



# OVERSIGHT OF PUBLIC-PRIVATE PARTNERSHIP PROJECTS: THE CASE OF HIGHWAYS FUNDED BY THIS SYSTEM IN GALICIA

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Galicia (hereinafter, Consello de Contas)*

# Some data about Galicia:

## Geographical location:

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de Galicia



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## Geographical location:

Consello de Contas  
de Galicia



## Some data about Galicia:

## Certain social and economic data:

- Population (2015): 2,731,406 inhabitants
- Birth rate (0/00) (2013): 7.2
- Life expectancy at birth (2013): 82.6 years
- Economically active pop. rate (%) (2015, I): 53.5
- Unemployment rate (%) (2015, I): 21.8
- Galicia GDP: (2014) € 54,658,440
- Budget of the Autonomous Community, Regional Government of Galicia (2015): € 9,790,361,592
- Per capita income: € 19,954 €. 87% average in Spain, similar to the EU28 average.

# Consello de Contas of Galicia

Consello de Contas  
de Galicia



- Created by virtue of Spanish Organic Act no. 1/1981, of April 6, on the Statute of Autonomy of Galicia
- Starting date of operations: 1 March 1991
- Oversight function
- Means:
  - Personnel: 87 employees, 3 ministers and one General Secretary.
  - Budget: € 6,484,978 in 2015

# Public-private partnership formulas

1. Shadow toll and public-private partnership.
2. Shadow toll as an infrastructure funding mechanism in Galicia.
  - a) *Concession agreements paid by the user.*
  - b) *Sociedad Pública de Inversiones, S.A (SPI)*
  - c) *Autopista Alto de San Domingo-Ourense S.A., S.A. (Aceousa)*
  - d) *Shadow toll*



# Public-private partnership formulas

## 1. Shadow toll and public-private partnership

In Spain, there is no one widely accepted definition of public-private partnership (hereinafter, PPP)

The European Union's Green Book describes PPPs as the different forms of cooperation between public authorities and the world of business which aim to ensure the funding, construction, renovation, management or maintenance of an infrastructure or the provision of a service.

# Public-private partnership formulas

## 1. Shadow toll and public-private partnership

- Traditional method
- “Spanish” system
- “German” model
- Shadow toll
- Administrative concession



# Public-private partnership formulas

## 2. Shadow toll and public-private partnership.

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The core elements that define PPPs are the following:

- relatively long duration of the relationship,
- the method of funding the project (in part ensured by the private sector),
- the role of the economic operator, who participates at different stages of the project (design, completion, implementation and funding),
- the distribution of risks between the public partner and the private partner, to whom the risks generally borne by the public sector are transferred.

# Public-private partnership formulas

Why pay special attention to PPP formulas?

- Fulfillment of public deficit limits set by the European Union.
- This formula allows carrying out public investment projects without affecting current public deficit and debts burdening future budgets.
- How? The private partner is required to assume some of the risks arising from the transaction, in particular, the construction risk and the demand risk (use of the infrastructure) or the availability risk (quality of the service).

# BENEFITS AND RISKS (A PRIORI)

## ✓ **Benefits:**

- Intergenerational equity
- Transfer of risks to the private sector
- Efficiency of the private sector?

## ✓ **Problemas:**

- Future budgetary sustainability (if there are payments from the Administration)
- Room for manoeuvre for future governments (if there are payments from the Administration)
- Uncertainty associated to long-term agreements
- Major economic costs a priori (funding and benefits) Offset by efficiency gains?

# Problems derived from the PPPs in the current context

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- ✓ Increase of the cost of indebtedness
- ✓ Reduced depreciation periods are offered by banks
- ✓ Less leverage of projects
- ✓ Committed funding only available at the end of the procurement process
- ✓ Lack of manpower with special skills on the field of the public sector (absence of PPP office)
- ✓ Absence of boundaries to the commitments that may be undertaken

## Examples of PPP in Spain



- ✓ Shadow toll: demand fee (highways)
- ✓ Availability fee (hospitals)
- ✓ Building rights and operating leasing (courts)
- ✓ Partnership agreement between public sector and private sector (energy efficiency)

**Common factor:** deferred payment methods

# Public-private partnership formulas



The Administration of the Regional Government of Galicia has used public works concession agreement for the construction of highways and by virtue of this system, the new hospital of Vigo has been put out to tender.

The plans announced by the Government and partly set forth in the budget for financial year 2011, are expected to promote the use of this formula in the field of healthcare and transport infrastructures. However, the use of this formula has been generally reduced and for the moment is on the back burner.

Agreements signed under public-private partnership model and concession of public works							
Projects	GENERAL ADMINISTRATION					SERGAS	
	AG-56 Santiago-Brion- As Galanas (N- 550)- Pardiñas (AG-56)	Fast lane VRG-4.1 O Salnes	Fast lane of Barbanza VRG-1.1	A52- Portuguese border VACA- 52 Celanova	Highway Costa da Morte	Construction of public works New Hospital of Vigo	Projects
<b>Amount of the awarding investment</b>	103,340	43,960	93,830	95,920	199,413		<b>352,460</b>
Annual payment commitments							
Year	Investment	Investment	Investment	Investment	Investment	Fees	Investment
<b>2012</b>	7,595	3,374	8,609	6,049			
<b>2013</b>	7,894	3,458	9,444	6,352			
<b>2014</b>	8,052	3,545	9,922	6,670	25,821	25,297	<b>41,177</b>
<b>2015</b>	8,213	3,634	10,423	7,000	26,467	25,352	<b>41,121</b>
<b>2016</b>	8,377	3,726	10,951	7,344	27,128	25,430	<b>41,043</b>
<b>2017</b>	8,461	3,820	11,505	7,702	27,807	25,577	<b>40,896</b>
<b>2018</b>	8,546	3,916	12,087	8,074	28,502	25,649	<b>40,824</b>
<b>2019</b>	8,631	4,014	12,699	8,464	29,214	28,174	<b>38,299</b>
<b>2020</b>	8,718	4,115	13,341	8,869	29,945	28,264	<b>38,210</b>
<b>2021</b>	8,805	4,174	14,017	9,289	30,693	30,169	<b>36,304</b>
<b>2022</b>	8,893	4,234	14,726	9,729	21,461	29,663	<b>36,810</b>
<b>2023</b>	8,982	4,295	15,471	10,171	21,247	29,757	<b>36,716</b>
<b>2024</b>	9,072	4,357	15,999	10,633	33,053	29,852	<b>36,622</b>
<b>2025</b>	9,162	4,419	16,545	11,116	33,880	28,494	<b>37,979</b>
<b>2026</b>	9,254	4,483	17,109	11,621	34,727	28,589	<b>37,885</b>
<b>2027</b>	9,346	4,548	17,693	12,150	35,595	33,501	<b>32,972</b>
<b>2028</b>	9,440	4,614	18,297	12,702	36,485	33,612	<b>32,861</b>
<b>2029</b>	9,534	4,681	18,921	13,279	37,397	31,361	<b>35,112</b>
<b>2030</b>	9,630	4,749	19,566	13,882	38,332	31,465	<b>35,008</b>
<b>2031</b>	9,726	4,818	20,234	14,513	39,290	31,569	<b>34,904</b>
<b>2032</b>	9,823	4,889	20,845	15,173	40,272	31,674	<b>34,800</b>
<b>2033</b>	9,921	4,960	21,471	16,668	41,279	26,384	<b>40,089</b>
<b>2034</b>	9,948	5,033	22,115	16,152	42,311		
<b>2035</b>			22,778	16,662	43,369		
<b>2036</b>				17,167			
<b>2037</b>				17,696			
<b>2038</b>				18,226			
<b>2039</b>				3,452			
							<b>(Thousand Euros)</b>

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**Public-private  
partnership formulas**



# Public-private partnership formulas

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## 1. Shadow toll as an infrastructure funding mechanism in Galicia.

- *Concession contract paid by the user.*
- *Sociedad Pública de Inversiones, S.A (SPI)*
- *Autopista Alto de San Domingo-Ourense S.A., S.A. (Aceousa)*
- *Shadow toll*

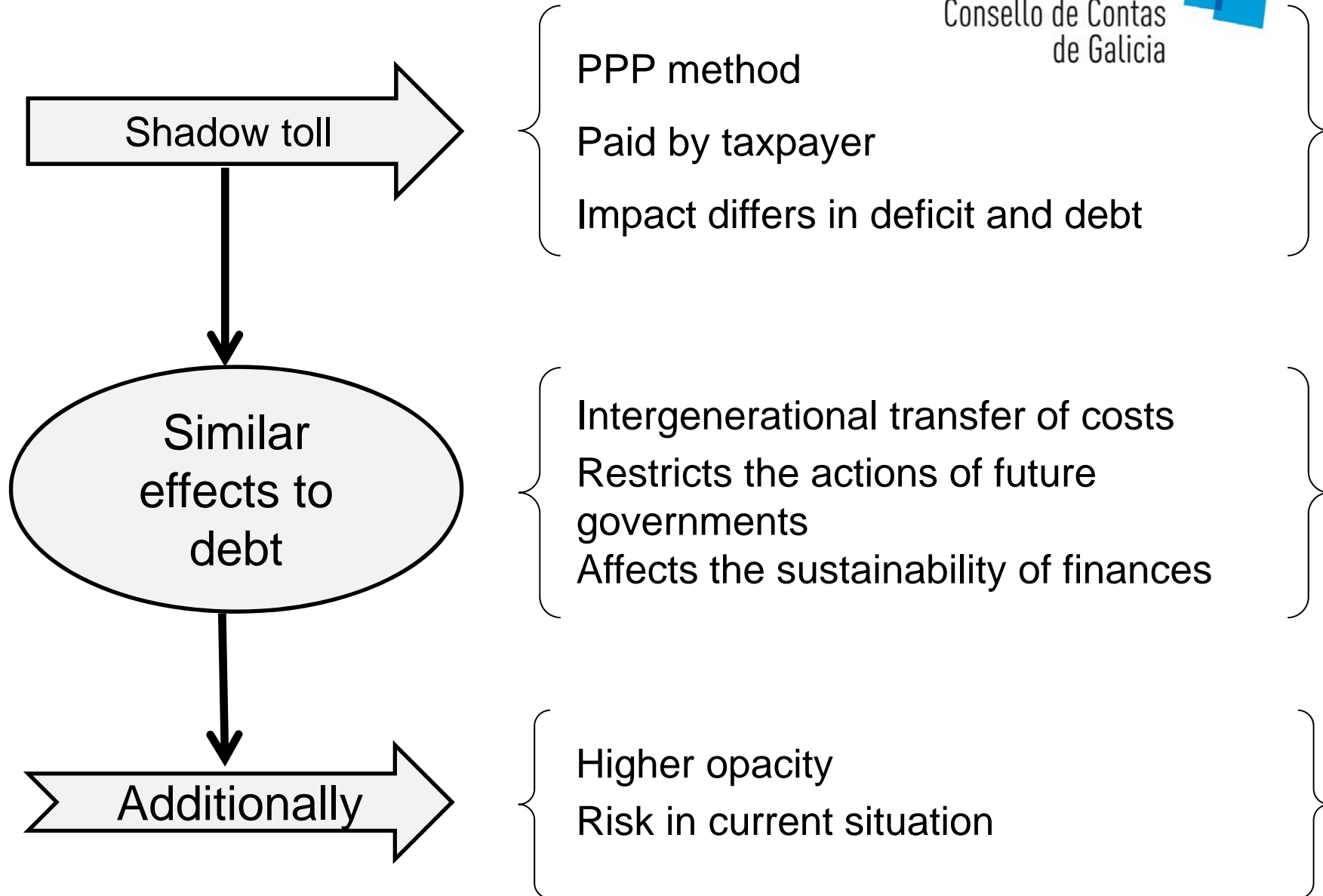
# Public-private partnership formulas

## 2. Shadow toll as an infrastructure funding mechanism in Galicia.

- Notwithstanding other effects, all PPP formulas have in common that the payment of the infrastructure may be deferred and/or paid in instalments: extra-budgetary funding.
- However, in most cases payments shall be deferred to the budget of future financial years. Thus, the fact that the investment is not recorded in today's budget does not prevent a future budgetary impact.
- Thought needs to be given to the intertemporal effect in payments and/or use of infrastructures.

# Shadow toll and public-private partnership (PPP)

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# SHADOW TOLL



## 1. Shadow toll as an infrastructure funding mechanism in Galicia.

**a) Concession agreement paid by the user:** *This is a traditional concession agreement: Highway A Coruña-Carballo, Puxeiros-Baiona, built by a public company that was subsequently privatized.*

**b) Sociedad Pública de Inversiones, S.A (SPI):** *Holding company that goes into debt to pay the works that are being carried out upon request. These companies were created with the purpose of placing indebtedness out of the Administration's balance sheet. Nevertheless, SPI is currently included within the public administration sector.*

# SHADOW TOLL

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## 2. Shadow toll as an infrastructure funding mechanism in Galicia.

### c) **Autopista Alto de San Domingo-Ourense S.A., S.A. (Aceousa):**

*this work was originally conceived as a toll road and, as a consequence, the debt burden of the (public) company was not taken into account for the calculation of the Community's deficit. Nevertheless, the decision of changing it into a toll-free highway was subsequently taken. Thus, the company was reclassified to become part of the Public Administration and its debt burden started to be taken into account in the calculation of the Community's deficit.*

### d) **Shadow toll:** *Highways of Salnés, Santiago-Brión, Barbanza, A-52-Celanova and Carballo-Berdoias. Initially, the mentioned highways decided to use a demand fee system and thus, payments are directly related to the number of vehicles in circulation. Currently, they are*

# SHADOW TOLL

## 3. Shadow toll as an infrastructure funding mechanism in Galicia.

- The current context of the economic crisis leads to an important restriction in public resources, thus shadow tolls provide an incentive to use these formulas since they seem to be a way to mitigate the decrease of public investments with no immediate impact in line with the administration's funding needs.
- Nevertheless, non-accounting consolidation does not change the economic substance of these transactions: The Administration has made an investment that has to be paid to a private owner. Thus, it is a non-financial debt.

# SHADOW TOLL

4. Shadow toll as an infrastructure funding mechanism in Galicia.
  - That is the reason why these mechanisms shall be regulated and used in such a way as to be compatible within the limits of the sustainability of public finances. Likewise, these mechanisms shall not transfer beyond reasonable construction costs and shall not shift the burden of investment to future generations. Finally, they shall not to hinder the room for manoeuvre and capacity to act of future governments.



# PPP in Galicia

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In which areas have been applied?



Highways  
Healthcare area

What legal process has been followed?



Public works concession  
agreement

What risks have been transferred?



Before: Demand  
Now: Availability

It has been used much or not?



Expected payments: 200 Million  
Euros per year

- ✓ 4-5 % non-financial costs
- ✓ 50 % Chapter 6
- ✓ > Higher gross savings



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Highways funded by shadow tolls





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Highways funded by shadow tolls



## LEGAL ANALYSIS OF PUBLIC WORKS CONCESSION AGREEMENTS

TABLE 1: BASIC INFORMATION ON AUDITED CONTRACTS

Highway	Contract date	Successful bidder	Duration	Expected administration payments (Million Euros at current prices)	Current state
SPLITTING (CHANGE INTO HIGHWAY) OF SALNÉS	16 SEPT. 2005	COPASA (40%), PUENTES (30%) AND CAIXANOVA (30%)	30 YEARS	186.5	OPEN IN JULY 2008
HIGHWAY SANTIAGO-BRIÓN	15 SEPT. 2005	DRAGADOS (70%), EXTRACO (15%), FRANCISCO GÓMEZ AND CÍA (15%)	30 YEARS	390.9	OPEN IN FEBRUARY 2008
SPLITTING (CHANGE INTO HIGHWAY) OF BARBANZA	12 MAY 2006	AGRUPACIÓN ITINERE (SACYR) AND CAIXAGALICIA	30 YEARS	389.6	OPEN IN DECEMBER 2008
HIGHWAY A-52-CELANOVA AND ANCILLARY WORK UNTIL THE PORTUGUESE BORDER	19 MAY 2009	COPASA (70%), EXTRACO (30%)	30 YEARS	370.7	UNDER CONSTRUCTION

SOURCE: OWN FORMULATION. THE EXPECTED PAYMENTS WERE CALCULATED BY THE AUDITING TEAM THROUGH THE COLLECTION OF AVAILABLE INFORMATION

## PPP in Galicia

### Budgetary and extra-budgetary funding (Million Euros)

Investments	2009	2010	2011	2012
Budgetary	1.462	1.250	804	782
Extra-budgetary	38	270	504	422
Total	1.500	1.520	1.308	1.204

### Deferred payment annuity of infrastructures 2011-2015 (Million Euros)

Type of commitment	2011	2012	2013	2014	2015
Highway fee	26	26	27	54	56
Hospital of Vigo fee	0	0	0	67	67
Other methods of deferred payment of works	60	62	72	72	72
Total	86	88	99	193	195

# LEGAL ANALYSIS OF PUBLIC WORKS CONCESSION AGREEMENTS

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## A. Processing of the procurement file

1. Preparatory actions: feasibility studies
2. Tendering and procurement procedures.
  - Award criteria: design and regulation of bidding documents, application and technical assessment reports, selection of the contractor.
3. Processing of two calls for concession tenders of the highway Carballo-Berdoias
  - Tender: resolution by mutual agreement and annulment of the tender process

## B. Construction phase

1. Timescale for construction

# LEGAL ANALYSIS OF PUBLIC WORKS CONCESSION AGREEMENTS

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## A. Processing of the procurement file

### 1. Preparatory actions: feasibility studies.

Feasibility studies were considered **insufficient** given that only economic-financial feasibility studies were carried out. Nevertheless, the importance of the works recommends carrying out a study of the economic-social impact, an operational risk study and a study on the strategic support for the infrastructure. Feasibility studies do not justify what PPP formula is the most appropriate from a budgetary point of view.



# LEGAL ANALYSIS OF PUBLIC WORKS CONCESSION AGREEMENTS

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## A. Processing of the procurement file

### 2. Tendering and procurement procedures:

- **Lack of transparency in the selection:** the bidding documents do not establish the assessing guidelines.
- **Lack of leadership of the Administration during the selection process:** The supervision, analysis and study of technical reports carried out by private companies did not play an active role.
- **High margin of discretion:** Technical reports establish the appraisal guidelines once the proposals of the tenderers are opened. Likewise, the score granted to the different issues to be assessed is not uniform throughout the projects and, in some cases, score differs in the same tender.

# LEGAL ANALYSIS OF PUBLIC WORKS CONCESSION AGREEMENTS

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## A. Processing of the procurement file

3. Processing of two calls for concession tenders of the highway

Carballo-Berdoias

- Tender: *resolution by mutual agreement and annulment of the tender process.*

# LEGAL ANALYSIS OF PUBLIC WORKS CONCESSION AGREEMENTS



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## B. Construction phase

**1. Timescale for construction:** Out of the three highways open to traffic, two of them (highways of Barbanza and Santiago-Brión) were constructed within the deadlines set forth in the agreement. The construction of the highway of Salnés was delayed for 6 months out of the 30 months initially set out.

**2. Construction risk, additional costs and modifications:** The three already built highways have triggered price changes during their construction phase. As a consequence of the foregoing changes, the corresponding rebalancing file was processed.

**3. On a general basis,** it is questionable whether these changes can deal with new requirements or unexpected situations and are not derived from construction risks, which shall be borne by the licensee, or

# LEGAL ANALYSIS OF PUBLIC WORKS CONCESSION AGREEMENTS

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## **C. Operating phase: Control carried out by the Administration**

### **Control carried out by the Administration:**

The fulfillment of the obligations to be assumed by the Administration regarding the control of the concession was properly verified.

Nevertheless, the monitoring of the corresponding reserve account for replacement investment to constitute by the licensees has not been performed.

# LEGAL ANALYSIS OF PUBLIC WORKS CONCESSION AGREEMENTS

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## C. Operating phase: Control carried out by the Administration

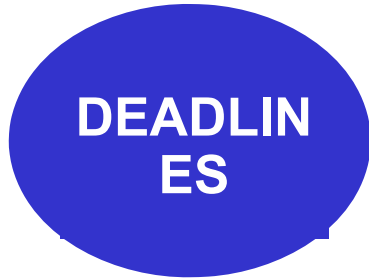
**Demand risk:** To date, traffic misbehaviour with regard to estimates only leads to uncertainty on the economic viability of concessions and directly affects the fulfilment of the economic-financial plans submitted by licensees and, as a consequence, the accounting statements and the profitability of the project and shareholders.

This situation shows a light improvement for this financial year.

Moreover, the overly optimistic forecasts carried out by the licensee may have had some economic downward effect on the bid rate, which played a major role during the award of the procurement contract.

# In summary:

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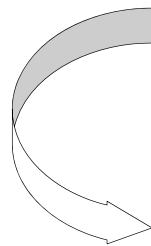
Were deadlines met?

YES

EFFECTIVE

---

There were modifications in the construction phase?



YES

INEFFECTIVE

REBALANCING

Between 9% and 29% of the initial budget.  
In general terms, they do not deal with unexpected situations.  
Direct monetary contributions instead of changing deadlines or prices.

# ECONOMIC ANALYSIS



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## A. Budgetary stability and impact on the deficit

### 1. Impact of public-private partnership agreements on deficit and debt

- Out of the five tendered highways, only three of them (Salnés, Santiago-Brión and Barbanza) have been considered public assets. As a consequence of the foregoing, they have been included in the deficit and public debt.
- As regards highway A-52-Celanova, there are no guidelines for its accounting treatment.
- In the case of the highway Carballo-Berdoias, the Public Administration shall be responsible for establishing whether assets are considered private or not. Thus, the impact on the deficit will

# ECONOMIC ANALYSIS

## A. Budgetary stability and impact on deficit

2. Treatment of Galician highways in the national accounting system: considered as public or private assets.

- The decision of considering the mentioned three highways as public assets arose from the inclusion of a clause that set a ceiling for the licensee's total expenses. Although we may not agree on those criteria, the Galician Administration should have recognized the role of competent bodies (either at a national or at European level) before awarding the corresponding procurement contracts.



# ECONOMIC ANALYSIS

## A. Budgetary stability and impact on deficit

3. Impact on deficit and public debt of Galician highways:  
opportunity to construct with budgetary funding.

- Public deficit restrictions were the main argument used to choose the concession system.
- The budgetary outcome of these financial years reveals that there was sufficient margin to carry out the construction of the infrastructures using the public budget.

## ECONOMIC ANALYSIS

### B. Transparency of budget and asset information

- The Budget Control Act of 2011 improves the provision of specific information and control of these agreements. Formerly, budgetary documents did not provide information at all.
- The amount included in expenditure commitments for future financial periods are not recorded on a consistent basis.
- The financial statements of the Administration do not provide information on the highways built using “shadow” toll system.

## ECONOMIC ANALYSIS

### C. Comparative analysis between public system and work concession

- 1. NPV (net present value) method.
- 2. Discount rate used: 4.5% on the basis of the payment of the State indebtedness.
- 3. Inflation: 2.5%
- 4. Payments in the public system: the construction costs, operating expenses and replacement expenditure have been calculated on the basis of the tendering process and the operating draft.
- 5. Payments in the public-private system (PPP): demand fee (shadow toll), economic rebalancing, indirect administrative costs

## ECONOMIC ANALYSIS

### C. Comparative analysis between public system and work concession

#### 6. Results

- Favourable results using the public system in two highways (Santiago-Brión and Salnés) despite the traffic misbehaviour of these roads.
- As regards the highway of Barbanza, the concession system has a lower cost at the issuance date of this report.

## ECONOMIC ANALYSIS

### C. Comparative analysis between public system and work concession

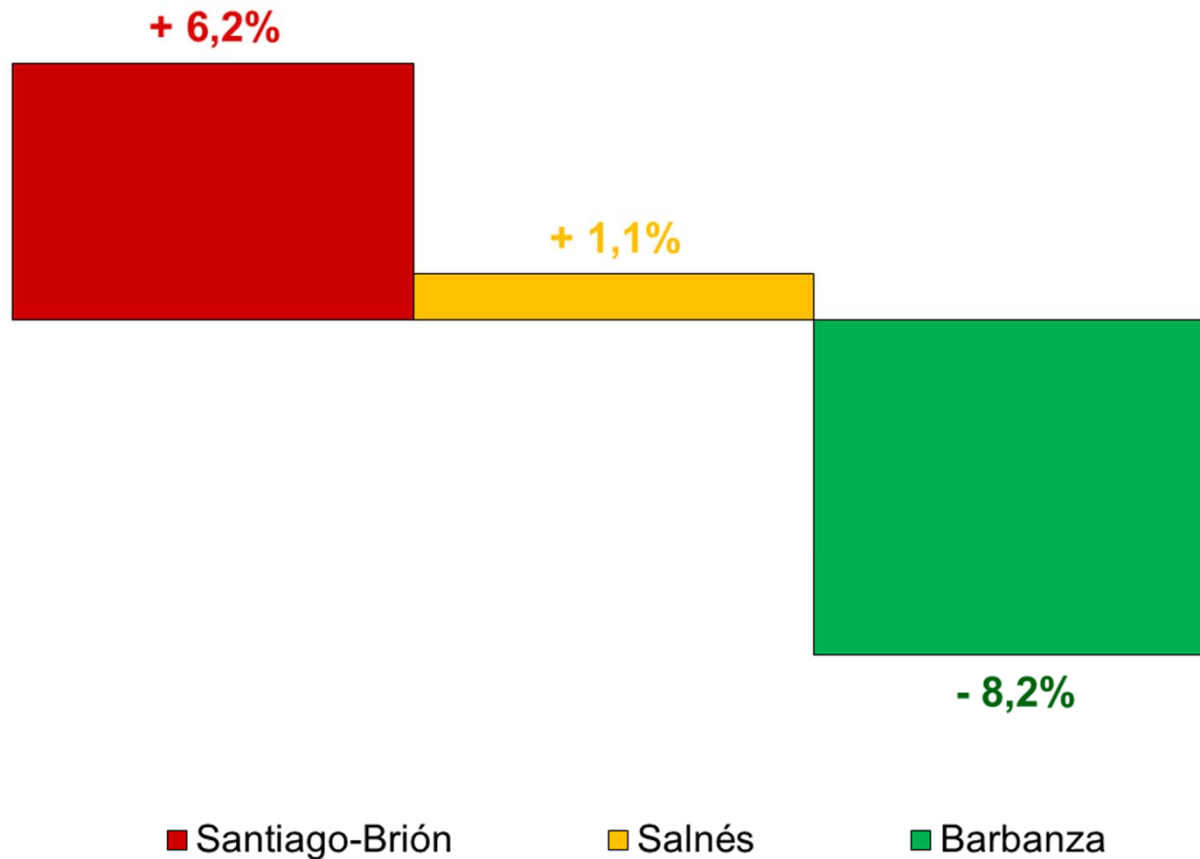
In any event, the long duration of public works concession agreements contribute to the **open-endedness of total final costs** in the public-private system and require a **periodical assessment** in order to incorporate the changes that have been registered in the development of traffic and the potential compensations that may be done by other items

# Public-private comparator (I)



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Cost of the PPP model vs. public model



## Public-private comparator (II)

Highways	Traffic deviations compared to forecasts	Annulment of tender process
Santiago-Brión	-31	25
Salnés	-19	22
Barbanza	-29	27

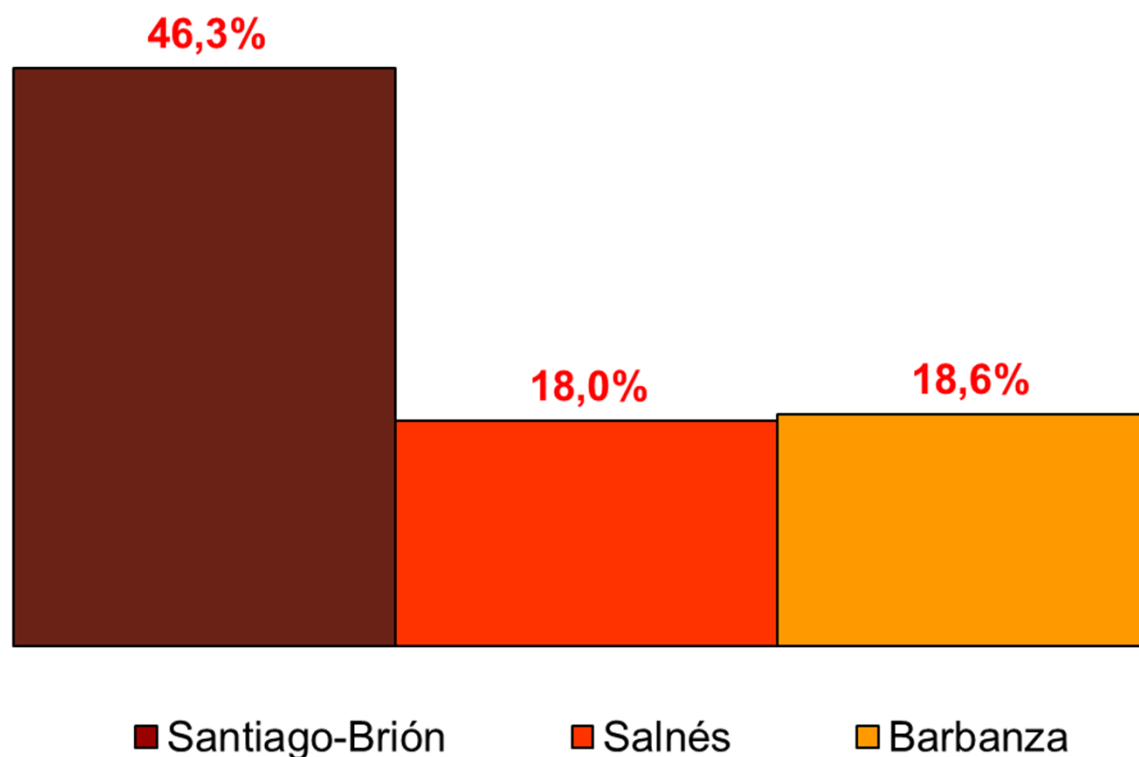
**Correlation between margin of error in the estimates and annulment of the tender process:** old acquaintances of traditional procurement  
Demand risk and lack of compensation: **ongoing assessment**  
Losses of the licensee and **viability of concessions**

# Public-private comparator (III)



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Additional cost derived from the PPP model



Cheapest public system in spite of further subsequent modifications



## ECONOMIC ANALYSIS



### D. Sustainability and future impact on public accounts

- The use of certain methods of payment for funding public infrastructures has assumed even **greater importance** in the budget of the Community.
- According to the latest budget submitted, it represents more **than the 38% of the total estimated investment**. The use of these sources of funding for transport and healthcare infrastructures may have a significant budgetary impact given the development of already undertaken actions amounting to **200 Million Euros** per year

## ECONOMIC ANALYSIS

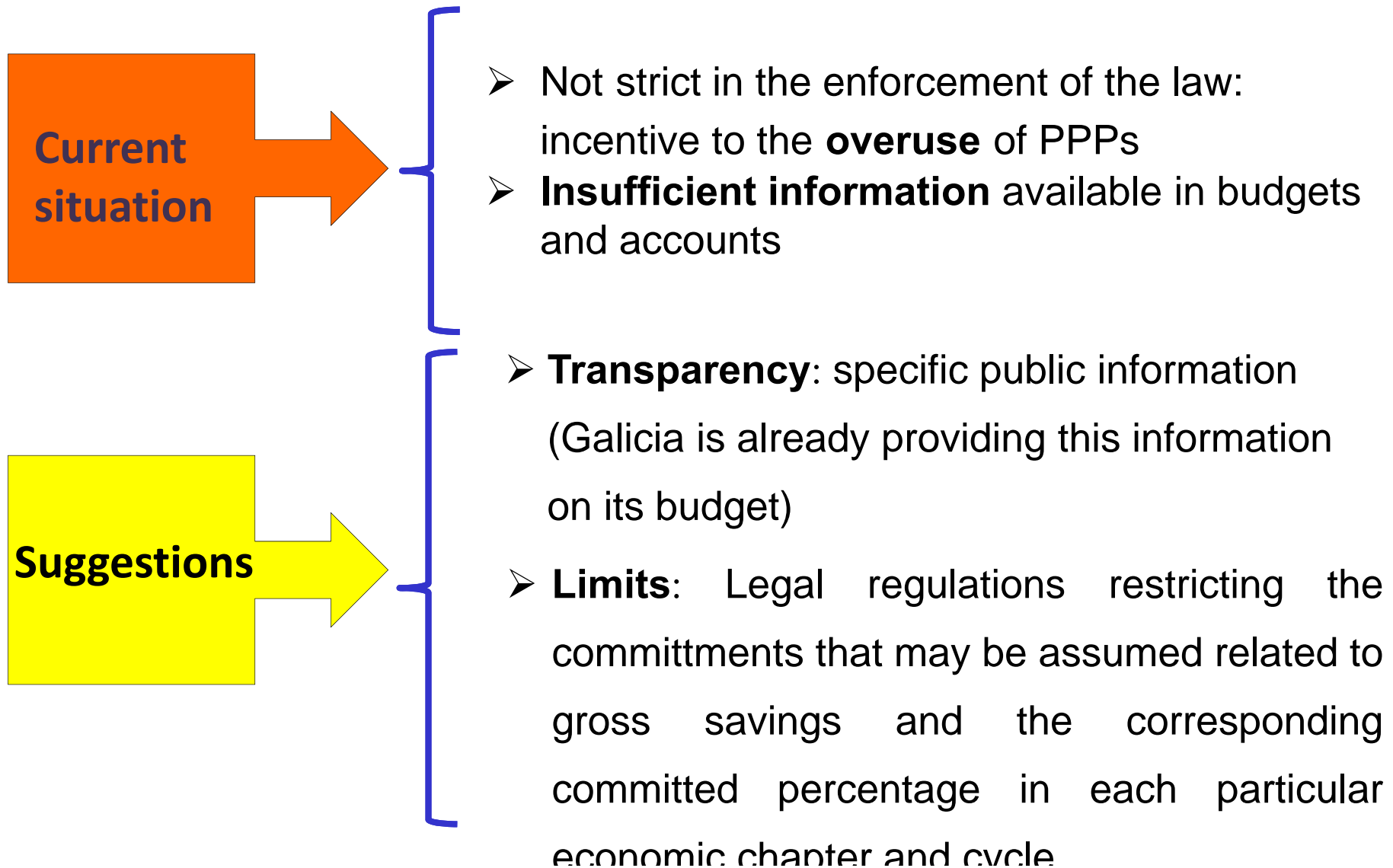


### D. Sustainability and future impact on public accounts

- The plans announced by the Administration may **double** that amount. The total amount would be higher than the gross savings foreseen in the budget approved for financial years 2010 and 2011 and shall represent approximately the **50% of the investment budget of this year.**
- This fact leads to **uncertainty** on the future financial sustainability, **hinders the room for manoeuvre** of future governments and shifts the burden of current investment to future generations.

# Budgetary sustainability and future impact

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## **EFFECTS OF THE AUDIT REPORT**

### **PRONOUNCEMENT:**

After presenting the report in June 2011, the Regional Ministry of Economy and Finance, commissioned by the Parliament of Galicia, was in charge of drafting a tax rule in order to improve the control and set a ceiling on the use of this instrument.

# EFFECTS OF THE AUDIT REPORT

## Limits:

This limit may be determined by using the following expressions (for its initial in Spanish):

$$\text{NICPP} + \text{IRCPP} < \text{LIM} \times \text{DP}$$

NICPP: Amount of the new investment implemented through PPPs

IRCPP: Amount of the investment made through PPPs calculated on a net basis, in other words, deducting part of the already paid fees, which have been destined to pay the investment made.

DP: Public debt calculated on an ESA basis.

LIM: Percentage that will have to be legally determined and reflects the maximum level of investment made through PPPs that may represent public debt (by the end of 2014 this rate is estimated as 6.3%).

# EFFECTS OF THE AUDIT REPORT



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Martes, 25/10/2011

EL PAÍS edición impresa

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## La Xunta frena la financiación privada forzada por el Consello de Contas

Infraestructuras ya no licitará más obra por el procedimiento de pago aplazado

PABLO LÓPEZ - Santiago - 22/10/2011

Vota ☆☆☆☆☆ Resultado ★★★★★ 13 votos



En la presentación pública de los Presupuestos de 2011, hace un año, el sistema de financiación público-privada (PPP, en sus siglas en inglés) era para la Xunta poco menos

### The Regional Government of Galicia crowds out private funding forced by the Consello de Contas

The General Secretariat for Infrastructures would not launch a call for tender for works through deferred payment procedure

During last year public presentation of 2014 Budget, the public-private funding system (PPP for its initials in English) was for the Regional Government of Galicia [...]

### The Ministry of Finance will request the Consello de Contas to submit a technical proposal for establishing maximum limits in respect of public-private partnership

The Ministry of Finance has informed on Monday that it will request the Consello de Contas to submit a technical proposal for establishing the financial limits in respect of public-private partnership used by the Government of Galicia to [...]

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Santiago de Compostela

## Facenda pedirá al Consello de Contas su propuesta técnica para establecer límites a la colaboración público-privada

La Consellería de Facenda ha informado este lunes de que pedirá al Consello de Contas un dictamen en el que haga una propuesta técnica sobre los límites financieros de la colaboración público-privada de la que ha echado mano el Gobierno gallego para



## CONCLUSIONS

- To improve the control of an increasingly complex instrument.
- To ensure transparency in bidding processes and budget information.
- To enable continued follow-up of the operation of infrastructures.
- To regulate the use of resources to the PPP.



**Thanks for you kind attention**

**Спасибо за внимание**

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**Web side of the Consello de Contas:** [www.ccontasgalicia.es](http://www.ccontasgalicia.es)