



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

Law No. 05/L -068

**ON AMENDING AND SUPPLEMENTING THE LAW NO. 04/L-042 ON
PUBLIC PROCUREMENT OF THE REPUBLIC OF KOSOVO, AMENDED
AND SUPPLEMENTED WITH THE LAW NO. 04/L-237**

The Assembly of the Republic of Kosovo,

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

Approves:

**LAW ON AMENDING AND SUPPLEMENTING THE LAW NO. 04/L-042
ON PUBLIC PROCUREMENT OF THE REPUBLIC OF KOSOVO,
AMENDED AND SUPPLEMENTED WITH THE LAW NO. 04/L-237**

Article 1
Purpose

The purpose of this Law is to amend and supplement the Law No. 04/L-042 on Public Procurement of the Republic of Kosovo, amended and supplemented with the Law No. 04/L-237.

Article 2
Definitions

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

1.1. Basic Law – shall mean the Law No. 04/L-042 on Public Procurement of the Republic of Kosovo, as amended and supplemented with the Law No. 04/L-237.

2. Other terms used herein shall have the meaning described in the basic Law.

Article 3

Article 3 of the basic Law shall be reworded with the following text:

Article 3 Exemptions

1. This Law shall apply to public procurement contracts awarded by contracting authorities in the field of defence and security, excluding contracts mentioned in paragraph 2 of this Article.

2. Procurement rules for defence and security purposes shall apply to the following procurements:

2.1. supply with military equipment, including any spares and/or any of its components;

2.2. supply of sensitive equipment, including any spares and/or any of its components;

2.3. works, supplies and services directly linked to equipment referred to in subparagraphs 2.1 and 2.2 of this paragraph for each and all elements of their lifecycle;

2.4. works and services for specific military purposes; and

2.5. sensitive works and services.

3. This Law or procurement rules for defence and security purposes shall not apply to the following contracts:

3.1. contracts governed by specific procurement rules, pursuant to an international agreement or arrangement concluded between the Republic of Kosovo and one or more third countries;

3.2. contracts governed by specific procurement rules under an international agreement relating to the stationing of military troops of the Republic of Kosovo;

3.3. contracts governed by specific procurement rules of an international organization purchasing for its own needs or contracts wherein the Republic of Kosovo has to act in accordance with these rules;

3.4. contracts for which the application of the provisions of this Law or the Regulation on procurement for defence and security purposes will force the Republic of Kosovo to provide information, whose disclosure is contrary to the essential interests of its security;

3.5. contracts for purposes of intelligence system related bodies;

3.6. contracts awarded in the frame of a cooperation program, based on research and development, carried out jointly by the Republic of Kosovo and one or more other countries for development of a new product and, where applicable, for the last stages of the all or part of the lifecycle of this product;

3.7. contracts awarded in a third country, including those for civil purposes, where the forces are stationed outside the territory of the Republic of Kosovo if operational needs require entering into contracts with economic operators located in the area of operations;

3.8. contracts entered into by state authorities or units of local self-government of the Republic of Kosovo with the state authorities or the local authorities of another country, and with regard to the supply of military equipment or sensitive equipment;

3.8.1. works and services, directly linked to such equipment; or

3.8.2. works and services specifically for military purposes, or sensitive works and services.

3.9. the Contracting Authority decides on the implementation of paragraph 3.4, 3.5 and 3.8, and beforehand notifies the Prime Minister of the Republic of Kosovo

4. Regulation on procurement for defence purposes and security governing the procurement conditions and procedures referred to in paragraph 2 of this Article shall be approved by the Government of the Republic of Kosovo.

5. This Law shall not apply to procurement activities leading to the award of a public contract falling within the scope of an agreement providing for the application of other procurement rules and/or procedures where (i) such agreement makes the availability of financing for the concerned contract conditional on the application of such other rules and/or procedures, and (ii) such agreement has been entered into between the Government and an intergovernmental, bilateral, multilateral or international financing institution.

6. This Law shall not apply to an employment contract if such a procurement activity is subject to other rules that are established by a Law or other regulation. Similarly, current Law will not apply to contracts in relation to postgraduate training or vocational training by employers for specific skills development of individual workers. Further, the Law shall not apply to procurement exclusively aimed at representation in the form of offering food and beverage.

7. This Law shall only apply to a Socially Owned Enterprise under the administration of the Privatization Agency of Kosovo if the Socially Owned Enterprise is engaged in a public service activity, on the basis of special or exclusive rights granted by a competent public authority, In such a case, the enterprise shall be deemed to be both a public enterprise and a public service operator and shall apply the applicable provisions of this Law.

8. Procurement activities leading to the award of a service or works concession contract shall be subject to the provisions of the Law on Public-Private Partnership. Such procurement activities shall only be subject to this Law to the extent specified in Law on PublicPrivate Partnership.

9. This Law shall not apply to contracting authorities for the acquisition or rental, by whatever financial means, of land, existing buildings or other immovable property or concerning rights thereon, unless otherwise foreseen by special Laws.

Article 4

1. Article 4 of the basic Law, paragraphs 1.4, 1.35 and 1.43 shall be reworded with the following text:

1.4. **Candidate** - an economic operator that has sought an invitation or has been invited to take part in a procurement activity that is being conducted with restricted, negotiated without publication or a negotiated competitive procedure.

1.35. **Negotiated procedures** - procurement procedures allowing a contracting authority to invite and consult with the economic operators of its choice to negotiate the terms of contract with one or more of them.

1.43. **Procurement Officer** - the person who is designated by the contracting authority pursuant to paragraph 1 of Article 23.

2. Article 4 of the basic Law, paragraph 1.19, there is added another sentence, as follows:

For the purposes of the present Law, civil society organizations are considered economic operators.

3. Article 4 of the basic Law, after paragraph 1.74, there shall be added a new paragraph 1.75 with the following text:

1.75. Conflicts of interest - any situation where staff members of either a contracting authority or procurement service provider acting on behalf of the contracting authority are involved in performing a procurement procedure or who can influence the outcome of that procedure could have, directly or indirectly, a personal financial benefit, economic or any other interest that could be perceived as a compromise to their impartiality and independence in the context of the procurement procedure.

Article 5

1. Article 8 of the basic Law, paragraph 1 shall be reworded with the following text:

1. No less than thirty (30) days prior to the beginning of each fiscal year, each contracting authority shall prepare, in case of a public authority or a public undertaking, submit to the Chief Administrative Officer of the contracting authority, in writing, a preliminary procurement plan that identifies in reasonable detail all supplies, services and works that the contracting authority intends to procure over the course of such fiscal year. Such preliminary procurement forecast shall specify:

Article 6

1. Article 10 of the basic Law, paragraph 1 there shall be added the following sentence:

Relevant documents are stored pursuant to the applicable legislation on State Archives.

2. Article 10 of the basic Law, paragraphs 3 and 5 of shall be reworded with the following text:

3. Upon the request of an interested party, a contracting authority shall provide such party reasonable access to the records described in paragraphs 1 and 2 of this Article, other than confidential business information, classified as such by a relevant authority relating to any procurement activity that has been concluded. For the purposes of paragraph 3 of this Article, a procurement activity shall be deemed to have been concluded (i) on the date of publication of the concerned contract award notice or design contest results notice, (ii) on the date of the award of the concerned contract in case of tenders according to Article 37 of this Law, or (iii) if the procurement activity was formally cancelled or otherwise terminated prior to the making of an award or the selection of a winner, on the date of the cancellation notice according to paragraph 2 of Article 62 of this Law or the date when the activities were otherwise terminated.

5. A contracting authority shall, upon the request of an interested party, make and provide to interested party a copy of any material that such interested party may access pursuant to paragraph 3 of this Article.

Article 7

Article 21 of the basic Law, paragraph 2 shall be deleted from the text of the Law.

Article 8

After Article 21 of the basic Law, there shall be added a new Article 21A with the following text:

Article 21A

Economizing procurement activity

1. For the purposes of economizing procurement activities, the Assembly of the Republic of Kosovo, the Government of the Republic of Kosovo and the relevant ministries conduct procurement procedures on behalf of independent agencies accountable to them, with less than fifty (50) employees.
2. Agencies that have less than fifty (50) employees can develop procurement procedures, with the approval of PPRC, based on a justified request of the contracting authority.

Article 9

1. Article 23 of the basic Law, the term "Procurement officer" mentioned in the first line of paragraph 3 shall be replaced with "A Responsible Procurement Officer".
2. Article 23 of the basic Law, the term "Procurement Officer" mentioned in the third line of paragraph 4 shall be replaced with "A Responsible Procurement Officer or Procurement unit staff member".

Article 10

Article 24 of the basic Law, paragraph 4, the term "A Procurement Officer" shall be replaced with "A Responsible Procurement Officer or a Procurement Unit staff member".

Article 11

1. Article 25 of the basic Law, paragraphs 1, 2, 4, 5, 6, 7, 8, 9 shall be reworded with the following text:

1. PPRC is responsible to develop training modules and curriculum for procurement qualifications. PPRC is required to identify persons, experienced in public procurement, suitable to teach the procurement courses designed by PPRC. PPRC, in cooperation with KIPA, shall arrange for the development and delivery, of procurement training courses having duration of at least fifteen (15) days for basic training and ten (10) days for advanced training. PPRC ensures that such courses are developed and delivered by a trained person or training organizations having substantial expertise in best international procurement practices and the procurement system of the EU.

2. PPRC, in cooperation with KIPA, shall be responsible for organizing examinations.

4. PPRC, in cooperation with KIPA, shall issue a “basic procurement professional certificate” only to persons who have satisfactorily completed all of the basic courses and who are recommended by the trainer. PPRC, in cooperation with KIPA, shall issue an “advanced procurement professional certificate” only to persons who have satisfactorily completed all of the advanced courses.

5. A basic procurement professional certificate shall be valid for three (3) years unless it is earlier revoked in accordance with paragraph 8 of this Article. A person holding a basic procurement certificate who fails to obtain an advanced certificate within that three (3) year period shall not be eligible to be a Responsible Procurement Officer until he/she obtains an advanced certificate. Advanced certificates have a permanent validity and if PPRC organizes trainings, their holders are obliged to follow them.

6. Persons holding an internationally recognized advanced or masters certificate or degree in procurement are exempt from the certification requirements specified in paragraphs 4 and 5 of this Article. However, such persons still required to comply with the on-going training requirements of paragraph 1 of this Article. Certificate or advanced degree are considered, a certificate or advanced degree, holding a candidate and acquired in a licensed educational institution in or outside Kosovo, if the curricula is based on the EC Procurement Directives as well as international best practices, and has lasted at least fifteen (15) days, and in the end the candidate was subject to an exam that has been successfully completed by him. Bachelor's or master's degree in public procurement is considered a diploma acquired in a licensed educational institution in or outside Kosovo that relates to the public procurement.

7. Any interested person may attend a procurement professional training course organized by PPRC and KIPA if there is sufficient space still available after accommodating Procurement Officers and the staff members of Procurement Units. PPRC may impose a reasonable fee to be charged to persons for attending the courses. However, no such fee may be charged to persons who are Procurement Officers, staff members of Procurement units or civil servants. PPRC shall make a copy of the training materials available to any interested person for a reasonable fee to cover the copying costs of the concerned material; however, persons who are Procurement Officers, staff members of Procurement

Units or civil servants shall have the right to obtain one copy of such material at no charge.

8. Any procurement professional certificate issued by PPRC or KIPA may be revoked by PPRC if it is determined that the person holding such certificate does not meet, or no longer meets, the eligibility requirements specified in Article 23 of this Law or has committed a serious violation of this Law or the procurement rules. If the holder of the certificate is a civil servant, the revocation process must comply fully with the requirements of the Law on Civil Servants. If the holder of the certificate is not a civil servant, the person shall first be entitled to receive ninety (90) days' advance written notice of PPRC's intent to revoke his/her certificate; and such notice shall give the person in question the right to challenge such action in accordance with the Law on Administrative Procedures and, if the person is dissatisfied with the result, the person may submit a complaint on the revocation to the Basic Court – Administrative Matters Department. The person in question may commence the basic training following a one-year period.

9. On request from a contracting authority or PRB, PPRC determines whether the eligibility requirements specified in Article 23 for a procurement professional certificate are met or heavy violations of this Law or procurement rules occurred. If PPRC considers that the requirements mentioned are met, the PPRC shall carry on with the procedures set forth in paragraph 8 of this Article.

2. Article 25 of the basic Law, after paragraph 9 there shall be added new paragraphs 10, 11 and 12 with the following text:

10. For more specific issues of implementing this Article, PPRC and KIPA shall design a regulation on functioning of public procurement training.

11. All procurement officers shall complete training programs and get certified in accordance with PPRC regulations, guidelines and relevant decisions until 31.12.2016. All existing certificates held by procurement officers are valid until 31.12.2016.

12. PPRC, in cooperation with the MEST, KIPA and the National Qualifications Authority, may decide to accredit certification programs and for approving the awarded qualifications, in accordance with the applicable legislation.

Article 12

1. Article 26 of the basic Law, in the end of paragraph 1 there shall be added the following sentence:

Exceptionally, for minimum value contracts developed in educational institutions, pursuant to Article 19, paragraph 4 of this Law, the Director of the Educational Institution is the person authorized to sign a contract.

2. Article 26 of the basic Law, paragraphs 2 and 3 of shall be reworded with the following text:

2. Besides the signature of the responsible procurement officer as mentioned in paragraph 1 of this Article contracts of large value of contracting authorities shall also be signed on behalf of such contracting authority by the Chief Administrative Officer, as well as the Minister or other relevant public authority concerned. From this rule are exempted the President, the President of the Assembly and the Prime Minister. The signatories designated in this Article, confirm and accept the rights and obligations established by the contract. Contracts not signed as mentioned in paragraph 1 and 2 of this Article shall be unenforceable.

3. When the Ministry of Finance designates the CPA as to conduct a procurement activity, pursuant Article 95 of this Law, persons authorized to enter into or sign the concerned contract shall be the responsible Procurement officer and the CAO of CPA.

Article 13

1. Article 27 of the basic Law, paragraph 1 shall be reworded with the following text:

1. Except as provided in paragraph 2 of this Article, a contracting authority shall draw up a tender dossier providing all relevant information on the concerned contract, including all material terms and conditions thereof, the applicable procurement procedure, any applicable eligibility requirements or selection criteria, the procedure governing complaints and such other information as the present Law may require or the contracting authority deems necessary. A contracting authority shall designate in the tender dossier the applicable technical specifications and, where appropriate, performance requirements, the scope for variants and information concerning subcontracting in accordance with Articles 28, 29, 30 and 31 of this Law.

2. Article 27 of the basic Law, in the end of paragraph 4 there shall be added the following sentence:

Requirements set in the tender dossier and the contract notice shall be identical.

Article 14

After Article 27 of the basic Law there shall be added the new Article 27A with the following text:

Article 27A

Division of contracts into lots

1. Public contracts may be divided into homogenous or heterogeneous lots. Contracting authorities must indicate in the contract notice or in the invitation to confirm the interest, whether tenders are limited to one or more lots.

2. Contracting authorities may, even when the possibility to tender in all the lots is determined, to limit the number of lots that could be awarded to a tenderer, provided that the maximum number is specified in the contract notice or in the invitation to confirm the interest. Contracting authorities shall determine and set in tender documents objective and non-discriminatory criteria or rules for awarding different lots, where the application for the selection of the award criteria would result in awarding a tenderer more lots than the maximum number.

Article 15

Article 28 of the basic Law, after paragraph 9 there shall be added paragraph 10, with the following text:

10. Technical Specifications for works contracts must precisely define the nature and characteristics of performance of the required works. Technical Specifications must include, as a substantial part of it, an Executive Project. Contracting authority is responsible for the design of the Executive Project which should be necessarily attached (in an electronic copy as well) to the Technical Specifications, which are part of the Tender Dossier. No contracting authority is permitted to issue tender documents without attaching a detailed project description.

Article 16

Article 30 of the basic Law, in the end of paragraph there shall be added the following sentence:

Contracting authorities may vouch, where deemed necessary by them, for direct payments to sub- contractors.

Article 17

Article 31 of the basic Law, paragraph 2 there shall be added the following text:

Contracting authority may set, inter alia, specific conditions in the contract which allow taking into consideration social objectives, alternatively, as follows:

2.1. obligation to recruit unemployed persons, and in particular people who are unemployed for a longer period;

2.2. obligation to recruit handicapped and disabled persons;

2.3. to establish training programs for the unemployed or for young people during the performance of the contract;

2.4. obligation to implement, during the execution of the contract, measures that are designed to promote gender equality or diversity on other grounds; or

2.5. obligation to comply with the substance of the provisions of the basic conventions of the ILO in the execution of the contract, if these provisions are not applied in the respective Law.

Article 18

Article 32 of the basic Law, paragraphs 4 and 5 shall be deleted from the text of the Law.

Article 19

Article 34 of the basic Law shall be amended as follows:

Article 34 **Competitive Negotiated Procedures**

1. In competitive negotiated procedures, any economic operator may submit a request to participate in response to a call for competition by providing qualitative selection information required by the contracting authority. In the tender dossier, contracting authorities shall identify the subject matter of procurement by providing a description of their needs and the required characteristics of the supplies, works or services to be procured and shall specify the criteria for awarding the contract. They also need to determine which elements of description define the minimum requirements that all tenders must meet. The information provided should be precise enough to enable economic operators to identify the nature and purpose of the procurement and decide whether to submit a request for participation in the procedure. The minimum time limit for receipt of requests for participation should be ten (10) days from the date on which the contract notice was sent or, when a prior notification is used as a means to invite for competition, the date when the invitation to confirm the interest was sent. The minimum time limit for receipt of tenders will be starting twenty (20) days from the date on which the invitation was sent.

2. Only those economic operators invited by the contracting authority, following the assessment of the provided information, can submit an initial tender which will form the basis for subsequent negotiations. Contracting authorities shall indicate in the contract notice the minimum number of candidates they intend to invite and, where appropriate, the maximum number. In any case, the minimum number of candidates will be three. In

any case, the number of candidates invited should be sufficient to ensure adequate competition.

3. Unless otherwise stated in paragraph 4, the contracting authorities shall negotiate with tenderers, initial tenderers/tenders and all subsequent tenders submitted by them, with the exemption of final tenders within the meaning of paragraph 7, to improve its content. The minimum requirements and award criteria will not be subject to negotiation.

4. Contracting authorities may award contracts based on initial tenders without negotiations where they have set so in the contract notice or in the invitation to confirm interest, that they reserve the possibility to do such thing.

5. Contracting authorities shall ensure equal treatment for all tenderers in negotiations. For this purpose, they will not provide information in a discriminatory manner which may give some tenderers an advantage over others. They shall inform all tenderers in writing, whose tenders have not been eliminated in accordance with paragraph 6, of any changes to the technical specifications or other procurement documents, documents other than those defining minimum requirements. Following these changes, contracting authorities will give tenderers sufficient time to modify and re-submit amended tenders, as appropriate. Contracting authorities shall not reveal to the other participants confidential information communicated by a candidate or tenderer participating in the negotiations without his agreement. Such agreement shall not take the form of a general revoking document but rather be given a reference in relation to the intended communication of specific information.

6. Competitive negotiated procedures can take place in successive stages in order to reduce the number of tenders to be negotiated by applying the award criteria specified in the contract notice, the invitation to confirm interest or another procurement document. In the contract notice, the invitation to confirm interest or in another procurement document, the contracting authority must indicate whether it will make use of that option or not.

7. Where a contracting authority intends to conclude the negotiations, it will notify the remaining tenderers and establish a common deadline to submit a new or revised tender. It will verify that final tenders in compliance with the minimum requirements, assess the final tenders on the basis of the award criteria and award the contract.

Article 20

1. Article 35 of the basic Law, paragraph 1 shall be reworded with the following text:

1. A contracting authority may use negotiated procedures without publication of a contract notice to conduct a procurement activity only after it has complied with this Article. PPRC, pursuant to Article 87, paragraph 2, sub- paragraph 2.3 of this Law, must be notified by the concerned contracting authority within two (2) days of the date when decision about using such procedures has been taken. The contracting authority shall in

the notification provide a detailed explanation of the facts considered and the justification for using the procedure.

Article 21

1. Article 36 of the basic Law, paragraphs 2, 3, 4, 7, 8 and 9 shall be deleted from the Law.
2. Article 36 of the basic Law, paragraphs 5 and 6 shall be reworded with the following text:
 5. A price quotation dossier shall (i) describe, in accordance with Article 28, the concerned works, goods or services, (ii) inform all economic operators that their quotations must contain a lump sum fixed price that the contracting authority would need to pay to obtain the concerned works, goods or services and that such lump sum fixed price shall include any and all applicable taxes and duties as well as any transportation, insurance, installation or other charges, fees or expenses of any description and (iii) specify the date by which price quotations must be received.
 6. For a procurement activity conducted pursuant to paragraph 1 of this Article, the date by which price quotations must be received shall be no less than five (5) days from the date of the dispatch of the price quotations dossier.

Article 22

1. Article 38 of the basic Law, in the end of paragraph 2 there shall be added the following text:

If a public framework contract is concluded for less than thirty-six (36) months, it can be extended over time specified, without conducting new procurement procedures. This means that the duration of the public framework contract must be determined at the outset of the procurement process. Estimated quantity specified in the tender documents is only the indicative amount. The contracting authority shall specify in the tender dossier the contract value or the amount as a threshold or a ceiling and allow the derivation thereof, stating also that the percentage of allowed variance. The allowed variance cannot be higher than plus/minus thirty percent (30%). If purchase orders exceed the indicative total amount or indicative total value of the public framework contract (including plus thirty percent (+30%)), regardless of the original expiry date of the Public Framework Contract, the contract will be automatically terminated.
2. Article 38 of the basic Law, paragraph 6 shall be reworded with the following text:
 6. Only the economic operators that are party to the public framework contract can participate in the mini-tenders, as mentioned under sub-paragraph 5.2, paragraph 5 of this Article. The contracting authority invites, in case of a use of a mini-tender, all economic operators that are party to the public framework contract to submit their bids in writing. The time limit for submission of bids must be at least five (5) days. Contracting authorities shall award the contract to the economic operator who has submitted the best

bid on the basis of the award criteria set out in the invitation to bid. In case not all economic operators that are party to the public contract submit their bids, the procedure of mini-tender shall be valid. Contracting authorities shall award the contract to the economic operator who has submitted the best bid, pursuant to the award criteria set in the invitation to bid. Each award of contract according to sub-paragraph 5.2, paragraph 5 of this Article shall be subject to the notice requirements of Article 41 of this Law, the signing requirements of Article 26 of this Law, and the award of each such subsidiary contract shall be subject to the rules governing the complaint review procedure set in Part IX.

Article 23

Article 40 of the basic Law shall be reworded with the following text:

Article 40 Contract Notice

When a contracting authority intends to conduct a procurement using open, restricted, price quotations or competitive negotiated procedures, the contracting authority shall prepare a contract notice in the languages required by Article 13. The contracting authority shall ensure that all language versions of a contract notice comply with the present Law and contain materially identical information.

Article 24

Article 41 of the basic Law shall be reworded with the following text:

Article 41 Contract Award Notice

If a contracting authority has awarded any public contract using open, restricted, competitive negotiated, negotiated without publication or price quotation procedures, such contracting authority shall, within two (2) days after the award of such contract, prepare a contract award notice in the languages required by Article 13 of this Law. The contracting authority shall ensure that all language versions of a contract award notice comply with the present Law and contain materially identical information. Contracting authority shall, together with the contract award notice, submit to PPRC a copy of the Statement of Needs and Availability of Funds for the awarded contract.

Article 25

After Article 41 of the basic Law there shall be added Article 41A with the following text:

Article 41A
Contract Signing Notice

If the contracting authority has signed a public contract using open, restricted, competitive negotiated, negotiated without publication, price quotation procedures, or minimal value procedures, such contracting authority within two (2) days after signing the contract in question, prepares a contract signing notice in the languages required by Article 13 of this Law.

Article 26

1. Article 42 of the basic Law, paragraph 1 shall be reworded with the following text:

1. A contracting authority shall immediately submit to the PPRC all language versions of any notice that it has prepared pursuant to Article 39, 40, 41 or 41A of this Law. The PPRC shall establish rules governing the submission of such notices.

2. Article 42 of the basic Law, paragraph 3 shall be deleted from the text of the Law.

Article 27

1. Article 44 of the basic Law, paragraph 4 shall be deleted from the text of the Law.

2. Article 44 of the basic Law, paragraph 5 shall be reworded with the following text:

5. In a procurement using price quotation procedures, the contracting authority shall set a time for the receipt of tenders as specified in paragraph 3 of Article 36 of this Law.

Article 28

1. Article 46 of the basic Law, paragraph 3 shall be reworded with the following text:

3. In a procurement activity using restricted procedures, the contracting authority may set a time limit that is (i) not less than fifteen (15) days for the receipt of requests to participate and/or (ii) not less than ten (10) days for the receipt of tenders.

Article 29

1. Article 47 of the basic Law, sub-paragraphs 1.1, 1.2 and 1.3 shall be reworded with the following text:

1.1. for the receipt of tenders in a procurement activity using open procedures or price quotations procedures, on the date of publication of the contract notice;

1.2. for the receipt of requests to participate in a procurement activity using restricted procedures or competitive negotiated procedures, on the date of publication of the contract notice;

1.3. for the receipt of tenders in a procurement activity using restricted procedures or competitive negotiated procedures, on the date on which all invitations to submit a tender are sent.

Article 30

1. Article 50 of the basic Law, paragraphs 1 and 2 shall be reworded with the following text:

1. In restricted procedures and competitive negotiated procedures, contracting authority shall simultaneously in writing dispatch to all selected candidates the concerned invitation to bid.

2. In restricted procedures and competitive negotiated procedures, all invitations to bid shall be sent together with the tender dossier, except to the extent that the contracting authority has made tender dossier material available electronically. If the contracting authority has made such material available electronically, the invitation letter shall provide sufficient information to enable the candidate to access such material.

2. Article 50 of the basic Law, paragraph 3 shall be deleted from the text of the Law.

3. Article 50 of the basic Law, paragraph 5 shall be reworded with the following text:

5. If a procurement activity using restricted procedures or competitive negotiated procedures is being conducted under accelerated time limits authorized by paragraph 3 Article 46 of this Law, contracting authority shall dispatch the invitations to submit a tender by the most rapid means of communication possible.

Article 31

1. Article 51 of the basic Law, paragraph 1 shall be reworded with the following text:

1. A contracting authority shall state in the contract notice, and specify in full in the tender dossier, any and all selection criteria that an interested economic operator is required to meet in order to be considered qualified (i) in the case of open procedures and price quotations for award of a contract; or (ii) in the case of restricted procedures or competitive negotiated procedures, to receive an invitation to tender. All such selection criteria shall be limited to requirements necessary to ensure that only economic operators possessing the professional, financial and technical ability necessary to fulfil the terms of

the concerned contract shall be considered qualified to receive a contract award or an invitation to tender. In no case shall a contracting authority include, specify or use selection criteria that are based on considerations other than those permitted under the provisions of Articles 65 – 70 of this Law.

Article 32

1. Article 52 of the basic Law, paragraphs 1 and 3 shall be reworded with the following text:

1. A contracting authority shall in the contract notice and the tender dossier specify the criteria to be used for awarding the contract. The criteria can be either lowest price only or the economically most advantageous tender.

3. Only criteria that are objectively assessable and have been disclosed in advance in the tender dossier may be used for the evaluation. A contracting authority may use only criteria that are directly relevant to the subject matter of the contract. Such criteria are related, but not limited to: quality, price, technical merit, aesthetic and functional characteristics, environmental characteristics, running costs, cost effectiveness, after sales service and technical assistance.

2. Article 52 of the basic Law, after paragraph 4 there shall be added paragraphs 5, 6 and 7 with the following text:

5. In case the criterion of the economically most advantageous tender it is mandatory to convert any element of the award criteria in points and then weighed according to the formula and weights specified in the Contract Notice and Tender Dossier.

6. In case of tender criterion of the lowest price, conversion in points and the weighted points are not allowed. In case of multiple service contracts or in the case of contracts for unit prices, prices may be weighted on the basis of the importance of each “category of service” or any item” so that the contracting authority can determine the bid with the lowest price. In case of lowest price, weighing prices, weighted prices are based on the price offered by individual economic operators, therefore setting the scores by comparing the prices of different tenderers is not allowed.

7. A contracting authority in case of suspicion of any information submitted by the economic operator will perform an effective check of information and tender documentation.

Article 33

1. Article 53 of the basic Law, paragraph 7 shall be reworded with the following text:

7. If, in a procurement activity involving the use of open, restricted or competitive negotiated procedures, the contracting authority provides any additional or clarifying information to economic operators, and the date on which such information is provided is less than ten (10) days from the deadline set for the receipt of tenders, the contracting authority shall extend such deadline to give economic operators at least ten (10) days from the date on which such information is provided to submit their tenders. If an economic operator has already submitted a tender, such economic operator shall be permitted to submit an amendment to the respective tender, but such amendment shall be limited to changes that are reasonably related to such additional or clarifying information.

Article 34

1. Article 56 of the basic Law, paragraph 2, sub-paragraph 2.2 and paragraph 3 shall be reworded with the following text:

2. In the case of restricted procedures and competitive negotiated procedures, a contracting authority shall select the candidates that will be invited to submit a tender or proposal only on the basis of:

2.2. Documents, information and/or evidence of qualifications submitted by candidates in direct response to the requirements stated in the contract notice and the prequalification documents. Candidates not so selected shall be eliminated from further participation. All candidates who are determined to meet the specified selection criteria, and who have not been disqualified under this paragraph, shall be invited to submit a tender unless the number of such candidates exceeds six (6). If the number of candidates exceeds six (6), the contracting authority shall only invite the six (6) most qualified candidates to submit a tender. The PPRC shall establish in the public procurement rules a detailed procedure that contracting authorities shall be required to follow when making such a selection. The PPRC shall ensure that such procedure is (i) in accordance with best international practice, (ii) provides for adequate competition and transparency, (iii) implements the principle of non-discrimination, and (iv) otherwise complies with all applicable provisions of this Law. The contracting authority must specify in the contract notice and requalification documents (i) information that will form the basis for selection of candidates (ii) objective and non-discriminatory objectives that will be taken into consideration in the selection procedure and the weight given to each criterion.

3. A tenderer, in the case of open procedures, or a candidate, in the case of restricted procedures and competitive negotiated procedures, shall not be disqualified or excluded from such procedures on the basis of any requirement or criterion not specified in the contract notice and the tender dossier.

Article 35

1. Article 57 of the basic Law, paragraphs 3, 5, 6, 8 and sub-paragraph 8.1 shall be reworded with the following text:

3. If the contracting authority decides to impose a tender security requirement, the amount of the tender security required shall be no less than one percent (1%) and no greater than three percent (3%) of the estimated value of the public contract or design contest, but shall in no case be less than one thousand (1.000) Euros.

5. Tender security shall be posted in the form of a certified check, letter of credit, bank guarantee or insurance policy; however, the contracting authority shall specify in the tender dossier any requirements – as specified in the procurement rules - that the issuer of such a check, letter of credit, bank guarantee or insurance policy must meet.

6. Contracting authorities will not limit in the tender dossier the tenderers the discretion to submit the tender security in any of the forms specified in paragraph 5 of this Article. Any provision that limits the form in which such securities may be submitted, except those referred to in paragraph 5 of this Article, shall be deemed invalid.

8. If a contracting authority determines that an event requiring the forfeiture of tender security, as specified in paragraph 1 of this Article, has occurred, such contracting authority shall notify the concerned tenderer in writing of such determination. However, if the concerned tender security has been posted in the form of a letter of credit or bank guarantee, the contracting authority shall first take whatever measures may be necessary to obtain the concerned funds from the issuer before providing the tenderer with the notification required by the preceding sentence. A contracting authority shall leave such funds on deposit until the concerned tenderer has exhausted all of its rights to appeal the contracting authority's determination. Once the tenderer has exhausted its rights to appeal such decision, and no order has been received from the PRB, or a court of competent jurisdiction requiring the concerned contracting authority to make another disposition of the concerned funds, the contracting authority shall:

8.1. if the contracting authority is subject to the normative acts on public budgetary and appropriations matters, treat such forfeited tender security as a fine and/or penalty and transfer the concerned funds to the Kosovo Budget Fund in accordance with the relevant provisions of such acts; or

Article 36

1. Article 58 of the basic Law, paragraph 3 shall be reworded with the following text:

3. The concerned Procurement Officer shall open the tenders. As each tender is opened, the Procurement Officer shall announce to those present (i) the name and place of the concerned tenderer, (ii) the total tender price specified in such tender and, whenever possible, unit prices, except where the concerned document is only the technical proposal

component of a two-part tender and any remarks. When for not instantaneous reasons unit prices can not be read, such prices in any case shall be visible to all representatives of tenderers in the public opening, e.g. posting them or using any other appropriate method that guarantees transparency. In any case, every page of any financial tender shall be signed during the public opening by a representative of another tenderer. In the event of a procurement activity where the contract award criterion is economically most advantageous tender everything that has to do with figures should be read at loud, such as time of delivery, warranty period and similar. All information so announced shall be recorded in the minutes of the public tender opening, which shall, at the conclusion of such meeting, be signed by the concerned Procurement Officer, the Bid Opening Commission and each representative of a tenderer who is present at such meeting. Such minutes shall immediately be included in the records for such procurement activity required by paragraph 1 of Article 10 of this Law and copies of such minutes shall immediately be sent to all tenderers.

Article 37

1. Article 59 of the basic Law, paragraphs 1 and 3 shall be reworded with the following text:

1. Contracting authority shall establish an Evaluation Commission for examination, evaluation and comparison of bids. All members of the Evaluation Commission assume full individual responsibility for the performed bid evaluation. PPRC shall issue secondary legislation for this issue upon commencement of application of the electronic procurement.

3. A contracting authority shall correct an error in a tender that is of a purely arithmetical nature if such an error is discovered during the examination of tenders, however, this correction cannot be higher than two percent (2%) of the total amount of the bid. In such a case, offered price unit by the economic operator in its financial tender shall be deemed to be a prevailing price over any other contradictory price. When unit prices are not required, elements of the single price of the total price offered by the economic operator in its financial tender shall be deemed to be prevailing price over the total price. A contracting authority shall promptly provide all tenderers a written notice of any such correction.

Article 38

Article 60A of the basic Law shall be deleted from the text of the Law.

Article 39

1. Article 61 of the basic Law, after paragraph 5 there shall be added paragraph 6 with the following text:

6. PPRC shall issue sub-act to regulate in detail the determination of abnormally low price.

Article 40

1. Article 62 of the basic Law shall be reworded with the following text:

Article 62 Termination of a Procurement Activity

1. A contracting authority may terminate that procurement activity that does not result in the award of a contract only for one of the following reasons:

1.1. a violation of the present Law has occurred or will occur in the procurement procedure, which cannot be remedied or prevented through a Lawful amendment of the procurement conditions, including cases where a provision of the present Law requires the cancellation of the procurement activity.

2. A contracting authority may terminate that procurement activity that does not result in the award of a contract only for one of the following reasons:

2.1. All responsive tenders contain prices that substantially exceed the contracting authority's budget for the procurement activity; or

2.2. Prior to the opening of tenders, the termination of the procurement activity has been made necessary due to objective and demonstrable events and/or reasons that are beyond the contracting authority's control and that were not predictable at the time of the initiation of the procurement activity but this has to be done at least three (3) days before the tender opening.

Article 41

1. Article 63 of the basic Law, paragraphs 1, 3, 5, 6 and sub-paragraph 8.1 shall be reworded with the following text:

1. A contracting authority may require an economic operator that has been awarded a contract to post a performance security as a pre-condition to the signing and entry into force of such contract if (i) such contract is a works contract, (ii) such contract is a

service contract for software development services, or (iii) there is a risk that a breach of such contract would cause substantial damage to the contracting authority and/or require the contracting authority to incur substantial expense to complete such a contract.

3. In the case of a medium or large contract, a contracting authority shall require an economic operator to post a performance security for the benefit of and enforcement at the instance of the contracting authority as a precondition to the signing and entry into force of such contract and the value of such security shall be equal to damages and expenses that the contracting authority reasonably expects it will incur in the event of a breach of such contract by the economic operator.

5. Tender security shall be posted in the form of a certified check, letter of credit, performance bond or bank guarantee issued by a reputable bank that undertakes to pay to the contracting authority, without further proof or conditions and without deduction or set-off, any amount or amounts up to the amount specified, on receipt of the contracting authority's demand in writing in the event that the economic operator is in breach of its obligations to the contracting authority. The contracting authority shall specify in the tender dossier any additional requirements the issuer of such a performance security must meet.

6. Contracting authorities will not limit in the tender dossier the tenderers discretion to submit the performance security in any of the forms specified in paragraph 5 of this Article. Any provision that limits the form in which such securities may be submitted, except those referred to in paragraph 5 of this Article, shall be deemed invalid.

8.1. if the contracting authority is subject to the normative acts on public budgetary and appropriations matters, treat such forfeited performance security as a fine and/or penalty and transfer the concerned funds to the Kosovo Budget Fund in accordance with the relevant provisions of such acts; or

Article 42

1. Article 65 of the basic Law, after sub-paragraph 1.2 there shall be added paragraph 1.3 with the following text:

1.3 being in any case in a conflict of interest, as described in Article 4, paragraph 1.75;

2. Article 65 of the basic Law, at the end of paragraph 3.2 there shall be added the passage as follows: "verified by a competent court".

3. Article 65 of the basic Law, sub-paragraphs 4.10 and 4.11 shall be reworded with the following text:

4.10. has not yet implemented a decision issued by a Kosovo court; or

4.11 has made false statements in relation to the procedure for the award of a public contract, if these are related to the lack of grounds for disqualification, or the fulfilment of the selection criteria.

Article 43

1. Article 66 of the basic Law, in the end of paragraph 1 there shall be added a new sentence with the following text:

Commercial register is not required in cases of civil society organizations.

Article 44

1. Article 68 of the basic Law, paragraph 1 and sub-paragraph 1.4 shall be reworded with the following text:

1. A contracting authority may require economic operators to submit evidence demonstrating that they meet the minimum economic and financial requirements specified in the tender dossier and the contract notice. When required so, the minimum annual turnover the economic operators must have shall not exceed the twofold anticipated contract value. Requirements on economic situation must be necessarily expressed in figures and shall refer maximum to the last three financial years. In cases when except the minimum turnover is necessary to submit the specific minimum turnover in a specific field covered by the contract, such turnover should not exceed for one point five (1.5) times the anticipated contract value. Economic operators shall, as a general rule, be permitted to satisfy such a requirement by submitting, as may be relevant and appropriate, one or more of the following references:

1.4. copies of financial reports and management reports, certified by a known and licensed firm to examine or an independent licensed auditor; or

2. Article 68 of the basic Law, after sub-paragraph 1.4 there shall be added a new sub-paragraph 1.5 with the following text:

1.5. Annual Tax Statements submitted to the Tax Administration of Kosovo.

Article 45

1. Article 69 of the basic Law, sub-paragraph 2.4 shall be reworded with the following text:

2.4. samples of product, descriptions, graphic presentations and/or photographs of products to be supplied; and/or

Article 46

1. Article 71 of the basic Law, paragraph 4 shall be reworded with the following text:

4. If a tender is submitted by a group of economic operators, each member of the group shall be required to demonstrate or confirm in compliance with Article 67 of this Law, that it is not ineligible for participation in procurement activities under Article 65 of this Law. Any requirements imposed by a contracting authority pursuant to Articles 66.2, 68 or 69 of this Law shall only be applicable to the group as a whole and not to its individual members.

Article 47

Article 72 of the basic Law shall be amended as follows:

Article 72

Additional documentation and information

1. When information or documents to be submitted by economic operators are or appears to be incomplete or erroneous, or specific documents are missing, the contracting authority may require from economic operators to submit, supplement, clarify or complete with proper information or documentation within a certain time period, provided that such claims are made fully in compliance with the principles of equal treatment and transparency.

2. The Contracting Authority may invite economic operators to supplement or clarify the certificates and documents submitted in accordance with Articles 65-71 of this Law.

3. Securing missing information or provision of information will apply only to documents whose existence is fixed before the deadline for submission of tenders expires, and may be verified objectively.

Article 48

Article 83 of the basic Law, paragraph 1 shall be reworded with the following text:

1. Contract notices inviting participants to restricted procedures or in competitive negotiated procedures may be replaced by an Indicative Notice. The Indicative Notice must in each case (a) refer specifically to the supplies, works or services which will be

subject of the contract to be awarded, (b) indicate that the contract will be awarded in a tender involving only invited economic operators.

Article 49

1. Article 87 of the basic Law, paragraph 2, sub-paragraphs 2.1, 2.4 and 2.13 shall be reworded with the following text:

2. In addition to the matters specified above, the procurement expert shall have the responsibility and authority to:

2.1. conduct monitoring of procurement and contract management activities for the purpose of monitoring the application of this Law;

2.4. receive reports from contracting authorities as referred to in Article 35, paragraph 1 and Article 61, paragraph 5 of this Law in order to carry out the activity foreseen in the subsequent sub-paragraph 2.13. PPRC in each case can decide to check the aforementioned decisions and, if necessary, invite the concerned contracting authority to review its decision in accordance with the opinion issued. If the PPRC decides to check the above decisions, PPRC should do it within two (2) days after receipt of such report. PPRC opinions issued in accordance with this paragraph, have a non-binding character for contracting authorities, but competent authorities may take them into account when handling the complaints submitted in accordance with Part IX of this Law.

2.13. For each calendar year shall prepare and submit to the Government and Assembly an annual report that analyses the public procurement activities for the calendar year in question, along with recommendations for improvements to the public procurement system and/or improvement of the present Law. This report is submitted not later than the end of March of the following calendar year.

2. Article 87 of the basic Law, sub-paragraph 2.2 shall be deleted from the text of the Law.

3. Article 87 of the basic Law, sub-paragraph 2.16 shall be deleted from the text of the Law.

Article 50

1. Article 88 of the basic Law, in paragraph 2 the term “PPRC” shall be replaced with “A Procurement expert”.

Article 51

1. Article 89 of the basic Law, paragraphs 1 and 4 shall be reworded with the following text:

1. PPRC Board shall be comprised of three (3) members. Members of PPRC shall be appointed for a term of five (5) years without the right of re-appointment. PPRC Board appointed under the previous approval shall hold the office until expiry of that appointment and in any case until new members are appointed by the Assembly.

4. The Government and Assembly should ensure that each person nominated as a member of the PPRC meets the following criteria:

4.1. holds a university degree;

4.2. at least five (5) experience in the field of public finances and procurement.

Article 52

1. Article 91 of the basic Law, in paragraphs 1, 2 and 3 the term “PPRC” shall be replaced with “Procurement expert”.

2. Article 91 of the basic Law, paragraph 4 shall be deleted from the text of the Law.

Article 53

Article 93 of the basic Law shall be amended as follows:

Article 93

Suspension and Removal of Members of the PPRC

1. If a member of the PPRC is subject of court proceedings in which he/she is charged with a criminal offense or if he/she has committed any act which is contrary to professional ethics and professionalism associated with professional duties shall be removed or suspended.

2. The procedure of suspension and removal of PPRC members’ is the same with the procedures of their appointment.

Article 54

Article 94 of the basic Law, paragraph 2 shall be reworded with the following text:

2. CPA for each calendar year shall prepare and submit to the Minister of Finance an annual report that reflects the public procurement activities led by the CPA for the

calendar year in question. This report is submitted not later than the end of February of the following calendar year.

Article 55

Article 95 of the basic Law shall be reworded with the following text:

Article 95 Procurement Activities of the CPA

1. For reasons of professional expertise, cost-effectiveness, efficiency or other legitimate concerns, the Minister of Finance has the authority to designate the CPA as the responsible contracting authority for the conduct of such procurement activity. In such a case: (i) the CPA shall notify the concerned contracting authority or authorities which shall no longer have any authority to conduct the concerned procurement, and (ii) the CPA shall, for all purposes of the present Law, be deemed the “contracting authority” for the concerned procurement activity.

2. The Government, as per the proposal from the Ministry of Finance, shall establish within the date of 31 January of each year a list of any goods or items, works or services of common use that will be awarded by CPA using the framework agreements. Such list shall be adopted in the form of an Administrative Instruction. Such list and any amendment thereto shall be published in the media and made accessible on the PPRC website, referred to in sub-paragraph 2.10, paragraph 2 of Article 87 of the this Law.

3. In the case mentioned in the preceding paragraph, a contracting authority shall place an order with the CPA for any goods, works or services procured by the CPA, referred to in paragraph 2. The contracting authority shall not conduct an independent procurement activity with respect to these goods, works or services. Any contract concluded in violation of this paragraph and shall be declared null.

4. Based on an adequate justification, a contracting authority may request the CPA to conduct a procurement activity on its behalf. Minister of Finance, after reviewing this justification by the contracting authority may allow CPA to conduct the procurement activity. A contracting authority may also request the CPA that CPA experts assist contracting authority in the conduct of any procurement activity being conducted by such contracting authority.

Article 56

1. Article 99 of the basic Law, the title of the Article shall be reworded with the following text:

Article 99
PRB functions and competences

Article 57

Article 100 of the basic Law shall be amended with the following text:

Article 100
Appointment of Members of the PRB

1. PRB Board consists of five (5) members appointed for a term of five (5) years without the right of re-appointment.
2. Members of the PRB who were appointed under a previous approval shall serve until that appointment expires, and in any case until the new members are elected by the Assembly.
3. When the terms set out in paragraph 1 of this Article of this Law expire, any new appointment shall be for a term of five (5) years.
4. Any person nominated for the PRB must possess the following qualifications and meet the following criteria:
 - 4.1. be a citizen of Kosovo;
 - 4.2. not to be convicted for any criminal offence;
 - 4.3. have a Law valid degree in accordance with Kosovo Law;
 - 4.4. have completed the bar exam;
 - 4.5. at least three (3) years of professional experience in the field of justice related to public administration and procurement, after finalising the bar exam;
 - 4.6. have the ability to perform the duties of the position impartially, conscientiously, diligently, decisively and responsibly, for which he/she is being considered.

Article 58

Article 102 of the basic Law shall be amended with the following text:

Article 102
Suspension and Removal of Members of the PRB

If a member of the PRB is subject to court proceedings in which he/she is charged with a criminal offense regarding the duties and responsibilities in PRB, he/she shall be suspended from work. If a member of the PRB is convicted for any criminal offence regarding the duties and responsibilities in PRB, he/she shall be removed from work.

Article 59

1. Article 105 of the basic Law, after sub-paragraph 2.15 there shall be added a new sub-paragraph 2.16 with the following text:

2.16. In repeated cases of same complaint allegations, where the subject of the dispute and the parties are the same, for cases earlier examined, the chairman of the review panel should treat them as a matter already judged “res judicata”.

Article 60

After Article 108 of the basic Law there shall be added Article 108A with the following text:

Article 108 A
Preliminary resolution of disputes

1. Any interested party which considers his/her rights, as set forth in this Law, have been violated by a decision of a contracting authority during the performance of a procurement activity and who is damaged or risks being damaged by an alleged violation, may submit a request for review to that contracting authority. Requests for reconsideration may relate to contract notices, tender documents or other announcements and decisions as specified in this Law, in the course of performance of the concerned procurement activity.

2. Submission of a request for review obliges the concerned contracting authority to automatically suspend the implementation of the procurement activity which relates to the alleged violation.

3. The request for review must be submitted to the contracting authority, by mail or by any other means of communication permitted by the Law, within the following time limits:

3.1. if the alleged violation relates to the contract notice or the tender documents within five (5) days prior to the deadline for submission of bids;

3.2. if the alleged violation relates to the decision to award a contract or design contest, within five (5) days after the date of notification of the contract award notice or the design contest results are sent to the complainant.

3.3. if the alleged violation relates to the decision to terminate the procurement procedure, within five (5) days from the date the procurement activity was formally terminated through a termination notice.

4. Requests for review must be submitted in writing and contain the same information and documents specified in Article 111, paragraph 1 of this Law, with the exception of sub-paragraphs 1.9 and 1.10.

5. If the request does not contain part of the information referred to in paragraph 4 of this Article, the contracting authority will require the applicant to complete the request within a period not longer than two (2) days from receipt of the request. If the complainant does not act upon the above request, the request for review will be rejected as incomplete.

6. The contracting authority will examine the request within three (3) business days from the date of lodging the application or, where applicable, from the date of receipt of additional information and documents set forth in paragraph 5 of this Article. The above time limit, in justified specific cases may be extended but not longer than three (3) additional days, and the complainant will be informed thereof.

7. Against the decision of the contracting authority, the complainant may lodge a complaint with the PRB in accordance with Article 109.

8. The contracting authority shall reject a request for a review when:

8.1. the request is not lodged within the time limits set forth in paragraph 3 of this Article;

8.2. the complaint is not lodged against a notice or decision as referred to in paragraph 1 of this Article;

8.3. the complaint does not comply with the requirements referred to in paragraph 4 and 5 of this Article;

8.4. the contracting authority has reviewed its decision in terms of what is required from the complainant.

9. The refusal shall be justified and communicated in writing, in accordance with this Law, to the complainant and all concerned parties, if any. Furthermore, the contracting authority can preclude further procedure, upon receipt of a written notice from the complainant of his willingness to withdraw the submitted request for review.

10. The contracting authority may, by the means of a decision:

10.1. reject the proposed request for review as ungrounded;

10.2. approve a request for review as grounded and partially or completely cancel the approved decision;

11. The decisions referred to in this section are mandatory for contracting authorities and should be implemented immediately.

12. Objections and decisions, approved in compliance with paragraphs 8 and 10 of this Article, must be justified and communicated in writing in accordance with this Law, to the complainant and all concerned parties, if any.

13. Notwithstanding paragraph 3 of this Article, the approval of a rejection or a decision in compliance with paragraphs 8 and 10 of this Article, includes the immediate suspension of the measures approved under paragraph 2 of this Article.

14. Against rejections approved under sub-paragraphs 1, 2 and 3 of paragraph 8, and decisions taken under sub-paragraphs 1 and 2 of paragraph 10 of this Article, the complainant or any concerned party, if any, may lodge, in all cases, a complaint with the PRB in accordance with Article 109.

Article 61

1. Article 109 of the basic Law, paragraphs 1 and 2 shall be reworded with the following text:

1. Against any decision taken by the contracting authority in accordance with Article 108A circumstances any interested party may lodge a complaint with the PRB. The complaint should be submitted only after a preliminary procedure for resolution of the dispute in accordance with Article 108A of this Law was conducted.

2. Appeal to the PRB must be submitted within ten (10) days after the decision issued by the contracting authority in the preliminary procedure of dispute resolution in accordance with Article 108A of this Law.

Article 62

1. Article 111 of the basic Law, after sub-paragraph 1.8 there shall be added new sub-paragraphs 1.9 and 1.10 with the following text:

1.9 attaches a copy of the decision of the contracting authority issued during the preliminary resolution of disputes in accordance with Article 108A; and

1.10 submits an evidence of payment of the complaint fee, described in Article 118 of this Law.

Article 63

1. Article 113 of the basic Law, paragraph 1 shall be reworded with the following text:

1. The PRB shall immediately assign to one of its review expert the task of reviewing all allegations contained in the complaint.

Article 64

1. Article 116 of the basic Law, after paragraph 5 there shall be added a new paragraph 6 with the following text:

6. A PRB decision to re-evaluate the selection of tenderers or awarding the contract does not imply a change in the initial result.

Article 65

1. Article 118 of the basic Law, paragraph 1 shall be reworded with the following text:

1. All complainants are required to pay a complaints fee to the PRB to the amount set by the PPRC with secondary legislation. The evidence of payment should be attached to the complaint itself, in accordance with Article 111 of this Law. Payment shall be made in cash or cash equivalent into the account established by the PRB in accordance with the Financial Rules.

Article 66

1. Article 119 of the basic Law, paragraphs 1 and 3 shall be reworded with the following text:

1. If a complainant believes that a final decision or determination of a review panel or the PRB is contrary to the facts or the present Law, the complainant may request the Basic Court to review such decision. The request to the Basic Court must be filed within a time limit of thirty (30) days from the publication of the PRB decision in accordance with paragraph 2 of Article 117 of this Law.

3. If after conducting such a review, the court finds that an allegation made by the complainant in its earlier complaint before the PRB was validly made, the court shall issue an order (i) rescinding or reversing any order or determination made by the PRB, and/or (ii) if the complainant can demonstrate that it has been damaged by the act or omission of the concerned contracting authority, the court may require from such

contracting authority to pay adequate compensation to the complainant for the damage caused.

Article 67

1. Article 129 of the basic Law, paragraphs 1, 3 and 4 shall be reworded with the following text:

1. PPRC shall be authorised to issue rules concerning the contracting authorities' use of electronic procurement methods.

3. PPRC shall be authorized to issue rules regarding devices for the electronic submission and receipt of tenders and to devices for the electronic receipt of requests to participate. These rules must include an advanced electronic signature, in conformity with international standards.

4. Use of electronic procurement is mandatory in the moment the Government of Kosovo takes a decision on this issue.

Article 68

Article 132 of the basic Law, sub-paragraphs 1.3, 1.4, 1.5, 1.6, and 1.7 shall be deleted from the text of the Law.

Article 69

After Article 132 of the basic Law there shall be added Article 132A with the following text:

Article 132A **Contracting of services from CSO**

The Government of the Republic of Kosovo with a sub-act determines rules, standards and procedures of contracting public services for civil society organizations.

Article 70 **Entry into force**

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

Law No.05/L - 068
14 December 2015

President of the Assembly of the Republic of Kosovo

Kadri VESELI