



Republic of Kosovo
Republika e Kosovës-Republika Kosova
Government - Qeveria - Vlada

Ministry of Finance / Ministria e Financave / Ministarstvo Finansija

Concept Paper for the treatment of Public-Private Partnership

Contents

Chapter 1: Introduction	3
Chapter 2: Description and definition of key issues	5
1. The implications from SAA	5
2. Harmonization of national legislation with EU legislation	6
3. Elimination of bureaucracy and facilitation of the procedures	7
4. Institutional Organization	8
Chapter 3: Goals and Objectives	11
Chapter 4: Options	11
Option 1 - continue with status quo	11
Option 2 - change the existing policy and organizational structure of CDPPP with extended competencies	11
Option 3 - change the existing policy - the establishment of the Agency for PPP within the OPM	12
Chapter 5: Summary of Options	13
Chapter 6: Analysis of options	14
Benefits.....	14
Negative consequences	15
Cost.....	15
Chapter 7: Consultation	16
1. Consultation with experts (outside the government, in *universities or agency)	16
2. Consultation with other ministries and stakeholders.....	16
Chapter 8: Comparison of Options	16
Chapter 9: Recommendation	17
Chapter 10: Communication	17

Chapter 1: Introduction

In today's global economy, infrastructure and modern and efficient public services are a necessary precondition for successful and sustainable economic growth.

The disparity between available resources and investment opportunities necessary to meet the essential infrastructure needs of the country, has a negative impact on economic growth and job creation.

Kosovo urgently needs to expand and increase the efficiency of infrastructure and public services. But the limited public budget cannot cover such capital expenditures and expanded public services. As a result, Kosovo's infrastructure gap is enormous and is growing.

In order to bridge the gap between available public resources and the cost of infrastructure and services that are needed, and to ensure that infrastructure and services are provided in the most efficient and cost-effective manner, public authorities increasingly are considering the possibility of using the PPP model.

Through the infusion of capital and private management, Public Private Partnerships (PPP) can ease fiscal constraints and boost efficiency in the provision of infrastructure and public services. However, despite their potential, PPPs are very complex instruments and require dedication and proper planning.

PPPs have demonstrated that benefit through the enhancement of quality of infrastructure and public services within a short time; through better *value for money* and increased innovation across many sectors. But this does not mean that the implementation of the program or PPP projects is easy. In fact, the provision of public services to the model in which the public and private sectors work together, must overcome the significant obstacles to political, legal and regulatory requirements in order to use the PPP model as an alternative to traditional public sector model.

PPPs offer the opportunity to modernize and expand Kosovo's infrastructure and public services. Law no. 04/L-045 on Public-Private Partnership 2011 establishes a PPP central unit in the Ministry of Finance, as well as the institutional and legal framework to allow public authorities (including ministries, municipalities, agencies, public enterprises and budget organizations) to implement PPPs across many sectors.

The Government of the Republic of Kosovo, through the Government Programme 2015-2018, has reaffirmed its commitment to the promotion of public-private partnership models, with a view to attracting private foreign capital for the improvement of infrastructure and services provided to citizens. The Government emphasizes the improvement of adequate road and rail infrastructure, telecommunications, energy and water. Under this program, PPPs are considered an important component of the Government's development policy to implement reforms towards a market economy.

The Government of the Republic of Kosovo also aims to promote, through legislation, as many public-private partnerships by local governments as adequate and efficient.

In particular, the Governing Programme includes support for small and medium enterprises. Among other things, this support is planned to be achieved through the operation of advanced industrial areas and their management mode based on the public-private partnership model.

In the National Development Strategy 2016-2021, the Government is committed to the use of the PPP model in different sectors, including, but not limited to, education, renewable energy, agriculture, sewage, etc.

While targets addressed the needs for investment in Kosovo 's infrastructure by offering better services and better public, then the *value for money*, the implementation of PPPs in a systematic and orderly manner and in accordance with best practices of international and implementation of transactions in a competitive, fair and transparent manner.

The Republic of Kosovo's PPP Development Strategy for 2014-2016 sets out the current key issues for PPP development, strategic objectives to address these key issues, and actions to be taken in order to achieve these objectives, which remain important and relevant for the development of PPPs:

Key Issue 1: Increasing the connection between the PPP process and the government policy and expenditure planning mechanisms;

Key Issue 2: Building sustainable capacity to support the development of PPP transactions;

Key issue 3: Developing the capacity for private finance initiatives (PFI) by expanding awareness of PFIs as an alternative to PPPs;

Key Issue 4: Maintaining a publicly available list of future and possible transactions of PPPs;

Key issue 5: Developing a systematic approach to management oversight of PPP contracts.

Chapter 2: Description and definition of key issues

Public-Private Partnerships are currently regulated by Law no. 04/L-045 on Public Private Partnership and the five directives approved by the Committee for Public Private Partnerships (PPPC), which are:

- Directive 1/2011 - on the review and approval of PPP projects;
- Directive 2/2011 - on project management teams;
- Directive 3/2011 – on the review and approval of municipal PPP projects;
- Directive 4/2012 – on publishing of PPP notices;
- Directive 5/2012 - on regular reporting of the Public Authorities to the PPPC.

Since the focus of the Government in the economic domain is creation of a suitable environment for accelerated economic development through facilitation of infusion of private capital in the infrastructure and public services sectors as well as foreign investment, and the continued implementation of reforms needed to remove bureaucratic burden, it is necessary to address the current state of legislation on PPP. Creating the conditions most favorable to private investment in infrastructure and public services is a priority of the Government, therefore it is necessary to address the manner of implementing Public-Private Partnerships.

Key issues to be addressed in the field of Public Private Partnership deal with:

1. The implications from SAA

With the signing of the *Stabilization and Association Agreement* (SAA) and its entry into force, one of the actions to be taken is **legal approximation with the EU legislation**, which is challenging since the SAA determines that Kosovo should try to ensure that its laws in force and future legislation will be more in line with EU legislation, otherwise known as the *acquis communautaire* and that its implementation must be done properly.

The National Programme for the Implementation of the Stabilization and Association Agreement (NIPSAA) is a major national policy document for EU accession. It is located in the Legislative Measures and Enforcement Measures that constitute a comprehensive medium-term framework of all the reforms needed to fulfill the obligations arising from the SAA. The NPISAA also contains other measures arising from the findings of the EC report on Kosovo (formerly the Progress Report) and the Dialogue Process of Stabilization and Association Agreement (DPSA). For the purpose of drafting the NIPSAA, out of a total of 35 chapters, the Ministry of Finance (MF) has a role as a leading institution for 9 chapters: existence of a functioning market economy, free movement of capital, public procurement, financial services, taxation, economic and monetary policies, customs union, financial control, financial and budgetary provisions.

The current PPP law should be amended in order to comply with EU Directive 2014/23 / EU. It is noted in the Report of the OECD/SIGMA *Baseline Measurement Report: The Principles of Public Administration*, Kosovo, April 2015, which states that "PPP Law provides a robust

legal framework in this area. However, the law grants a scope for further alignment with the EU *acquis*, in order to transpose the new Concessions Directive”.

There is a need to specify which articles of the Law on Public Procurement apply to public contracts which qualify as PPPs. It is also necessary to consider the possibility of using the competitive dialogue procedure based on the Law on Public Procurement, and whether it is necessary to amend the PPP Law.

Noting that the Government of the Republic of Kosovo intends to establish efficient and adequate legislation for the implementation of PPP projects by local government, the revision of current legislation is also recommended, in particular as regards the implementation of municipal projects.

2. Harmonization of national legislation with EU legislation

The harmonization of current domestic legislation should occur as a result of changes in laws related to the PPP Law, such as:

- Law no. 03/L-087 on Public Enterprises,
- Law no. 03/L-163 on Mines and Minerals,
- Law no. 03/L-175 on Public Debt,
- Law no. 04/L-024 on State Aid,
- Law no. 04/L-042 on Public Procurement,
- Law no. 05/L-079 on Strategic Investments,
- Law no. 05/L-120 on Trepça.

Also, it is necessary to avoid conflicts with other national laws such as Law No. 03/L-048 on Public Financial Management and Accountability, namely article 54.

The Republic of Kosovo is at an early stage of harmonization of legislation with European standards, while being the beneficiary of EU assistance and adopting an action plan to incorporate the *acquis communautaire* into national legislation, Kosovo is obligated to comply with EU law. Legal harmonization is an obligation for European Union membership, which means that countries that seek EU membership must harmonize their legislation with that of the EU. Therefore, Kosovo and its institutions should undertake comprehensive reforms to advance as far as possible in its path to EU integration.

In particular, the Kosovo Progress Report of the European Commission dated 10.11.2016 notes that Kosovo's legal framework is largely in line with the *acquis* and that the law on concessions and public-private partnerships is largely in compliance with EU legislation. Harmonization with the legislation of the EU is also needed, namely harmonization with the EU Directive for concessions 2014/23/EU, thus meeting one more required EU standard and eliminate an obstacle to the integration of Kosovo in the European Union.

Based on the IMF's *Technical Assistance Report to the Republic of Kosovo*, in February 2016, the three-year legal framework and strategy guiding government policy and commitment to PPP is not fully embodied in the Medium Term Expenditure Framework

(MTEF) and the annual cycle budget. In particular, PPPs are evaluated, selected and approved separately from other public investment projects, which undermines the integrity of the evaluation and selection process of capital projects. Some types of public investments, such as PPP and PE investments, are not reflected in the budget and the monitoring of fiscal risks is not done in a systematic manner, therefore it is recommended to increase the transparency of budget documentation, including an annex on PPP and PE investments. This report recommends, *inter alia*, registering assets, liabilities and fiscal risks associated with PPPs and liabilities arising from PE investments in the annual financial statements of the Government.

In conclusion, the Republic of Kosovo has not applied extensive use of Public-Private Partnerships (PPP), but the implementation of many projects is pending. The capital stock of these PPP projects was estimated to constitute 1.2 per cent of GDP in 2013. Information on PPPs does not currently appear in the budget. Although the actual size of the PPP program is modest at 1.7 percent of GDP in 2014, it is expected to grow over time. The current arrangements for accounting and reporting of PPP are not in accordance with best practices. Annual financial statements do not reflect information on PPPs under government control in the form of asset or liabilities in accordance with international standards, and guarantees and other unforeseen obligations associated with PPPs are not counted as part of the account summary.

3. Elimination of bureaucracy and facilitation of the procedures

Selection and award procedures are governed by Articles 26 to 45 of the PPP Law no. 04/L-045. No matter the size of the project, at the moment the private partner for all PPP projects is selected through a pre-selection procedure, followed by a procedure for the submission of proposals, procedures for which are specified in Law no. 04/L-045. After the approval of the project by the PPPC, the Public Authority then develops the pre-selection procedure which aims to identify the bidders who are possessing appropriate qualifications for successful implementation of the PPP project. This phase lasts at least twenty (20) days after publication of the application for qualification. After the Public Authority's qualification of potential bidders, the process passes to the second stage -- the publication of the Request for Proposals. Pre-selected bidders have at least forty (40) days from receipt of the request for proposals to submit their proposals to the Public Authority.

These procedures are very lengthy and time-consuming for the public authorities to prepare and implement. For this reason, in order to simplify the procedures for local authorities, it is suggested to permit specific municipal projects to select a private partner without going through the pre-selection process. Herein, this could include municipal projects for which preliminary investment provided by the local authority does not exceed a certain amount (e.g. of € 2 million).

In relation to the selection procedures for the private partner for all local projects (municipal or combination of several municipalities) or for local projects not exceeding a certain value, simplified proceedings should be permitted where possible.

According to Law no. 04/L-045, there are some circumstances that allow public authorities, after the approval by the PPPC, to negotiate an agreement without using the procedures set out in Articles 26 to 39 of this law. Cases that allow the authorization of the award of a contract without competitive procedures under Article 40 of Law no. 04/L-045 are:

- when the project involves matters pertaining to national security;
- when the project involves the provision of works or additional services which are not included in the original agreement, but that, due to unforeseen circumstances, become necessary for the execution of works or services specified in the agreement which the public authority executed with the private partner provided that the agreement is concluded with the private partner, who will perform the work or services, within the terms and limitations set out in the Public Procurement Law.

Not all potential infrastructure projects and public services are suitable for PPPs. Therefore, PPPs should ensure "*value for money*" equivalent to or better than the traditional public sector approach. *Value for money* equals cheaper or offer lower price for an asset, but it means that must be carefully considered finding the best solution for long-term service delivery. *Value for money* requires an attitude about life cycle, with an in-depth analysis of the long-term total cost of providing infrastructure and services, and the resulting public benefits.

In order to strengthen the selection of projects, the Public Investment Programme (PIP) would enable the possibility of centralized decision-making for public investment. Thus, the most economically advantageous arrangement would be to prepare a priority list only at the beginning of the process, including all new investment projects, regardless of their financing options. The priority list will then be divided into four new projects list: (i) those who are expected to be financed through the budget; (ii) those expected to receive funding from the EU and other donors; (iii) those expected to be procured as a PPP; and (iv) those that are expected to be funded from the budgets of PEs.

4. Institutional Organization

The Government of the Republic of Kosovo, considering the improvement of infrastructure and services as a prerequisite for a successful and sustainable economic growth, and determined to facilitate an investment-friendly environment, took a decision to declare PPP a national priority through a policy directive in July 2008.

In accordance with sub-sections 2, 4, 6 and 7 of Article 93 of the Constitution of the Republic of Kosovo, during the Cabinet meeting held on July 4, 2008, the Government of Kosovo issued a policy directive related to Public-Private Partnerships.

Following the decision to use PPP as an instrument of general policy, it was considered necessary to create a secretariat (originally named the 'PPP Unit') within the Ministry of Economy and Finance, established by the Law on PPP and Concessions in Infrastructure and Procedures for their Award no. 03/L-090 which entered into force on 10 August 2009.

The aim of PPP Unit was to function as a "*center of expertise*" which would be responsible for the creation and communication of relevant policies, the development of best practices, and the exercise of the key functions in the implementation of projects.

Regarding the institutional framework, the first Law no. 03/L-090 on Public-Private Partnerships and Concessions in Infrastructure 2009, which foresaw the creation of a unit that would deal with the PPPs in Kosovo was the Law on Public Financial Management and Accountability. Since the beginning, it was intended to create a PPP unit which would have an advisory function and serve as a center of expertise, responsible for evaluating and providing advice and professional assistance to the Ministry of Finance and the contracting authorities in connection with the proposed PPP projects. As a result, a PPP unit was created within the Ministry of Finance in 2008 with the assistance of USAID.

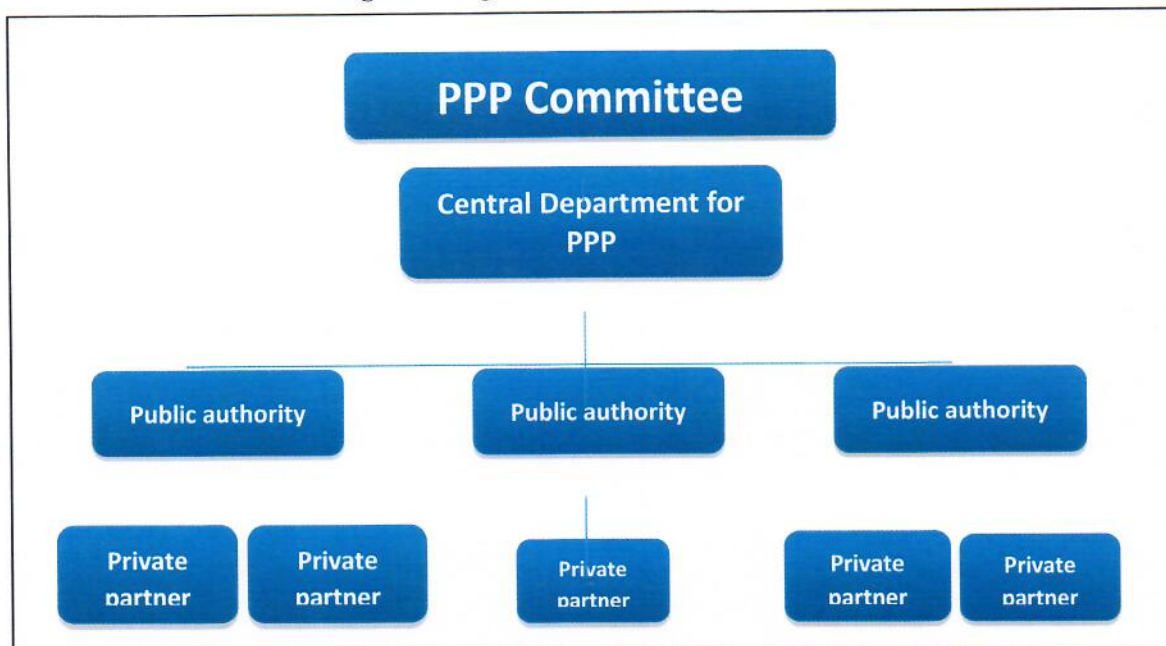
On December 11, 2011 with the entry into force of the new Law on PPP, Law no. 04/L-045, in order to advance and describe in detail the tasks, operation and implementation of PPP policies, the Central Department for Public Private Partnership – CDPPP (*alb. DQPPP*) was appointed at a higher organizational position within public institutions, but with a special structure and division of responsibilities and functional reporting to the PPPC and Administrative Committee to the Ministry of Finance.

Since the approval of the law on PPP, other laws have been approved as well through which the PPPC and CDPPP were assigned additional responsibilities¹, thus it is necessary to anticipate building an organizational structure (such as the current structure in Figure 1 below) which can withstand the commitments required by current local legislation.

While, the PPP Committee is an inter-ministerial body established to oversee and coordinate the coordination and implementation of policies and approval of PPP projects for all economic and social sectors. The Committee consists of five members who are appointed by the Prime Minister and where the Minister of Finance (who presides this Committee), has a veto power to terminate projects which are considered too dangerous or irresistible. A dedicated PPP unit within the Ministry of Finance provides advisory services to contracting agencies, controls *value for money*, analysis of the project budget, and provides expert opinions to the Minister of Finance. In their daily work, PPPC is assisted by CDPPP carrying out the duties of this body, which also is serving as the *secretariat*.

¹ Law No. 04/L-158 on amending and supplementing the Law no. 03/L-163 on Mines and Minerals, pending approval of the Draft Law on Strategic Investments that provides additional commitment to the PPPC and CDPPP in connection with certain strategic projects.

Figure 1. Organizational structure for PPP's.



Currently the Central Department for Public Private Partnership - CDPPP operates within the Ministry of Finance, because of the fact that PPP projects require long-term commitments, rebalancing of financial investments and executive budgets, including contingent liabilities, and the economic assessment *value for money*. The CDPPP installment in MF can facilitate the implementation of policies and gives to CDPPP the necessary legitimacy in its relations with public authorities. Under the organizational structure proposed and approved by the Government of Kosovo on 23.11.2016, Decision no. 04/117, CDPPP will have 3 divisions, as follows: (1) *Division for coordination and capacity building*, (2) *the Division for the evaluation of PPP projects* and (3) *the Division for the Monitoring of PPP Contracts*, with a total staff of 11 employees. The legal basis for each division is stated in the PPP Law and the Rules of Procedures of the PPPC. CDPPP has a duty to assist and advise the Committee of Public Private Partnership, the Ministry of Finance and other public authorities regarding all activities relating to PPP.

CDPPP reports and respond directly to Public-Private Partnerships Committee (PPPC). The PPPC consists of five (5) permanent members. The Minister of Finance is a permanent member of the PPPC and is chairman of the PPPC. Four (4) other permanent members of the PPPC, who should be of the rank of Deputy Prime Minister or Minister, are appointed by the Government decision. Based on the Government Decision no. 02/2015 dated 25.02.2015, the PPPC has the following structure:

- Minister of Finance (Chairman of the Committee)
- Minister of Trade and Industry, Member
- Minister of Economic Development, Member
- Minister of Environment and Spatial Planning, Member and
- Minister of Local Government, Member.

In order to be ready to respond to new requirements and institutional responsibilities, new market requirements, and also to adapt to the institutional changes of recent years, it is

necessary to re-define the administrative position of the CDPPP and the role of PPPC based on the existing structure but with an emphasis on increased effectiveness and efficiency.

Potential options to be considered include non-change of the actual situation (with final approval of extended organizational structure by the Government); CDPPP's expansion of competencies under the Ministry of Finance; CDPPP's transformation into an Agency under the Prime Minister's Office (similar to ASK).

Chapter 3: Goals and Objectives

The goal of addressing these issues in the field of PPPs is to achieve greater effectiveness and efficiency, as well as greater promotion of the importance and opportunities to use different PPP models - concessions, public contracts, PFI etc. - in the implementation of infrastructure and public services projects.

These changes will have an impact on the local level projects as well as to those at the central level. Through the creation of conditions for more effective and efficient implementation of procedures for local projects/municipalities' projects of limited size, local authorities will be able to overcome some bureaucratic procedures and thus be more efficient and quicker in the implementation of the projects that do not exceed the prescribed amount.

To eliminate the current bureaucracy and to achieve a greater efficiency in the implementation of PPP projects, it is necessary that the Law on Public Private Partnership No. 04/L-045 to be amended, as well as Directive 1/2011 - on the review and approval of PPP projects and Directive 3/2011 - review and approval of municipal projects.

Chapter 4: Options

Option 1 - continue with status quo

The first possible option is to continue with the *status quo*. This will continue the current situation during the implementation of small projects of the local level, which tasks municipalities with long procedures and additional documentation, which take time and energy to implement.

Given that countries in the region already have a legislation which allows direct negotiations by their governments for the introduction of private capital and in the general interest of citizens, continuation with the current legislation in Kosovo could mean keeping a lesser degree of use of PPP models, and the drain of private capital to other destinations, as well as the escape of potential investors from our country to the region where the legislature is more efficient.

Also if the CDPPP continues to operate with limited structure that does not meet the requirements and responsibilities arising from the current laws and market requirements, located within the Ministry of Finance, the number of PPP projects will be limited.

Option 2 - change the existing policy and organizational structure of CDPPP with extended competencies

The second option for consideration is to change the existing policies on the aforementioned issues. These changes in legislation would bring greater efficiency and attract private capital and foreign investments that will enable faster implementation of projects.

For a successful economic development, it is useful to consider the possibility of extending competencies of the Central Department for PPP, continuing under the Ministry of Finance.

Thereby, CDPPP could join and assist more in feasibility studies, preparation of documents necessary for the implementation of economic projects, development of which are implemented by public authorities, monitoring the contracting authorities of the current projects, and the promotion of PPP models.

Option 3 - change the existing policy - the establishment of the Agency for PPP within the OPM

The third option is similar to review with the second option, which changes the existing policies on the aforementioned issues. These legislative changes would bring greater efficiency and attract private capital and foreign investments that will enable faster implementation of projects.

Unlike the second option, this option contemplates the transformation of the Central Department for PPP into a PPP Agency, under the Prime Minister's Office, with a configuration similar to that of the Statistical Agency of Kosovo. This option would require a greater change in the institutional framework regarding PPPs, including the role and responsibilities of the PPPC, defining the position of Minister of Finance and the Ministry of Finance, and defining the role of the OPM representatives in the PPPC.

Herein, such an agency, under the auspices of the Prime Minister, could join and assist more in feasibility studies, the preparation of documents necessary for the implementation of economic projects, development of which are implemented by public authorities, monitoring of the contracting authorities of current projects, and promotion of PPP models.

Chapter 5: Summary of Options

Main features	Option 1	Option 2	Option 3
Main features of options	To continue with the current situation.	To amend the legislation.	To amend the legislation.
The population segment / sector / region	Public authorities of the central and local level	Public authorities of the central and local level	Public authorities of the central and local level.
Features of the application: - Who is responsible?	PPPC; Ministry of Finance	PPPC; Ministry of Finance CDPPP	Prime Minister's Office; PPPC; PPP Agency under the Prime Minister's Office (similar to ASK).
Administration or implementation of the program or service	PPPC; Central Department for PPP	PPPC; CDPPP	OPM PPPC; APPP
Laws, bylaws, amendments to existing laws and enforcement and penalties.	Law L-04/045	Amending the law L-04/045	Amending the law L-04/045
Economic incentives or disincentives; subsidies or tax incentives.	Greater bureaucracy; Limited number of PPP projects.	More incentive for PPP projects; Larger investments through private equity. Better coordination of the public investment program, control of the value for money and of the project budgets.	More incentive for PPP projects; More investments through private equity. PPP coverage in the highest level of Government.
Education and communication campaign.	CDPPP with the assistance of KIPA.	APPP with the assistance of KIPA.	APPP with the assistance of KIPA.
Guidelines and codes.	PPPC CDPPP	PPPC APPP	PPPC APPP
Timelines - when the option comes into force.	Currently in force Decision no. 04/117.	The possibility to enter into force at the beginning of the following year (2017).	The possibility to enter into force at the beginning of the following year (2017).

Chapter 6: Analysis of options

Although it is not possible to precisely assess the benefits, negative consequences and cost of these options, through the analysis of available information and consultation with affected groups, it is possible to create the best possible overview.

Benefits

1. Benefits by the option 1: *status quo*

The first option will ensure the continuation of the current situation, without a necessity for new commitments and costs.

2. Benefits by the option 2: changing the existing policy - the establishment of the Agency for PPP within the FM

Approval of a new policy/new law and the establishment of a new organizational structure will lead to an increased efficiency and effectiveness of PPP program implementation, an increased number of PPP projects, raise the quality of management of public assets, introduce private capital in infrastructure and public services and consequently avoidance reliance on the public budget, as well as better planning of public investment requirements.

CDPPP expansion of competencies would allow greater functional independence and increase the efficiency and effectiveness of the personnel involved. Continuance within the scope of the Ministry of Finance, will keep engaging the Minister of Finance on the same level and under the control of the Ministry of Finance. CDPPP work plan will be approved by the CPPP, thus creating a coordination of activities in accordance with all of their recommendations. Part of the administrative responsibilities would remain with the Ministry of Finance, such as finance, procurement, personnel and administration. It would also have a better coordination of the public investment program, control of *value for money* and of projects' budgets. This option would have minimal financial impact, because the CDPPP structure would remain almost the same with the last one approved in 2016.

3. Benefits by the option 3: changing of the existing policy - the establishment of the Agency for PPP within the OPM

Approval of a new policy/new law and the establishment of an agency with a new organizational structure will lead to an increased efficiency and effectiveness of PPP program implementation, an increased number of PPP projects, raise the quality of management of public assets, introduce private capital in infrastructure and public services and consequently sidestep the public budget, permit better planning requirements for public investment, as well, resulting in better coordination of the public investment program and control of the *value for money* analysis and project budget.

The establishment of the PPP Agency under the Prime Minister's Office would allow a greater functional independence and increase the efficiency and effectiveness of the personnel involved. Continuance under the auspices of the Prime Minister would raise the

level of political engagement in regard to the PPP policies. The Agency would act like other agencies under the Prime Minister's Office, where the model of Kosovo Statistical Agency would be the most appropriate one to use. A part of the administrative responsibilities will be transferred to the Prime Minister's administration, such as finance, procurement, personnel and administration. This option would have a moderate financial impact, higher than the second one, though the CDPPP structure would remain almost the same with the last one approved in 2016, but will have to adapt to the new institution.

Negative consequences

1. The negative consequences Option 1: status quo

The main negative consequence would be the stagnation of the program implementation of PPP in Kosovo, wherein as an opportunity cost, could be taken into account the loss of opportunities for a significant number of PPP projects, losses from the unimplemented *Value for Money* or failure to use efficiency gains from engagement of private capital.

2. The negative effects of option 2: changing the existing policy - the establishment of the Agency for PPP within the FM

Moderate financial impact as a result of increased activities.

3. The negative consequences of Option 3: changing the existing policy - the establishment of the Agency for PPP within the OPM

Necessity for a more complexed institutional framework and a need to change more than one legal act. It would be required to determine the composition formula of PPP Committee and define the role of the Minister of Finance and the Ministry of Finance, with the opportunity to create another step in decision-making.

This option would have a larger financial impact than the second option, wherein the structure should be increased and be adapted to the new institutional environment. It may also consist a longer time to start implementing the program of the Agency due to the shifting into the other institution.

Cost

All ministries must comply with relevant instructions issued by the Ministry of Finance, in accordance with Article 31 of the Rules of Procedure of the Government no. 09/2011.

Summary Financial Impact Assessment				
	(000 Euro)			
	Current year	Year 2	Year 3	Year 4
Option 1				
The net difference in the allocation of costs				
The net difference in revenue generation				
Funding expected from donors				
Option 2				

The net difference in the allocation of costs				
The net difference in revenue generation				
Funding expected from donors				
Option 3				
The net difference in the allocation of costs				
The net difference in revenue generation				
Funding expected from donors				

For the data in this table, also has been prepared the form of the Financial Impact Assessment.

Chapter 7: Consultation

During the draft of this concept paper, the representatives of relevant ministries, municipalities, NGO's and other relevant stakeholders attended/provided input, pursuant to Article 7 of the Rules of Procedure of the Government no. 09/2011.

1. Consultation with experts (outside the government, in *universities or agency)

During the draft of this concept, legal expert Robert Muharremi has been consulted.

2. Consultation with other ministries and stakeholders

Consultation with organizations or individuals from public and civil society that are directly affected will be made upon delivery of the Concept Paper for preliminary consultations under Article 7 (3).

Chapter 8: Comparison of Options

Option 1: status quo

If it is proceeded with the same law, small improvements in terms of effectiveness and efficiency in the implementation of the PPP program in Kosovo may be pursued, but the results will be questionable and unknown because the opportunities for improvement will be limited.

Option 2: alteration of the existing policy – enhancement of responsibilities of the DCPPP within the MF

The approval of a new law would enable the achievement of the goals set by the Government of Kosovo in harmonizing national legislation and of the EU, increasing projects' efficiency and *value for money*, increasing efficient institutional organization and eliminating bureaucracy for strategic needs.

Option 3: alteration of the existing policy - the establishment of the Agency for PPP within the OPM

Similar to the option 2, the approval of a new law would allow the achievement of the goals set by the Government of Kosovo in harmonizing national legislation and of the EU, increasing projects' efficiency and *value for money*, increasing efficient institutional organization and eliminating bureaucracy for strategic needs.

This option requires commitment and greater institutional change as its implementation will require more time.

Chapter 9: Recommendation

The approval of a new law, **in accordance with the second option** would allow the achievements of the goals mentioned in the beginning of this document: harmonization of national legislation with EU legislation, increasing projects' efficiency and *value for money*, increasing efficient institutional organization and eliminating bureaucracy for strategic needs.

The approval of this law shall be made initially by the Government of the Republic of Kosovo and then will be sent to the Kosovo Assembly for final approval.

It is intended that this policy starts to apply preferably at the beginning of 2017, with the cost as prescribed above.

Following the adoption of this concept paper, it is expected by the end of 2017, CDPPP/MF will submit a draft-law on this issue.

Chapter 10: Communication

Due to the precious importance of this draft-law, it is desirable to have a proper communication with the public, therefore the CDPPP/MF will communicate with all relevant stakeholders that are affected. Communication will be in various forms, including written communication, consultations through roundtables, meetings, etc.