

### 1.2.1 Complete the legal and institutional framework for the Public Procurement system

Summary of checks performed by relevant authorities on the steps for which funding is requested, including weaknesses identified and any corrective actions taken

In accordance with the national legal framework on public internal control, financial management and internal audit, the RGF Regulation and the applicable Commission Implementing Decision, the competent authorities conducted a comprehensive verification process for this reform step.

This included the systematic collection and review of relevant evidence by the Ministry of Finance, with internal audit units exercising their functions in accordance with their mandate. The checks and verifications were performed through the relevant layers of the control system, including the units responsible for implementation of this reform step, the Reform Agenda coordination unit in MoF, and the Secretary General of the Ministry.

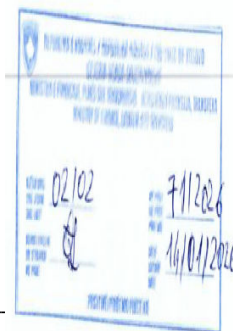
The Reform Agenda coordination structures within the Office of the Prime Minister carried out additional checks and verifications to ensure the completeness and accuracy of the reported information and supporting evidence.

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|------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>The step under review</b>                                                 | Adoption by the Assembly of the new primary laws on Public Procurement and Public Private Partnership aligned with the latest EU acquis and EU standards;                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <b>Baseline</b>                                                              | The new Public Procurement and Public Private Partnership laws not yet adopted.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <b>Deadline of the step</b>                                                  | December 2025                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <b>Actual results</b>                                                        | <p>The draft Law on Public Procurement remains under preparation, as the preliminary and public consultation processes have not yet been completed.</p> <p>The draft Law on Public-Private Partnerships has completed the preliminary consultation phase and has been submitted to the European Commission for consultation.</p> <p>The adoption of both laws has been delayed due to the current political situation, including the early elections for the Assembly of the Republic of Kosovo.</p> <p>Technical assistance under the EuropeAid/140110/DH/SER/XK – Technical Assistance to Support the Implementation of Public Finance Management Reforms in Kosovo project has supported the development of institutional capacities for drafting the Law on Public Procurement.</p>                                                                                              |
| <b>Evidence provided</b>                                                     | <ol style="list-style-type: none"><li>1. Decision No.14 Establishing the Working Group for Drafting law on Public Procurement</li><li>2. Decision No. 23 Establishing the Working Group for law on PPP</li><li>3. Minutes for the draft law</li><li>4. Draft Law on PPP</li></ol>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <b>Checks performed in the verification of the step and related findings</b> | <p>Verifications and checks were carried by the internal control system of the Ministry of Finance and Office of Prime Minister. All relevant evidence was reviewed and summarised in the control checklist, while all supporting documents were properly stored to ensure a complete audit trail.</p> <p>The conducted checks and verifications confirmed that:</p> <ul style="list-style-type: none"><li>• all required documents, as specified in Annex 1 of the Reform Agenda, were provided and attached to this report;</li><li>• the submitted evidence is consistent with the description and requirements of the reform step set out in the Commission Implementing Decision;</li><li>• the submitted documentation confirms the fulfilment of the reform step;</li><li>• the submitted documentation confirms the period in which the reform step was fulfilled.</li></ul> |

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|                                                              | Based on the checks and verifications conducted, the evidence provided confirms the progress of implementation of the reform step and the relevant implementation period. No related findings were identified.                                                                                                                                  |
| <b>Compliance with general principles and DNSH principle</b> | <p>The implementation of the steps does not contravene the general principles outlined in Article 4 and 11(4) of Regulation (EU) 2024/1449 and Article 3 of the Facility Agreement.</p> <p>The implementation of the steps does not contravene the ‘Do No Significant Harm’ principle (DNSH).</p>                                               |
| <b>Double funding</b>                                        | Contribution from third parties were reported for support in the area of public procurement. Based on the contributions identified and reported herein, we consider the support is in line with the RGF guidelines on double funding. There was no third-party contributions that supported the reform component on public private partnership. |
| <b>Clear conclusion on the achievement of the step</b>       | Although significant progress has been made in the preparation of the two draft laws, this step has not been achieved fully by June 2026.                                                                                                                                                                                                       |



**Republic of Kosova**  
**Government**  
**Ministry of Finance**



No: \_\_\_\_\_  
Date: \_\_\_\_/\_\_\_\_/2026

Pursuant to Article 18 of the Law No. 06/L-113 on the Organization and Functioning of the State Administration and Independent Agencies, as well as Article 31 of the Regulation (GRK) -No. 17/2024 on Rules and Procedures of the Government of the Republic of Kosova, the Secretary General of the Ministry of Finance, issues the following:

**DECISION**

1. Establishing the Working Group for the drafting of the Draft Law on Public Procurement (hereinafter referred to as: the Draft Law) is established, in the following composition:
  - 1.1. Bora Duli, MF, Chairperson;
  - 1.2. Antoneta Azemi, MF, Member;
  - 1.3. Gentian Gurra, MF, Member;
  - 1.4. Shqiptar Ibra, MFC, Member;
  - 1.5. Ardi Mehmeti, CPA, Member;
  - 1.6. Flurije Morina, OPM, Member; and
  - 1.7. Arbnore Lluzha-Cakoli, Member, PPRC.
2. During the drafting of the Draft Law, the Working Group is obliged to adhere to the standards for drafting normative acts, as well as the rules and procedures for drafting legislation, in accordance with the legislation in force.
3. During the drafting of the Draft Law, other officials of the institutions of the Republic of Kosovo and other institutions, whom the Chairperson of the Working Group considers necessary, may also participate. All relevant structures and officials are obliged to cooperate and provide the data requested by the Working Group.
4. The Working Group reports to the Minister of Finance.
5. The decision enters into force on the date of signing.

Arton Ahmeti

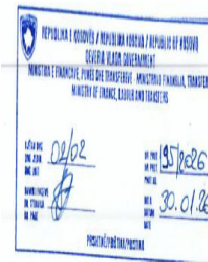
Secretary General

**Sent to:**

- MF Cabinet;
- MF Secretary's Office;
- Working Group Members; and
- MF Archives.



**Republic of Kosovo**  
**Government**  
*Ministry of Finance*



No:  
Date: 29.01.2026

Pursuant to Article 18 of Law No. 06/L-113 on the Organization and Functioning of the State Administration and Independent Agencies, as well as Article 31 of Regulation (GRK) -No. 17/2024 on the Rules and Procedures of the Government of the Republic of Kosovo, the Secretary General of the Ministry of Finance, issues following:

**DECISION**

1. Establishing the Working Group for the drafting of the Draft Law on Public-Private Partnership (hereinafter: the Draft Law), with the following composition:

- 1.1. Kreshnik Oseku – Public Private Partnership Department, Chairperson;
- 1.2. Luljeta Shyti – Public Private Partnership Department, Member;
- 1.3. Gentian Gurra – MF, Member; and
- 1.4. Era Hasani – Legal Department, Member.

2. While drafting of the Draft Law, the Working Group is obliged to adhere to the standards for drafting normative acts, as well as the rules and procedures for drafting legislation, in accordance with the legislation in force.

3. While drafting of the Draft Law, other officials of the institutions of the Republic of Kosovo and other institutions, which the Chairperson of the Working Group considers necessary, may also participate. All relevant structures and officials are obliged to cooperate and provide the data requested by the Working Group.

4. For their work, the Working Group reports to the relevant division for drafting legislation within the Ministry.

5. The decision enters into force on the date of signing.

Arton Ahmeti

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Secretary General

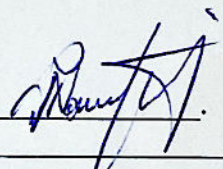
**Sent to:**

- MF Cabinet;
- MF Secretary's Office;
- Working Group Members;
- Legal Department; and
- MFPT Archives.



**Republika e Kosovës**  
**Republika Kosova - Republic of Kosovo**  
*Qeveria - Vlada - Government*  
*Ministria e Financave - Ministarstvo Finansija - Ministry of Finance*

**Minutes**

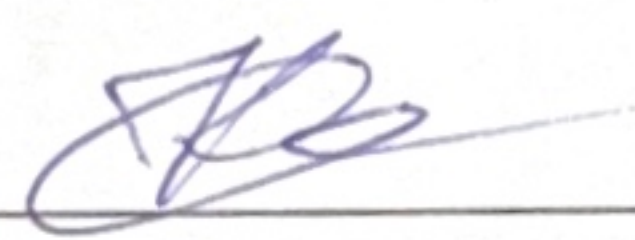
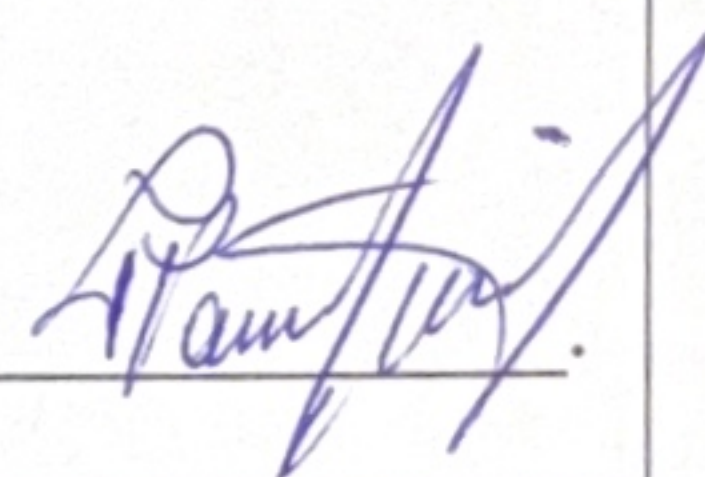
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| <b>Date:</b>          | <b>February 13th, 2026</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | <b>Minutes held by:</b> | <b>Kreshnik Oseku</b>                                                               |
| <b>Place:</b>         | <b>Ministry of Finance,<br/>premises in front of<br/>Hotel Sirius</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                         |  |
| <b>Participants</b>   | <b>Working Group:</b><br><br>Kreshnik Oseku <br><br>Luljeta Shyti _____<br><br>Gentian Gurra _____<br><br>Era Hasani _____<br><br>The director of the DQPPP was also present, Mr. Petrit Pantina                                                                                                                                                                                                                                                                                                                                       |                         |                                                                                     |
| <b>Subject/Agenda</b> | Meeting of the working group for the drafting and finalization of the draft law on PPP.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                         |                                                                                     |
| <b>Discussion</b>     | <p>The meeting was opened by the chairman of the working group, Kreshnik Oseku, who informed the members about the procedures that have been completed and the actions that need to be taken.</p> <p>The working group for the finalization of the Draft Law on PPP no. 23/2026, dated 29.01.2026, met on this day to finalize the draft law in its entirety. This draft law is in the final stage of final review, which will soon be submitted to the legal department to be in line with the strategy of the Ministry of Finance.</p> <p>This draft law was previously finalized, and submitted to the Cabinet of the Minister, but since time has passed and due to political issues, the new working</p> |                         |                                                                                     |

|                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
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|                    | <p>group has begun its review again until its completion. After the completion of this stage, the law will be sent to the Budget Department for financial impact assessment. The Central Department of Public-Private Partnership (PPP) is working with the designated working group on amending the PPP Law, which includes the transposition of the Concessions Directive 2014/23/EU.</p> <p>The main commitment at this stage is to address the comments on each article of this draft law in relation to Directive No. 2014/23/EU, in order to finalize the draft law in harmony with this Directive.</p> |
| <b>Conclusions</b> | <p>This working group has assessed the comments and suggestions that have emerged from the public consultations received from the parties. The Annex for the analysis of comments regarding the draft law has been finalized, where many of these comments, after being analyzed in detail, have been accepted and placed in the draft law. This draft law contains all these comments and has been sent for translation into Serbian and English. The Tables of Compliance with the EU Acquis have also been drafted and completed in accordance with the defined format and content.</p>                    |



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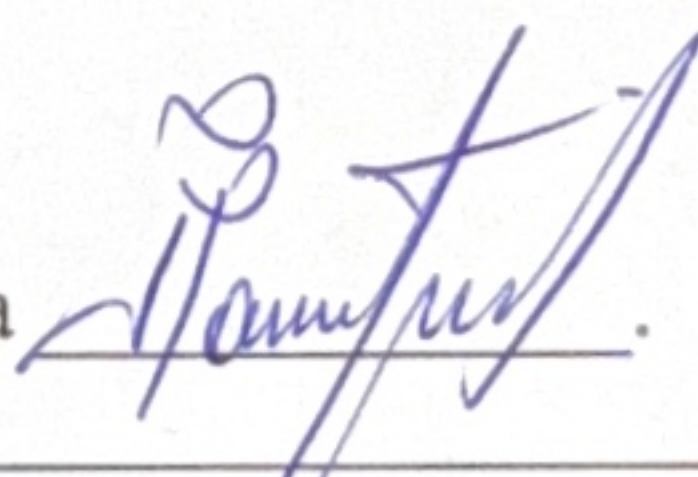
**Minutes**

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| <b>Date:</b>          | <b>April 8th 2026</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | <b>Minutes held by:</b> | <b>Kreshnik Oseku</b>                                                                 |
| <b>Place:</b>         | <b>Ministry of Finance,<br/>premises in front of<br/>Hotel Sirius</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                         |  |
| <b>Participants</b>   | <b>Working Group:</b><br><br>Kreshnik Oseku <br><br>Luljeta Shyti _____<br><br>Gentian Gurra _____<br><br>Era Hasani _____<br><br>The director of the DQPPP was also present, Mr. Petrit Pantina                                                                                                                                                          |                         |                                                                                       |
| <b>Subject/Agenda</b> | Meeting of the working group for the drafting and finalization of the draft law on PPP                                                                                                                                                                                                                                                                                                                                                                                                                                             |                         |                                                                                       |
| <b>Discussion</b>     | <p>The meeting was opened by the chairman of the working group, Kreshnik Oseku, informing the members about the procedures that need to be carried out until the completion of this draft law, as well as the acceptance and inclusion of comments from the working group submitted by March 2, 2026 on the draft law.</p> <p>The main commitment at this stage is the article-by-article review of this draft law in relation to Directive No. 2014/23/EU, in order to finalize the draft law in harmony with this Directive.</p> |                         |                                                                                       |
| <b>Conclusions</b>    | This group, after addressing the comments and adapting them as best as possible to the draft law, decides to continue the work at the next meeting, which will be held on April 16th 2026.                                                                                                                                                                                                                                                                                                                                         |                         |                                                                                       |



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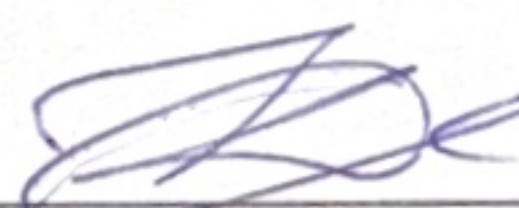
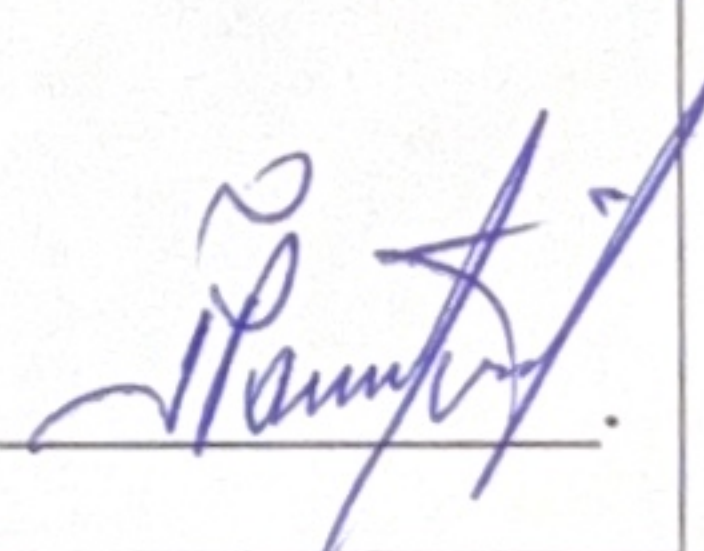
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| <b>Date:</b>          | <b>April 16th 2026</b>                                                                                                                                                                                                                                                                                                                                                          | <b>Minutes held by:</b> | <b>Kreshnik Oseku</b>                                                                 |
| <b>Place:</b>         | <b>Ministry of Finance,<br/>premises in front of<br/>Hotel Sirius</b>                                                                                                                                                                                                                                                                                                           |                         |  |
| <b>Participants</b>   | <b>Grupi punues:</b><br><br>Kreshnik Oseku <br><br>Luljeta Shyti _____<br><br>Gentian Gurra _____<br><br>Era Hasani _____<br><br>The director of the DQPPP was also present, Mr. Petrit Pantina        |                         |                                                                                       |
| <b>Subject/Agenda</b> | Meeting of the working group for the drafting and finalization of the draft law on PPP                                                                                                                                                                                                                                                                                          |                         |                                                                                       |
| <b>Discussion</b>     | <p>The meeting was opened by the chair of the working group, Kreshnik Oseku, informing the members about the comments received from the members of this working group.</p> <p>The main engagement has continued the article-by-article review of this draft law in relation to Directive No. 2014/23/EU, in order to finalize the draft law in harmony with this Directive.</p> |                         |                                                                                       |
| <b>Conclusions</b>    | This group, after addressing the comments and adapting them as best as possible to the draft law, decides to continue the work at the next meeting.                                                                                                                                                                                                                             |                         |                                                                                       |



**Republika e Kosovës**  
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*Qeveria - Vlada - Government*  
*Ministria e Financave - Ministarstvo Finansija - Ministry of Finance*

**Minutes**

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| <b>Date:</b>          | <b>April 17th 2026</b>                                                                                                                                                                                                                                                                                                                                                             | <b>Minutes held by:</b> | <b>Kreshnik Oseku</b>                                                                 |
| <b>Place:</b>         | <b>Ministry of Finance,<br/>premises in front of<br/>Hotel Sirius</b>                                                                                                                                                                                                                                                                                                              |                         |  |
| <b>Participants</b>   | <b>Working Group:</b><br><br>Kreshnik Oseku <br><br>Luljeta Shyti _____<br><br>Gentian Gurra _____<br><br>Era Hasani _____<br><br>The director of the DQPPP was also present, Mr. Petrit Pantina  .       |                         |                                                                                       |
| <b>Subject/Agenda</b> | Meeting of the working group for the drafting and finalization of the draft law on PPP                                                                                                                                                                                                                                                                                             |                         |                                                                                       |
| <b>Discussion</b>     | <p>The meeting was opened by the chairman of the working group, Kreshnik Oseku, informing the members about the comments received from the members of this working group.</p> <p>The main engagement has continued the article-by-article review of this draft law in relation to Directive No. 2014/23/EU, in order to finalize the draft law in harmony with this Directive.</p> |                         |                                                                                       |
| <b>Conclusions</b>    | The draft law is almost complete, only a final check remains and it must be submitted for further procedures.                                                                                                                                                                                                                                                                      |                         |                                                                                       |



**Republika e Kosovës**  
**Republika Kosova - Republic of Kosovo**  
**Kuvendi - Skupština - Assembly**

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**DRAFT LAW ON PUBLIC-PRIVATE PARTNERSHIP**

Assembly of Republic of Kosovo:

Pursuant to Article 65 (1) of the Constitution of the Republic of Kosovo, utës së Republikës së Kosovës,

Adopts

## **DRAFT-LAW ON PUBLIC PRIVATE PARTNERSHIP**

### **CHAPTER I GENERAL PROVISIONS**

#### **Article 1 Purpose**

1. The purpose of this Law is to establish the legal framework on Public Private Partnerships (hereinafter as: PPP) stipulating terms, principles, criteria and procedures in order to enter a PPP, as well as institutional framework responsible for the management and development of Public-Private-Partnerships in the Republic of Kosovo.

2. This Law has been drafted in accordance with the Directive of the European Parliament and of the Council No. 2014/23/EU regarding the award of concession contracts and Commission Delegated Regulation (EU) No. 2019/1827.

#### **Article 2 Scope**

1. The provisions of this Law are mandatory for PPP/s related to the provision of public services and/or public infrastructure in all economic and social sectors, including but not limited to:

1.1. Economic sector:

1.1.1. Road infrastructure: New roads/highways, Tunnels and bridges, Roads connecting ports, airports, etc, modernization and expansion of roads and networks;

1.1.2. Railway: High-speed rail lines, Heavy conventional rail lines, Operation of rolling stock, Metro and other mass transport projects, Ticketing and collection tax systems, Train/metro stations;

1.1.3. Urban movement infrastructure and others: Bus rapid transit infrastructure, Parking lots, Distribution stations;

1.1.4. Ports and airports: New or upgraded airports and ports;

1.1.5. Water and waste: Wastewater treatment plants, Integrated water cycle projects, Solid waste management systems;

Energy infrastructure, unless otherwise provided by energy sector laws or other laws: Plants of independent energy manufacturers Electricity transmission lines, Gas pipelines, Oil, gas pipeline, refining and distribution, Central heating, Energy efficiency projects, including public lighting, increasing energy efficiency in public buildings, etc.

1.1.6. Information and Communication Technology: Optical fiber lines or networks, Telecommunication networks/broadband and E-government projects

1.1.7. Tourism: National Parks, Cultural heritage buildings Urban revitalization

1.1.8. Agriculture/agribusiness Grain storage, Irrigation projects , Rehabilitation of lands or forests

1.1.9. Industrial parks: Construction and/or expansion of industrial parks

1.1.9.1.

1.2. Social sector:

1.2.1. General: Hospitals, University facilities

School facilities, preschool, other ancillary infrastructure and related services, Student dormitories, Court buildings, Government, administrative or public buildings of central and local level, Prison facilities, Social housing

1.2.2. Sports: Sports and recreation centers, Stadiums

1.3. Other:

1.3.1. Research and development services, provided that the following criteria are met:

1.3.1.1. the benefits remain exclusively with the contracting authority for its use in the performance of its works;

1.3.1.2. the service provided is fully compensated by the contracting authority.

1.4 Strategic projects prepared by public authorities in accordance with the legislation in force for strategic investments and which have elements of contracts provided by this Law.

2. The provisions of this Law shall not apply to:

2.1. the grant of licenses, permits or authorizations by a Public Authorities;

2.2. public contracts that aren't stipulated in sub-paragraph 1.2 paragraph 1. of Article 7 of the present Law;

2.3. the privatization of public infrastructure or publicly owned enterprises pursuant to the legislation into force for publicly owned enterprises;

2.4. mines and minerals and rights thereto, which shall be governed pursuant to the legislation into force on mines and minerals, unless this legislation requires that the competitive procedure be exercised in accordance with the procedures stipulated under this Law;

2.5. construction of new energy generation capacities, which are regulated by the legislation into force for the energy regulator, unless this legislation requires the implementation of the provisions of this Law;

2.6. rights related to air space, unless otherwise provided by the legislation into force governing this sector;

2.7. Public Contracts and Concessions which are classified pursuant to the legislation into force for information classification and security verification;

2.8. Public Contracts and Concessions governed by different procedural rules and awarded:

2.8.1. pursuant to an international agreement ratified between the Republic of Kosovo and one or more other states covering supplies or works intended for the joint implementation or exploitation of a work by the signatory states or services intended for the joint implementation or exploitation of a project by the signatory states;

2.8.2. pursuant to an international agreement ratified by the Republic of Kosovo relating to the stationing of troops and concerning the undertakings of a third state; and

2.8.3. pursuant to a particular procedure of an international organization.

2.9. Service concessions granted to a state or local authority, bodies governed by public law and associations formed by one or more such authorities or one or more such bodies governed by public law;

2.10. Concessions granted by the contracting authority in accordance with the procurement rules provided by an international organization or international financial institution, where the concessions in question are fully funded by that organization or institution;

2.11. Concessions of services for the purchase or rental, by any financial means, of land, existing buildings and other immovable property or in connection with rights over them;

2.12. Service concessions for the purchase, development, production or co-production of program material intended for audiovisual media and broadcasting services, provided by providers of audiovisual or radio-media services; or concessions for airtime and programming provided to audiovisual or media radio service providers;

2.13. Arbitration and mediation services concessions;

2.14. Legal representation service concessions of a client by lawyer at:

2.14.1. arbitration, mediation or court proceedings before courts or public authorities;

2.14.2. legal advice provided during the preparation of any of the procedures referred to under item 2.16.1;

2.14.3. certification and certification procedures of documents which must be provided by notaries;

2.14.4. certification and verification procedures of documents which must be provided by notaries;

2.14.5. legal services provided by administrators or designated custodians or other legal services, the providers of which are designated by the courts or stipulated by law to perform certain tasks under the supervision of the courts;

2.14.6. – other legal services which are related to the exercise of public authority.

2.15. Financial service concessions in connection with the issue, sale, purchase or transfer of securities or other financial instruments;

2.16. Loan concessions, whether relating to the issue, sale, purchase or transfer of securities or other financial instruments;

2.17. Concessions related to civil protection and risk prevention services provided by non-profit organizations or associations;

2.18. Political campaign service concessions when granted by a political party in the context of the election campaign;

2.19. Service concessions for lottery services granted to an economic operator on the basis of an exclusive right;

2.20. Concessions of activities which are directly exposed to competition.

### **Article 3**

#### **Definitions**

1. Terms used in this law shall have the following meaning:

1.1 **Contracting authority** – means a public authority that has entered into a public-private partnership contract in the name of/or on behalf of the public authority in accordance with the provisions of this law.

1.2. **Public authority** – means the central or local state authorities having a legal mandate to govern or administer public affairs, as follows:

1.2.1. The Office of the President of Republic of Kosovo;

1.2.2. The Assembly of Kosovo;

1.2.3. The Office of Prime Minister, line ministries of executive agencies of the Government of Republic of Kosovo;

1.2.4. Municipalities of Republic of Kosovo;

1.2.5. one or more public enterprises or other bodies regulated pursuant to the public law; and

1.2.6. a union of these above-mentioned authorities and bodies.

1.3. **Public Infrastructure** – means physical assets, structures and systems that directly or indirectly provide public services;

1.4. **Applicant** – means an economic operator that has requested or been invited to participate in the concession award procedure;

1.5. **Concession** – Means works concessions and service concessions;

1.6. **Works Concession** – means a contract of monetary interest entered into in writing by which one or more contracting authorities entrust the execution of works to one or more economic operators, the remuneration of which consists in the right to use the works that are the subject of the contract, or in that right along with the payment;

1.7. **Service concession** – means a contract of monetary interest entered into in writing by which one or more contracting authorities entrust the provision and administration of services to one or more economic operators, the remuneration of which consists in the right to use the services to which they are subject of the contract, or in that right along with the payment;

1.8. **The Public-Private Partnership Committee (PPPC)** – is a body that approves, supervises, and coordinates public-private partnership projects across all sectors.

1.9. **Consortium** – means a group of domestic or foreign bidders as legal or natural persons who jointly submit a bid or request to participate in the bid, signed by all or by an authorized member

1.10. **Public contract** – means a contract for monetary interest signed in writing between one or more economic operators and one or more contracting authorities whose object is the performance of works, the supply of products or the provision of services, as follows:

1.9.1. service contract;

1.9.2. supply contract;

1.9.3. works contract;

1.9.4. public framework contract; and

1.9.5. Immovable property contracts as defined in the legislation into force on public procurement in the Republic of Kosovo.

1.11. **Works contract** – means a contract concluded between a Public Authority and one or more Private Partners that has as its principal object the execution, design and execution, or realization, by whatever means, of a work of construction or civil engineering activities and the performance of which is compensated in form of monetary payment;

1.12 **Service Contract** - means a contract, other than a supply or works contract as defined in the legislation into force on Public Procurement in the Republic of Kosovo, concluded between a Public Authority and one or more Private Partners, the performance of which is compensated in form of monetary payment;

1.13. **PPP agreement** – means a contract entered into between a public authority and a private partner for the purpose of implementing a PPP project and all related side and ancillary agreements, including financing agreements, operations and management agreements and direct agreements;

1.14. **Economic operator** – means the general term including supplier, service provider and/or works contractor;

1.15. **Concessionaire or private partner** – means the economic operator who enters into a concession contract with a contracting authority;

1.16. **Public private partnership (PPP)** – means any contractual or institutional cooperation between one or more Public Authorities and one or more Private Partners whereby the Private Partner:

1.16.1. provides a public service or a public infrastructure on behalf of the Public Authority;

1.16.2. assumes financial, technical, construction and operational risks, including demand and/or availability risks, in connection with the provision of the public service or the public infrastructure; and/or

1.16.3. receives a benefit for providing the public service or the public infrastructure in form of:

1.16.3.1 payment made by the public authority from the budget of respective public authority;

1.16.3.2 charges or fees to be collected by the private partner from users or customers of a public service or a public infrastructure provided to them; or

1.16.3.3 a combination of payment and tax or abovementioned fees.

1.17. **Affordability** – means the capacity to pay for the construction, operation and maintenance of the project, whether as the capacity of users to pay for services or the

capacity of the contracting authority to accommodate public project-related expenditures within the public sector budget limit over the duration of the project.

1.18. **PPP program** – means the program which describes how the PPP model is planned to be used to achieve the improvement of service delivery and public infrastructure which includes the list of possible PPP projects and plans to develop additional unidentified projects.

1.19. **PPP project** – means each of the following activities or any combination thereof carried out under a public private partnership, such as:

1.19.1. design, construction and development of new infrastructure facilities;

1.19.2. rehabilitation, modernization, and expansion of existing infrastructure facilities; and

1.19.3. administration, expansion or other services pertaining to new or existing infrastructure facilities.

1.20. **National register** – means the integrated register of reviewed and approved PPP projects and those under implementation in the territory of the Republic of Kosovo;

1.21. **Public service** – means any service, task or function which a Public Authority is mandated by law to provide in the general public interest;

1.22. **Municipal public services** – means Public Infrastructure owned by or otherwise belonging to a municipality and public services provided by a municipality within its legal competence stipulated by the Law;

1.23. **Concessionary fee** – means the fee that the concessionaire pays under the PPP agreement;

1.24. **Bidder** – means trade associations, including groups of legal persons, which are participants in a selection procedure related to an agreement; and

1.25. **Value for money** – means the best combination of cost, risk allocation, service quality, economic, social and environmental benefits to meet the requirements of the contracting authority for the entire life of the project.

## **CHAPTER II GENERAL RULES ON PPP**

### **Article 4 PPP general principles**

The award and implementation of a PPP shall be performed based on principles of equal treatment, nondiscrimination, transparency, proportionality, cost-effectiveness, efficiency, protection of public interest, free competition, value for money as well as affordability and interoperability.

## **Article 5**

### **Authorization to enter into a PPP**

1. A public authority may enter into a PPP if according to the legislation into force it is directly responsible for the provision of a public service or a public infrastructure defined, but not limited, in Article 2 of this Law and which is the main object of the PPP.
2. When a PPP project involves the provision of public services or public infrastructure that is the responsibility of more than one public authority, the Public Private Partnership Committee (hereinafter: The Committee) decides which public authority is the contracting authority for the respective PPP.
3. Pursuant to Article 60 of this Law, with the prior approval of the Government of the Republic of Kosovo and when is in the public interest, the Committee is authorized to enter the PPP on behalf of the Republic of Kosovo for the provision of public services or public infrastructure that is the competence of the Government.

## **Article 6**

### **Forms of PPPs**

1. PPP is implemented in contractual form.
2. The public authority selects the form of risk sharing and responsibilities for each PPP, including any of the following activities or any combination thereof:
  - 2.1. the design, construction, financing, maintenance and operation of new public infrastructure;
  - 2.2. the rehabilitation, modernization, financing, expansion, maintenance and operation of existing public infrastructure; and/or
  - 2.3. the administration, management, operation, maintenance or other services pertaining to public services or new or existing public infrastructure.
3. Contractual PPP can be in the form of a public, concession or combined contract.

## **Article 7**

### **PPP in form of a public contract**

1. PPP in the form of a public contract is realized provided that based on this public contract the private partner:
  - 1.1. provides a public service or a public infrastructure on behalf of the Public Authority;
  - 1.2. takes over financial, technical, construction and/or operational responsibilities and risks in connection with the provision of the public service or the public infrastructure; or
  - 1.3. receives regular payments from the Public Authority for the provision of public services or public infrastructure, according to the payment mechanism, which may be

in the form of unilateral payments, and which reflect the risk of availability, demand or construction undertaken by the private partner, provided that:

- 1.3.1. payment to be made only after the commencement of service;
- 1.3.2. have a single unilateral payment for the service;
- 1.3.3. the level of payment should be related to the level of service;
- 1.3.4. unilateral payment should not consist of sub-elements related to the delivery of works or services, but should be based on the results and commencement of service delivery; and
- 1.3.5. the level of payment must be fully auditable with sufficient information provided by the contractor to allow the authority to verify the calculation of the single payment.

2. The award of a PPP in the form of public contract is conducted pursuant to the rules and procedures stipulated into legislation into force on public procurement.

### **Article 8** **PPP in form of a concession**

1. The granting of a works or services concession involves the transfer of operational risk to the concessionaire in the use of those works or services involving supply or demand risk or both risks.
2. The Concessionaire is considered to have taken over the operational risk when, under normal working conditions, the return of investments made or expenses incurred in the performance of works or services that are the subject of the concession is not guaranteed.
3. The part of the risk transferred to the Concessionaire includes the real exposure to market risks, so that any potential loss foreseen by the Concessionaire is not nominal or negligible;
4. Concessions which as their subject have works and services, are granted in accordance with the provisions applicable to the type of concession that characterizes the main object of the contract in question.

### **Article 9** **PPP in a combined form**

1. The rules for the classification of combined contracts and for the calculation of the calculated value of the contracts defined in the legislation in force for public procurement apply to the concessions and contracts defined in paragraph 1 of article 7 of this Law.
2. PPP in the form of a combination is realized through partnership agreements and with the prior approval of the Committee, using donor funds for the performance of the concession contract.

## **Article 10**

### **Duration of PPP**

1. The duration of the PPP is limited and this is stipulated in the agreement. The contracting authority assesses the duration on the basis of the works or services required.
2. The duration of the PPP is reasonably interconnected and reflects:
  - 2.1. the life-cycle of the public infrastructure;
  - 2.2. rate of return, and
  - 2.3. value for-money of each individual PPP project.
3. For PPP/s lasting more than five (5) years, the maximum duration should not exceed the time that can reasonably be expected for the concessionaire to repay the investments made in the performance of the works or services together with the return of invested capital considering the investments needed to achieve specific contractual objectives. Investments considered for calculation purposes include initial investments and investments over the duration of the PPP.
4. With the approval of the Committee, the contracting authority may extend the duration of the agreement for an additional period of up to twenty-five percent (25%) of the initial duration specified in the agreement, for the following reasons:
  - 4.1. delay in completion or interruption of operation due to circumstances beyond the reasonable control of either party;
  - 4.2. project suspension resulted from actions of the Contracting Authority or other public authorities, or
  - 4.3. increase in costs arising from requirements of the Contracting Authority not initially foreseen in the Agreement, if the private partner would not be able to otherwise recover mentioned costs without such extension;
  - 4.4. any other reason necessary to protect the public interest.
5. In the event of an extension of the initial term of the contract, the annual payment of the concession fee to be charged during any such extension shall be the percentage of the Gross Revenues in force during the last calendar year.

## **Article 11**

### **Threshold and methods for calculating the projected value of PPP projects**

1. For PPPs whose value is less than five million three hundred and fifty thousand (5,350,000.00 €) Euros, simplified procedures defined by sub-legal act by the Committee may be applied. This value is determined and revised according to the amendments and pursuant to the relevant EU legislation.
2. The value of a PPP project includes the total turnover of the project created during the duration of the contract, excluding value added tax, as assessed by the contracting authority, considering the works and services that are the subject of the PPP, as well as supplies casual for these jobs and services. This assessment is valid at the moment of forwarding of contract

notice or, in cases when such notice is not foreseen, at the moment when the contracting authority starts the contract award procedure, by contacting the economic operators regarding the projects.

3. For the purpose of paragraph 1 of this Article, if the value of the PPP at the time of award is more than twenty percent (20%) higher than the projected value, the valid assessment is the value of the contract at the time of award.

4. The projected value of the contract is calculated using an objective method stipulated in the PPP project documents. In calculating of projected value of the project, contracting authorities shall, where applicable, consider:

4.1. the value of each form of the option and any extension of the duration of the contract;

4.2. Incomes from the payment of tax and fines by users of works or services other than those collected on behalf of the contracting authority or contracting entity;

4.3. payments or any financial advantage in any form made by the contracting authority or any other public authority to the private partner, including compensation for the fulfillment of public service obligations and subsidies for public investments;

4.4. the value of funds or any other financial advantage, in any form, from third parties for the implementation of the project;

4.5. Incomes from the sale of any assets that are part of the project;

4.6. the value of all supplies and services made available to the private partner by the contracting authorities, provided that they are necessary for the execution of works or for the provision of services; and

4.7. any remuneration or payment to applicants or tenderers.

5. The Minister of the Ministry responsible for finance issues a bylaw on defining simplified procedures for awarding PPP projects with a value of less than five million three hundred fifty thousand (5,350,000.00 €) euros, as well as on the methodology for calculating the estimated value of public-private partnership projects by contracting authorities.

## **Article 12**

### **Ownership of assets**

1. During the duration of PPP agreement, the Contracting Authority may temporarily transfer to the Private Partner the ownership of the Public Infrastructure and other specified public assets directly related to the object of the Agreement. Ownership and public assets shall be returned to the Contracting Authority upon expiry or termination of the agreement in accordance with the conditions of the Agreement.

2. No security interests may be created by Agreement over publicly owned property or other publicly owned assets necessary for the provision of a public service or a public infrastructure

3. Notwithstanding paragraph 2. of this Article, the shareholders of the private partner shall have the right to create pledge or any other security interest in their shares in the private partner.

### **Article 13**

#### **Financial rights**

A private partner is entitled to charge, receive, and/or collect payments for the use of public infrastructure and/or provision of public services pursuant to the terms and conditions stipulated in the respective PPP agreement.

### **Article 14**

#### **Compatibility with the legislation into force**

1. In case that a PPP project is foreseen to be realized through financial support from public institutions, borrowing and/or state guarantee, this support should be in accordance with the legislation into force on state aid, the legislation into force on public debt and other respective legislation into force.
2. In the cases defined according to paragraph 1 of this Article, legal compatibility is a condition of the application for review of the PPP project.

### **Article 15**

#### **Transaction and oversight fees**

1. The Public Authority may require that a transaction fee be paid by the private partner for the purposes of partially or fully compensating the costs associated with a specific transaction and to ensure sufficient financial resources are available for monitoring compliance with the terms of the Agreement.
2. The Public Authority may require that the private partner pay either a one-time or annual oversight fee for the purpose of partially or fully compensating the costs associated with monitoring compliance by all parties to a PPP Agreement.
3. The amount of any transaction fee and/or the oversight fee, as well as the terms and conditions relating to its payment, must be stipulated in the request for proposals documents. Payment of the transaction fee and/or the oversight fee shall be considered a non-negotiable, binding obligation of the selected bidder.
4. All transaction and oversight fees collected in accordance with this Article shall be subject to the rules set forth in the respective Law on public finance management and accountabilities as well as respective financial rules.

## **CHAPTER III**

### **SPECIAL RULES ON WORKS CONCESSIONS AND RESPONSIBILITIES OF AUTHORITIES**

### **Article 16**

#### **Subcontracting**

1. During the implementation of a PPP project, the contracting authority may require the works concessionaire to award contracts to third parties that are at least thirty percent (30%) of the

total value of the work on which the concession is awarded, as well as simultaneously provide an opportunity to the bidders to increase this percentage.

2. The contracting authority must require the bidder, in its tender, to indicate any part of the concession it intends to subcontract to third parties, as well as any proposed subcontractors. The engagement of subcontractors does not affect the responsibility of the main private partner.

3. In the case of works concessions, and with regard to services to be provided at the site under the supervision of the contracting authority, after the concession is awarded and at the latest when performance of the concession begins, the contracting authority shall require the private partner to indicate the name, contact details, and legal representatives of its subcontractors involved in those works or services, insofar as this is known at that time. The contracting authority shall require the private partner to notify it of any changes to this information during the course of the concession, as well as to provide the required information for any new subcontractors.

4. Contracting authorities shall verify whether there are grounds for excluding subcontractors in accordance with the provisions of this law. In such cases, the contracting authority shall require the economic operator to replace the subcontractor for whom the verification has shown that mandatory grounds for exclusion exist. The contracting authority may require the economic operator to replace a subcontractor for whom the verification has shown that non-mandatory grounds for exclusion exist.

5. The contracting authority shall ensure that subcontractors fulfill the eligibility requirements in accordance with the applicable legislation.

## **Article 17**

### **Rights and responsibilities of contracting authority**

1. The contracting authority enjoys all the rights defined in the agreement, including but not limited to, the right to inspect the activities of the private partner under the agreement as well as to ensure full compatibility with the conditions of the agreement.

2. The contracting authority fully fulfills the conditions of the agreement and its obligations stipulated in the agreement. Responsibilities of the contracting authority includes:

2.1. Carrying out preparatory activities for a potential PPP project, including all relevant feasibility studies and options, financial models, cash value analysis, risks deriving out of a project including contingent liabilities and fiscal risk, as well as other studies necessary for structuring a technically and financially sustainable project;

2.2. Submission of project proposals and requests for financial support for approval by the Committee, in accordance with this Law and sub-legal acts deriving from this Law;

2.3. Establishment of qualified technical teams for PPP project management, for oversight of the transaction process, preparation of tender documents and specifications in accordance with the legislation into force, as well as development of the procurement process for the selection of the private partner and the conclusion of the agreement with the partner private;

- 2.4. Establishment of qualified professional teams for contracts management, for monitoring and ensuring and full implementation of the conditions of the agreement by the private partner;
- 2.5. Providing information, which are reasonably requested by the Committee and the Ministry of Finance through the relevant PPP department; and
- 2.6. Coordination of activities and compatibility with applicable legislation and other issued instructions.
3. The teams established under paragraphs 2.3 and 2.4 of this Article should be composed by members certified by the Ministry of Finance through the relevant PPP department.
4. The contracting authority concludes an agreement with the private partner only if the relevant PPP project has been approved by the Committee and after all the procedural and material requirements stipulated by this Law have been met.
5. The contracting authority acts pursuant to the legislation into force.
6. The contracting authority is directly responsible for any budget allocations necessary to cover the cost of project preparation, implementation and oversight. In case that there is more than one contracting authority for a particular project, the costs related to the preparation, implementation and oversight of the project shall be borne by all contracting authorities proportionately, unless the contracting authorities have agreed otherwise. When the Committee acts in the capacity of the contracting authority for a certain project, the sharing of costs related to the implementation of the project is determined by a decision of the Committee.
7. If required, contracting entities shall notify the Committee on the following information:
- 7.1. the names of the enterprises or joint enterprises in question;
- 7.2. nature and the value of involved concessions;
- 7.3. evidence that the relationship between the joint enterprise with which the concessions are awarded and the contracting entity is compatible with concessions granted to a related enterprise or concessions granted to a joint enterprise or to a contracting authority that is part of a joint enterprise.
9. The contracting authorities shall notify the Committee in writing on fulfillment of the contractual preconditions or the agreement to postpone the time limit for the fulfillment of these preconditions.
10. The Minister of the Ministry responsible for finance issues a bylaw on the criteria and procedures for reporting by contracting authorities during all phases of PPP project implementation.

## **Article 18**

### **The rights and responsibilities of private partner**

1. The private partner enjoys all the rights defined in the agreement, including but not limited to the right to use and/or use the public service or public infrastructure in accordance with the conditions defined in the agreement.

2. The private partner must strictly fulfill the conditions of the agreement and fulfill the obligations defined in the agreement.

3. For the purpose of entering into an agreement and implementing of a project, the bidder selected pursuant to this Law shall establish a trading society in the form of a joint stock company or a limited liability company based on the legislation on trading societies, before concluding the agreement, and this will be reflected in the tender dossier.

4. The trading society established pursuant to paragraph 3 of this Article is a company with legal status, which fulfills its obligations even if the parent company goes bankrupt. All requirements regarding the minimum capital required for this trading society, the procedures for obtaining the approval of the contracting authority for the statute and regulations of the trading society, as well as for significant changes in the statute or regulations are determined in the conditions of the request for proposals and should be in compliance with the requirements stipulated in the relevant Law on trading societies.

### **Article 19**

#### **The rights and responsibilities of users of a public service or public infrastructure**

1. Users without any discrimination have access to public services and infrastructure provided by the private partner under a PPP Agreement and will have the right to use quality and continuous services, at reasonable prices.

2. When determined under the conditions of the PPP Agreement, users shall pay fees or charges for the use of public infrastructure or public service, which shall be reasonably marked.

3. Reasonability of prices by users will be part of the study of the overall reasonability of the PPP project, as part of the study of tariff affordability and overall cost of the PPP project.

### **Article 20**

#### **Eligibility of applicants or tenderers**

1. Contracting authorities may exclude candidates or tenderers from participating in a procurement activity for PPP projects if the conditions stipulated in the respective legislation on public procurement in Kosovo aren't met.

2. Eligibility requirements of candidates deriving from the respective public procurement legislation are considered as minimum requirements, and depending on the project and specific requirements, the contracting authority may impose additional requirements.

## **CHAPTER IV**

### **IDENTIFICATION OF POTENTIAL PROJECTS AND PROCEDURES FOR THE AWARD OF PPP**

### **Article 21**

#### **Identification and Approval of PPP Projects**

1. Any contracting authority, Committee or Ministry of Finance through the relevant PPP department, can identify, propose and initiate a PPP project.

2. All PPP projects are approved by the Committee before the contracting authority initiates the tendering procedure. The Committee's review is based on the feasibility study and other project-related documents, as well as on the recommendations of the Ministry of Finance through the relevant PPP department. Any agreement concluded by a contracting authority without the approval of the Committee is legally unlawful and doesn't produce legal effects for the purpose of this Law.

3. In case a PPP project requires payment from a contracting authority to a private partner, the contracting authority, considering the incomes generated by the project:

3.1. should prove that the funds for the project have been committed in accordance with the legislation into force on public finance management and the accountabilities in the amount necessary to meet the financial obligations that may arise during the fiscal year when the project is submitted for approval; and

3.2. should prove that, in the event that the PPP project incurs financial obligations to be met by budgetary commitments in the coming fiscal years, the funds will be committed in the coming fiscal years to meet these obligations, pursuant to the legislation into force on public finance management and accountabilities.

4. When reviewing projects concerning municipal public services, the Committee will approve the project if the following criteria are fulfilled:

4.1. the project is within the municipal competencies as stipulated by the Law on Local Self-Government;

4.2. the municipality has provided adequate financing for the implementation of the project; and

4.3. the municipality has ensured an adequate risk allocation between the private and public sector.

## **Article 22**

### **Deadlines on projects implementation**

1. Approved PPP projects on which no actions have been taken for their implementation for the period of eighteen (18) months after their approval, loses the status of approved project.

2. If the contracting authority within the deadline of eighteen (18) months has not been able to complete the initiated procurement process, the same has the right to request permission from the Committee to extend the deadline for another twelve (12) additional months.

3. The time limit as under item 2 of this Article, applies to all projects approved before the entry into force of this Law which have not yet commenced with the implementation stage, while the period commences to count from the date of entry into force of this Law.

4. If the contracting authority wishes to resume a PPP project that has lost the status of approved project, it shall be subject to the full approval process by the Committee.

## **Article 23**

### **Project Feasibility Study**

1. Before initiating tendering procedures for a PPP project, the contracting authority shall carry out a project feasibility study, which shall serve as the basis to decide whether a potential project should be implemented.
2. The feasibility study shall be based upon the principles of value for money, and shall address the economic, social, technical, financial and environmental feasibility of the potential project, its ability to attract potential private partners and private financing; and project's compatibility with sectorial policies and strategies as well as with legislation into force.
3. The PPP project feasibility study contains at least, the following information:
  - 3.1. determining the type and object of the contract;
  - 3.2. the projected value of the PPP project;
  - 3.3. the proposed minimum eligibility requirements for the economic operator;
  - 3.4. project duration;
  - 3.5. explanation of the project that has the PPP characteristics;
  - 3.6. the goal to be achieved with the project;
  - 3.7. risk analysis and their distribution, including project fiscal impact assessment and contingent liabilities; and
  - 3.8. any other information necessary for the preparation of tender documents.
4. The project feasibility study is submitted to the Committee through the relevant PPP department when the request for approval of the PPP project is filed.
5. The Ministry of Finance through the relevant PPP department shall review the project feasibility study, and, if necessary, may request additional information or additional studies from the contracting authority before the Committee decides that an authorized project should be tendered.

## **CHAPTER V**

### **SELECTION OF THE PRIVATE PARTNER**

## **Article 24**

### **Selection stages**

1. The private partner is selected through an open or pre-selection procedure, followed by a proposal filing procedure, pursuant to this Law during the implementation of activities which aims the award of a contract.

2. The contracting authority uses the pre-selection procedure during the implementation of activities which aims the award of a contract, the projected value of the project of which is equal to or greater than five million three hundred and fifty thousand (5,350,000.00 €).

3. The contracting authority may use the open procedure during the implementation of activities which aims the award of a contract where the projected value of the project is less than five million three hundred and fifty thousand (5,350,000.00€).

## **Article 25**

### **Pre-selection procedure**

1. After the Committee approves and authorizes the PPP project and the initiation of the tender procedure, pursuant to paragraph 2 of Article 25 of this Law, the contracting authority conducts the pre-selection procedure to identify the bidders who possess the appropriate qualifications for the successful implementation of that project.

2. The invitation to participate in the pre-selection procedure is published in the form of a request for qualification and remains open for at least thirty (30) days. Interested bidders prepare and files their applications within this deadline.

3. The application for qualification must include at least the following information:

3.1. a description of the project;

3.2. data on other essential elements of the project, such as services to be provided by the private partner, basic performance measures and finance arrangements foreseen by the contracting authority;

3.3. a summary of the main conditions of the proposed agreement, if they are already known;

3.4. the manner and time of submission of pre-selection applications, including submission deadlines, expressed in exact date and time;

3.5. the manner and place of searching for pre-selection documents;

3.6. pre-selection criteria pursuant to the provisions of this Law;

3.7. the proposed time period for the tendering process; and

3.8. other information which are considered necessary by the Contracting Authority, in accordance with the applicable legislation.

## **Article 26**

### **Pre-selection criteria**

To be pre-selected, interested bidders must meet the eligibility criteria set out in the applicable public procurement legislation and meet the professional, economic and financial eligibility criteria as well as the technical and professional capacities set out in the qualification application.

## **Article 27**

## **Selection and qualitative assessment of candidates**

1. Contracting authorities carry out the selection and qualitative evaluation of candidates in accordance with the applicable public procurement legislation.
2. Contracting authorities specify in the project documents how groups of economic operators will meet the requirements related to the economic and financial standing, as well as the technical and professional capacity of candidates and/or tenderers. This is done on the basis of self-declarations and references submitted as evidence, in accordance with the requirements published in the relevant notice, provided that such requirements are objectively justified and proportionate.

### **Article 28 Participation of consortia**

1. The contracting authority when inviting the bidders to participate in the pre-selection procedure, will allow them to establish bidding consortium. The information required by the members of the bidding consortium in order to prove their qualification is presented to the consortium as a whole and for the individual participants.
2. Unless otherwise specified in the qualification application, each member of a consortium may participate, directly or indirectly, in only one consortium at a time. Violation of this rule results in the exclusion of the consortium and the individual member.
3. In reviewing the qualifications of the bidding consortium the contracting authority shall consider the ability and degree of participation of each consortium member and assess whether the combined qualifications of the consortium members are appropriate to meet the needs of all phases of the PPP project. The contracting authority may specify the minimum criteria for participation of the main members of the consortium which are considered essential for meeting the qualification requirements.
4. The legislation in force on public procurement is also applicable to the procurement of PPP projects through consortiums.

### **Article 29 Decision on pre-selection**

1. The contracting authority makes a decision regarding the qualifications of each bidder who has submitted the application for pre-selection. In making this decision, the contracting authority uses only the criteria set out in the qualification application.
2. All pre- selected bidders are then invited by the contracting authority to submit their proposals in accordance with the provisions of this Law.
3. Each candidate has the right to exercise administrative and judicial legal remedies, as provided for in the applicable legislation.

## **CHAPTER VI PROCEDURES ON THE REQUEST FOR PROPOSALS**

### **Article 30 Procedures on request for proposals**

1. Procedures on the request for proposals can be conducted in one (1) stage or in two (2) stages.
2. In the one (1) stage procedure, the contracting authority publishes the request for proposals and provides the pre-selected bidders with a request for proposals in accordance with Article 32 of this law. The contracting authority may impose a fee for participation in this procedure.
3. The contracting authority may conduct a two (2) stage procedure on the request for proposals from pre -selected bidders, if the project elements such as project specifications, performance indicators, financial arrangements, contract conditions and similar, cannot be described in the call for proposals in sufficient detail or accuracy in order to enable bidders to prepare their final proposals.
4. When the contracting authority uses the two (2) stage procedure, the following provisions shall apply:
  - 4.1. the initial request for proposals stipulates that the bidders in the first stage of the procedure will submit their initial proposals regarding the project specifications, performance indicators, financial terms and other characteristics of the project in relation to the main terms of the contract set by the contracting authority;
  - 4.2. the contracting authority may convene a meeting and hold discussions with any bidder in order to clarify questions regarding the initial request for proposal or initial proposals and supporting documents submitted by the bidders. The contracting authority shall prepare the minutes of any such meeting or discussion, which shall contain the questions referred and the explanations given by the public authority;
  - 4.3. after reviewing the received proposals, the contracting authority may review and, if necessary, amend the initial request for proposal by changing any aspect of the initial project specifications, performance indicators, funding conditions or other project characteristics. These changes include the main terms of the contract, any criteria for evaluating and comparing bids, and determining the successful bidder identified in the initial bid, as well as adding features or criteria. The contracting authority shall include in the minutes of the selection procedure the reasons for any change in the request for proposals and any such change shall be noted in the invitation for submission of final proposals;
  - 4.4. in the second stage of the procedure, the contracting authority invites the bidders to submit their final proposals regarding a single set of project specifications, performance indicators or contract terms, in accordance with the provisions of this Law.

### **Article 31**

#### **Content of the request for proposals**

1. The request for proposals prepared by the contracting authority shall contain at least the following data:
  - 1.1. general information that may be required from bidders for the preparation and submission of their proposals, including information on the deadlines for submission of proposals;

1.2. project specifications and performance indicators, as appropriate, including the terms of the contracting authority on safety and security standards, as well as environmental protection;

1.3. the terms of the contract proposed by the contracting authority, including an explanation of the terms which are considered non-negotiable;

1.4. the criteria for the evaluation of proposals, set by the contracting authority for the identification of irresponsible proposals, the respective weight given to each evaluation criterion and the manner in which the criteria are applied for the evaluation and rejection of proposals; and

1.5. bid guarantee requirements.

## **Article 32**

### **Tender security**

1. The request for proposals determines the conditions related to the issuer of the request and the nature, form, amount and other basic conditions for the required security of the bid.

2. The required security of the bid may be executed to the bidder, only in case of:

2.1. withdrawal or change of the proposal after the expiration of the deadline for submission of proposals;

2.2. non-entry into final negotiations with the contracting authority;

2.3. failure to submit his bid within the time limit set by the contracting authority;

2.4. non-signing of the agreement, after being requested by the contracting authority, and after receiving the proposal; or

2.5. failure to provide the required security to fulfil the agreement upon receipt of the proposal, or failure to meet any other conditions set out in the request for proposals prior to the signing of the agreement.

3. If the contracting authority decides to oblige the deposit of the bid security, the amount of such security must be not less than three percent (3%) and not more than five percent (5%) of the estimated value of the public contract.

## **Article 33**

### **Clarifications and changes**

1. The contracting authority may, on its own initiative or upon request for clarification from a bidder, review and, as appropriate, amend any element of the request for proposals.

2. Any change must be communicated immediately to all candidates who have received the request for proposals. If the contracting authority deems it necessary to amend the documents and when this is done after the expiration of the period of twenty-five (25) days of the time period for the preparation of the bids, the contracting authority will extend the time limit for submission of bids for another fifteen (15) days.

3. In the minutes of the selection procedure, the contracting authority must present the reasons for any change in the request for proposals. All changes must be communicated to bidders in the same manner as requests for proposals.

4. In the minutes of the selection procedure, the contracting authority must provide the justifications for any changes to the request for proposals. All changes must be communicated to the candidates in the same manner as the request for proposals.

#### **Article 34** **Submission of proposals**

1. The pre- selected bidders will submit their proposals in written form, signed, sealed in envelopes and stamped to the contracting authority, within sixty (60) days from the receipt of the request for proposals for submission of their proposals.

#### **Article 35** **Evaluation of Criteria**

1. The contract award criteria should specify the permission to verify the information provided by the bidder. The contracting authority verifies whether the bids meet the criteria for awarding the PPP project. Changing of the ranking does not result in discrimination.

2. Notwithstanding the paragraph above, where the contracting authority receives a bid proposing an innovative solution with an exceptional level of functional performance that could not have been foreseen by the contracting authority, it may, in exceptional cases, modify the ranking of the award criteria to take that innovative solution into account. In such a case, the contracting authority must inform all tenderers of the modification of the ranking of the criteria and must issue a new invitation to submit bids, in accordance with the time limits set out in Article 35. The modification of the ranking of the criteria shall in no case result in discrimination against candidates.

3. Characteristics of works and services which may include quality levels, environmental and climatic performance levels, design for all requirements, including access for persons with disabilities, conformity assessment, performance, safety or dimensions, terminology, symbols, test, the test methods and the instructions of the user must be related to the object of the contract and in proportion to its value and objectives.

4. Unless justified by the subject matter of the contract, technical and functional requirements shall not refer to a specific brand or source, or to a particular process that characterizes the products or services provided by a specific economic operator, or to trademarks, patents, types, or a specific production, with the effect of favoring or eliminating certain undertakings or products. Such a reference is permitted, in exceptional cases, where a sufficiently precise and intelligible description of the subject matter of the contract is not possible. Any such reference must be accompanied by the words “or equivalent.”

5. The criteria for evaluating and comparing technical proposals may include, as appropriate, at least the following elements:

5.1. technical accuracy;

5.2. compliance with environmental standards;

- 5.3. operational feasibility and efficiency;
  - 5.4. the quality of services and measures to ensure their continuity; and
  - 5.5. the economic and social development potential offered by the proposals.
6. Criteria for evaluating and comparing financial and commercial proposals may include, where appropriate:
- 6.1. the current value of the proposed tariffs, unit prices and other charges during the agreement period;
  - 6.2. the present value of the direct payments proposed by the contracting authority, if any;
  - 6.3. the cost for design and construction activities, the annual operating and maintenance cost, the present value of the capital cost and the operating and maintenance cost;
  - 6.4. the duration of the contract;
  - 6.5. economic support, if any, expected from the contracting authority;
  - 6.6. the sustainability and enforceability of the proposed financial arrangements;
  - 6.7. the current value of the concession fee to be paid by the contracting authority;
  - 6.8. the economic and social development potential offered by the proposals.

### **Article 36**

#### **Procedural safeguards**

1. Concessions shall be awarded on the basis of award criteria defined by the contracting authority, provided that all of the following conditions are met:
  - 1.1. the offer complies with the minimum requirements set out, where applicable, by the contracting authority;
  - 1.2. the tenderer meets the conditions for participation; and
  - 1.3. the tenderer is not excluded from participation in the award procedure.

The minimum requirements referred to in subparagraph 1.1 of paragraph 1 of this Article shall include specific conditions and characteristics (technical, physical, functional, and legal) that each offer must meet or possess.

2. The contracting authority shall provide:
  - 2.1. in the concession notice, a description of the concession and the conditions for participation;

2.2. in the concession notice, in the invitation to submit a bid, or in other concession documents, a description of the award criteria and, where applicable, the minimum requirements to be met.

3. The contracting authority may limit the number of candidates to an appropriate level, provided that this is done in a transparent manner and on the basis of objective criteria. The number of invited candidates must be sufficient to ensure genuine competition.
4. The contracting authority shall communicate a description of the intended organisation of the procedure and an indicative timeframe for its completion to all participants. Any modification shall be communicated to all participants and, insofar as it relates to elements disclosed in the concession notice, shall be publicised to all economic operators.
5. The contracting authority shall ensure proper recording of the stages of the procedure using the means it deems appropriate.
6. The contracting authority may conduct negotiations with candidates. The subject matter of the concession, the award criteria, and the minimum requirements shall not be changed during the course of negotiations.

#### **Article 37**

##### **Comparison and evaluation of proposals**

1. The contracting authority compares and evaluates each proposal in accordance with the evaluation criteria, the relative weight given to each of those criteria and the evaluation process described in the request for proposals.
2. For the purposes of paragraph 1 of this Article, the contracting authority may set minimum quality limits and technical, financial and commercial aspects. Proposals that do not reach these minimum thresholds are considered irresponsible and disqualified.
3. When the request for proposals includes a design contest, all proposals for this design contest are evaluated in accordance with the legislation in force on public procurement.

#### **Article 38**

##### **Certification of fulfilment of the qualification criteria**

1. The contracting authority may require from any pre-selected bidder in order to be re-selected, to verify its qualifications in accordance with the same criteria used during pre-selection. The contracting authority shall disqualify any bidder who does not provide evidence of his qualifications, if it is required.
2. At any time during the procedure, the contracting authority may exclude an economic operator when it turns out that the economic operator based on the facts has not fulfilled the obligations under the tax legislation in force and any other legislation.

#### **Article 39**

##### **Final negotiations**

1. The contracting authority lists all responsive proposals based on the evaluation criteria, and invites for final negotiation of the agreement within sixty (60) days, the bidder who has achieved the best classification.
2. Final negotiations take place only for the contractual terms that are defined as negotiable in the final request for proposals, if there are any.
3. If it becomes clear to the contracting authority that negotiations with the invited bidder will not result in an agreement within a reasonable time, the contracting authority shall inform the bidder of its intention to terminate the negotiations and shall give the bidder a period of thirty (30) days to formulate its offer. If the contracting authority does not consider the offer made to be acceptable, then it will terminate the negotiations with the bidder and will execute the relevant guarantees.
4. After the conclusion of the negotiations according to paragraph 3 of this Article, the contracting authority invites for negotiations the other bidders, according to the order of their classification, until an agreement is reached or until the rejection of all remaining proposals. The contracting authority shall not resume negotiations with the bidder with whom the negotiations have been terminated in accordance with this Article.
5. After the conclusion of the negotiations and before concluding the agreement with the bidder, the contracting authority within ten (10) days submits the final agreement to the Ministry of Finance for review. The Ministry of Finance through the relevant PPP department shall send to the Committee a written recommendation on whether or not to approve the final contract within thirty (30) days from the date of receipt.
6. The Public-Private Partnership Committee (PPPC) shall review the public-private partnership contract within a period of fifteen (15) days. The PPPC may approve or reject the project proposal, or propose modifications in order to maximize value for money and the affordability of the project. In the event that the PPPC rejects the project proposal or proposes modifications, it shall provide a written explanation of the reasons. The contract may also be approved subject to conditions that have been defined as non-negotiable in the request for proposals.
7. The PPPC shall publish the data and essential terms of the PPP contract in the national PPP project register within fifteen (15) days following its approval.

#### **Article 40**

##### **Termination of procurement procedures**

1. The contracting authority will terminate the procurement activity before concluding the agreement for the following reasons:
  - 1.1. if all responsible bidders do not agree with the principle of value for money and affordability, if applicable;
  - 1.2. if prior to the opening of requests to participate, the cessation of the procurement activity has become necessary due to events and / or objective and proven reasons and / or which are beyond the control of the contracting authority and which could not have been foreseen at the time of commencement of procurement activity; and

- 1.3. if any legal violation has been found.
2. Within two (2) days after the termination of the procurement activity, the contracting authority publishes the notice of cancellation, while in the procurement documents a written statement is given which states the factual and legal reasons for the termination of the procurement activity.

## **CHAPTER VII NEGOTIATION OF AGREEMENTS WITHOUT COMPETITIVE PROCEDURES**

### **Article 41 Awarding the contract without competitive procedures**

The contracting authority may be authorized by the Committee to negotiate an agreement without using the negotiated procedures established under the provisions of this Law, in accordance with the applicable public procurement legislation.

### **Article 42 Procedures for negotiating agreements**

1. When a contracting authority negotiates an agreement without competitive bidding procedures on matters relating to national security, it shall announce its intention to initiate negotiations on the agreement and publish it.
2. When the contracting authority negotiates an agreement without competitive bidding procedures, it shall determine the evaluation criteria against which the proposals will be evaluated and classified.

## **CHAPTER VIII DIFFERENT PROVISIONS**

### **Article 43 Confidentiality**

1. The contracting authority shall treat the proposals in such a way as to avoid disclosing their contents to competing bidders. All discussions, communications and negotiations between the contracting authority and the bidders are confidential under applicable law.
2. Unless required by applicable law or a court decision, or permitted by a request for proposals, no party involved in the negotiations shall disclose to any other person any technical information, pricing data, or other information regarding the discussions, communications and negotiations in accordance with the above provisions without the consent of the other party.
3. This Article shall not prevent the public disclosure of non-confidential parts of concluded contracts, including any subsequent changes.
4. Economic operators are obliged to protect the confidential nature of the information that the contracting authority makes available throughout the procedure for awarding a PPP project.

## **Article 44**

### **Combating Corruption and Preventing Conflicts of Interest**

1. Contracting authorities must take appropriate measures to combat fraud, favoritism, and corruption, and to effectively prevent, identify, and remedy conflicts of interest arising during concession award procedures, in order to avoid any distortion of competition and to ensure transparency in the concession award process and equal treatment of all candidates and tenderers.
2. The concept of conflicts of interest shall be applied in accordance with the definition and applicable provisions of the relevant legislation. With regard to conflicts of interest, the measures adopted shall not go beyond what is necessary to prevent a potential conflict of interest or to eliminate an identified conflict of interest.

## **Article 45**

### **The applicable communication rules**

1. The contracting authority may choose one or more means of communication, such as:
  - 1.1. electronic means;
  - 1.2. mail; and
  - 1.3. “Hand Delivery” certified with acceptance document.
2. The contracting authority through electronic means offers a full, direct access and without payment to the project documents from the date of publication of the PPP project notice, or when the project notice does not include the invitation to submit bids, from the date in which an invitation for bid has been submitted. The text of the project notice or these invitations specifies the web address to which the project documents are accessible.
3. The contracting authority shall ensure the preservation of integrity of the data and the confidentiality of applications and bidders throughout the communication, exchange and storage of information. The contracting authority reviews the content of applications and bidders only when the deadline for their submission has expired.
4. The Committee may oblige the use of electronic means of communication for PPP projects.
5. When, in justified circumstances, due to exceptional security or technical reasons or due to the particularly sensitive nature, the commercial information which requires a very high level of protection, unrestricted, complete, direct and free access by electronic means in certain project documents, cannot be provided, the contracting authority announces in the notice or at the bid invitation submission, that the project documents must be transmitted by means other than electronic ones and the deadline for receipt of bidders should be extended.

## **Article 46**

### **Publication of the notice**

1. Each contracting authority shall publish notifications in accordance with the legislation in force on public procurement on the official website of the Public Procurement Regulatory Commission (hereinafter PPRC). The content of the notice will be reviewed and approved by

the Ministry of Finance if it meets the legal requirements within five (5) days from the dates of submission by the contracting authority.

2. The notice is considered submitted if:

2.1. on the date of delivery, in the case of manual delivery;

2.2. on the date of receipt of the notice in the case of delivery by registered mail; or, if earlier; and

2.3 on the email date confirming receipt of the notice.

3. The Minister of the Ministry responsible for finance shall issue a bylaw regulating and defining the relevant forms and standards for notifications.

#### **Article 47**

#### **Registration of pre-selection and contract award procedures**

The contracting authority will keep the records regarding the pre-selection procedures and the award of the contract, in accordance with the legislation in force for public procurement.

#### **Article 48**

#### **Supplementary applicability of applicable public procurement legislation**

1. When a matter of procedural nature related to the award of a PPP project is not regulated by this Law then the provisions of the legislation in force on public procurement shall apply.

2. If any approval or decision for the implementation of the provisions of the legislation in force for public procurement is required by the PPRC or the Central Procurement Agency, then this approval is given by the Committee.

#### **Article 49**

#### **Complaints and Judicial Review**

If a party participating in the procedures for the award of a contract set out in this Law considers that it has been harmed by a decision or omission of a public authority contrary to the provisions of this Law, the party in question may submit a complaint to the competent body for reviewing complaints in accordance with the provisions of the legislation in force on public procurement.

### **CHAPTER IX PPP AGREEMENT**

#### **Article 50**

#### **Applicable law for PPP agreement**

The PPP Agreement is implemented based on the legislation in force of the Republic of Kosovo.

#### **Article 51**

#### **Content of the agreement**

1. The agreement is concluded between the contracting authority and the private partner established as a company, according to the provisions of this Law.

2. The Agreement sets out matters deemed appropriate by the Parties, including but not limited to the following elements:

2.1. the nature and extent of the work to be performed and the services to be provided by the private partner;

2.2. the conditions for the provision of those services and the exclusivity of the rights of the private partner under the contract, if any;

2.3. assistance that the contracting authority may provide to the private partner in obtaining the necessary licenses and permits for the implementation of the project;

2.4. the extent to which the private partner is authorized to subcontract the services to be provided under the agreement;

2.5. eventual requirements related to the establishment and the minimum capital of the company established according to the provisions of this Law;

2.6. ownership of immovable property and other assets related to the project and the obligations of the parties, related to the acquisition of the project location and the necessary facilities;

2.7. payment mechanisms for the private partner, either in the form of tariffs or user charges for the use of the infrastructure facility or for the provision of services; methods and formulas for setting and adjusting these tariffs or charges;

2.8. payments or remuneration, which may be made by the contracting authority, including fines, if any;

2.9. procedures for review and approval of engineering projects, construction plans and specifications by the contracting authority, and procedures for final testing and inspection, approval and acceptance of the infrastructure facility, rules and standards on the basis of which these projects are designed;

2.10. the extent to which the private partner is obliged to provide on a case-by-case basis the change of service to meet the real demand for services, the continuity of service and the provision of service under the same conditions for all users;

2.11. the right of the contracting authority or another authority to supervise the works and services provided by the private partner, the conditions and measures to which the contracting authority or other authorized authority may request changes in the works and conditions of service or take other reasonable actions deemed appropriate to ensure that the infrastructure facility is being properly operated and that services are being provided in accordance with applicable legal and contractual requirements;

2.12. the obligation of the private partner to provide reports and other information on its activity to the contracting authority or other authority;

- 2.13. mechanisms for recovering additional costs and other consequences that may result from any request issued by the contracting authority or any other authority related to the sub-paragraphs 2.10. and 2.11. of this paragraph;
- 2.14. all the rights of the contracting authority, to the extent deemed necessary, for the review and approval of large contracts entered into by the private partner, in particular with the shareholders of the private partner or other related persons, including but not limited to the transfer of controlling interests in the private partner;
- 2.15. establishing insurance on private partner assets, rights or interests under the agreement that may be needed to secure the necessary financing for the project;
- 2.16. construction and performance guarantees provided and insurance policies maintained by the private partner in relation to the project implementation;
- 2.17. the means available in case of non-fulfilment of obligations by either party;
- 2.18. the extent to which the parties may be excluded from liability for failure or delay in fulfilling any obligation under the contract due to circumstances beyond their reasonable control;
- 2.19. the duration of the contract and the rights and obligations of the parties after expiration or termination, including closing and transfer measures;
- 2.20. ways to calculate compensation in case of early termination of the agreement;
- 2.21. dispute resolution mechanisms that may arise between the contracting authority and the private partner;
- 2.22. the rights and obligations of the parties in relation to confidential information;
- 2.23. conditions and procedures for the exercise of intervention rights by the contracting authority or for the replacement of the private partner by entities providing funding for the project;
- 2.24. identification of institutions and / or personnel with direct responsibility on contract supervision;
- 2.25. terms and procedures for the transfer of the obligations of the agreement from the private partner;
- 2.26. procedures for changing the terms of the agreement;
- 2.27. provisions for termination of the agreement, provisions for delivery, circumstances and consequences of early termination; and
- 2.28. Other additional elements that the parties consider may be included in a PPP contract.

## **Article 52**

### **Signing of the agreement**

The PPP Agreement is signed by the authorized representative of the private partner and by the authorized representative of the contracting authority, determined according to the legislation in force.

### **Article 53**

#### **Security of execution of the Agreement**

1. The amount of the performance security must be equal to at least ten percent (10%) of the value of the PPP agreement.
2. When determining the percentage of performance security, in the case of medium or large value contracts, the contracting authority shall ensure that the percentage is sufficient to cover damages and costs that the contracting authority may anticipate that will occur if the contract is terminated.

### **Article 54**

#### **Amendment of the agreement**

1. The PPP Agreement may be amended without a procedure defined by this Law, in the following cases:

1.1. when amendments, regardless of their monetary value, are foreseen in the original project documents in precise and clear review provisions, which may include value review provisions or options. Such provisions shall indicate the purpose and nature of the amendments or possible possibilities and the conditions under which they may be used. They will not foresee changes or opportunities that would change the overall nature of the project;

1.2. for additional works or services from the private partner that have become necessary and were not included in the initial project, where the modification by the private partner does not exceed fifty percent (50%) of the value of the initial contract and:

1.2.1 cannot be done for economic or technical reasons such as extensibility requirements or interoperability with existing equipment, services or installations procured under the original design;

1.2.2. would cause great inconvenience or a significant increase in costs to the contracting authority; and

1.3. when all of the following conditions are met:

1.3.1. the need for amendment arose as a result of external circumstances that the contracting authority could not have foreseen;

1.3.2. the amendment does not change the general nature of the agreement; and

1.3.3. does not exceed fifty percent (50%) of the value of the initial agreement.

1.4. when a new private partner replaces the one to which the contracting authority originally entered into an agreement, as a result of:

1.4.1. one provision or unverified review option in accordance with paragraph 1.1. of this article

1.4.2. the general or partial private partner successor replaces the previous private partner, following the restructuring of the company, including the acquisition, merger, acquisition or insolvency of another economic operator that meets the qualitative selection criteria, initially established with the condition for not bringing other substantial changes to the agreement and is not intended to circumvent the application of the provisions of this Law; or

1.4.3. in case the contracting authority assumes the main obligations of the private partner towards its subcontractors, if this possibility is foreseen according to the legislation in force; or

1.5. when the amendments, regardless of their value, are not substantial within the meaning of paragraph 5 of this Article.

2. Contracting authorities that have amended an agreement under sub-paragraph 1.2. and 1.3. of paragraph 1 of this article will publish a notice for this purpose, according to article 45 of this Law.

3. Except as provided in paragraph 1 of this Article, the PPP agreement may be amended even if the amended value of the agreement is below the following two values, provided that the general nature of the agreement does not change:

3.1. below the threshold set out in paragraph 1 of Article 11; and

3.2. does not exceed the value of ten percent (10%) of the agreement.

4. For the purpose of calculating the values specified in sub-paragraphs 1.2 and 1.3 and paragraph 3 of this Article, the updated value shall represent the reference value when the agreement includes an indexing clause. If the agreement does not include the indexing clause, the updated value is calculated by taking into account the average inflation in the Republic of Kosovo.

5. An amendment to an agreement will be considered a substantial change when the PPP project materially differs from the one that was initially completed. In any case, without prejudice to paragraphs 1 and 3 of this Article, the amendment shall be deemed to be substantial when one or more of the following conditions are met:

5.1. the amendment of the agreement presents conditions which, if they were part of the initial procedure of awarding the PPP project, would have allowed the acceptance of applicants other than those initially selected or for the acceptance of an offer other than the one they initially accepted or would have withdrawn additional participants in the concession award procedure;

- 5.2 the amendment of the PPP contract changes the economic balance of the PPP project in favor of the private partner in a way that was not foreseen in the initial PPP project;
- 5.3. the amendment of the agreement significantly expands the scope of the PPP project; or
- 5.4. when a new private partner replaces the one to which the contracting authority originally entered into an agreement, in cases other than those foreseen in paragraph 1.4.2. of this article.
6. Any changes to the PPP contract must be made only after approval by the Committee.
7. The Minister of the ministry responsible for finance shall issue a bylaw detailing the procedures and criteria for amending PPP contracts.

### **Article 55**

#### **Disputes regarding the implementation of the Agreement**

1. The parties have a duty to make efforts to settle by agreement any dispute that may arise in relation to the PPP agreement.
2. Such an agreement is valid only if it is made in writing and signed on behalf of the authorized parties.
3. Any dispute between the contracting authority and the private partner shall be settled by the mechanisms set out in the PPP agreement to which the parties have agreed, including international arbitration proceedings under applicable law.
4. The arbitration procedure takes place in the Republic of Kosovo, and the decision of the arbitral tribunal is legally binding and enforceable for both parties according to the legislation in force.

### **Article 56**

#### **Reasons for termination of PPP agreement**

1. The contracting authority may terminate the contract in cases when the private partner:
  - 1.1. is unable to meet obligations;
  - 1.2. makes serious violations that disables the extension of the contract; or
  - 1.3. fails to secure project financing within twelve (12) months from the date of signing the PPP agreement.
2. Unless otherwise provided in the PPP agreement, each party has the right to terminate the contract for the following reasons:
  - 2.1. fulfilment of obligations becomes impossible due to circumstances that were beyond the reasonable control of each party; or
  - 2.2. in case of serious violations by one party and that party cannot correct this violation within the time limit and manner provided in the contract.

3. The parties may terminate the PPP agreement even with mutual consent, only after the approval of the Committee and after the realization of payments and other financial obligations for the Contracting Authority.

#### **Article 57**

##### **Procedure for early termination of the PPP agreement by the contracting authority**

1. The early termination of the agreement by the contracting authority which obliges it or any other authority to compensate the private partner and / or the creation of any other financial obligation, is done only after the prior approval of the Committee.

2. The contracting authority shall submit to the Committee the reason of the request for early termination of the PPP Agreement.

3. The early termination of the agreement by the contracting authority which does not produce the effect provided in paragraph 1 of this Article, is done by the contracting authority and the Committee is notified within thirty (30) days.

### **CHAPTER X**

#### **INSTITUTIONAL FRAMEWORK AND RESPONSIBILITIES**

#### **Article 58**

##### **Composition of the PPP Committee**

1. The Committee consists of five (5) members.

2. The Committee is chaired by the Minister of Finance.

3. Four (4) other members of the Committee are appointed by the Government of the Republic of Kosovo from the rank of Deputy Prime Minister or Ministers.

4. In case of review of PPP projects in the Committee, in the works of the Committee as a temporary member with the right to vote, will be the participation of the representative of the contracting authority who has initiated the PPP project.

5. In cases when the Committee reviews projects proposed by the municipalities of the Republic of Kosovo, a representative of civil society dealing with municipal issues may participate in the meeting of the Committee, in the capacity of observer and without the right to vote.

#### **Article 59**

##### **Duties of the PPP Committee**

1. The Committee holds regular meetings to review each PPP project, or upon request. of the Minister of Finance.

2. The members of the Committee shall personally attend the meetings of the Committee or may authorize their subordinates, provided that they provide information and obtain the approval of the Chairman of the Committee.

3. The PPPC shall take decisions by a simple majority of votes. In the event of a tie, the vote of the Chair of the Committee shall count as a double vote.
4. The members of the Committee may also vote electronically, at the request and with the authorization of the Chairperson.
5. The procedures and other working criteria of the Committee are determined by the rules of procedure of this body.

## **Article 60**

### **Responsibilities of the PPP Committee**

1. The Committee supervises and coordinates PPP projects in all economic and social sectors in the Republic of Kosovo.
2. The Committee has the following responsibilities:
  - 2.1. developing and managing the national PPP program;
  - 2.2. developing general PPP policies and ensuring their implementation;
  - 2.3. issuing procedures and standards for PPP projects as well as project documents that are mandatory for all public authorities;
  - 2.4. issuing decisions to public authorities regarding PPP projects;
  - 2.5. review of project proposals based on the principle of value for money and other factors in the public interest;
  - 2.6. identification of contracting authorities for certain projects;
  - 2.7. acting in the capacity of a contracting authority, through the Ministry of Finance, for certain projects;
  - 2.8. overseeing and reviewing compliance performance and PPP project execution;
  - 2.9. reviewing and approving proposed changes and additions and modifications to the agreement based on the principle of value for money and similar factors;
  - 2.10. maintaining the national PPP register;
  - 2.11. performing other responsibilities arising from this Law as well as other relevant laws related to PPP;
  - 2.12. taking other relevant decisions regarding PPP; and
  - 2.13. preparation of recommendations for the Government of the Republic of Kosovo regarding the field of PPP.
3. All contracting authorities may make recommendations to the Committee regarding policy development.

4. In the event that a PPP project is within the competence of more than one contracting authority, the Committee shall, within thirty (30) days, designate the contracting authority or authorities for the relevant agreement and establish procedures and deadlines for the coordination of responsibilities.

## **Article 61**

### **Ministry of Finance**

1. The Ministry responsible for finance provides professional, administrative, and technical support to the PPPC and other public authorities as needed, and has the following responsibilities:

- 1.1. making recommendations regarding the legal, regulatory, institutional, and policy framework of PPPs;
- 1.2. developing procedures and standards based on international best practices;
- 1.3. reviewing PPP project proposals from contracting authorities;
- 1.4. providing recommendations to the PPPC for the approval or rejection of a PPP project proposal;
- 1.5. ensuring the monitoring of the implementation of PPP projects;
- 1.6. providing appropriate assistance through training and other methods for capacity building of public authorities in the field of PPPs;
- 1.7. maintaining the national PPP register;
- 1.8. coordinating activities related to PPPs.

2. For the implementation of its responsibilities, the Ministry of Finance through the relevant PPP department may:

- 2.1. request from contracting authorities to provide details regarding PPP projects that are being proposed, prepared for tendering, submitted to tender, under negotiation, or in the process of implementation;
- 2.2. draft and publish standards and manuals of recommended PPP procedures;
- 2.3. prepare and disseminate information and guidance on PPPs;
- 2.4. coordinate technical assistance for PPPs and for specific PPP projects provided to contracting authorities;
- 2.5. review PPP project proposals, PPP contracts, and PPP contract management systems;
- 2.6. provide recommendations regarding the level of compliance of the contracting authority and the private partner with the terms of the PPP contract;
- 2.7. prepare recommendations for the PPPC and contracting authorities;
- 2.8. carry out regular assessments of the results and impact of PPPs;

2.9. participate in the development, implementation, and management of any fund or other similar instrument established to ensure financing of capacities related to the development and implementation of PPP projects;

2.10. provide assistance during the preparation of feasibility studies, the preparation of necessary documents for the implementation of economic development projects carried out by contracting authorities, the supervision of contracting authorities in ongoing projects, and the promotion of PPP models; and

2.11. establish and maintain a central database for all PPP projects, for tracking all explicit and implicit payment obligations throughout the duration of the PPP contract, and for publishing information on PPP projects, as necessary.

## **CHAPTER XI TRANSITIONAL AND FINAL PROVISIONS**

### **Article 62 Transitional Provisions**

This law does not apply to PPP projects that are under review prior to the entry into force of this law. Such PPP projects may be renewed, amended, or expanded only in accordance with this law.

### **Article 63 Sub-legal act**

1. Within one (1) year from the date of entry into force of this Law, the Ministry of Finance will issue sub-legal acts for the implementation of this Law, as follows:

1.1. Sub-legal act for simplified procedures for PPPs with a value of less than five million three hundred and fifty thousand (5,350,000.00 €) euros as well as on the methodology for calculating the estimated value of public-private partnership projects by contracting authorities.

1.2. Sub-legal act for procedures and criteria for amending PPP agreements;

1.3. Sub-legal act on criteria and procedures for reporting of contracting authorities during all phases of PPP project implementation;

1.4. Sub-legal act for determining the forms and standards for notifications.

### **Article 64 The law in force**

1. Upon entry into force of this law, Law No. 04/L-045 on Public-Private Partnerships is repealed.

### **Article 65 Entry into force**

This law enters into force fifteen (15) days after publication in the Official Gazette of the Republic of Kosovo.