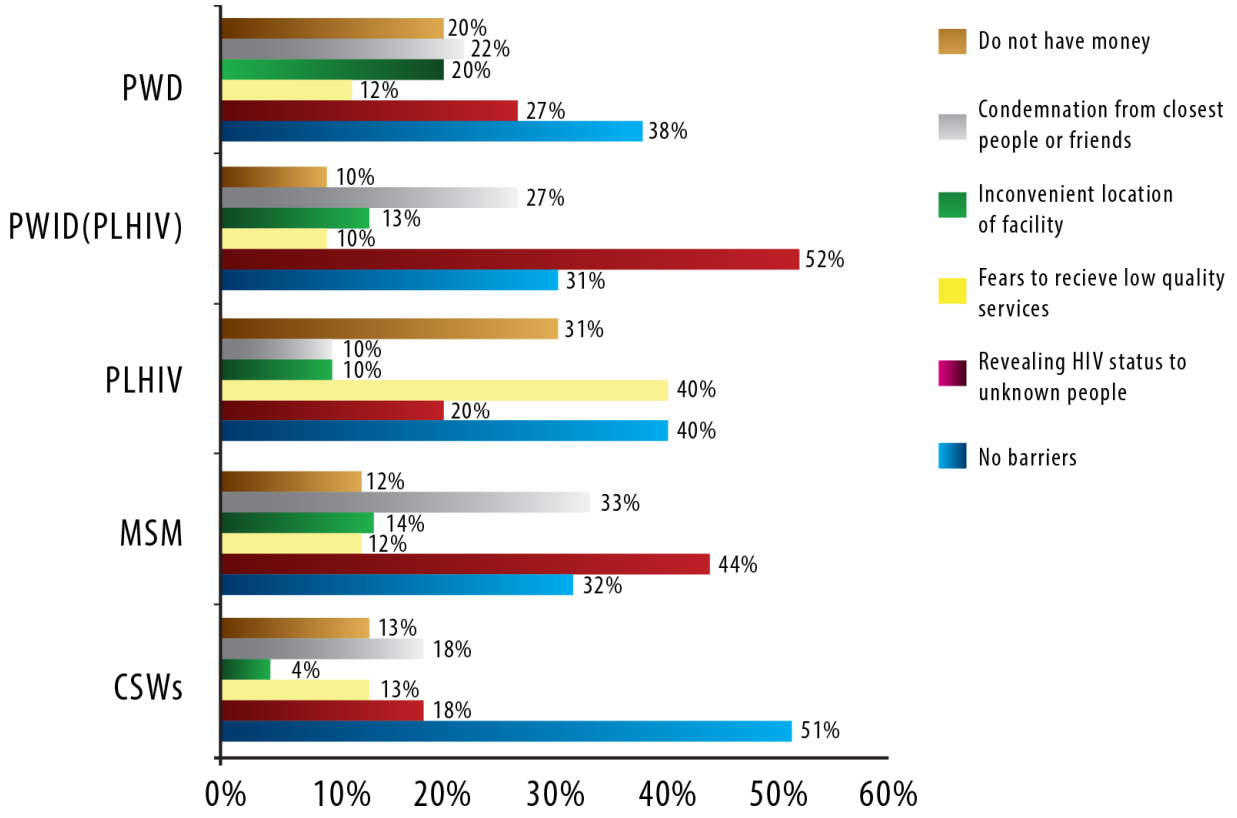

Figure 3.2.3. ***Responses to the question "What barriers (obstacles) you experienced in receiving HIV prevention services", %***

On the *location of receiving HIV prevention services*, clients reported that most HIV services are received at NGOs, except for ART and OST for PWID that are administered at health facilities (Fig. 3.2.4.).

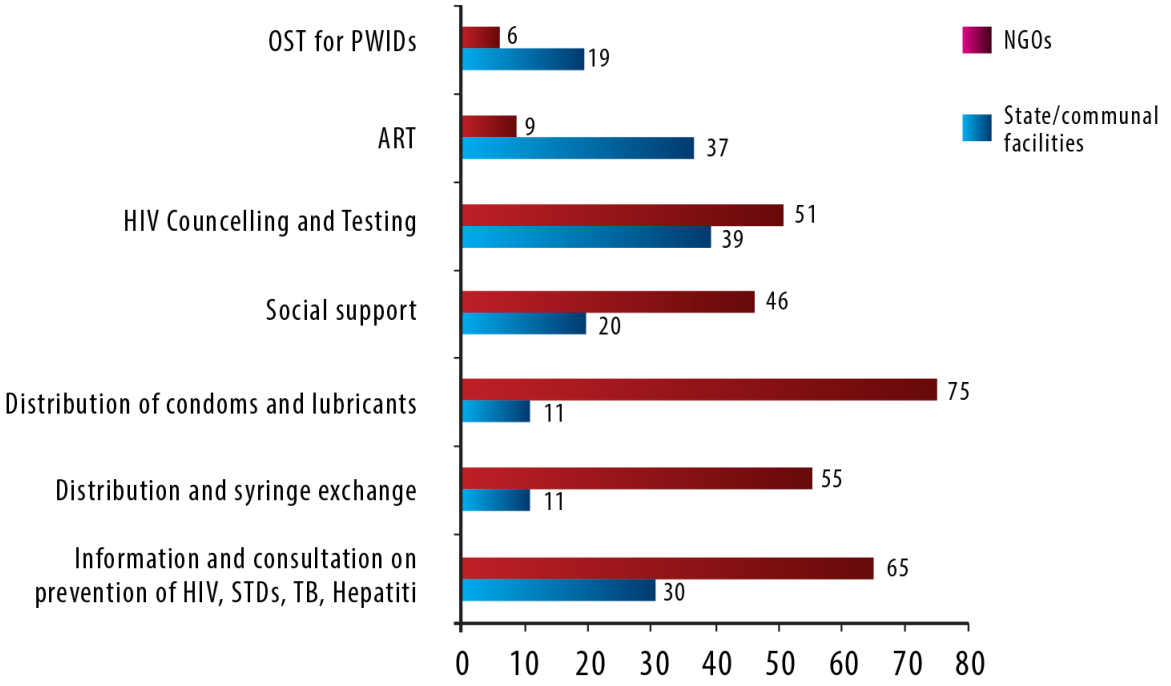

Figure 3.2.4. Responses to the question ***"In which organisations, state/communial or NGOs do you usually receive HIV health and social services", %***

Regarding the *reasons* that prevent PLHIV or vulnerable to HIV people turn to medical and social institutions *to receive needed services*, the vast majority of respondents (79%) mentioned the fear of disclosure of status, challenges linked to perception of HIV status (37%), lack of information about the places where services are provided (23%), and others.

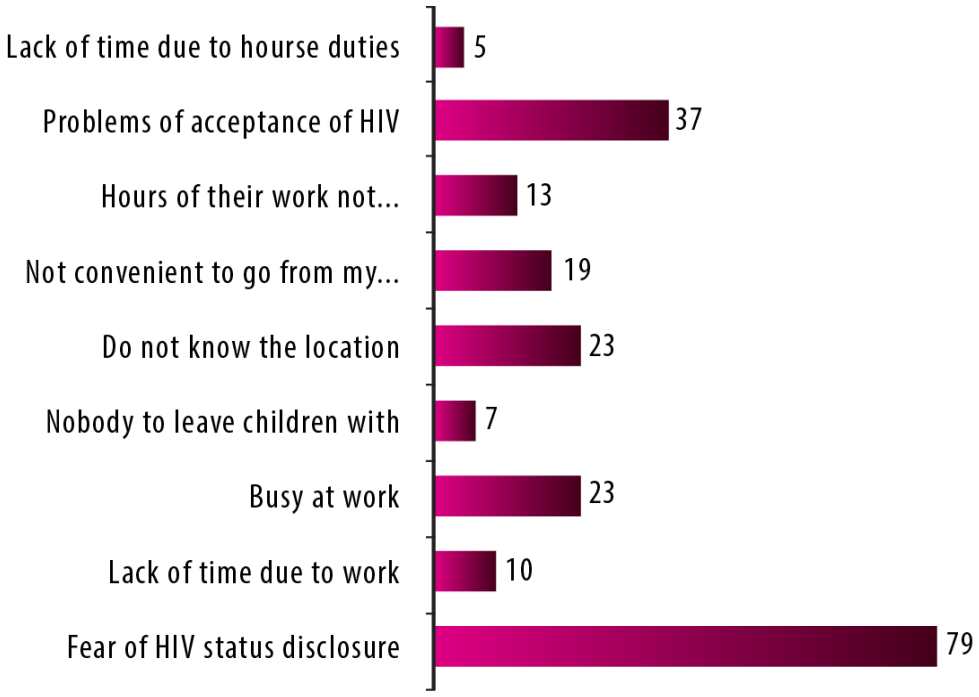

Figure .3.2.5. Responses to the question ***"What are the reasons why PLHIV and people vulnerable to HIV do not turn to health and social care facilities for necessary service?", %***

Preparedness to pay for HIV prevention services

Answers of clients of HIV service organizations have shown a split regarding whether they were *prepared to pay* for services on their own. Question was asked separately about *health and social services*. Most respondents (*64%) are not ready to receive health services* or were unable to answer, while 36% were willing to pay for medical services provided high-quality services were available (34%), and 2% would pay regardless of the quality of services.

Even fewer respondents willing to pay for social services for HIV (care) - *75% were not ready to receive social services* or could not determine the answer. Only 25% expressed willingness to receive social services on a fee basis, with 2% despite their quality (Fig. 3.2.6).

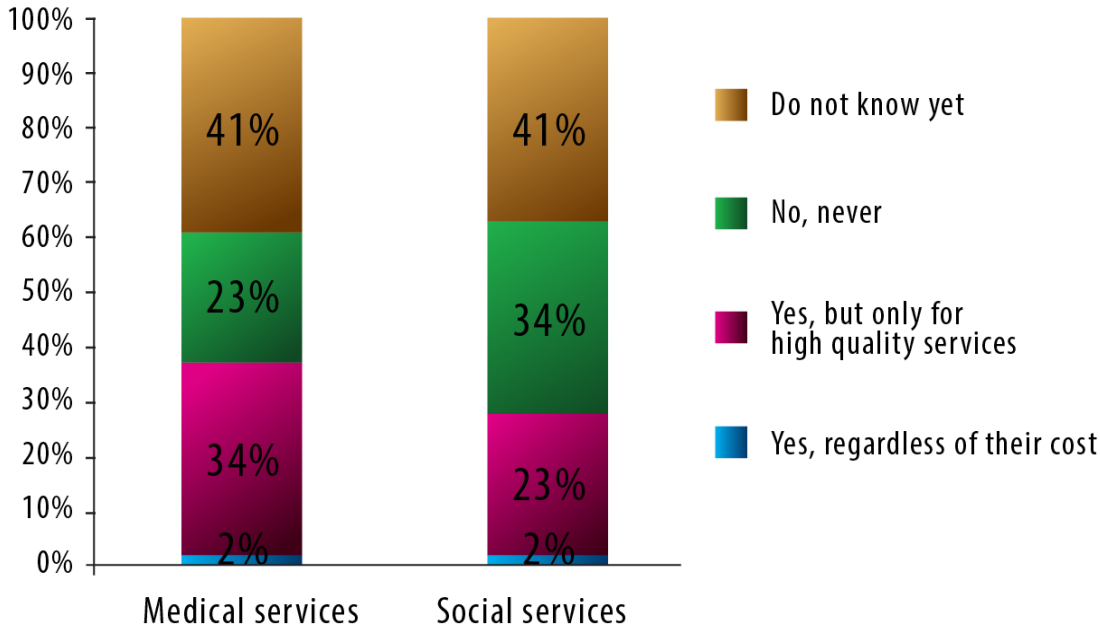

Figure 3.2.6 Responses to the question ***"If you were offered paid health and social services, would you be ready to pay for them?",%***

Responses about readiness to pay for HIV services were also classified according to the group of risk to HIV. Among the respondents who were ready to pay for *medical HIV services*: *regardless of their quality*, the highest percentage was from MSM (7%); ready *if high quality services are provided* – 60% of CSWs, 52% of PWIDs (PLWHA), and 50% of PWIDs were ready. Among ready to pay for *HIV social services* were mostly PWIDs (PLWHA) and CSWs. However, significant numbers were *not ready to pay for HIV services – 60% of PLHIV would not pay for social HIV services* with 30% of PLHIV not sure. Cumulatively, responses of all risk groups show a tendency in favour of negative answers or not answering (Fig. 3.2.7).

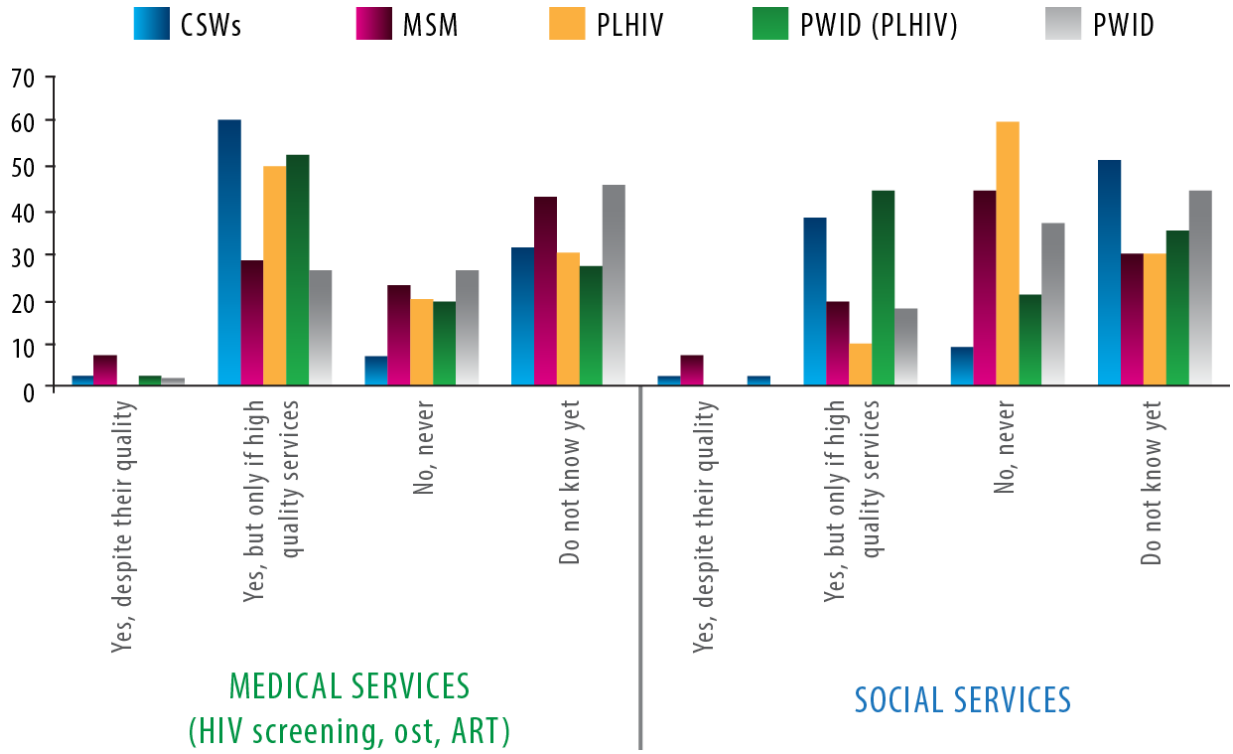

*Fig.3.2.7. Responses, to the question "**If you were offered paid health and social services, would you be ready to pay for them?", by groups of clients, %***

It should be noted that the above percentages are calculated on the basis of the positive responses of those ready to pay for HIV health and social services and do not represent a majority among the particular risk group in absolute numbers.

Paying for particular HIV service

Respondents were asked if they would be ready *to pay for a particular HIV prevention service* from a given list. Predominant numbers of respondents were not prepared to pay for either of the HIV prevention services, including ART (under 20% were ready), and OST (under 10% were ready).

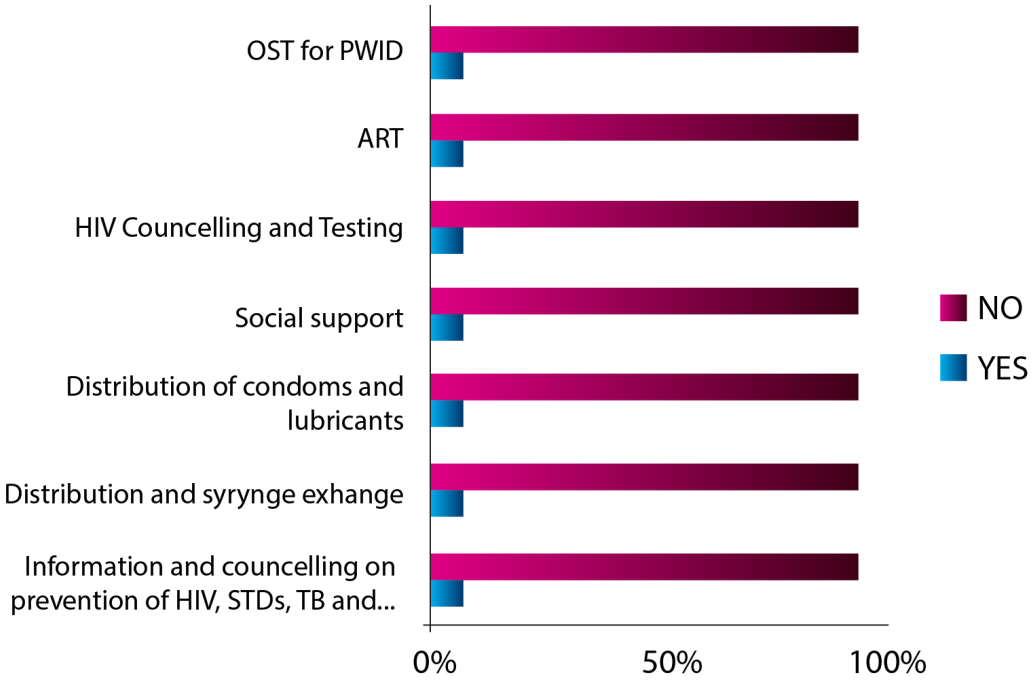

Figure 3.2.8 Responses to the question ***"Which from the following HIV services are you ready to pay for?", %***

Among *factors that could stimulate* clients *to receive paid HIV prevention services health and social services* on the paid basis, respondents noted own health condition and health condition of family member (47% of respondents). 40% indicated the need to receive a particular HIV services. A quarter are willing to receive high quality services, and 6% would follow example of friends and acquiantances (Fig. 3.2.8). [34]

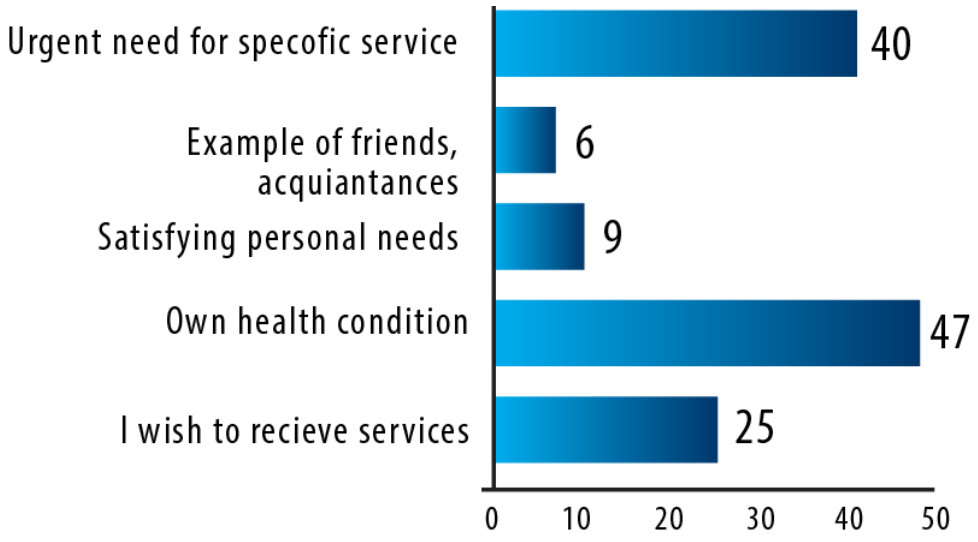

Figure.3.2.9. Responses to the question ***"What factors can stiulate you pay for medical and social HIV services",%***

[34] The total number of responses exceeds 100% as respondents could choose several answers.

Among the clients interviewed, more than a third reported having to pay for supplies (container, gloves, handouts) that averaged UAH 35. 17% of respondents had experience of paying health workers, who provided test – 'under-the-desk' payments (average of UAH 50). A small number of respondents (1%) reported 'under-the-desk' payments to social workers (Fig. 3.2.10). For a quarter of respondents price was acceptable and each seventh of the respondents indicated the price as excessive.

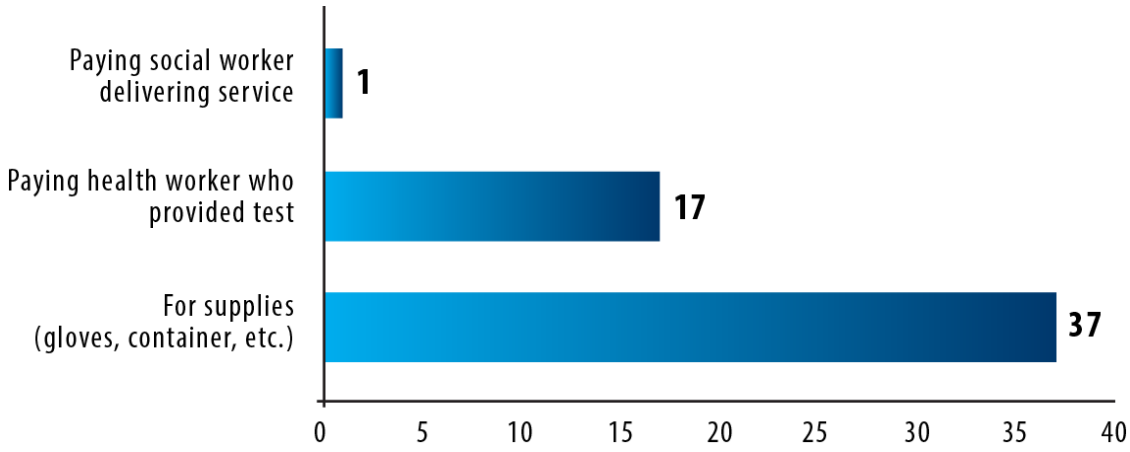

Figure 3.2.10. Responses to the question ***"Did you pay for any health or social services in HIV prevention?", %***

Clients were asked on the amounts they were ready to pay for HIV prevention service. Answers indicated the amounts were insignificant and not being ablt to cover the market price for expensive HIV services, in particular ART and OST. Less cliens were willing to pay for HIV councelling and testing (22 positive answers). They identified the amount they would be willing to pay as UAH 80 (less than $4 at the time of survey)[35].

Based on the demographic profile of the respondents, in particular of the income level reported, it is highly unlikely to expect clients of HIV prevention programmes to pay for services from their own funds, even the small amounts reported. Most clients surveyed (64%) have an average monthly income below 3,000 per month (less than USD $ 136 at the time of the survey). Only 8% of respondents indicated that their average monthly income exceeds UAH 5,000 (above USD 227).

Readiness to pay for a particular HIV service was different in different risk group. For instance, for CSWs more needed were condom and lubricant distribution and HIV councelling and testing services. For PWIDs needle and syringe exchange services were more important. This underlines the need for regions in developing HIV prevention programmes to base and allocate the service provision according to needs and numbers of risk group populations in a particular community in respective region.

[35] Exchange rate in dollar by National Bank rate of 1/07/15 22hr=1 $($4)

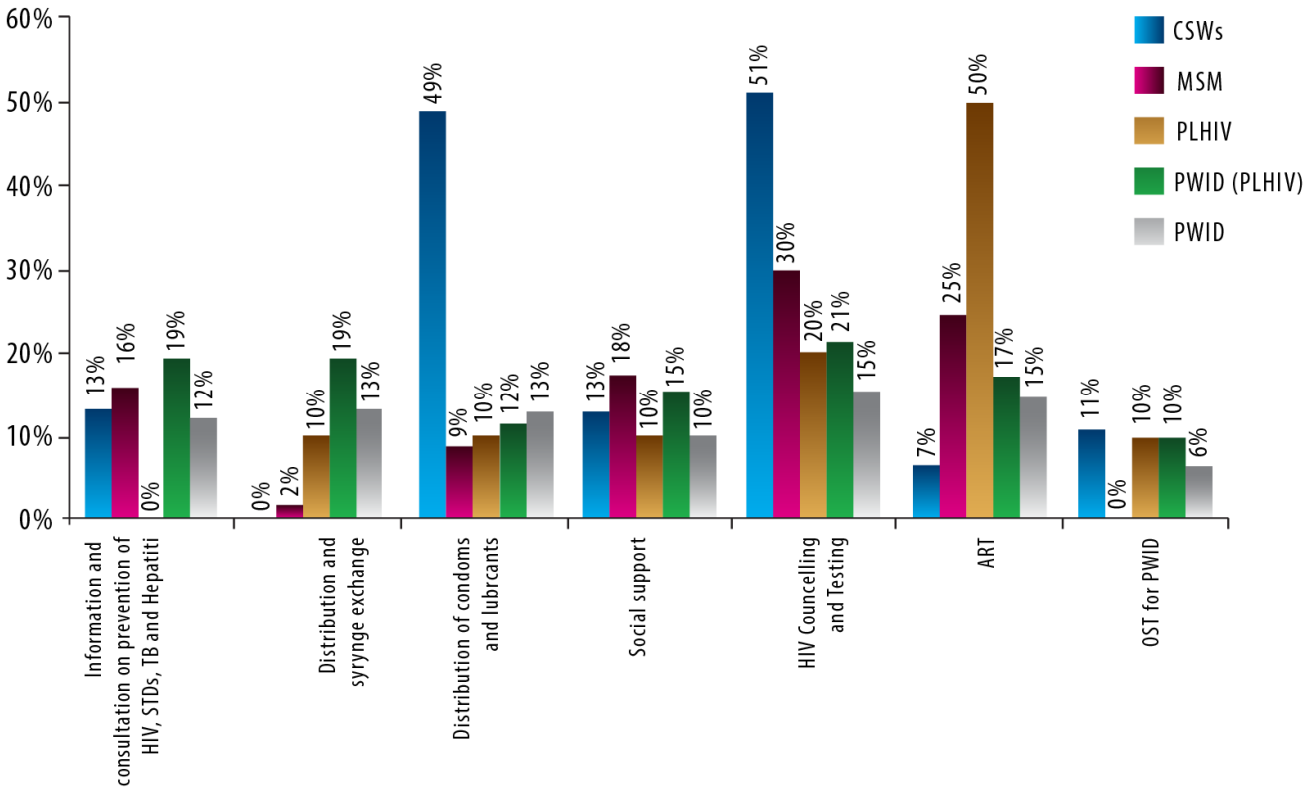

*Figure 3.2.11. Responses to the question "**Which from the following HIV services are you ready to pay for?", by groups, %***

The mapping of HIV service clents (PLWHA and MARP) responses proves the overall tendendcy of unwilliness/unability to pay for the services. Some regional peculiarities are ssen in Odessa region, where more than a half of clients mentioned they could pay for some services, but taking into account small amount of fees they ready to pay and their low income as mentioned aboce, it is unlikely that regional HIV/AIDS epidemic response could count on this source of funding to built comprehensive and sustainable system of HIV prevention services for MARPs. It is worth mentioning that clients from far rayons of Odessa oblast were more inclined to pay little fees for services than those from oblast capital. This fact prove the need to decentralize HIV services, since now the MARPs living outside of oblast capitals anyway have to pay the travel costs.

Survey asked the respondents opinions on source of finance which should fund HIV medical and social services. As shown in Fig.3.2.12, in all service categories, respondents consider *state budget* as the *main source of funding* HIV prevention services.

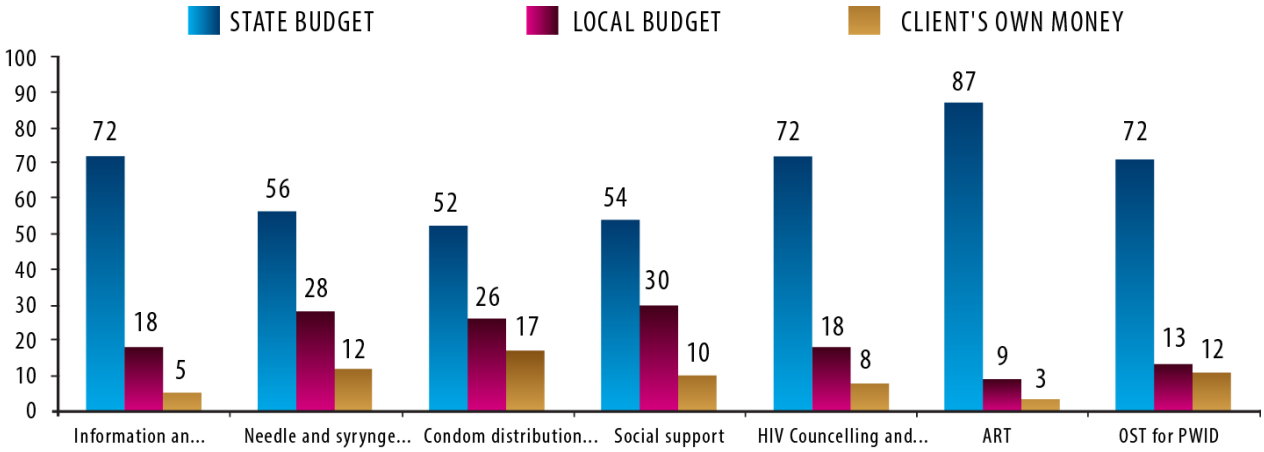

*Figure 3.2.12. Responses to the question "**Which sources of funding should finance HIV prevention health and social services for people vulnerable to HIV?", %***

Especially high numbers in favour of state funding response were given regarding ART (87%), OST, HIV Counselling and Testing, information and consultations on prevention of HIV, STDs, TB, Hepatiti, (72% each of these services respectively). One third of respondents think that social support and needle and syringe distribution and exchange need to be funded from local budgets. These responses correlate with the experts' opinions on the same question, that state should be the main source of funding of HIV services.

26% of respondents thing that condom and lubricant distribution can be funded from local budgets, the same source of funding is named by 18% for information and consultation services on prevention of HIV, STDs, TB, Hepatiti, also 18% think HIV councelling and testing can be funded from local budgets. Client's own costs as a soured of possible funding for HIV services have received the least answers.

Conclusions to part 3

Survey of clients of HIV services showed the following:

- Ukraine has an *established extensive system of HIV prevention services*. Clients of HIV services identified among *the most accessible of services* information and consultations on prevention of HIV, STDs,TB and viral hepatiti (B and C). However, respondents identified barriers and accessing the existing system and lack of readiness to pay for HIV services independently.
- Clients of HIV services reported paying for additional tests and supplies 'under-the-desk', and some reported having to provide under the counter payment at the facility.
- Only a third of participants did not report having barriers during seeking HIV prevention services. The rest reported such barriers as fear of HIV status disclosure, and concerns about quality of service, as well as inconvenient location of facilities where services were provided. An important barrier was lack of money.
- Assumptions about readiness of clients of HIV services to pay for their own HIV services were not confirmed. Most respondents (63.9%) are not ready to receive HIV health services or did not have an answer, a majority (74.9%) were unwilling to pay for HIV social services or did not have an answer. Only a quarter expressed willingness to receive HIV social services on a fee basis.
- Based on the demographic profile of the respondents, in particular the income level reported, it is highly unlikely to expect clients of HIV prevention programmes to pay for services with their own funds. Most clients surveyed (64%) have an average monthly income below UAH 3,000 per month (less than USD 136 at the time of the survey). Despite the existing adherence and wide knowledge about available HIV services, their ability to pay for the services themselves is in doubt.
- For all categories of HIV services, respondents consider *state budget* funding as the main source of funding HIV prevention services. Based on the answers provided, local government budgets can be used to fund social HIV services such as care and support as well as needle and syryne exchange.
- Predominantly low income level reported by participants' explaines for their unreadiness to pay for HIV services on their own. This indicates that there should be no unrealistic expectations, in case of application of PPP model, to rely on HIV services clients own funds, as a source of possible funding. Thus, the main responsibility for HIV prevention in the country still has the rest with the state, and appropriate distribution of budget funding should be allocated for HIV/AIDS sector, to include HIV prevention services.
- With very limited state funding and large numbers of people in difficult circumstances in Ukraine, caused by the armed conflict in the east, it is necessary to allocate financial resources to where they can be best spent (cost-effectiveness). So, choosing a point of focus for HIV prevention efforts, most funding should concentrate in those groups of high risk to HIV where the services would bring the highest possible impact and affect HIV rates in the community.
- The data presented refers to the scope and range of existing HIV prevention services that are currently provided in the regions of Ukraine by NGOs - sub-recipients of GFATM funding, and reflects the opinions of the clients of these programs. It should be noted that in absence of clear and legally defined mechanisms of cooperation

between state and NGO sector, as mentioned above, and existing uncertainty regarding state budget spending on HIV prevention is not possible to predict a possible scenario for the transfer of responsibility for HIV service after the termination of donor funding. Neither it could be asserted that the state sector will be able to take responsibility for providing HIV prevention services.

Part 4. SURVEY OF LOCAL GOVERNMENT, BUSINESS AND NGO RESPONDENTS

4.1. Methodological foundations

The main purpose of the survey – the study of the experience and attitude of the respondents to the possibility of funds allocation from local budgets to establish PPP partnership to provide for HIV prevention services provision at the local level.
Target group: representatives of local authorities (municipal and rayon level), business, NGOs dealing with HIV prevention services provision for MARPs. 150 representatives from targeted oblasts of the Study took part in the survey.
The tools/guides of the survey was comprised of the questions on the present funding mechanisms existing at the local level and used to ensure HIV prevention services to be provided to MARPs over the recent three years as well as on the short- and long-term perspective of funds allocation on HIV prevention services for MARPs for the upcoming 2016, 2017 years.

4.2. Key results

According to a survey of local government authorities, business representatives and NGOs, the main source of funding of their organizations was from the city's budget (44%), the regional (oblast) budget (40%) and the state budget (29%). In addition, a third of respondents named grant programs received by the organization, and a quarter of respondents named sponsorship (Fig.4.2.1).

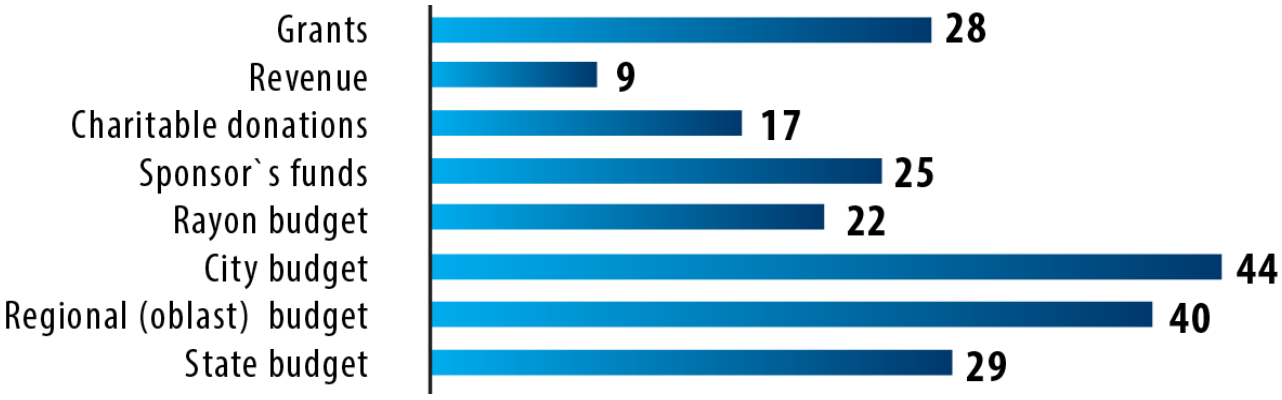

Figure 4.2.1. Responses to the question ***"Which sources of finance fund the organisation where you work?", %***

85% of respoindents knew about PPP, and 15% of respondents admitted that they were not aware of the PPP. (Fig. 4.2.2).

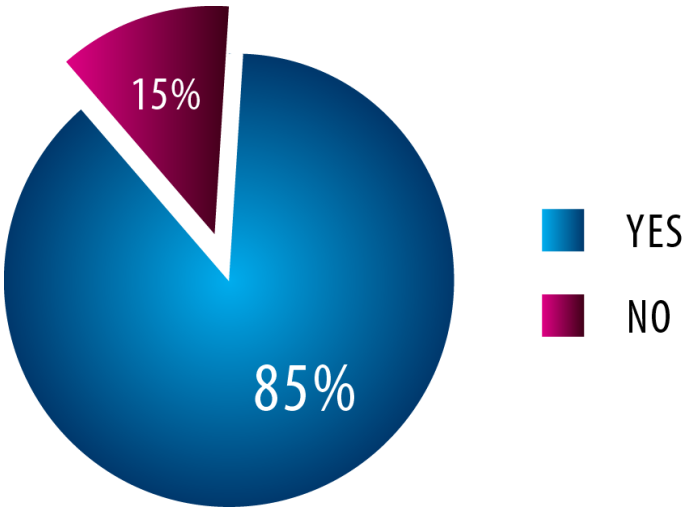

Figure 4.2.2. Responses to the question ***"Do you know about PPP?", %***

Respondents were asked of their opinion on who initiates cooperation between state institutions/organizations and the private partner. Answers were split almost equally between those considering it an initiative of state institutions (44%) and those who think it's the the private partner (43%). 9% of respondents were not sure about the answer. (see Fig.4.2.3).

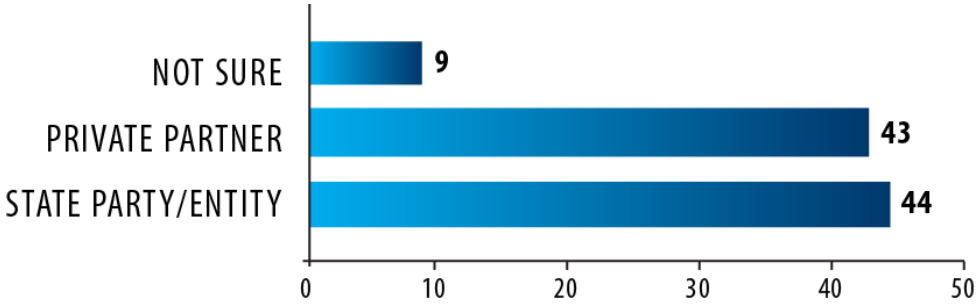

Figure 4.2.3. Responses to the question ***"Who most frequently initiates cooperation between state and private partner?", %***

The majority of respondents (66%) believe that financial resources of the private partner is the main source of financing partnerships between state organizations/institutions and private partners. One third of respondents considers the main partnership finance comes from the state budget and 5% indicated borrowed financial resources (loans, bond issues, etc.) – Fig. 4.2.4.

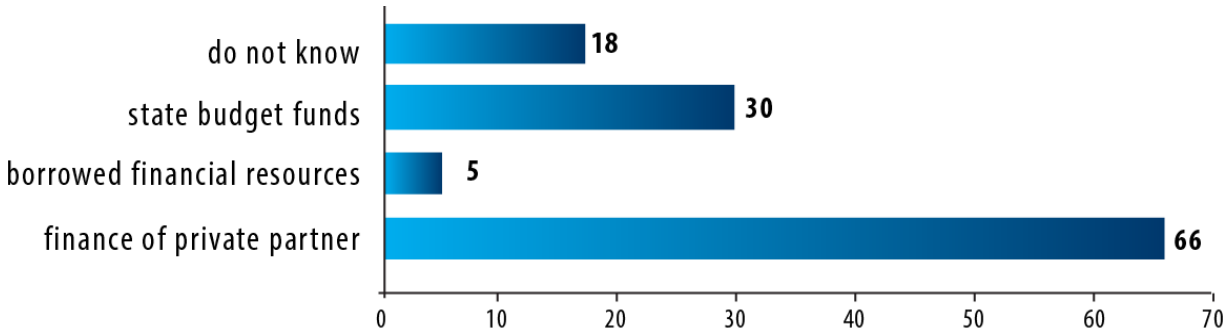

Figure 4.2.4. Responses to the question "**What sources of finance, as a rule, are used in partnership with state organisations and private partners in your region?" , in%**

Respondents were asked about what they thought the PPP meant for private investor (Fig. 4.2.5). For investor, the PPP - is, firstly, mutually beneficial cooperation, in which he is interested in achieving social effect - this opinion is shared by the majority of respondents (56%). One third of respondents thought that PPP was a sponsorship project in which the investor acts as a donor of funds. One in ten respondents considers PPP a commercial project aimed at receiving profit and investment compensation.

The main issue in PPP is *risk sharing* (allocation) between the state and private investors. The list of key risks was offered for respondends to choose from. For predominant number of respondents, the main risks that have to be taken by both the state and private partners during implementation of PPP projects, are risks of force majeure (69 and 70% of respondents) - Fig. 4.2.5. Technological risks related to project should be shared and risks of project delay were assessed as needing to be equally shared between state and private partners. As for the legal and regulatory risks, in the opinion of 60% of respondents, they need to be taken by private partners. Political risks were to be taken by state partner (68% responses). Some answers clearly showed lack of knowledge and accurate perceptions about the PPP model. More information may be needed at the regional level for all stakeholders so that partners have a clearer knowledge and understanding of the risks.

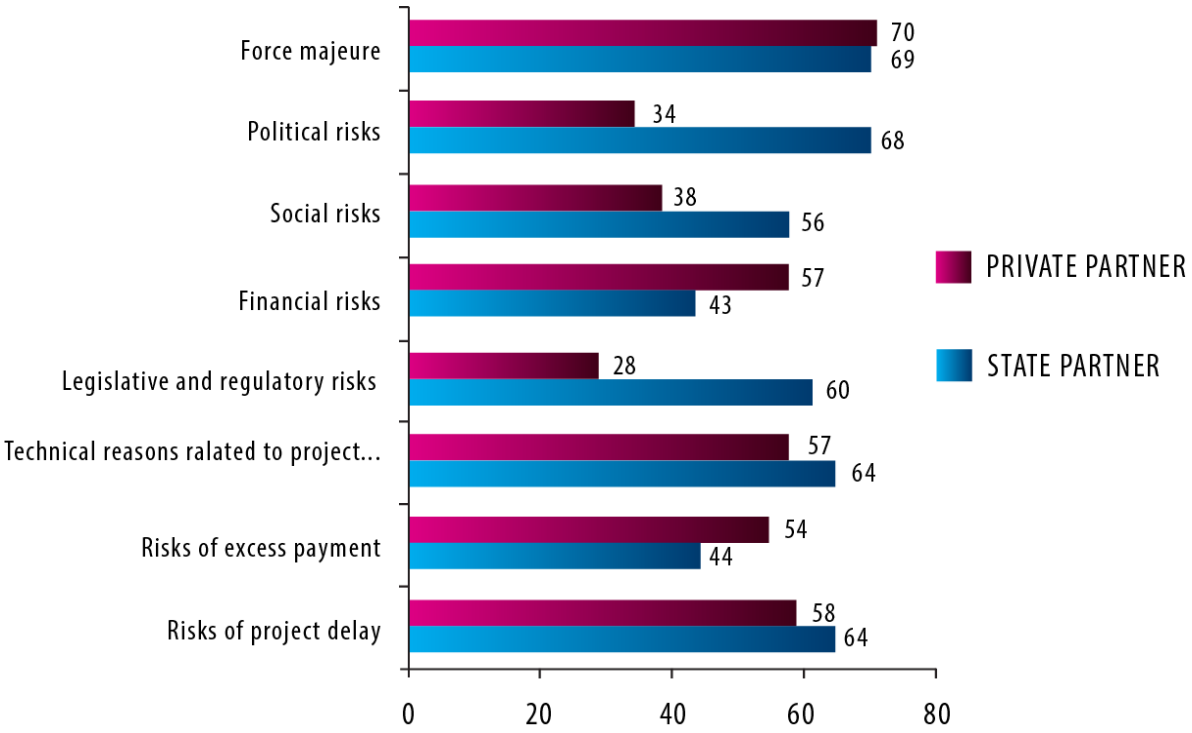

Figure.4.2.5. Responses to the question ***"What risks should be allocated to private and to state partner in PPP project?", %***

Survey sought the respondents' opinion about the *barriers to effective development of PPP* in the health and social care sectors. According to 67% of respondents, lack of a clear regulatory framework governing PPPs, prevents its effective development in health and social care sectors. Almost half of the respondents share the opinion that the reason lies in the existing corrupt schemes and a third of respondents pointed to the lack of incentives for investors, passivity and exclusion of the private sector from participation in the development of health and social sectors (respectively 33 and 34%). 9% of respondents think the barrier is a weak cooperation with international PPP institutions.

The survey asked the target group to define the role of local government, business and civisl society sector in the development of health and social spheres. According to the data obtained, a model of cooperation between different institutions, can be observed. Predeminantly, the *local authorities* are responsible for active involvement of other actors in in the discussion of local budget (84% of respondents think this way), participate in the development of regional programs (74% of responses), monitoring and control over budget spending (49% of responses), participation in competitions and tenders (43%).

Regarding *donations and sponsorship*, respondents think that this role should lie with local government authorities or business (80 and 64% respectively). In addition, the business must actively participate in tenders and competitions (shared by 60% of respondents). Regarding the participation in the discussion of local government and regional development programs, only a third of respondents thought that this role should be taken by business.

Speaking about the *civil society role* in the development of medical and social fields, respondents thought they should be practically in all areas of activity. Areas where civil society should be most active are monitoring and control of budget spending and participation in regional development programs (60% each).

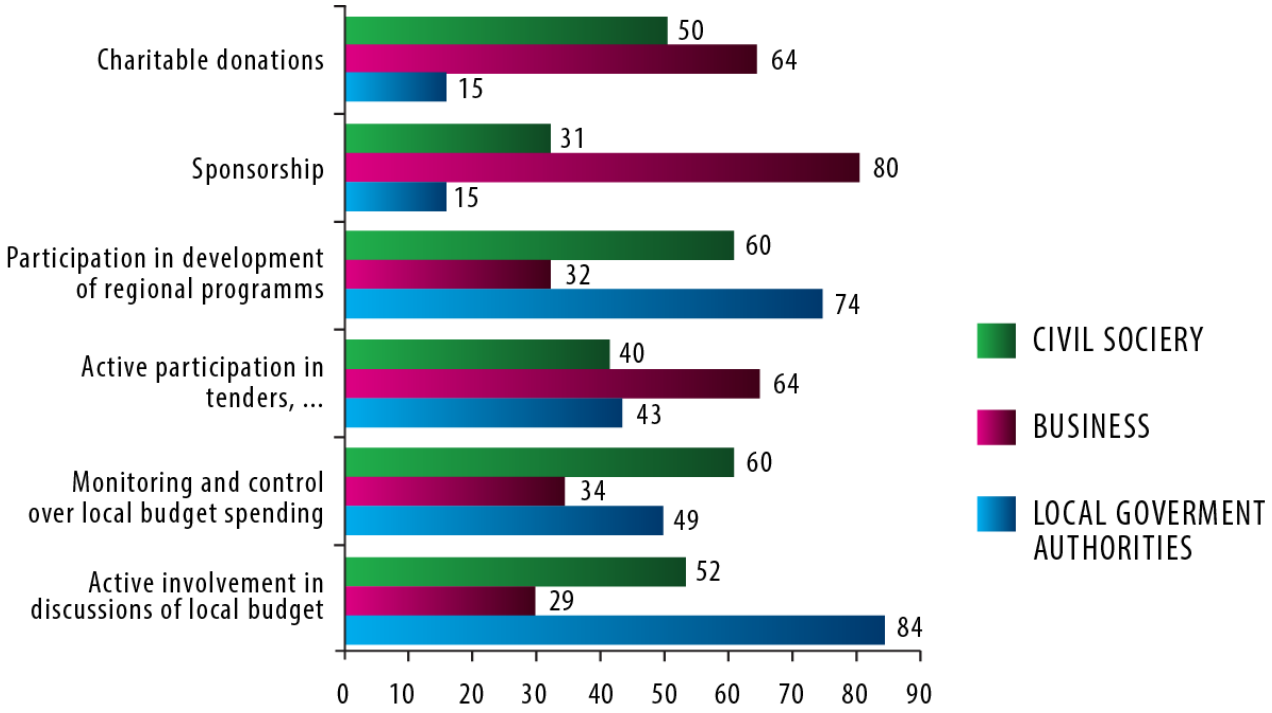

Figure 4.2.6. Responses to the question **"What should be the role for local government, business and civil society sector in developing health and social sphere in your region ?", %**

Most respondents shared the view that the use of PPPs in the provision of HIV services is quite reasonable (61%) or more reasonable than not (25 %). 5% of consider the use of PPP inappropriate, and for 9% of respondents it was difficult to determine a response.

Survey revealed that all proposed *forms of cooperation in the HIV/AIDS* sphere have applied in organizations employing respondents. In the area of HIV services most common form of cooperation was the contract on joint activity (56% of responses), lease contract (37%), service contracts (31%). Cooperation on the terms of the concession contract, lease agreements and management contracts were indicated respectively by 11%, 13% and 15% of respondents. 17% of the responses accounted for such forms of cooperation as the investment contract and property management contract (Fig. 4.2.7.).

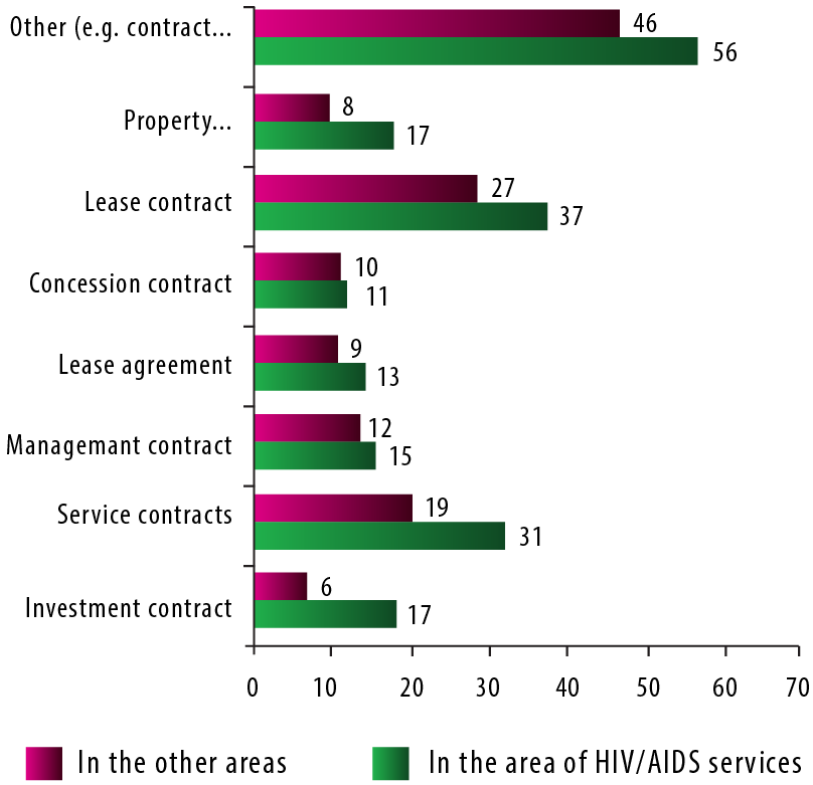

Figure 4.2.7. Responses to question ***"Which contract based forms of cooperation are used in your organisation?", %***

Respondents were asked which *forms of cooperation* are best for using in HIV services. For 59% of respondents, the best form of cooperation in the provision of HIV prevention services are services contracts for, and for 52% - lease agreements. A third of respondents were in favor of such forms as an investment contract, property management and management contracts. One fourth of respondents thought that leasing agreements other forms of PPPs should be used in the provision of HIV prevention services.

The following data indicate a whole range of preventive services, according to respondents, are available in their regions (Fig. 4.2.8).

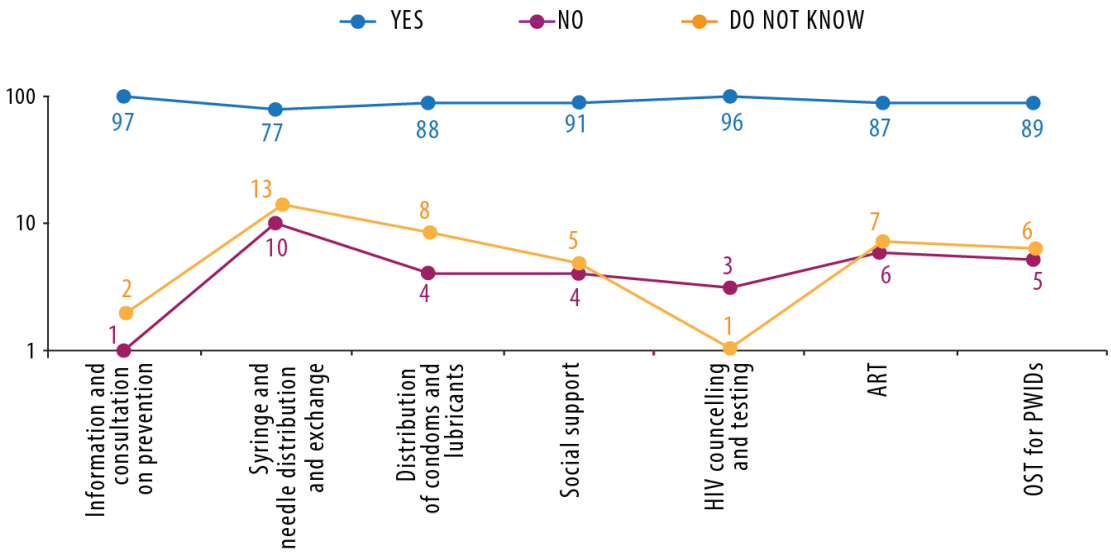

Figure.4.2.8. ***"Which HIV prevention services are provided in your region?", %***

Answers to question about the *sources of funding for HIV prevention* services by category of services, distributed as follows: provided by international organizations and foundations - for such services: counseling and information on HIV prevention, distribution and needle exchange (71% of responses for each service); distribution of condoms and lubricants - 76%. (Fig. 4.2.9.) Funds were attracted mainly from local budget for social support (66%), counseling and testing for HIV (67%), ART (56%) and OST (53%). Regarding participation in the financing of care services by individuals and businesses, according to the survey, their contribution is minor. Individuals sometimes support distribution and needle exchange and condom distribution (7% of responses respectively), and representatives of business in fact not.

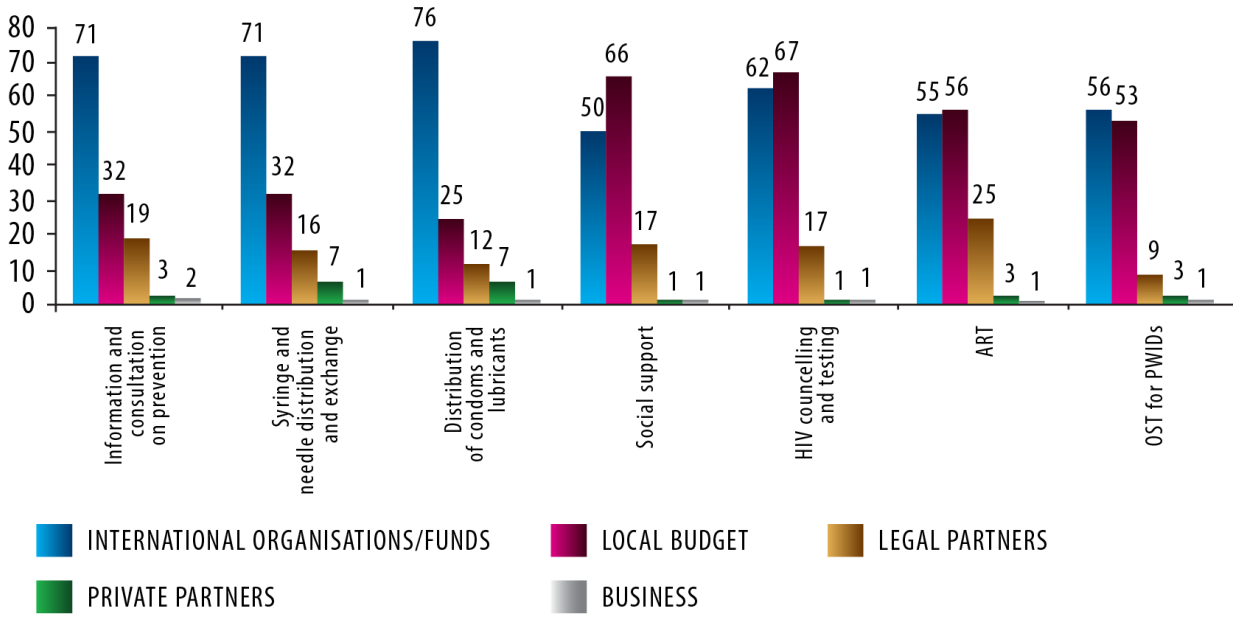

*Figure 4.2.9. Responses to the question "**Which funding sources are used in your region to fund mentioned HIV services?", %***

The question about which sources of funding should be used to fund the services to people vulnerable to HIV received the following answers: the state budget it is reasonable for funding such services as ART (80%), counseling and information on the prevention of infection (68%) , SMT (66%), counseling and testing for HIV (50%), distribution and needle exchange (44%), condoms (43%). Almost a third of respondents believe the social support services should be funded from budget. However, those who pointed to the local budget, was higher (73%).

Moreover, the local budget should be part of the financial mechanism of such HIV prevention services as HIV counseling and testing (66% of respondents); distribution and needle exchange (56%), counseling and information on the HIV, STDs, TB and Hepatiti (57%), distribution of condoms and lubricants (52%). In opinion of 33% and 40% of respondents respectively, funding for ART and OST may also come from local budgets.

Regarding payment for HIV prevention services by client, some part of respondents mentioned following services could be paid by client - 26% for OST, 27% for distribution of condoms and lubricants, and 19% distribution and needle exchange. ART and social support to be paid by client was supported by small numbers – 7% and 9% of respondents respectively. (Fig. 4.2.10).

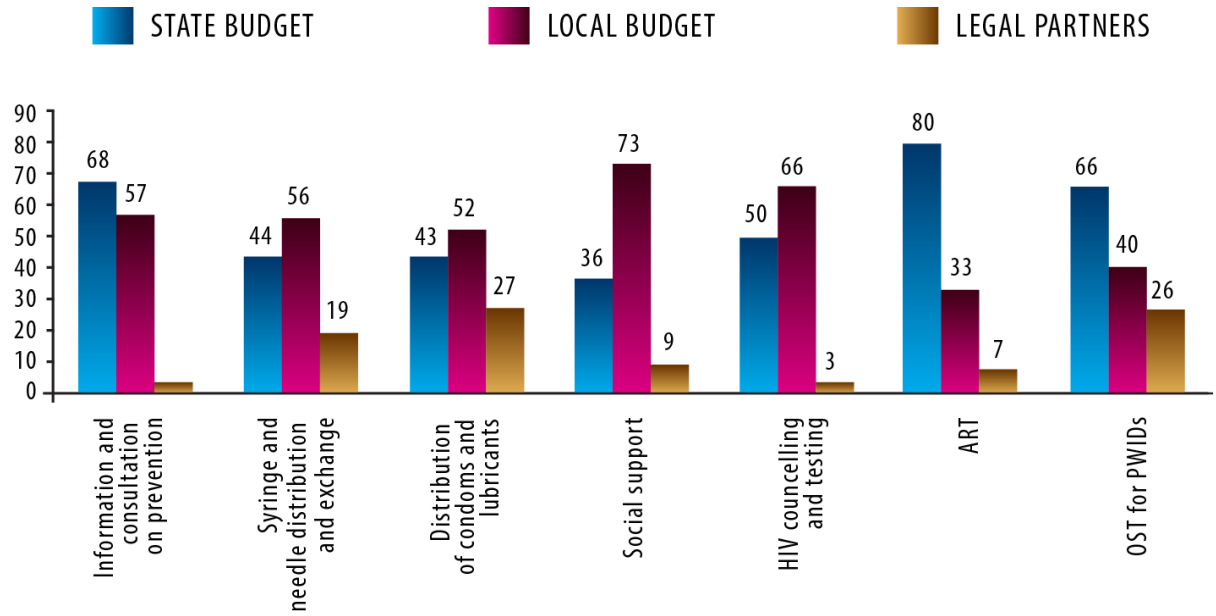

Figure 4.2.10. Responses to the question ***"From which sources should HIV services be funded?", %***

During the survey, opinions were sought on the current legal framework which regulates cooperation and partnership of the parties to provide HIV prevention services.

48% of the respondents generally assess the regulatory framework as positive, but a third of them pointed out that some legal documents need improvement. 32% of respondents assessed the regulatory framework as negative and consider it ineffective. 15% of respondents were not to give answer, and 5% admitted to be unaware about PPP legislation framework.

Conclusions to Part 4

- The survey of local authorities, business representatives and NGOs, has found that despite the fact that the vast majority of respondents claimed being aware of the PPP model, however, in answering specific questions about different forms of PPP and implementation mechanisms, responses showed insufficient knowledge of PPP. For example, the role of business in PPP mistakenly perceived as that of a sponsor which is not a partnership. Most respondents believe that to the investor, the PPP is, first of all, mutually beneficial cooperation in which the investor (private partner) is interested in achieving social effect. One third of respondents believe that the PPP - a sponsorship project in which the investor acts as donor of funds.

- As a source of funding to pay for services to people vulnerable to HIV, dominant part of the respondents identified the state budget. Among the services appropriate for state funding respondents consider funding of services for ART (80%), counseling and information on HIV, STD, TB and Hepatiti prevention (68%), OST (66%), HIV counseling and testing (50%), distribution and needle exchange (44 %), condom distribution (43%). Almost a third of respondents believe that social support services should be financed from the state budget.

- In the opinion of respondents, the local budget should be a part of the financial mechanism of HIV prevention services such as counseling and testing for HIV (shared by 66% of respondents); distribution and needle exchange (56%), counseling and information on HIV, STD, TB and Hepatiti prevention (57%), distribution of condoms and lubricants (52%). 33 and 40% of respondents thought that local budgets could also fund ART and OST services respectively.

- Regarding HIV prevention services payments by the client, the largest number of responses concerned the receipt of OST, condoms and lubricants, distribution and needle exchange (26%, 27% and 19% of respondents respectively). Only 7% and 9% respectively think that clients should also pay for ART and social support

- It can be concluded that understanding of local governments and other local level respondents coincides with opinions expressed by clients of HIV services in that the source of payment for HIV prevention services can not be from client's own expense, but most of all – from state funds.

- Regarding the use of the PPP mechanism as a financial mechanism for provision of HIV prevention services, we can conclude that 1) local government authorities, business representatives and NGOs are not sufficiently aware of these issues, 2) local respondents see the private sector not as a a full business partner in the PPP mechanism, but rather as a sponsor of various events, 3) the main financial mechanism for providing HIV prevention services should be direct funding from local and state budgets.

CONCLUSIONS AND RECOMMENDATIONS

Based on the material in the sections presented above, and inculing the opinions expressed during the report presentation to the HIV/AIDS stakeholder meeting in Kyiv in October 12, 2015, research team has concluded on the following:

- PPP model looks as an attractive investment cooperation opportunity and has many examples of successful realization in the world. In Ukraine, there are limitations to the PPP ability to attract private finance into HIV/AIDS sector, due to: lack of the regulatory framework and experience in the distribution of responsibilities and risks in health services between public and private partners, lack of qualified staff in public health sector to do the project and financial activities as well as legally approved package of integrated HIV services, making it impossible to do costing of services.
  Possible steps include the following: a) Develop a standard structure of risk sharing between state and private partners in PPP projects in health, with a subsequent approval by the Order of the Ministry of Health; b) involve business community to participate in the drafting of legal regulations to expand the use of PPP in HIV/AIDS sphere; c) to work towards developing legally defined terms of scope and standards of social and health services, including the content and the cost of basic package of HIV prevention services for high risk groups, taking as a basis the existing legislation.

- **PPP is an alternative** method to the way the government delivers public services and should not be seen as a source of funding as such, but rather a path to optimisation and more cost effective financial management of partners' funds. This needs to be considered when making *a **decision to use the PPP model*** for HIV prevention services. In order for the model to work, HIV prevention services should have a permanent state budget funding source, which can be achieved through introducing taxes to fund the National HIV/AIDS program or through a system of state health insurance. The PPP realisation involving private partners is possible on a pilot basis. Possible next steps from the state may include: **development of pilot PPP projects**, with imbedded cost-effectiveness mechanisms, directed into funding HIV/AIDS services. Important is **engaging business community and civil society** into development of pilot models of PPP implementation.

- The use of PPP for HIV prevention services needs to be linked to **social significance** of these programmes that should mobilize Ukraine's communities and all parties with the stake in the process, including the business, to fight HIV/AIDS epidemic and respond to the needs of populations vulnerable to HIV in present challenging situation in the country. Issues of **social responsibility of business** need to be on the agenda of business leaders and all stakeholders should take part.

- The issue of **sustainability of HIV prevention services** as part of the national HIV/AIDS response at the moment can not be resolved separately from the health sector reform in the country. In this context, scenarios for the division of responsibility for HIV services should consider how HIV/AIDS services will be funded through state and local budgets, and which budget sources will provide funding for HIV prevention services.

- **Do not overestimate private sector interest.** The market for HIV services, as well as for social services, remains underdeveloped in Ukraine. In order to attract private investors, the market terms for social and health services delivery need to be firmly established and clearly defined, and be comprehensive for business partners. In the absence of real reform in various sectors, increasing pressure on business by government agencies, in the present circumstances, the partnership between business and the state is quite problematic. While partnership with the state always remains an attractive option for business, however, for Ukraine, this is more a perspective for the future, rather than a reality. The mechanism of interaction between state and private investor should be clearly specified, including state legislation on procurement, and other important aspects. It is important to introduce amendments into existing law on consessions that would allow granting concessions rights to private investor on the least viable or insolvent facilities, that nevertheless have public health significance.

- **Health sector reform** and transition into new finance models needs to address the comprehensive character of HIV prevention services, and therefore provide for a possible division of responsibilities for their provision among different government agencies. **Social contracting** may be another possible model for delivery of HIV services, through which the state and local budgets could delegate to NGOs or private partner full or partial delivery of social and medical services.

- In Ukraine, there is **no single and open information space** where the public significance and urgency of HIV prevention in combating HIV/AIDS epidemic are articulated, leading to lack of awareness of society, including business community, to support this activity. Activities should be directed to expand information and education about possibilities and opportunities for health sector using PPP model, promote its attractiveness, promote the idea of partnership between state and private partners and civil society. **Possible steps towards expansion of information space** on PPP should include: establishing a 'PPP in Health Resource Center' in Ukraine that would carry out systematic collection of available resources and cases of using PPP mode in health, conduct training and e-learning activities, consolidate the pool of experts on PPP development. The link to existing resources on PPP in Ukraine should be established.

- The momentum to seek new opportunities and standardization of HIV prevention services to ensure sustainability of services may come from the combination of capacity of state HIV health sector and NGOs that have experience in implementing international projects, including implementation of HIV prevention services package, funded by GFATM. HIV-service NGOs in Ukraine may be considered for possible inclusion into a PPP scheme implementation. In the context of HIV prevention in Ukraine, capacity of NGO sector and exisiting NGO potential should be utilized as the initial capital that may set standards and benchmarks to attract further private investment. It is necessary to support community initiatives aimed at formation of civic partnership institutions between state, business and NGO community working in the sphere of HIV/AIDS.

APPENDICES

Please refer to Ukrainian text of the Study results at www.lhsi.org.ua for the guides used in the Study

REFERENCES

1. Адамян Л.А. (2014) Роль государственно-частного партнерства в развитии системы здравоохранения России – Национальный исследовательский университет "Высшая школа экономики", МОсква, 2014. [Електронний ресурс]. Режим доступу: http://gmu.hse.ru/data/2014
2. Айрапетян М.С. Зарубежный опыт использования государственно-частного партнерства// Государственная власть и местное самоуправление: практическое и информационное издание. М.: ИГ "Юрист", 2009 г. № 2. С. 35–42
3. Барьеры развития механизма ГЧП в России. Москва; НПФ "Экспертный институт", 2010. [Електронний ресурс]. Режим доступу: http://www.niro.nnov.ru/?id=8164
4. Бєсєдіна, О., Нізалов, Д., Семко Р. Базове опитування про поінформованість щодо державно-приватного партнерства. USAID, FHI360, Програма Розвитку Державно-Приватного Партнерства. Київ, http://www.me.gov.ua/Files/GetFile?fileId=7a714519-0fbf-4c61-82ec-145d5ead9f10.
5. Вишнякова О. Державно-приватне партнерство: в Україні можливе? [Електронний ресурс].// УНІАН. [веб-сайт]. – 22.11.2010. [Електронний ресурс]. Режим доступу: http://economics.unian.net/ukr/news/67543-derjavno-privatne-partnerstvo-v-ukrajini-mojlive.html
6. Генеральна угода про регулювання основних принципів і норм реалізації соціально-економічної політики і трудових відносин в Україні на 2010—2012 роки. Режим доступу: http://www.fpsu.org.ua/images/images/2013/Ugogy/Genugoda/genugoda_2010-2012p.pdf
7. Гагарин, П. Государственно-частное партнерство как инструмент реализации масштабных проектов. [Електронний ресурс]. Режим доступу: http://www.gradient-alpha.ru/assets/docs/PPP-Research-14.03.2014.pdf
8. Героева А. "Врачи ждут партнеров". Приложение к газете "Коммерсантъ" № 33 (33) от 29.09.2010. – [Електронний ресурс]. Режим доступу: http://www.kommersant.ru/doc.aspx?DocsID=1509359.
9. Гладов А.В, Исупов А.М., Мартышкин С.А., Прохоров Д.В., Тарасов А.В., Тюкавкин Н.М., Цлаф В.М. Зарубежный опыт реализации государственно-частного партнерства: общая характеристика и организационно-институциональные основы. Вестник СамГУ. 2008. № 7 (66), С. 36–55.
10. Гоцадзе Т. (2014) Вартість моделі комплексних послуг для вагітних жінок, які споживають наркотики, в Україні : Звіт / Т. Гоцадзе. – К. : ПЦ "Фоліант", 2014. [Електронний ресурс]. Режим доступу: http://www.unicef.org/ukraine/ukr/UA_Costing.pdf
11. Дерябина М. А Государственно-частное партнерство: теория и практика / М. А. Дерябина // Вопросы экономики. – 2008. – № 8. – С. 61 – 107.
12. Джудіс Н., Заглада. О. та Мбуя-Браун Р. (2011). Оцінка політики у сфері протидії ВІЛ. Додаток. Вашингтон, округ Колумбія: компанія "Ф'ючерз Групп" (Futures Group), проект "Хелс полісі" (Health Policy Project). [Електронний ресурс]. Режим доступу:

http://www.healthpolicyproject.com/pubs/30_UkraineHIVPolicyAssessmenFull%20Annex%20AL%20UKR.pdf

13. Єфіменко Т.І. "Державно-приватне партнерство в системі регулювання економіки. Монографія за ред. чл.-кор.НАН України. - Київ, 2012.
14. Ефимова Л.И. Некоторые модели государственно-частных партнерств: тенденции и зарубежный опыт. [Електронний ресурс]. Режим доступу: http://www.eatc.ru/rus/doc.id_71.book_1.php
15. Закон Санкт-Петербурга "Об участии Санкт-Петербурга в государственно-частных партнерствах" от 20 декабря 2006. [Електронний ресурс]. Режим доступу: https://gov.spb.ru/law?d&nd=8442332&prevDoc=891808830
16. Закон України "Про державно-приватне партнерство" від 01.07.2010 № 2404-VII. [Електронний ресурс]. // Верховна Рада України. Офіційний веб-портал [веб-сайт]. – Режим доступу: http://zakon1.rada.gov.ua/laws/show/2404-17
17. Иголкина Л.М. Зарубежный опыт организации и финансирования государственно-частного партнёрства – УДК 330.322.12:330.322.14
18. Кабашкин В.А., Левченко А.А., Сидоров В.А. Развитие государственно-частного партнерства в регионах России: монография. Белгород.: ИПЦ "ПОЛИТЕРА", 2008. С. 95.
19. Кабінет Міністрів України. Розпорядження від 14 серпня 2013 р. № 739-р. Київ. [Електронний ресурс]. Режим доступу: http://zakon2.rada.gov.ua/laws/show/739-2013-%D1%80#n8
20. Контрактное государственно-частное партнерство в Республике Казахстан.
21. Куликов А.Ю. Использование инструментов государственно-частного партнерства – Вестник СамГУ. 2012. № 10 (101), С. 56–63.
22. Керівні принципи добровільного консультування та тестування на ВІЛ (протоколи), затверджені Наказом Міністерства охорони здоров'я України № 415 "Про удосконалення добровільного консультування і тестування на ВІЛ-інфекцію" від 19 серпня 2005 р.
23. Лига защитников пациентов. Общероссийская общественная организация. Заявления: [Електронний ресурс]. Режим доступу: http://ligap.ru/articles/zayavlenia/za6/
24. Матаев Т.М. (2014) Формы государственно-частного партнерства при реализации инфраструктурных проектов // Государственно-частное партнерство. – 2014. – Том 1. № 1 – С. 9-20. – http://www.creativeconomy.ru/journals/index.php/ppp/article/view/22/
25. Мерзлов И.Ю. (2012) Международный опыт развития государственно-частного партнерства в экономически развитых странах: институциональный аспект – Вестник Пермского Университета, Экономика, 2012, Вып. 3(14), С. 75–81
26. Методика виявлення ризиків здійснення державно-приватного партнерства, їх оцінки та визначення форми управління ризиками. [Електронний ресурс]. Режим доступу: http://ppp-ukraine.org/wp-content/uploads/2015/03/PPP-Risks-Methodology-Ukr.pdf
27. Методичні рекомендації надавачам медичних послуг щодо організації та проведення послуг з консультування та тестування на ВІЛ, затверджені Головою Державної служби України з питань протидії ВІЛ-інфекції/СНІДу та інших соціально небезпечних захворювань 31 травня 2011 р.
28. Наказ Державної служби України з питань протидії ВІЛ-інфекції/СНІДу та інших соціально-небезпечних захворювань від 22 січня 2015 року №6 "Про затвердження Стратегії доступу до профілактичних послуг на 2014-2018 рр." http://dssz.gov.ua/index.php/normatyvno-pravovi-akty
29. Наказ Міністерства охорони здоров'я України № 551 "Про затвердження клінічного протоколу антиретровірусної терапії ВІЛ-інфекції в дорослих та підлітків" від 12 липня 2010 р. Зі змінами і доповненнями, внесеними Наказом Міністерства охорони здоров'я України № 766 від 10 вересня 2010 р.

30. Наказ № 3123/275/770 Міністерств у справах сім'ї, молоді та спорту, праці та соціальної політики України та охорони здоров'я України від 13.09.2010 "Про затвердження стандартів надання соціальних послуг представникам груп ризику" http://zakon2.rada.gov.ua/laws/show/z0903-10

31. Национальные проекты. Журнал о развитии России. Рассадин А.В. [Електронний ресурс]. Режим доступу: http://www.rus-reform.ru/magazine/archive/26/2/10001264

32. Официальный сайт Казначейства Великобритании. URL: http://www.hmtreasury.gov.uk (дата обращения: 30.03.2012)

33. Официальный сайт Комитета Канады по развитию ГЧП. [Електронний ресурс]. Режим доступу: http://www.pppcouncil.ca (дата звернення: 30.03.2012).

34. Официальный сайт Комиссии ООН по социально-экономическому развитию. URL: http://www.un.org/en/ecosoc/index.shtml

35. Официальный сайт Центра развития государственно-частного партнерства РФ – http://www.pppcenter.ru/

36. Рекомендації для ДПП в системі е-Уряду. [Електронний ресурс]. Режим доступу: http://ppp-ukraine.org/wp-content/uploads/2015/03/PPPs-in-e-Gov-Guide_ukr.pdf

37. Риски бизнеса в частно-государственном партнерстве: Национальный доклад. – М.: Ассоциация Менеджеров, 2007.

38. Сазонов В.Е. (2012) Государственно-частное партнерство: гражданско-правовые, административно-правовые и финансово-правовые аспекты. Москва, ООО Буки Веди.

39. Селиванова И. "Когда медицина в Украине сможет воспользоваться преимуществами государственно-частного партнерства?" [Електронний ресурс]. Режим доступу: http://www.ilf-ua.com/ru/publications/articles/kogdamedicinavukrainesmozhetvospolzovatsyapreimuschestvamigosudarstvenno/

40. Семенин А.А. Аналитическая записка на тему: Развитие здравоохранения на основе ГЧП. Сравнительный анализ. Центр развития ГЧП. [Електронний ресурс]. Режим доступу: http://www.pppi.ru/sites/default/files/library/p2.pdf

41. Соединенное Королевство. (2010) Європейська обсерваторія систем та політики в охороні здоров'я. [Електронний ресурс]. Режим доступу: http://www.euro.who.int/__data/assets/pdf_file/0011/155558/E94836sumR.pdf

42. *Соколов В.Н.* "Государственно-частное партнерство в российском здравоохранении". (2015) Analytic note prepared for the project 'Building capacity of civil society organizations of countries of BRICS' with the support of OXFAM in Russia. *10.02.2015. At:* http://neravenstvo.com/?p=847

43. Спільний Наказ Міністерства охорони здоров'я України та Комітету статистики України № 640/663 "Про затвердження форм первинної облікової документації та форм звітності з питань ВІЛ-інфекції/СНІДу та інструкції щодо їх заповнення" від 24 грудня 2004 р.

44. Стенограмма круглого стола "Управление рисками в проектах ГЧП в сфере здравоохранения", 10 февраля 2015 года. [Електронний ресурс]. Режим доступу: http://www.gsom.spbu.ru/research/ppp/diskussii/diskussii1/stenogramma/

45. Темирбекова Г. (2014) "Государство и бизнес на страже здоровья" – Экспресс К, № 215 (18054) от 20.11.2014. [Електронний ресурс]. Режим доступу: http://www.express-k.kz/show_article.php?art_id=101488

46. Уварова А.А., Глушков С.А. Мировой опыт и перспективы использования ГЧП в России // Экономика и финансы. № 6 (19). 2008. С. 22–24

47. Ahmed F. Nisar N.(2010) 'Public-private partnership scenario in the health care system of Pakistan', *East Mediterr Health J,* 2010 Aug; 16(8):910-2.

48. Barlow, J., Roehrich, J., Wright, S. (2010) 'De facto privatization or a renewed role for the EU? Paying for Europe's healthcare infrastructure in a recession', *J R Soc Med,* February 1, 2010, 103: 51–55. doi:10.1258/jrsm.2009.090296

49. Build and Beyond: The (r)evolution of healthcare PPPs, at: http://www.pwc.com/us/ppphealth

50. Cappellaro, G. and Longo, F. (2011) Institutional public private partnerships for core health services: evidence from Italy.' BMC Health Serv Res. 2011; 11: 82. Published online 2011 Apr 19. doi: 10.1186/1472-6963-11-82

51. Cuttaree, V. and Mandri-Perrott, C. (2011) 'Public-Private Partnerships in Europe and Central Asia'. Washington: The International Bank for Reconstruction and Development/The World Bank

52. EC (2004) European Commission Resource Book on PPP Case Studies. Brussels, June 2004. Available at: http://europa.eu.int/comm/regional_policy/sources/docgener/guides/pppguide.htm

53. EC (2003) European Commission Guidelines for Successful Public-Private Partnerships, [Електронний ресурс]. http://ec.europa.eu/regional_policy/sources/docgener/guides/ppp_en.pdf

54. Ernst&Young (2012) Как обеспечить успех ГЧП в России. Обзор за 2012 год. Available at: http://www.ey.com/Publication/vwLUAssets/Russian-PPP-Survey-2012/$FILE/Russian-PPP-Survey-2012.pdf

55. Healthcare UK (2013) Healthcare UK: Public-Private Partnerships UK Trade and Investment. Available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/266818/_PPP_28.11.13.pdf

56. HIV/AIDS Policy (2012) Fact Sheet. Kaiser Family Foundation. Available at: https://kaiserfamilyfoundation.files.wordpress.com/2013/01/8335.pdf

57. Gaffney, D.; Pollock, Allyson M.; Price, D.; Shaoul, J. (1999), 'PFI in the NHS: is there an economic case?' *BMJ* 1999; 319 doi: http://dx.doi.org/10.1136/bmj.319.7202.116

58. Gerrard, M. What are public-private partnerships, and how do they differ from privatizations? "Finance & Development", 2001, Vol. 38, N 3. Available at: http://www.imf.org/external/pubind.htm

59. Gotsadze, T. (2014) Cost of Integrated Service Model for Drug Using Pregnant Women in Ukraine. Available at: http://www.unicef.org/ukraine/EN_Costing.pdf

60. Guowei, D (2007). HIV-1 and STIs prevalence and risk factors among miners and female sex workers in the mining areas of Gejiu, Yunnan, China. Programme and abstracts of the 4th IAS Conference on HIV Pathogenesis, Treatment and Prevention, July 22-25, 2007: Sydney, Australia. Abstract MOAC105.

61. Jones, C., Parker, M., Ten Bos, R. (2005) *For Business Ethics.* New York: Routledge.

62. Lee, S. (2006) Public-Private Partnerships for Development. A Handbook for Business. Committee for Economic Development/USAID. Washington, DC.

63. LHSI (2009) "Профілактика ВІЛ/СНІДу у сфері праці", Labour and Health Social Initiatives, Київ, 2009 http://www.lhsi.org.ua/images/uploads/files/_info%20center/biblioteka/_case-management%20HIV_AIDS/_REPORT%20GTZ_investigation_FINAL.pdf

64. McKee M., Edwards N., Atun, R. (2006) Public-private partnerships for hospitals. Bulletin of the World Health Organization, 2006, p. 891-893.

65. NHS European Office (2011) 'The search for low-cost integrated healthcare'. Available at: http://www.nhsconfed.org/~/media/Confederation/Files/Publications/Documents/Integrated_healthcare_141211.pdf

66. Nikolic I.A., Maikisch H. Public-private partnerships and collaboration in the health sector. An overview with case studies from recent European experience. – Washington: The International Bank for Reconstruction and Development / The World Bank, 2006. (HNP Discussion Paper. – 2006, October). – 27 p. – P. 2.

67. Njau, RJ, Mosha, F., De Savigny, D. (2009) 'Case studies in public-private-partnership in health with the focus of enhancing the accessibility of health interventions', *Tanzania journal of health research,* Oct; 11(4):235-49

68. Parliament UK (2011) Lessons from PFI and other projects - Public Accounts Committee. Available at: http://www.publications.parliament.uk/pa/cm201012/cmselect/cmpubacc/1201/1201.pdf

69. Parliament UK (2010) 'HM Revenue and Customs' estate private finance deal eight years on'. Available at: http://www.publications.parliament.uk/pa/cm200910/cmselect/cmpubacc/312/312.pdf

70. Pharmaccess (n.d.) Developing Public-Private Partnerships to fight HIV/AIDS, Tuberculosis and Malaria. A practical guideline for private companies. Available at: http://www.pharmaccess.org/FileLib/PPP_brochure.pdf

71. PPP Reference Guide Available at: http://www.scribd.com/doc/236899332/PPP-Reference-Guide

72. Press Association (14 June 2005), Customs criticised over offshore property deal, *The Guardian.*

73. PUBLIC-PRIVATE INVESTMENT PARTNERSHIPS An innovative approach for improving access, quality, and equity in healthcare in developing countries. - The Global Health Group University of California, San Francisco August 2009. Available at: https://www.wiltonpark.org.uk/wp-content/uploads/ppip-background-reading.pdf

74. Pulkovo Airport (n.d.) Pulkovo Airport Public-Private Partnership Agreement (PPP Agreement) [Електронний ресурс]. Режим доступу: https://www.pulkovoairport.ru/en/about/agreement/

75. Reform UK (n.d.) Public-private healthcare partnership in Valencia, Spain, available at: http://www.reform.uk/wp-content/uploads/2014/11/Healthcare_in_Spain.pdf

76. The Global Health Group (2009) *Public-Private Investment Partnerships: An innovative approach for improving access, quality and equity in healthcare in developing countries*. San Francisco: The Global Health Group, Global Health Sciences University of California, San Francisco.

77. UK Treasury (2011) Seventeenth Report. Private Finance Initiative. [Електронний ресурс]. Режим доступу: http://www.publications.parliament.uk/pa/cm201012/cmselect/cmtreasy/1146/114602.htm

78. UNAIDS (2014) '90–90–90. An ambitious treatment target to help end the AIDS epidemic'. UNAIDS: Geneva.

79. UNAIDS (2013) Smart Investments. Geneva: UNAIDS.

80. UNAIDS (2012) Investing for results. Results for people: a people-centred investment tool towards ending AIDS. Geneva: UNAIDS. Available at: http://www.unaids.org/sites/default/files/media_asset/JC2359_investing-for-results_en_1.pdf [accessed 17 July 2015].

81. UNAIDS (2009) 'HIV-related Public-Private Partnerships and Health Systems Strengthening'. UNAIDS: Geneva. Available at: http://data.unaids.org/pub/Report/2009/jc1721_publicprivatepartnerships_en.pdf

82. USAID (2014) 'Types of Business Analysis. An Additional Help for ADS Chapter 597'. New Edition Date: 06/09/2014 USAID: Washington, DC. Available at: https://www.usaid.gov/sites/default/files/documents/1868/597sah.pdf

83. Vrangbaek, K. (2008) 'Public-Private Partnerships in the health sector: the Danish experience', *Health Econ Policy Law,* 2008 Apr;3(Pt 2):141-63. doi: 10.1017/S1744133108004465.

84. WHO (2013) Consolidated guidelines on the use of antiretroviral drugs for treating and preventing HIV infection.

85. WHO UNODC, UNAIDS (2012) TECHNICAL GUIDE FOR COUNTRIES TO SET TARGETS FOR UNIVERSAL ACCESS TO HIV PREVENTION, TREATMENT AND CARE FOR INJECTING DRUG USERS.

86. WHO (2008) Toolkit for monitoring health systems strengthening: health systems financing, WHO, Geneva.

87. WHO (2007) Everybody's business. Strengthening health systems to improve health ourcomes, WHO, Geneva.

88. WHO (2000b) Health Systems: Improving Performance: The World Health Report, 2000. – [Електронний ресурс]. Режим доступу: http://www.who.int/whr/2000/en/

89. WHO (2000a) Who pays for health, WHO, Geneva.

90. Wilson, D., Yakusik, A., Kerr, C., and Avila, C. (2013) 'HIV resource needs, efficient allocation and resource mobilization for the Republic of Belarus' Available at: http://optimamodel.com/pubs/belarus-report.pdf

91. World Bank (2014) Public-Private Partnerships. Reference Guide. 2.0. International Bank for Reconstruction and Development / The World Bank, Asian Development Bank, and Inter-American Development Bank. Washington, DC.

92. World Bank (n.d.) Public-Private Partnership In Infrastructure Resource Center. Available at: http://ppp.worldbank.org/public-private-partnership/