

**LAW No. 04/L-045  
ON PUBLIC-PRIVATE-PARTNERSHIP**

**Assembly of Republic of Kosovo,**

Based on Article 65 (1) of the Constitution of the Republic of Kosovo,

Approves

**LAW ON PUBLIC-PRIVATE-PARTNERSHIP**

**PART I  
GENERAL PROVISIONS**

**Article 1  
Purpose**

The purpose of this law is to establish the legal framework for Public Private-Partnerships, including procedures for the award of a Public-Private-Partnership, the content and structure of a Public-Private-Partnership Agreement and the institutional framework responsible for the management and development of Public-Private-Partnerships in the Republic of Kosovo.

**Article 2  
Scope of Application**

1. The provisions in this law shall govern Public-Private-Partnerships for the provision of Public Services and/or Public Infrastructure in all economic and social sectors, including, but not limited, to:

- 1.1. transport, including railway system, transport in rails, airports, roads, tunnels, bridges, parking, public transport;
- 1.2. energy infrastructure, excluding the construction of new energy generation capacities;
- 1.3. oil pipeline, gas pipeline, refinement and distribution;
- 1.4. production, distribution, treatment, collection and administration of water, sewage, drainage, irrigation, channels;
- 1.5. collection, disposal, recycling and management of waste;
- 1.6. telecommunication;
- 1.7. education;
- 1.8. sport and recreation;
- 1.9. health;
- 1.10. tourism and culture;

- 1.11. prison's infrastructure;
- 1.12. rehabilitation of land and forests;
- 1.13. industrial parks;
- 1.14. public shelter, social housing and social work;
- 1.15. government, administration and public buildings;
- 1.16. infrastructure's service and maintenance based on IT and data;

2. This law shall not apply to:

2.1. the grant of licenses, permits or authorizations by a Public Authority, except to the extent that the issuance of a license, permit or authorization is required within the framework of a Public-Private-Partnership;

2.2. a public contract not referred to in sub-paragraph 1.2 paragraph 1. of Article 7 of the present law;

2.3. the privatization or divestiture of public infrastructure or publicly owned enterprises pursuant to Law No. 03/L-087 on Publicly Owned Enterprises, unless otherwise determined in such law;

2.4. mines and minerals and rights thereto, which shall be governed by Law No. 03/L-163 on Mines and Minerals, unless otherwise determined in such law;

2.5. the construction of new energy generation capacities, which shall be governed by Law 03/L-185 on the Energy Regulator, unless otherwise determined in such law;

2.6. rights related to air space;

2.7. Public Contracts and Concessions which are classified in accordance with Law No. 03/L-178 on Classification of Information and Security Clearances;

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

2.8.1.pursuant to an international agreement concluded 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 concluded 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.

### **Article 3 Definitions**

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

1.1. **Contracting Authority**- a Public Authority that has entered into a Public-Private-Partnership agreement in accordance with the provisions of the present law.

1.2. **Public Authority**- means:

1.2.1. one or more ministries or agencies of the Government of Republic of Kosovo;

1.2.2. one or more municipalities;

1.2.3. one or more publicly-owned enterprises or other bodies governed by public law; and

1.2.4. an association of such authorities or bodies.

1.3. **Central Public-Private-Partnership Department or PPP Department**- the meaning set forth in Article 18 of this law;

1.4. **Public Infrastructure**- physical assets, structures and systems that directly or indirectly provide public services;

1.5. **Public-Private-Partnership Committee or PPPC**- has the meaning set forth in Article 16 of this law;

1.6. **Concession**- Works Concessions and Service Concessions;

1.7. **Works Concession**- a contract of the same type as a works contract except for the fact that the performance of such contract is compensated, in whole or in part, by a grant of a right to exploit the object of such contract;

1.8. **Service Concession**- a contract of the same type as a service contract except for the fact that the performance of such contract is compensated, in whole or in part, by a grant of a right to exploit the object of such contract;

1.9. **Consortium** - a group of Bidders;

1.10. **Service Contract**- a contract, other than a supply or works contract as defined in the Law 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.

1.11. **Works Contract**- 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. **Public Contract**- :

1.12.1. a service contract,

1.12.2. a supply contract,

1.12.3. a works contract,

1.12.4. a public framework contract; and

1.12.5. an immovable property contract as defined in Law on Public Procurement in the Republic of Kosovo.

1.13. **Agreement** - a contract entered into between a public authority and a private partner for the purpose of implementing a Public-Private-Partnership and all related side and ancillary agreements, including financing agreements, operations and management agreements and direct agreements.

1.14. **Bidder or Bidders**- business organizations, including groups thereof, which participate in a selection procedure concerning an Agreement.

1.15. **Procurement Review Body or “PRB”**- the Procurement Review Body established pursuant to the Law on Public Procurement in the Republic of Kosovo.

1.16. **Private Partner**- the legal entity that enters into a Public-Private-Partnership with the Public Authority to deliver public infrastructure and public services.

1.17. **Public-Private-Partnership or PPP**- any contractual or institutional cooperation between one or more Public Authorities and one or more Private Partners whereby the Private Partner:

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

1.17.2. 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;

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

1.17.4. payment made by the public authority from the budget of such public authority;

1.17.5. 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

1.17.6. a combination of such payment and such charges or fees.

1.18. **Affordability** - the financial commitments to be incurred by a Public Authority in terms of the Agreement can be met by funds which are consistent with current expenditures and reasonable planning of future expenditures and which are:

1.18.1. designated within that Public Authority's budget for the public service or public infrastructure to which the Agreement relates, and/or

1.18.2. designated in the Kosovo Budget and related budget forward estimates for the Public Authority in accordance with applicable law.

1.19. **Project** - each of the following activities or any combination thereof carried out under a under a Public-Private-Partnership, such as:

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

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

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

1.20. **Public Service**- any service, task or function which a Public Authority is mandated by law to provide in the general public interest and which is of a non-industrial and non-commercial character.

1.21. **Municipal Public Services**- Public Infrastructure owned by or otherwise belonging to a municipality and public services provided by a municipality within its legal competence as determined by law.

1.22. **Value for Money**- that the provision of a public infrastructure or a public service by a Public Authority pursuant to a Public-Private-Partnership results in a higher economic, social and financial benefit, including cost, price, quality, quantity, risk transfer, or a combination thereof, compared to the provision of such public infrastructure or public service in any other form.

2. Any references to Articles shall be references to Articles of the present law, unless otherwise determined.

#### **Article 4 General Principles**

The award and implementation of a Public-Private-Partnership shall be governed by the principles of equality of treatment, nondiscrimination, transparency, proportionality, cost-effectiveness, efficiency, freedom of competition, value-for-money, affordability, and protection of the public interest.

### **PART II PUBLIC-PRIVATE-PARTNERSHIPS**

#### **CHAPTER I GENERAL RULES ON PUBLIC-PRIVATE-PARTNERSHIPS**

##### **Article 5 Authority to Enter into a Public-Private-Partnership**

1. A Public Authority may enter into Public-Private-Partnership provided such Public Authority is, by operation of law, directly responsible for the provision of a public service or a public infrastructure referred to in Article 2 of the present law and which is the principal object of the Public-Private-Partnership.

2. In the event that a Public-Private-Partnership Project involves the provision of public services or public infrastructure which is the responsibility of more than one Public Authority, the PPPC shall determine which Public Authority shall be the Contracting Authority for the corresponding Public-Private-Partnership.

3. In accordance with the provisions set forth in Article 17 of this law, with the prior approval of the Government and when required in the public interest, the PPPC shall have the authority to enter into a Public-Private-Partnership on behalf of the Republic of Kosovo for the provision of public services or public infrastructure which are within the competence of the Government of the Republic of Kosovo or any of its Ministries or Agencies.

##### **Article 6 Scope and Forms of Public-Private-Partnerships**

1. A Public-Private-Partnership may be implemented through either a contractual or an institutional form.

2. The Public Authority shall select the contractual or institutional form which best reflects the desired allocation of risks and responsibilities for each Public-Private-Partnership, 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.

#### **Article 7**

#### **Contractual Public-Private-Partnerships**

1. A contractual Public-Private-Partnership may be in the form of:

1.1. a Concession, or

1.2. a Public Contract, provided that pursuant to such contract the private partner:

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

1.2.2. assumes financial, technical, construction and/or operational responsibilities and risks in connection with the provision of the public service or the public infrastructure;

1.2.3. receives regular payments from the Public Authority in consideration for the provision of the public service or the public infrastructure, whereby such payments, which may be in form of availability payments or unitary charges, reflect the availability, demand or construction risk assumed by the private partner.

2. A Public-Private-Partnership in form of a Concession shall be governed by the present law.

3. The award of a Public-Private-Partnership in form of a Public Contract referred to in sub-paragraph 1.2 paragraph 1. of this Article shall follow the rules and procedures established in the Law on Public Procurement in the Republic of Kosovo. In all other aspects, a Public Contract referred to in sub-paragraph 1.2 paragraph 1. of this Article shall be governed by the present law.

4. The rules on classification of mixed contracts and the calculation of the estimated value of a contract set forth in the Law on Public Procurement in the Republic of Kosovo shall apply to concessions and contracts referred to in paragraph 1 of this Article.

#### **Article 8**

#### **Institutional Public-Private-Partnership**

1. An Institutional Public-Private-Partnership may be established by a Municipality by the acquisition by one or more private partners of shares owned by such Municipality in an existing publicly-owned-enterprise the sole purpose of which is the performance of a public service or a public infrastructure, provided that the private partner also participates in the management of

such publicly-owned-enterprise, or participates in the provision of the public service or public infrastructure.

2. The selection of the private partner for such Institutional Public-Private-Partnership shall be governed by the provisions of the Articles of the present law, when the purpose of such Institutional Public-Private-Partnership is to implement a concession awarded by a Public Authority. In the event that the purpose of the Institutional Public-Private-Partnership is to implement any other public contract, then the selection of the private partner for such Institutional Public-Private-Partnership shall follow the procurement procedures established in the Law on Public Procurement.

3. If the establishment of an Institutional Public-Private-Partnership requires the sale of the shares in an existing publicly-owned-enterprise owned by the Republic of Kosovo, then the establishment of such Institutional Public-Private-Partnership shall be subject to approval by the Government and the Assembly of Kosovo in accordance with the Law on Publicly-Owned Enterprises.

### **Article 9 Duration**

1. The duration of a Public-Private-Partnership shall be set forth in the corresponding Agreement. The duration of a Public-Private-Partnership shall be reasonably related to and reflect:

- 1.1. the life-cycle of the public infrastructure,
- 1.2. rate of return and
- 1.3. value-for-money of each individual Public-Private-Partnership Project.

2. Subject to approval by the PPPC, a contracting authority may extend the duration of the agreement for an additional period which cannot exceed more than  $\frac{1}{4}$  (one fourth) of initial duration appointed in the agreement for the following reasons:

- 2.1. delay in completion or interruption of operation due to circumstances beyond the reasonable control of either party;
- 2.2. project suspension brought about by acts of the Contracting Authority or other public authorities;
- 2.3. increase in costs arising from requirements of the Contracting Authority not originally foreseen in the Agreement, if the Private Partner would not be able to otherwise recover said costs without such extension;
- 2.4. any other reason required to safeguard the public interest.

### **Article 10 Ownership of Assets**

1. During the term of the 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, which shall be returned to the Contracting Authority upon expiry or termination of the Agreement in accordance with conditions set forth in such Agreement.

2. No security interests may be created by Agreement over publicly owned property or other publicly owned assets or rights needed 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 pledge or create any other security interest in their shares in the Private Partner.

### **Article 11 Financial Rights**

A Private Partner shall have the right to charge, receive or collect tariffs, fees and any other charges for the use of the Public Infrastructure or the provision of public services in accordance with the terms and condition set forth in the Agreement.

### **Article 12 State Aid for Public-Private-Partnerships**

1. When duly justified and required on the basis of Value-for-Money and with prior approval of the PPPC, including the affirmative vote of the Minister of Finance, the Public Authority may provide financial, budgetary or other aid to ensure the sustainability, implementation and/or financial viability of the Project. Such aid must be specified in the request for proposals.

2. Any financial, budgetary or other aid granted to a Public-Private-Partnership in accordance with the present law shall not be subject to approval by the State Aid Commission in accordance with applicable legislation on state aid provided:

2.1. the private partner has to discharge a clearly defined public service;

2.2. any financial, budgetary or other form of aid granted to the Public-Private-Partnership was established in advance in an objective and transparent manner and does not exceed what is necessary to cover all or part of the costs incurred in the discharge of the public service;

2.3. the private partner was selected in an open, transparent and competitive procedure in accordance with the present law.

3. Subject to prior approval by the PPPC, the Public Authority may also provide compensation to the Private Partner in the event that its financial condition is negatively and materially affected by unforeseeable changes in legislation or regulations which directly impact the Public Infrastructure or the public services it provides.

4. If a Public Authority is required to incur debt or to provide a guarantee in order to finance any obligations to the private partner or any form of state aid for the purpose of implementing a public-private-partnership, then any such debt or guarantee shall be subject to the Law on Public Debt.

### **Article 13 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 public money which shall be deposited in the Kosovo Consolidated Fund in accordance with the Law on Public Financial Management and Accountability and applicable Financial Rules.

## **CHAPTER II SPECIAL RULES ON WORKS CONCESSIONS**

### **Article 14 Transparency and Advertisement Requirements**

1. Notwithstanding paragraph 2. of Article 7 of the present law, a Public Authority, which is conducting a procedure leading to the award of a works concession, the value of which is equal to or exceeds EUR (six million two hundred forty two thousand) 6,242,000.00, excluding value-added-tax, shall also comply with the publication and advertisement requirements set forth in Law on Public Procurement in the Republic of Kosovo.

2. Works concessionaires who are not a Public Authority shall comply with the publication and advertisement requirements set forth in the Law on Public Procurement in the Republic of Kosovo and the time-limits set forth in the present law for the receipt of qualifications and proposals from interested bidders when awarding works contracts to third parties where the value of such contract is equal to or exceeds EUR (six million two hundred forty two thousand) 6,242,000.00, excluding value-added-tax.

3. Paragraph 1. of this Article shall not apply to works concessions which are awarded by a Public Authority in the cases referred to in Articles 3 to 7 of European Union Directive 2004/17/EC where such works concession is awarded for carrying out the activities specified therein.

### **Article 15 Subcontracting**

1. The Public Authority may either:

1.1. require the works concessionaire to award contracts representing a minimum of 30% of the total value of the work for which the concession is to be awarded to third parties, at the same time providing the option for bidders to increase this percentage, or

1.2. request bidders for a works concession to specify in their bids the percentage, if any, of the total value of the work for which the concession is to be awarded which they intend to assign to third parties.

## **PART III INSTITUTIONAL COORDINATION AND RESPONSIBILITIES**

### **Article 16 Public Private Partnerships Committee (PPPC)**

1. The Public Private Partnerships Committee shall be established to oversee and coordinate Public Private Partnership Projects in all economic and social sectors.

2. The PPPC shall consist of five (5) permanent members. The Minister of Finance shall be a permanent member and shall be the chairman of the PPPC. The four (4) other permanent members of the PPPC shall be designated by formal decision of the Government, who shall have the rank of a Deputy Prime Minister or a Minister of the Government of the Republic of Kosovo.

3. When the Public-Private-Partnerships Committee reviews projects concerning municipal public services, a representative of the Association of Kosovo Municipalities may attend the meeting of the Public-Private-Partnerships Committee as an observer and without a right to vote.

4. Notwithstanding paragraph 2. of this Article, the PPPC shall also include the highest level representative of the Public Authority, which is envisaged to be the Contracting Authority for the implementation of the proposed PPP Project, as a temporary member:

5. The temporary members of the PPPC shall participate in the proceedings and decision-making of the PPPC only with respect to the specific project, which requires their involvement.

6. The Minister of Finance shall direct and coordinate the activities of the PPPC and act as its chairperson.

7. The PPPC shall take decisions concerning the approval of projects and agreements by majority vote, including the affirmative vote of the Minister of Finance and the respective Contracting Authority.

8. In the event that the PPPC acts as the Contracting Authority for a Project, the PPPC shall take decisions concerning the selection of the private partner by majority vote, including the affirmative vote of the Minister of Finance.

#### **Article 17 Competencies of the PPPC**

1. The PPPC shall provide leadership in the development of PPP policies, projects and programs, and make recommendations to the Government of Kosovo for its consideration and adoption.

2. The PPPC shall have the following rights and responsibilities:

2.1. development and management of the national PPP program;

2.2. development of general PPP policies;

2.3. issuance of implementing regulations and clarifications regarding rules, procedures and standards for PPP projects and project documents, which shall be binding on all Public Authorities;

2.4. issuance of decisions to Public Authorities for the purpose of ensuring the proper implementation of laws and regulations related to a PPP Project;

2.5. review and approval or disapproval of Project proposals on the basis of value-for-money and other considerations in the public interest;

2.6. identification of a Contracting Authority for specific Projects;

2.7. acting as a Contracting Authority for specific Projects;

2.8. approval or disapproval Economic Supports for Projects;

- 2.9. oversight and review of performance compliance and project execution;
  - 2.10. review and approval of proposed amendments and modifications to Agreements on the basis of value-for-money and similar considerations;
  - 2.11. maintenance of a national PPP registry;
  - 2.12. making decisions relating to the use of funds deriving from PPP appropriations; and
  - 2.13. making other relevant decisions relating to PPP.
3. All Public Authorities shall have the right to make recommendations to the PPPC regarding the development of policies and regulations and the PPPC shall have the duty to duly consider said recommendations, prior to making its decisions.
4. In the event that a Project is within the competence of more than one Public Authority, the PPPC shall identify the Contracting Authority or Authorities for the corresponding Agreement and establish procedures for the coordination of responsibilities.

### **Article 18 Central PPP Department**

1. A Central Public-Private-Partnership Department (PPP Department) shall be set up in the Ministry of Finance to assist and advise the PPPC, the Minister of Finance and other Public Authorities on all activities relating to Public-Private-Partnerships. The PPP Department shall directly report and be accountable to the PPPC. The PPP Department shall be responsible for:
- 1.1. providing technical assistance, advice and support to Public Authorities and the PPP-ISC on all matters relating to PPP;
  - 1.2. making recommendations regarding the PPP legal, regulatory, institutional and policy framework;
  - 1.3. developing and promulgating procedures and standards based on best international practices;
  - 1.4. reviewing and issuing opinions regarding the viability of proposed projects and make recommendations to the PPPC and Public Authorities;
  - 1.5. disseminating information regarding the PPP program and individual projects;
  - 1.6. outreaching to stakeholders and public education campaigns on PPP;
  - 1.7. coordinating activities relating to PPP in all economic and social sectors.
2. For the purpose of implementing its responsibilities, the PPP Department may:
- 2.1. require that Public Authorities provide details of projects being proposed, being prepared for tender, given for tender or for negotiations or that are in the process of implementation;
  - 2.2. issue standards and recommended practices and procedures relating to PPP;
  - 2.3. prepare and distribute information and guidance on PPP;

- 2.4. submit proposals for the strengthening of the legislative, regulatory, institutional and policy framework for PPP to the PPPC;
  - 2.5. coordinate technical assistance on PPP and specific PPP projects provided to contracting authorities;
  - 2.6. scrutinize project-proposals, tenders and contracts and systems of contract management;
  - 2.7. monitor and issuing opinions regarding the level of compliance of the Contracting Authority and the Private Partner with the terms of an Agreement;
  - 2.8. issue technical opinions to the PPPC and Contracting Authorities;
  - 2.9. regularly evaluate the performance and impact of the PPP system;
  - 2.10. determine whether a PPP project justifies the expenditure of additional Ministry of Finance or other resources outside of the Contracting Authority;
  - 2.11. participate in the development, implementation and management of any fund or other similar instrument established to provide funding of capacity related to the development and implementation of a PPP project.
3. The Ministry of Finance shall ensure that key positions within the PPP Department are filled with suitably qualified professionals. For this purpose, the Ministry of Finance may, in accordance with the Law on Public Procurement, contract the services of qualified outside professional and/or technical experts to fill such positions, utilizing monies appropriated from the Kosovo Budget or external funding sources. Staff members of the PPP Department, other than those contracted, shall be civil servants who shall be paid from available budget mechanisms designated for attracting and retaining highly qualified professional staff.
  4. The PPP Department shall be funded from the Budget of the Republic of Kosovo. The Ministry of Finance shall ensure that the PPP Department obtains adequate funding in order to effectively and efficiently carry out its responsibilities as set forth in the present law.
  5. Any transaction, oversight or other fees appointed by the PPPC in accordance with the present law and any donor funds specifically provided to support the PPP Department, shall be deposited into the Kosovo Consolidated Fund and appropriated through the annual budgetary process for the authorized purposes of the PPP Department under the relevant budgetary category and in accordance with the budgetary process established by the Law on Public Financial Management and Accountability.

#### **Article 19** **Rights and Responsibilities of the Contracting Authority**

1. The Contracting Authority shall enjoy all rights set forth in the Agreement, including without limit, the right to inspect the activities of the Private Partner under the Agreement and to ensure its strict compliance with the terms of the Agreement.
2. The Contracting Authority shall strictly comply with the terms of the Agreement and shall fulfill its obligations, as stipulated therein. Additional responsibilities of the Contracting Authority shall include:
  - 2.1. execution of preparatory activities for a potential Project, including all relevant feasibility and options studies, financial models, value-for-money analysis and other studies necessary to structure a technically and financially viable Project;

- 2.2. submission of proposed Projects and requested Economic Support for approval by the PPPC, in accordance with this law and subsequent regulations;
  - 2.3. establishment of a technically qualified project management team to oversee the transaction process, prepare tender documents and specifications in accordance with applicable norms and execute the procurement process selection of the Private Partner and conclusion of the Agreement with such Private Partner;
  - 2.4. establishment of a professionally qualified contract management team to monitor and enforce strict compliance by the Private Partner with the terms of the Agreement;
  - 2.5. provision of information, as reasonably requested, by the PPPC and PPP Department; and
  - 2.6. coordination of activities and compliance with regulations issued by the PPPC and clarifications and guidance issued by the PPP Department.
3. The Public Authority shall award an Agreement to a Private Partner only if the corresponding PPP Project has been approved by the PPPC and the procedural and material requirements of the present law have been complied with.
  4. The Public Authority shall comply with all regulations, clarifications and decisions issued by the PPPC in accordance with the present law and shall apply standards and procedures, if applicable, developed by the PPP Department.
  5. The Contracting Authority shall be directly responsible for any budgetary appropriations required to meet the costs associated with a Project's preparation, implementation and oversight. In the event that there are more than one Contracting Authorities for a specific Project, the costs associated with a Project's preparation, implementation and oversight shall be borne by all Contracting Authorities in equal proportions, unless otherwise agreed between such Contracting Authorities. In the event that the PPPC is the Contract Authority with respect to a Project, the allocation of costs related to the implementation of the Project shall be determined by decision of the PPPC.

## **Article 20**

### **Rights and Responsibilities of the Private Partner**

1. The Private Partner shall enjoy all rights set forth in the Agreement, including without limit, the exclusive right to utilize and/or exploit a Public Service or a Public Infrastructure in accordance with the terms and conditions stipulated in the Agreement.
2. The Private Partner shall strictly comply with the terms of the Agreement and shall fulfill its obligations, as stipulated therein.
3. For the sole purpose of entering into an Agreement and implementing a Project, the Bidder selected in accordance with the present law shall establish a business organization in form of a joint stock company or a limited liability company incorporated under the laws of Kosovo, prior to formalizing an Agreement. Any requirement relating to the minimum capital of such a business organization and the procedures for obtaining the approval of the Contracting Authority to its statute and by-laws and significant changes therein shall be set forth in the terms of the request for proposals and be consistent with requirements established by applicable law.

## **Article 21**

### **Rights and Responsibilities of Users of a Public Service or a Public Infrastructure**

1. The public shall have access to public infrastructure and public services provided by a private partner under a Public-Private-Partnership on a non-discriminatory basis and have the right to receive qualitative and continuous services for a reasonable price.

2. When so required by the terms of the Agreement, the users shall be required to pay charges or fees for the use of the public infrastructure or the public service.

**PART IV  
IDENTIFICATION OF POTENTIAL PROJECTS AND PROCEDURES FOR THE AWARD OF  
PUBLIC-PRIVATE-PARTNERSHIPS**

**CHAPTER I  
IDENTIFICATION OF POTENTIAL PROJECTS**

**Article 22  
Identification and Approval of PPP Projects**

1. Any Public Authority, the PPPC or the PPP Department may identify, propose and initiate a Public-Private-Partnership.

2. All PPP Projects shall be subject to written formal approval by the PPPC before the Public Authority may initiate any tendering procedures for such PPP Project. The approval by the PPPC shall be given or refused based on a review of the feasibility study and other documents related to the project, and based on recommendations made by the PPP Department. The approval shall confirm the Contracting Authority for the PPP Project. Any agreement entered into by the Contracting Authority which is related to a project that is not approved by the PPPC shall be legally invalid and shall not produce any legal effects.

3. In the event that a PPP Project requires any payments to be made from the Public Authority to the Private Partner, the Public Authority shall, taking into consideration any revenue generated by the project, demonstrate:

3.1. that funds have been appropriated, in accordance with the Law on Public Financial Management and Financial Rules, for the concerned PPP Project in an amount sufficient to fulfill any financial obligations that may arise during the course of the fiscal year when the Project was submitted for approval; and

3.2. that, if the PPP Project will give rise to financial obligations that are to be satisfied from appropriations expected in future fiscal years any schedules attached to the Law on Appropriation provide a reasonable basis to expect that sufficient funds will be appropriated to the Public Authority in such fiscal years for the purpose of satisfying such obligations and any agreement in respect of the project and the party to which shall be the public authority is in accordance with the Law on Public Financial Management and Accountability.

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

4.1. the project is within the municipal competencies as set forth 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 23**  
**Project Feasibility Study**

1. Before initiating tendering procedures for a PPP Project, the Public Authority shall carry out a project feasibility study, which shall serve as the basis to decide whether a potential Project should be implemented and which shall be submitted to the PPPC when requesting the approval of the PPP Project. 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 its compliance with sector policies and strategies and the regulatory and legal framework.

2. The PPP Department, acting on behalf of and under the authority of the PPPC, shall review the project feasibility study and, if reasonably required, may demand additional studies be carried out by the Public Authority prior to the PPPC making a decision as to whether the project is authorized to proceed to tender.

3. The PPP Department shall establish a methodology for determining value-for-money for PPP Projects, which is to be complied with by all Contracting Authorities in the development of feasibility studies.

**PART V**  
**SELECTION OF THE PRIVATE PARTNER**

**CHAPTER I**  
**GENERAL PRINCIPLES**

**Article 24**  
**Provisions regulating the selection and award proceedings**

The selection of the Private Partner shall be conducted in accordance with Articles 26 to 45 of this law.

**Article 25**  
**Selection Stages**

The Private Partner shall be selected through a pre-qualification procedure, followed by a request for proposal procedure, as set forth in the present law.

**CHAPTER II**  
**PREQUALIFICATION AND PRE-SELECTION OF BIDDERS**

**Article 26**  
**Purpose and Procedure of Prequalification**

1. When PPPC approves the project and authorizes the commencement of tendering procedures in compliance with the present law, the Contracting Authority shall engage in pre-selection proceedings with a view to identifying Bidders that are suitably qualified to successfully implement the envisaged concession or PPP project.

2. The invitation to participate in the pre-selection proceedings shall be published in accordance with the relevant provisions of the present law in form of a request for qualification. Interested bidders shall have not less than twenty (20) days following the publication of the request for qualification to prepare and submit their applications.

3. The request for qualification shall include at least the following information:

3.1. a description of the Project;

3.2. an indication of other essential elements of the project, such as the services to be delivered by the Private Partner, basic performance measures, and the financial arrangements envisaged by the Public Authority;

3.3. where already known, a summary of the main terms and conditions of the proposed Agreement;

3.4. the manner and place for the submission of applications for pre-selection, including the deadline for the submission, expressed as a specific date and time;

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

3.6. the pre-selection criteria in accordance with Article 27 of this Law;

3.7. the proposed timeline for the tendering process; and

3.8. incorporation requirements for the successful Bidder.

#### **Article 27 Pre-selection criteria**

In order to qualify for the selection proceedings, interested Bidders must meet the eligibility criteria set forth in the Law on Public Procurement and meet the criteria on professional suitability, economic and financial standing, and technical and professional capability as specified in the request for qualification.

#### **Article 28 Participation of Consortia**

1. The Public Authority, when first inviting the participation of Bidders in the selection proceedings, shall allow them to form bidding consortia. The information required from members of bidding consortia to demonstrate their qualifications shall relate to the consortium, as a whole as well as to its individual participants.

2. Unless otherwise stated in the request for qualification, each member of a consortium may participate, either directly or indirectly, in only one consortium at the same time. A violation of this rule shall cause the disqualification of the consortium and of the individual members.

3. When considering the qualifications of bidding consortia, the Public Authority shall consider the capabilities and levels of participation of each of the consortium members and assess whether the combined qualifications of the consortium members are adequate to meet the needs of all phases of the project. The Public Authority may specify minimum participation levels for key consortium members that are deemed essential to meeting qualification requirements.

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

The Public Authority shall make a decision with respect to the qualifications of each Bidder that has submitted an application for pre-selection. In reaching that decision, the Public Authority shall apply only the criteria that are set forth in the request for qualification. All pre-selected Bidders shall thereafter be invited by the Public Authority to submit proposals in accordance with Articles 30 to 39 of this law.

### **CHAPTER III PROCEDURES FOR REQUESTING PROPOSALS**

#### **Article 30 Single-stage and two-stage procedures for Solicited Proposals**

1. The procedures for solicited proposal shall take place in 1 or 2 stages.
2. Against payment of any fee that might be applied or assessed, the Public Authority shall publish a request for proposal and provide the pre-qualified bidders with a request for proposals in compliance with Article 31 of this law.
3. Notwithstanding the above, the Public Authority may use a two-staged procedure to request proposals from pre-selected Bidders, if elements of the project, such as project specifications, performance indicators, financial arrangements or contractual terms cannot be described in the request for proposal document in a manner sufficiently detailed or accurate to permit the bidders to formulate their final proposals.
4. Where a two-stage procedure is used, the following provisions apply:
  - 4.1. the initial request for proposals shall call upon the Bidders to submit, in the first stage of the procedure, initial proposals relating to project specifications, performance indicators, financing requirements or other characteristics of the project as well as to the main contractual terms proposed by the Public Authority.
  - 4.2. the Public Authority may convene meetings and hold discussions with any of the Bidders to clarify questions concerning the initial request for proposals or the initial proposals and accompanying documents submitted by the Bidders. The Public Authority shall prepare minutes of any such meeting or discussion containing the questions raised and the clarifications provided by the Public Authority.
  - 4.3. following examination of the proposals received, the Public Authority may review and, as appropriate, revise the initial request for proposals by deleting or modifying any aspect of the initial project specifications, performance indicators, financing requirements or other characteristics of the project, including the main contractual terms, and any criterion for evaluating and comparing proposals and for ascertaining the successful Bidder, as set forth in the initial request for proposals, as well as by adding characteristics or criteria to it. The Public Authority shall indicate in the record of the selection proceedings the justification for any revision to the request for proposals. Any such deletion, modification or addition shall be communicated in the invitation to submit final proposals.
  - 4.4. in the second stage of the proceedings, the Public Authority shall invite the Bidders to submit final proposals with respect to a single set of project specifications, performance indicators or contractual terms in accordance with Articles 31 to 38 of this Law.

#### **Article 31 Content of the request for proposals**

1. The request for proposals shall include at least the following information:
  - 1.1. general information as may be required by the Bidders in order to prepare and submit their proposals, including information on the deadline for submission of proposals;
  - 1.2. project specifications and performance indicators, as appropriate, including the Public Authority's requirements regarding safety and security standards and environmental protection;
  - 1.3. the contractual terms proposed by the Public Authority, including an indication of which terms are deemed to be non-negotiable;
  - 1.4. criteria for evaluating proposals and for identifying non-responsive proposals; the relative weight to be accorded to each evaluation criterion; and the manner in which the criteria are to be applied in the evaluation and rejection of proposals.

**Article 32  
Bid securities**

1. The request for proposals shall set forth the requirements with respect to the issuer and the nature, form, amount and other principal terms and conditions of the required bid security.
2. A Bidder shall not forfeit any bid security that it may have been required to provide, other than in cases of:
  - 2.1. withdrawal or modification of a proposal after the deadline for submission of proposals;
  - 2.2. failure to enter into final negotiations with the Public Authority pursuant to paragraph 1. of Article 38 of this law;
  - 2.3. failure to submit its proposal within the time limit prescribed by the Public Authority;
  - 2.4. failure to sign the Agreement, if required by the Public Authority to do so, after the proposal has been accepted;
  - 2.5. failure to provide required security for the fulfillment of the Agreement after the proposal has been accepted or to comply with any other condition prior to signing the Agreement specified in the request for proposals.

**Article 33  
Clarifications and modifications**

1. The Public Authority may, whether on its own initiative or as a result of a request for clarification by a Bidder, review and, as appropriate, revise any element of the request for proposals.
2. Each change shall be communicated promptly to all candidates having received the request for proposals. If the Public Authority deems it necessary to change the documents, and when this is done with less than two-third (2/3) or more of the time period for the preparation of bids, then the Public Authority shall postpone the deadline for bid submission for one third (1/3) of the original period.
3. The Public Authority shall indicate in the record of the selection proceedings the justification for any revision to the request for proposals. Any such deletion, modification or addition shall be communicated to the Bidders in the same manner as the request for proposals.

**Article 34**  
**Submission of Proposals**

1. The pre-selected Bidders shall submit their proposals in writing, signed and placed in sealed envelopes.
2. A pre-selected bidder shall have not less than forty (40) days from the receipt of the request for proposals to submit its proposal to the Public Authority. A proposal received by the Public Authority after the deadline for submission of proposals shall not be opened and shall be returned to the Bidder that submitted it.

**Article 35**  
**Evaluation criteria**

1. The criteria for the evaluation and comparison of the technical proposals shall include, as appropriate and without being limited to, at least the following:
  - 1.1. technical soundness;
  - 1.2. compliance with environmental standards;
  - 1.3. operational feasibility and efficiency;
  - 1.4. quality of services and measures to ensure their continuity;
  - 1.5. the social and economic development potential offered by the proposals.
2. The criteria for the evaluation and comparison of the financial and commercial proposals shall, as appropriate and without being limited to, include the following:
  - 2.1. the present value of the proposed tolls, unit prices and other charges over the Agreement period;
  - 2.2. the present value of the proposed direct payments by the Public Authority, if any;
  - 2.3. the costs for design and construction activities, annual operation and maintenance costs, present value of capital costs and operating and maintenance costs;
  - 2.4. the extent of economical support, if any, expected from a Public Authority;
  - 2.5. the soundness and viability of the proposed financial arrangements;
  - 2.6. the present value of the concession fee to be paid to the Public Authority; and
  - 2.7. potential of economic and social development offered from proposals.

**Article 36**  
**Comparison and evaluation of proposals**

1. The Public Authority shall compare and evaluate each proposal in accordance with the evaluation criteria, the relative weight accorded to each such criterion and the evaluation process set forth in the request for proposals.
2. For the purposes of above, the Public Authority may establish minimum thresholds with respect to quality, technical, financial and commercial aspects. Proposals that fail to achieve these minimum thresholds shall be regarded as non responsive and shall be disqualified.

3. In the event that the request for proposals includes a design contest, any proposals with respect to design shall be evaluated in accordance with the relevant provisions of the Law on Public Procurement.

**Article 37**  
**Further demonstration of fulfillment of qualification Criteria**

The Public Authority may require any Bidder that has been pre-selected to demonstrate again its qualifications in accordance with the same criteria used for pre-selection. The Public Authority shall disqualify any Bidder that fails to demonstrate again its qualifications, if requested to do so.

**Article 38**  
**Final negotiations**

1. The Contracting Authority shall rank all responsive proposals on the basis of the evaluation criteria and invite for final negotiation of the Agreement the Bidder that has attained the best rating.

2. Final negotiations shall concern only those contractual terms, if any, that were stated as negotiable in the final request for proposals.

3. If it becomes apparent to the Public Authority that the negotiations with the Bidder invited will not result in an Agreement within a reasonable timeframe, the Public Authority shall inform the Bidder of its intention to terminate the negotiations and give the Bidder thirty (30) days to formulate its final proposal. If the Public Authority does not find that proposal acceptable, it shall terminate the negotiations with the Bidder concerned and execute any corresponding guarantees. The Public Authority shall then invite for negotiations the other Bidders in the order of their ranking until it arrives at an Agreement or rejects all remaining proposals. The Public Authority shall not resume negotiations with a Bidder with which negotiations have been terminated pursuant to this paragraph.

4. Following completion of negotiations and prior to awarding the Agreement to the preferred bidder, the Public Authority shall submit the final Agreement to the PPPC for approval. The PPPC shall decline the approval if it determined that the Agreement differs substantially from the project approved by the PPPC and in any case if the Agreement to be awarded fails to meet the requirements of affordability and value-for-money, if applicable. In the event that the PPPC declines the approval, the Public Authority shall not award the agreement. Any agreement awarded without the PPPC's approval shall be legally invalid and shall produce no legal effects.

**Article 39**  
**Termination of Procurement Procedures**

1. A Public Authority shall terminate a procurement activity prior to the award of an Agreement for the following reasons:

1.1. during the conduct of a procurement activity, there are less than two (2) qualified Bidders;

1.2. all responsive tenders do not demonstrate value-for-money and, if applicable, affordability;

1.3. prior to the opening of requests to participate or proposals, the termination of the procurement activity has been made necessary due to objective and demonstrable

events and/or reasons that are beyond the Public Authority's control and that were not predictable at the time of the initiation of the procurement activity.

2. Immediately upon termination of the procurement procedure, the Public Authority shall publish a cancellation notice in accordance with the requirements set forth in the present law and shall include in the procurement records a written statement setting forth in detail the factual reasons and the legal reasons for the termination.

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

### **Article 40 Circumstances authorizing award without competitive procedures**

1. Subject to approval by the PPPC, a Public Authority is authorized to negotiate an Agreement without using the procedure set forth in Articles 26 to 39 of the present law in the following instances:

1.1. the project involves matters pertaining to national security;

1.2. the award of additional works or services not included in the initial Agreement but which have, through unforeseen circumstances, become necessary for the performance of the work or services described therein, which the Public Authority has awarded to the Private Partner, provided that the award is made to the private partner performing such work or services, under the conditions and within the limits set forth in the Law on Public Procurement.

### **Article 41 Procedures for Negotiating of Agreements**

1. Where an Agreement is negotiated without using the competitive tender procedures set forth in Articles 26 to 38 of the present law, the Public Authority shall:

1.1. except for Agreements negotiated pursuant to sub-paragraph 1.1. paragraph 1. of Article 40 of this law, cause a notice of its intention to commence negotiations in respect of an Agreement to be published in accordance with the relevant provisions of the present law;

1.2. engage in negotiations with as many persons as the Public Authority judges capable of carrying out the project as circumstances permit;

1.3. establish evaluation criteria against which proposals shall be evaluated and ranked.

## **CHAPTER V MISCELLANEOUS PROVISIONS**

### **Article 42 Confidentiality**

The Public Authority shall treat proposals in such a manner as to avoid the disclosure of their content to competing Bidders. Any discussions, communications and negotiations between the Public Authority and a Bidder shall be confidential. Unless required by law or by a court order or permitted by the request for proposals, no party to the negotiations shall disclose to any other person any technical, price or other information in relation to discussions, communications and negotiations pursuant to the aforementioned provisions without the consent of the other party.

**Article 43**  
**Publication of Notices**

1. A Public Authority shall immediately submit to the PPP Department all language versions of a request for qualifications notice, a request for proposals notice, a contract award notice and any other notice required pursuant to the present law. Within two (2) days following receipt of such notice, the PPP Department shall publish all language versions of the notice on the PPP Department's web-site.
2. Within three (3) days from the submission of a notice to the PPP Department, a Public Authority shall publish such notice in the official languages of the Republic of Kosovo in at least two daily newspapers circulating in Kosovo.
3. The PPP Department shall develop and set standard forms for notices referred to in the present Article.

**Article 44**  
**Record of pre-selection and award proceedings**

The Public Authority shall keep an appropriate record of information pertaining to the pre-selection and award proceedings in accordance with the relevant provisions of the Law on Public Procurement.

**Article 45**  
**Subsidiary Application of the Law on Public Procurement**

In the event that a subject-matter of procedural nature related to the award of a Public-Private-Partnership is not regulated by the present law, the respective provisions of the Law on Public Procurement shall be applied accordingly. If the application of such provisions of the Law on Public Procurement requires the approval or a decision of the Public Procurement Regulatory Commission or the Central Procurement Agency, the authority for such approval or decision shall be vested with the PPPC.

**PART VI**  
**COMPLAINTS AND JUDICIAL REVIEW**

**Article 46**  
**Complaints and Review Procedures**

1. If a person who participates in contract award procedures set forth in the present law considers that it is aggrieved by a decision taken by or omission of a Public Authority in violation of the provisions of Part IV, Title II, of the present law, such person may submit a complaint to the Procurement Review Body in accordance with the Law on Public Procurement.
2. The PRB shall review and decide on such complaint in accordance with the Law on Public Procurement.
3. A decision of the PRB may be subject to review by the Supreme Court of Kosovo pursuant to the Law on Public Procurement.
4. If the Procurement Review Body (PRB) determines that an Agreement has been awarded by a Public Authority in violation of Part IV, Title II, of the present law, such agreement shall not be enforceable unless the Supreme Court of Kosovo determines that the decision of the PRB is contrary to the facts or the law or that such agreement shall be enforceable because:

4.1. the contract has already been wholly or substantially performed, and

4.2. taking into account the probable consequences for all interests likely to be harmed, including the public interest, it concludes that negative consequences exceed the benefits that may be achieved.

## **PART VII THE PPP AGREEMENT**

### **Article 47 Governing Law**

1. The Agreement shall be governed by the law of the Republic of Kosovo, unless otherwise determined in the agreement.
2. The Private Partner, its shareholders, and other business partners shall be free to choose the law governing their relations.

### **Article 48 Contents of the Agreement**

1. The Agreement shall be concluded between the Public Authority and the Private Partner as incorporated pursuant to paragraph 3. of Article 20 of the present law.
2. The Agreement shall provide for such matters as the parties deem appropriate, including, but not limited to:
  - 2.1. the nature and scope of works to be performed and services to be provided by the Private Partner;
  - 2.2. the conditions for provision of those services and the extent of exclusivity, if any, of the Private Partner's rights under the Contract;
  - 2.3. the assistance that the Contracting Authority may provide to the Private Partner in obtaining licenses and permits to the extent necessary for the implementation of the project;
  - 2.4. the extent to which the Private Partner shall be authorized to subcontract the services it must provide in accordance with the Agreement;
  - 2.5. any requirements relating to the establishment and minimum capital of a legal entity incorporated in accordance with paragraph 3. of Article 20 of this law;
  - 2.6. the ownership of immovable property and other assets related to the project and the obligations of the parties, as appropriate, concerning the acquisition of the project site and any necessary easements;
  - 2.7. the remuneration of the Private Partner, whether consisting of tariffs or fees for the use of the facility or the provision of services; the methods and formulas for the establishment or adjustment of any such tariffs or fees; and payments, if any, that may be made by the Contracting Authority or other Public Authority;
  - 2.8. procedures for the review and approval of engineering designs, construction plans and specifications by the Contracting Authority, and the procedures for testing and final inspection, approval and acceptance of the Infrastructure Facility;

- 2.9. the extent of the Private Partner's obligations to ensure, as appropriate, the modification of the service so as to meet the actual demand for the service, its continuity and its provision under essentially the same conditions for all users;
- 2.10. the Contracting Authority's or other Public Authority's right to monitor the works and services to be provided by the Private Partner and the conditions and extent to which the Contracting Authority or any other authorized Public Authority may order variations in respect of the works and conditions of service or take such other reasonable actions as they may find appropriate to ensure that the Infrastructure Facility is properly operated and the services are provided in accordance with the applicable legal and contractual requirements;
- 2.11. the extent of the Private Partner's obligation to provide the Contracting Authority or any other Public Authority with reports and other information on its operations;
- 2.12. mechanisms to deal with additional costs and other consequences that might result from any order issued by the Contracting Authority or another Public Authority in connection with sub-paragraphs 1.9. and 1.10. of this paragraph;
- 2.13. to the extent considered necessary, any rights of the Contracting Authority to review and approve major contracts to be entered into by the Private Partner, in particular with the Private Partner's own shareholders or other affiliated persons, including but not limited to the transfer of controlling interest in the private partner;
- 2.14. the creation of security interests over any of the private partner's assets, rights or interests under the Agreement as may be required to secure financing needed for the project;
- 2.15. guarantees of construction and performance to be provided and insurance policies to be maintained by the Private Partner in connection with the implementation of the project;
- 2.16. remedies available in the event of default of either party;
- 2.17. the extent to which either party may be exempt from liability for failure or delay in complying with any obligation under the Contract owing to circumstances beyond its reasonable control;
- 2.18. the duration of the Contract and the rights and obligations of the parties upon its expiry or termination, including any wind-up and transfer measures;
- 2.19. the manner for calculating compensation in the case of early termination;
- 2.20. the governing law and the mechanisms for the settlement of disputes that may arise between the Contracting Authority and the Private Partner;
- 2.21. the rights and obligations of the parties with respect to confidential information;
- 2.22. the conditions and procedures for the exercise of any step-in right by the Contracting Authority or a substitution of the private partner by the entities extending financing for the Project;
- 2.23. the identification of the institutions and/or personnel directly responsible for contract oversight and monitoring;

2.24. the conditions and procedures for the assignment of the Agreement by the private partner;

2.25. the procedures for revising, amending, and modifying the terms of the Agreement.

3. The PPP Department may establish additional elements to be included in an Agreement and may issue standard clauses and guidelines for the drafting of an Agreement.

#### **Article 49**

#### **Early Termination of the Agreement by the Contracting Authority**

Any exercise by the Contracting Authority of a right to early termination stipulated in the Agreement shall be subject to prior approval by the PPPC in the event that such early termination would result in compensation payments to the private partner or any other financial obligations for the Contracting Authority or any other Public Authority.

#### **Article 50**

#### **Signing of Agreement**

The Agreement shall be signed by the authorized representative of the Private Partner and the highest representative of the Contracting Authority.

### **PART VIII FINAL PROVISIONS**

#### **Article 51**

#### **Law in force**

1. Law No. 03/L-090 on Public-Private-Partnerships and Concessions in Infrastructure and the Procedures for their Award, shall be repealed and replaced by the present law.

2. In the event of conflict between provision of the present law and Article 54 of the Law on Public Financial Management and Accountability, the provisions of the present law prevail.

#### **Article 52**

#### **Transitional Provisions**

1. Provisions of this law regarding the procurement procedures and prior authorizations from the PPP-ISC shall not apply to tendering procedures for Public-Private-Partnerships where:

1.1. potential bidders have already been pre-qualified in compliance with procedures settled in the Law on Public Procurement or in directions of procurement settled by any international financial institution; or

1.2. an official request for proposal documents is published in compliance with applicable law.

2. If at the time when this law is promulgated, a PPP project is being implemented actively under supervision of a steering committee of the project settled by the Government and if the steering committee of the project has finalized open public procurement to engage a qualified adviser of transaction on the day of promulgation of this law, the existing steering committee shall act as PPP-ISC for all purposes related to implementation of the project until the contract is awarded in compliance with this law.

3. This law shall not apply to concession contracts already signed prior to the date of enforcement of this law. The referenced contracts shall only be renewed, amended, or extended in compliance with this law.

**Article 53**  
**Entry into Force**

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

**Law No. 04/ L-045**  
**21 October 2011**

**Promulgated by Decree No.DL-046-2011, dated 15.11.2011, President of the Republic of Kosovo Atifete Jahjaga.**