

(“Official Gazette” of Canton Sarajevo, No. 27)

Pursuant to Article 11 -14 and Article 18, Item b) of the Constitution of Sarajevo Canton (“Official Gazette of the Sarajevo Canton”, No. 1/96, 2/96, 3/96, 16/97, 14/00, 4/01 and 28/04), at the session held on 24 October 2011, the Sarajevo Canton Assembly passed the following

## **LAW ON PUBLIC – PRIVATE PARTNERSHIP**

### **CHAPTER I – GENERAL PROVISIONS**

#### **Article 1**

(Subject of the Law)

This Law defines the meaning and subject of the public-private partnership, public body, public and private partner as well as other basic terms, determines the objective and principles, models of the public-private partnership in the Sarajevo Canton (hereinafter: the Canton), planning and preparation, the procedure of proposal, approval and implementation of the public-private partnership projects, within the competence of the Canton, the City of Sarajevo and the municipalities on the territory of the Canton, the rights and obligations of public and private partners, the establishment and competence of the Public-Private Partnership Commission (hereinafter: the Commission), legal protection, as well as other issues significant for the public-private partnership.

#### **Article 2**

(Defining the meaning and subject-matter of the Public- Private Partnership)

(1) A Public-Private Partnership (hereinafter: the PPP), for the purpose of this Law, is a long-term partnership between public and private partners that implies a form of meeting certain public needs through PPP projects.

(2) The subject of the PPP is the construction, reconstruction, management and maintenance of capacities for meeting public needs in all fields of the public partner.

(3) The subject of the PPP shall not exclusively include a delivery of goods, nor will it exclusively include the concession for commercial use of common or other property.

(4) Basic characteristics of the PPP are as follows:

a) Private partner shall assume the following obligations from the public partner

- 1) design, construction and/or reconstruction of public infrastructure and/or buildings of public interest, including the construction and/or reconstruction of public information and communication systems, assuming thereby one or more obligations, i.e. financing, management and maintenance, for the purpose of providing public services to the end-users within the competence of the public partner or for the purpose of providing the public partner with necessary prerequisites for rendering public services from its field of competence, or
  - 2) providing public services to end-users within the competence of the public partner, including the management of information-communication systems of public interest, that is, rendering public services to end-users with established information-communication systems.
- b) in exchange for the assumed obligations, the public partner may transfer certain real rights to the private partner and/or award or transfer concessions to the private partner, pursuant to the Law on Concessions and/or reimburse the private partner in cash,
  - c) each partner shall assume responsibility for risks they can influence or share responsibility thereto, with the aim of optimal risk management during the term of the PPP project, using the management, technical, financial and innovation skills of the private partner as well as the exchange of skills and knowledge between the public and the private partner.

### **Article 3** (Purpose)

The purpose of this Law is to allow for a transparent, non-discriminatory and clear legal framework within the statutory proceedings of defining requirements for domestic and foreign private legal entities to implement PPP projects with public partners in the Canton.

### **Article 4** (Principles)

In the course of implementation of this Law, the public partner shall comply with the following principles: the principle of public interests protection, the competition principle, the efficiency principle, the principle of equal treatment, the principle of mutual recognition, the principle of proportionality, the transparency principle, the principle of free negotiation, and the environmental protection principle.

### **Article 5** (Basic terms)

The terms used for the purpose of this Law shall have the following meaning:

- a) *The project* consists of a number of interrelated activities taking place in accordance with a defined order for reaching clear objectives within a certain period of time and with certain financial resources.
- b) *PPP project* is a project implemented in accordance with one of the PPP models, and approved by the competent bodies defined by this Law on the basis of the procedure executed by the Commission as described in Chapter V of this Law,
- c) *Contracted Public-Private Partnership* is a PPP model in which the mutual relationship between a public and a private partner is regulated by PPP Agreement.
- d) *PPP Agreement* is a basic agreement entered into by a public and a private partner, or by a public partner and a special-purpose company (hereinafter: the SPC), defining the rights and obligations of the contracting parties for the purpose of the PPP project implementation.
- e) *Status Public-Private Partnership* is a form of PPP based on the co-ownership relationship between a public and a private partner in a joint business company in charge of PPP project implementation.
- f) *SPC* is a business company that may be founded by a private partner for the purpose of entering into a PPP agreement and/or PPP project implementation agreement.
- g) *Public body* is the Canton, the City of Sarajevo and/or municipalities on the territory of the Canton (hereinafter: the local self-government unit), an institution established by the Canton or the local self-government unit, as well as a business company owned or majority owned by the Canton or the local self-government unit.
- h) *Public partner* is:
- 1) One or more public bodies entering into an agreement with a private partner or SPC, or
  - 2) One or more public bodies in a co-ownership relationship with a private partner in a joint business company.
- i) *Private partner* is a domestic or foreign private legal entity, selected on the basis of implemented public procurement procedure that enters into a PPP agreement with a public partner, or establishes a SPC for that purpose, or establishes a co-ownership relationship with a public partner in a joint business company.
- j) *Private Partner Selection Procedure* is a public procurement procedure defined by provisions regulating the public procurement sector or the procedure of concession award or transfer, as defined by the provisions regulating concessions, in case the PPP project implementation includes the award or transfer of a concession.
- k) *Consultant* is one and/or more natural and legal entities with expert knowledge required for the preparation, contracting and implementation of PPP projects.

## **CHAPTER II – CONTRACTUAL PUBLIC-PRIVATE PARTNERSHIP**

### **Article 6** (PPP Agreement)

- (1) Contractual Public-Private Partnership is a PPP model in which the relationship between a public and private partner is regulated by a PPP Agreement.

(2) PPP Agreement shall be entered into in written form and for an indefinite period of time, provided that the period is not shorter than five and not longer than thirty years, with the possibility of entering into a new agreement by selecting a private partner, pursuant to the provisions of Article 17 and 18 of this Law.

(3) The Government of Sarajevo Canton (hereinafter: the Government) shall issue a Regulation on Contents of the PPP Agreement, at the proposal of the Commission.

### **Article 7**

(Registration of signed PPP Agreements)

Under the Regulation on the Contents and Keeping of the Register of PPP Agreements referred to in Article 21 of this Law, the Government shall, at the proposal of the Commission, prescribe the rules defining the procedure of registering PPP Agreements into the Register of PPP Agreements (hereinafter: the Register), as well as the contents and scope of elements of the registered PPP Agreements available to the public, complying thereby with the provisions on the protection of intellectual property, personal data, data secrecy and business secrets.

### **Article 8**

(Application of the Regulation on Monitoring the PPP Project Implementation)

For the purpose of application of the Regulation on Monitoring the PPP Project Implementation under Article 22, Paragraph (1) of this Law, the public partner, the private partner and the SPC shall submit a certified copy of the following documents to the Commission during the contractual relationship:

- a) Contracts stipulating financial relationships,
- b) Document on the establishment of SPC,
- c) Agreements on the acquisition and transfer of ownership rights, building rights and other real rights,
- d) Contracts on the delivery of services (installation, implementation, integration and maintenance of information-communication systems, and other services),
- e) Construction contracts (construction, reconstruction, expansion and other related works),
- f) Contracts on delivery of services (consultancy, design, management, maintenance and other services),
- g) Risk insurance contracts (insurance policy),
- h) Other contracts and legislative acts as required.

## **Article 9**

(Special-purpose company)

- (1) SPC may only participate in implementation of the PPP project it was founded for.
- (2) When a private partner founds a SPC, the public partner may enter into a PPP Agreement with the SPC.
- (3) SPC shall be founded pursuant to the legal provisions stipulating the foundation and operations of business companies.

## **CHAPTER III – STATUS PUBLIC-PRIVATE PARTNERSHIP**

### **Article 10**

(Joint Business Company)

- (1) The Status Public-Private Partnership is a form of PPP based on the co-ownership relationship between a public and a private partner in a joint business company responsible for the implementation of the PPP project, whereas the relationship between the public and the private partner in a joint company may be based on the founders shares in the newly founded company, or the purchase of ownership shares in the existing business company, performed pursuant to the Law on Privatization of Companies.
- (2) A joint business company, as the entity responsible for the implementation of the PPP project under Paragraph (1) of this Article, may be founded on the cantonal level only upon the approval by the Government, whereas on the local self-government level upon the approval by competent municipality or the City Council (hereinafter: the Local Self-Government Council).
- (3) Legal provisions regulating the foundation and operation of business companies as well as the provisions of the Partnership Agreement shall be applied to the joint business company.

### **Article 11**

(Partnership Agreement)

- (1) When a public body plans to implement a PPP project in the manner defined in the previous Article, the criteria pursuant to the provisions of Article 14-20 of this Law shall be applied.
- (2) Following the procedure of private partner selection, the public body and the selected private partner shall sign a partnership agreement with the objective to establish a joint business company defined under Article 10 of this Law, for the purpose of PPP project implementation.

## **CHAPTER IV – PPP PROJECT PLANNING AND PREPARATION**

### **Article 12**

(PPP project planning)

(1) All ministries of the Canton and competent offices of the local self-government units shall prepare a medium-term (three-year) and annual plan for the proposal of PPP project implementation in the manner prescribed by this Law.

(2) The Cantonal Government, the Mayor and the Municipal Mayor, before the end of the current calendar year, shall define a list of projects, planned to be implemented in the following calendar year through PPP forms, which will be presented on their website.

(3) The medium-term PPP project implementation plan shall state commercial and other areas of responsibility of the competent Ministry, that is, of the local self-government units where PPP projects would be implemented, the name and brief description of the project, project purpose and goal, public buildings that shall be constructed, that is, the public activities that shall be performed on the basis of PPP, planned PPP project expenditures and an estimation of expected PPP project benefits.

(4) Before the end of the current year, all ministries of the Canton and competent departments of the local self-government unit shall prepare an annual plan of the PPP project implementation within their competence for the following calendar year, as a component of their annual work schedule. This annual plan shall be in line with the medium-term PPP project implementation plan and shall, in particular, include the following:

- a) planned number of PPP projects implementation,
- b) name and a brief description of the PPP project,
- c) project purpose and objective,
- d) legal basis and proposed PPP models,
- e) terms planned for individual PPP projects,
- f) distribution of rights and obligations between the public and the private partner with estimated benefits of individual PPP projects.

### **Article 13**

(Preparation of the PPP projects)

(1) Competent authority of the public body shall issue the applicable document for each specific case to determine the commitment for the establishment of partnership with the private sector.

(2) The public body shall issue a decision on the commitment to establish a PPP on the basis of the project justifiability study.

(3) The project justifiability study shall include:

- a) a brief description of the project,

- b) the project's economic and financial indicators, including a comparative expenditures analysis of the public sector comprising the expenses of the public sector during the implementation of that project in the case of classical budget financing in the envisaged period (Public Sector Comparator - PSC),
- c) required financial resources from the budget of the Canton or the local self government unit, that is, financial resources that have to be provided by the institutions or enterprises owned by them,
- d) legal status of the project ownership,
- e) project implementation risks, as well as
- f) other required elements.

(4) At the proposal of the relevant ministry, the Government shall issue approval for the Decision on the Commitment to Establish a PPP for projects within the competence of the Canton.

(5) At the proposal of the Mayor, that is, the Municipal Mayor, the Local Self - Government Council shall give its consent to the Decision on the Commitment to Establish a PPP for projects within the competence of respective local self-government unit.

(6) For the purpose of defining market interests of potential private partners in the participation of the implementation of projects through PPP, public bodies may publish a public invitation for expressing interest in the realization of certain project with a private partner who shall provide financial resources for the implementation of that project. The public invitation for the expression of interest in the realization of certain project through PPP shall be published on the public partner's website.

## **CHAPTER V – THE PROCEDURE OF PPP PROJECT INSPECTION, APPROVAL AND IMPLEMENTATION**

### **Article 14**

(Proposal of PPP projects)

(1) The public bodies referred to in this Law shall be authorized to propose the implementation of PPP projects only through the competent Ministry of the Canton (hereinafter: the competent Ministry), that is, through competent department of the Municipal Mayor and /or the Mayor (hereinafter: the local self-government department), in the manner defined in the provisions of this Law and in by-laws based on this Law. This provision does not rule out the possibility of PPP project proposals by the business sector, that is, by the chambers of commerce and business sector associations.

(2) The Commission shall evaluate the contents of project proposals in line with the

Regulation on the Criteria for PPP Projects Evaluation and Approval defining the expert evaluation and approval criteria for PPP projects, as well as a list of documents submitted with the project proposal.

(3) At the proposal of the Commission, the Government shall issue the Regulation referred to under Paragraph (2) of this Article.

(4) The public body shall, in the manner provided under Article 13, Paragraphs(1)-(5) of this Law, submit to the Commission the project proposal and accompanying documents prescribed in the referenced Regulation, provided that the project proposal includes the PPP characteristics described under Article 2, Paragraph (1) of this Law. Additionally, the public body shall submit to the Commission the following:

a) consent of the Ministry of Finance of the Sarajevo Canton (hereinafter: the Ministry of Finance), for PPP projects in the area of responsibility of the Canton, that is, the consent of the competent local self-government department, for PPP projects from the area of responsibility of the local self-government, pertaining to the compliance of the project proposal with budget projections and plans, fiscal risks and limitations prescribed by special provisions, as well as financial and fiscal sustainability of the project proposal.

b) opinion of the Competent Ministry on the compliance of the project proposal with the sector development plans and strategies, that is, with the provisions from its area of responsibility, and opinion of the local self-government department on the compliance of project proposals with development policy plans and plans of the local self-government unit.

(5) The competent bodies under Paragraph (4) of this Article shall submit the required approval or opinion to the public body within 30 days following the day of the project proposal submission.

(6) Should the public body fail to eliminate potentially detected shortcomings within 60 days, it shall be understood that it has withdrawn from the project proposal.

## **Article 15**

(Approval of the proposed PPP project)

(1) Within 30 days following the day of receipt of the project proposal and the complete accompanying documents referred to in Article 14, Paragraph (4) of this Law, the Commission shall issue Decision on the approval of the implementation of proposed projects in accordance with one of the PPP models, based on the estimation on fulfillment of all criteria prescribed by the Regulation under Article 14, Paragraph (2), of this Law.

(2) In the evaluation of received project proposals and accompanying documents, the Commission shall evaluate, in particular:

a) justifiability of the project and



b) justifiability of the application of the public-private partnership model.

(3) Pursuant to the Decision of the Commission under Paragraph (1) of this Article, the project proposal shall acquire the status of a PPP project.

(4) The public body shall issue the decision on the project implementation according to one of the PPP models exclusively on the basis of the Decision under Paragraph (1) of this Article.

(5) Should the public body under Paragraph (4) of this Article fail to initiate proceedings for the selection of a private partner within 60 days following the day of receipt of the Decision under Paragraph (1) of this Article, the Decision shall be rendered inoperative, making it necessary to initiate proceedings for the same project proposal again pursuant to the provisions of Article 14 of this Law.

### **Article 16**

(Decision on the compliance of tender documentation)

(1) The public body that issued the Decision under Article 15, Paragraph (4) of this Law, before initiating the procedure for a private partner selection, shall submit to the Commission a certified copy of the tender documentation for evaluation and approval, including all addenda provided under Article 14, Paragraph (2) and (4) of this Law.

(2) The Commission shall render the Decision on compliance of the documents with the approved PPP project within a period not exceeding 30 days following the day of receipt of complete documentation under Paragraph (1) of this Article.

(3) The public body may initiate a private partner selection only upon the Decision of the Commission under Paragraph (2) of this Article.

(4) If the procedure for public partner selection, initiated upon the decision of the Commission under Paragraph (2) of this Article, is repeated, the tender documented under Paragraph (1) of this Article shall be submitted to the Commission for repeated evaluation and approval, pursuant to the provisions of this Article.

### **Article 17**

(Private partner selection procedure)

(1) The private partner selection procedure shall be performed in line with the provisions and criteria regulating the public procurement area, applying relevant provisions of this Law. The public invitation for the private partner selection shall be published in the Official Gazette of Bosnia and Herzegovina, whereas the unaltered text shall be published in daily press as well as on the Government's official website.

(2) In addition to the criteria defined under Paragraph (1) of this Article, the tender documents shall also include the following elements:

- a) proposal of the PPP contract,
- b) instructions for the preparation of financial model for the PPP project,
- c) discount rate,
- d) proposal of the risk-sharing sheet

(3) In case the implementation of the PPP project implies the award or transfer of a concession, the procedure of private partner selection shall be performed pursuant to the provisions regulating the award or transfer of concession, by applying Article 9 of this Law.

### **Article 18**

(Entering into a PPP Agreement)

(1) Prior to the Decision on the private partner selection, the competent public body shall submit to the Commission a proposal of the PPP Agreement for approval, including the addenda as its constituent part, as well as the consent of the Ministry of Finance or competent local self-government department for the proposal of the Agreement.

(2) The Commission shall issue Decision on the approval of the text of the proposal of the Agreement under Paragraph (1) of this Article, within 30 days following the day of receipt of the proposal, which will be determined on the basis of evaluation of compliance of the Agreement proposal with the tender documentation and provisions of the Regulation under Article 6, Paragraph (3) of this Law.

(3) The Commission shall submit the Decision under (2) of this Article with complete documentation to the Government, that is, to the Mayor and/or Municipal Mayor, who shall issue a decision on approval of the PPP Agreement proposal, at the proposal of the Commission.

(4) On cantonal level, a PPP Agreement may only be entered into on the basis of the aforementioned decision issued by the Government, whereas on local self-government unit level a PPP Agreement may only be entered into on the basis of a decision issued by the Mayor and/or Municipal Mayor and upon the approval of the Agreement proposal by the Local Self-Government Council. These documents shall be published in the "Official Gazette of the Sarajevo Canton".

(5) Any amendments to the concluded PPP Agreements, altering the rights and obligations of the contracting parties, shall require a procedure pursuant to the provisions of this Article.

## **Article 19**

(Consultant selection procedure)

The public body shall conduct the consultant selection procedure in line with the provisions regulating the public procurement sector.

## **Article 20**

(Net present value calculation)

(1) In the application of the criteria under Article 17, Paragraph (1) and (2), the price implies the net present value (hereinafter: NPV) referring to the discounted amount of the cash flow during the contracted period of the PPP project.

(2) For the calculation of the net present value of the PPP project, a discount rate shall be applied.

(3) The discount rate is defined in the amount of the interest rate for long-term credits of business banks in Bosnia and Herzegovina for first-class clients in the last quarter of the year preceding the year of the preparation of justifiability study, that is, the preparation of documents for the approval of the PPP project. The data on the amount of the interest rate are derived on the basis of publicly accessible data of the Central Bank of Bosnia and Herzegovina or the Association of Banks of Bosnia and Herzegovina.

## **Article 21**

(The Register of PPP Agreements)

(1) The public partner shall submit the signed PPP Agreement with all addenda to the Commission, as well as the amendments to the agreement and to the addenda, within the period that shall be prescribed by the Government in the Regulation under Paragraph (2) of this Article. The signed PPP Agreement with all addenda as its constituent part, as well as all amendments to the agreement and its addenda shall be entered into the Register kept by the Commission.

(2) The Regulation on the Contents and Keeping of the Register shall be published in the "Official Gazette of the Sarajevo Canton".

(3) This Regulation shall define the persons authorized to access the Register and the scope of rights pertaining to the access to the Register, pursuant to the special provisions regulating data protection and business secrets.

(4) The Register under Paragraph (1) of this Article shall be public.

## **Article 22**

(Monitoring the implementation of the PPP project)

(1) Pursuant to the provisions of the Regulation on Monitoring the Implementation of PPP Projects issued by the Government at the proposal of the Commission, the competent Ministry or the local self-government department shall control, that is, monitor the implementation of the PPP projects. The Commission shall have the right to monitor, perform expert inspection and/or supervise the implementation of the PPP project.

(2) The Regulation under Paragraph (1) of this Article shall regulate the rights and obligations of the public and private partners during the supervision of the PPP project implementation.

## **CHAPTER VI – THE PUBLIC-PRIVATE PARTNERSHIP COMMISSION**

### **Article 23**

(The establishment and composition of the Commission)

(1) The Government shall establish the Commission for Public-Private Partnership as a permanent operating body of the Government, consisting of experts in the field of legislation, economics, technical and other relevant fields of expertise related to PPP; the Commission shall exercise its functions as an expert and independent regulatory body within the competence of the Canton.

(2) The Commission shall consist of seven members. The Commission members shall include a representative of the Ministry of Economy, representative of the Ministry of Spatial Planning and Environmental Protection, representative of the Ministry of Education and Science, representative of the Ministry of Traffic, representative of the Ministry of Housing, all of which have the status of leading state officials in their respective ministries, one member of the academic community of the University of Sarajevo employed in the scientific fields related to PPP, as permanent members of the Commission, as well as a representative of the public partner, as a non-permanent member of the Commission. If the representative of the public partner is from within the competence of the cited ministries, the non-permanent member shall be selected from the academic community of the University of Sarajevo.

(3) The Commission shall have its chairman elected by the permanent members of the Commission for a one-year period, in accordance with the rotation principle.

(4) The members of the Commission shall not exercise political functions.

(5) The Commission shall have a Secretary who shall not take part in the decision - making of the Commission and shall be selected among the civil servants.

(6) Permanent members of the Commission shall be appointed by the Government for a four -year period, with the possibility of reappointment.

(7) The Government's Decision on Training of the Commission shall define in detail the composition of the Commission, its competence, work method, period of exercising the function, and the issues related to its financing.

(8) To perform certain expert jobs, the Commission may, as necessary, hire professional, advisory, and specialized bodies or experts in economy-finance, law, or technical field, at the consent of competent body.

#### **Article 24**

##### **(Competences of the Commission)**

The Commission shall perform the following tasks:

- a) carry out the evaluation and approval procedure for PPP project proposals, tender documentation, and contract proposals, pursuant to the provisions of this Law,
- b) issue decisions and prepare proposals of decisions related to the completion of tasks within the competence of the Commission, as prescribed under Article 15 -18 of this Law and under by-laws issued pursuant to this Law,
- c) keep the Register,
- d) prepare and provide expert opinions on relevant issues of this Law and regulations issued pursuant to this Law,
- e) carry out expert inspection, monitor and/or supervise the implementation of the PPP project, pursuant to Article 22 of this Law,
- f) Propose to the authorized proponents amendments to the Law and other provisions with respect to the public-private partnership,
- g) organize specialized education programs for public bodies and other participants, in cooperation with other competent bodies, pursuant to the Regulation on Training of Participants in the Procedure of PPP Projects Preparation and Implementation,
- h) cooperate with domestic scientific and research institutes, social partners, economic and non-governmental associations and other interested parties, for the purpose of promoting the application of PPP models in the Canton,
- i) promote and study the best PPP practices, and cooperate in its domain with foreign national bodies and international organizations and institutions authorized for the application of PPP model and the implementation of PPP projects,
- j) perform others duties pursuant to the provisions of this Law.

## **Article 25**

### (Resources of the Commission work)

- (1) The resources for the activities and jobs within the competence of the Commission shall be secured from the Cantonal budget.
- (2) The Commission shall be entitled to a remuneration determined by the Government at the proposal of the Ministry.
- (3) The Government shall provide work resources and resources for the implementation of the competence of the Commission from the budget of the Canton on the special budget line of the Ministry of Economy.

## **Article 26**

### (The decision-making and work method of the Commission)

- (1) The Commission shall pass decisions at its sessions by a majority of votes of all members. No member of the Commission shall abstain from voting. The Commission shall have the decision-making ability when there are at least five members of the Commission at the meeting, one of which is the Chairman or a person authorized by the Chairman.
- (2) The Chairman of the Commission shall be authorized to:
  - a) manage and coordinate work as well as delegate work assignments to the members of the Commission,
  - b) call and preside at meetings of the Commission, held at least once a month,
  - c) draft agenda for every meeting, which may be amended at the meeting,
  - d) sign all decisions and other documents of the Commission.
- (3) If the Chairman of the Commission is absent or is unable to exercise the function, he/she shall be replaced by a member of the Commission under Paragraph (1) of this Article with the same authorizations.
- (4) The Commission shall issue decisions and other acts in the manner defined by the provisions of Article 15-18 of this Law as well as other provisions of the Law related to the work of the Commission.
- (5) The Commission may, upon request of the party or *ex officio*, review its decision in the following cases:
  - a) in case of a significant change of facts on which the decision was based that would have had a significant impact on the issuing of a different decision, had these facts been known at the time of issuing the decision,
  - b) when assessed that the decision is based on inaccurate and false documents.

(6) The Secretary of the Commission shall take minutes at the meeting of the Commission, submit decisions to the competent bodies, keep and update the Register of Agreements and archives of the Commission, and perform other administrative and technical duties as assigned by the Chairman of the Commission.

(7) The Ministry of Economy shall provide for administrative-technical duties, the duties of receiving and submitting project proposals and accompanying documents, documents management and filing, as well as other duties for the Commission.

**Article 27**  
(Reporting method)

(1) The Commission shall report to the Government.

(2) The Commission shall submit to the Government , through the Ministry of Economy, a written report on the work of the Commission, at least once a year. The report shall contain data on the submitted proposals for the PPP projects implementation, decisions of the Commission with proposal of decision of the Government including a brief reasoning, a review of signed Agreements from the PPP Register, inquiries with expert opinions of the Commission as well as other information on the work of the Commission.

(3) The Ministry of Economy may also request other information related to the work of the Commission.

(4) The Government shall report to the Assembly of the Sarajevo Canton on the implementation of PPP projects, at least once a year.

## **CHAPTER VII – LEGAL PROTECTION**

**Article 28**  
(Legal protection in the private partner selection procedure)

The legal protection in the private partner selection procedure shall be exercised pursuant to the Public Procurement Law of Bosnia and Herzegovina regulating the procurement sector.

### **Article 29**

(Application of the provisions of the Law on Administrative Proceedings)

(1) Provisions of the Law on Administrative Proceedings shall be applied to the procedures that the Commission and other competent bodies implement within their competence defined by this Law, pursuant to the provisions of Article 15-18 of this Law.

(2) Decisions, procedural decisions, and other administrative acts issued by the Commission, the Government, competent executive body of the local self-government and other bodies under Paragraph (1) of this Article, shall be final and may not be subject to any administrative action.

### **Article 30**

(Conflict of competence)

Should a conflict of competence in respect to PPP arise between the Canton and/or the local self-government, the Government, upon the proposal of the Commission, shall constitute a Special Joint Commission consisting of three members; decisions of the Commission shall be final and binding.

### **Article 31**

(Settlement of disputes)

(1) In the event of a dispute between the Parties concerning the PPP Agreement, the court in the territory where the public partner performs his business operations shall have the territorial and subject-matter jurisdiction.

(2) For all disputes between the public and the private partner under Paragraph (1) of this Article, the provisions of Bosnia and Herzegovina shall apply.

## **CHAPTER VIII – MISDEMEANOR PROVISIONS**

### **Article 32**

(Initiating a misdemeanor procedure)

If the Commission or another competent body detects a violation of the provisions of this Law by a public, private partner or a SPC, it shall submit to the competent court that has jurisdiction over misdemeanors the proposal to initiate misdemeanor procedure.



**Article 33**  
(Fines)

(1) The public partner, private partner or the SPC shall be fined for a misdemeanor in an amount ranging between KM 1,500.00 and KM 15,000.00, if:

- a) the public partner, private partner or the SPC fails to submit to the Commission the required documents(Article 8),
- b) the public body acts contrary to decisions of the Commission and decision of the Government, that is, of the local self-government (Article 15-18),
- c) the public partner fails to submit or fails to submit within the prescribed period to the Commission the signed PPP Agreement with all amendments (Article 21),
- d) the public partner, private partner or SPC, upon request of the competent Ministry, the local self-government or the Commission, failed to allow for the monitoring of the PPP project (Article 22),
- e) the public partner acts contrary to the provisions of Article 10 and 11 of this Law.

(2) the responsible person from the public body, the private partner or the SPC shall be fined in an amount ranging between KM 500.00 and KM 3,000.00 for misdemeanors under Paragraph (1) of this Article.

**CHAPTER IX – TRANSITIONAL AND FINAL PROVISIONS**

**Article 34**  
(Passing by-laws and other legislative acts)

(1) The Government shall no later than 30 days following the day of enforcement of this Law, , constitute a Commission, at the proposal of the Ministry of Economy, pursuant to the provisions of Article 23-27 of this Law.

(2) At the proposal of the Commission, the Government shall pass within 90 days following the day of entry into force of this Law the following:

- a) Regulation on the Criteria for PPP Projects Evaluation and Approval under Article 14, Paragraph (2) of this Law,
- b) Regulation on the Contents of PPP Agreements under Article 6, Paragraph (3) of this Law,
- c) Regulation on the Contents and Manner of Keeping the Register of PPP Agreements under Article 21 of this Law,

- d) Regulation on Monitoring the Implementation of the PPP Projects under Article 22 of this Law, and the
- e) Regulation on Training the Participants in the Procedures of PPP Projects Preparation and Implementation, under Article 24, Item g) of this Law.

**Article 35**  
(Entry into force)

This Law shall enter into force on the eighth day following the day of its publication in the "Official Gazette of the Sarajevo Canton".

Number: 01-02-27839/11  
24 October, 2011  
Sarajevo

THE CHAIRMAN  
OF THE ASSEMBLY OF THE  
SARAJEVO CANTON  
Prof.dr. Mirjana Malić