



PROVISIONAL INSTITUTIONS OF SELF GOVERNMENT

KUVENDI I KOSOVËS
СКУПШТИНА КОСОВА
ASSEMBLY OF KOSOVO

Law No. 02/L-5

ON SUPPORT TO SMALL AND MEDIUM ENTERPRISES

Assembly of Kosovo,

Pursuant to Regulation No.2001/9 dated 15 May 2001 of the Constitutional Framework on Provisional Self Government in Kosovo, Chapter 5 paragraph (d), 9.1.1, 9.3.3, 11.2, and

Taking into consideration the importance of putting in place a modern system for supporting Small and Medium Enterprises as a specific problem of a certain economic related field;

Hereby adopts the following:

LAW ON SUPPORT TO SMALL AND MEDIUM ENTERPRISES

CHAPTER I

General Provisions

Article 1

The present Law regulates governmental policies and measures for classifying Small and Medium Enterprises (hereafter referred to as SMEs), inciting their establishment and development.

Article 2

The goal of this Law is to support SMEs through creation of an institutional, regulatory and financial framework.

Definitions

Article 3

Each one of the following terms shall have the indicated meaning whenever used in this Law, unless the context within which such term appears clearly intends another meaning:

Minister –shall mean the Minister of Trade and Industry.

Ministry –shall mean the Ministry of Trade and Industry established in conformity with UNMIK Regulation No. 2001/19.

Government- shall mean the Prime Minister and the ministers' cabinet as stipulated by UNMIK Regulation No. 2001/19.

Real estate- shall mean the land, including any buildings built on it and parts of it classified by law as real estate.

Property-shall mean the whole immovable, movable or personal property utilized directly or indirectly, including cash or bank deposits, as well as income coming from their sale or possession.

Physical environment –shall mean working space.

Working environment–shall mean working space built exclusively for business activities.

Agency - means the SME Agency established pursuant to the provisions of the present law.

Enterprise - means any business organization established and registered pursuant to UNMIK Regulation 2001/6 or any successor legislation thereto.

SME - means a small and/or medium enterprise as those enterprises are described in Articles 4.2 and 4.3 of the present law.

Industrial park or business park - means a specifically delineated geographic area that has been duly designated as such by the Government for the purpose of having such area serve as a location where a significant number of enterprises can establish industrial and/or commercial facilities and offices within close proximity of one another.

Classification of SMEs

Article 4

4.1. Only small and medium enterprises shall be entitled to the assistance provided for by the present law.

4.2. A small enterprise is an enterprise that:

- a). employs up to 9 employees; and
- b). during the previous 12 months has had an aggregate turnover of 500.000 € or less.

4.3. A medium enterprise is an enterprise that:

- a). employs between 10 and 49 employees; and
- b). during the previous 12 months has had an aggregate turnover of 2.400.000 € or less.

4.4. If the principal owner and senior manager of an enterprise believe that it meets the criteria of Article 4.2 or 4.3 and desire to have the enterprise participate in one or more programs or initiatives of the SME Agency, the enterprise shall submit to the SME Agency:

- (i) a letter requesting such participation, and
- (ii) a statement, personally executed by the principal owner and the senior manager, legally affirming and verifying that the enterprise meets the criteria specified in Article 4.2 or Article 4.3. Any person making any material misrepresentation in such form, regardless as to whether such misrepresentation was made negligently or intentionally, shall be subject to a 1.000 Euro administrative penalty, which shall be assessed and collected by the Agency and deposited in the KCB. In addition, each person executing such a form shall undertake an affirmative obligation to amend such form within thirty (30) days of any material change in the enterprise's employment and/or turnover. Any person who fails to timely file such an amendment shall be deemed to have negligently made a material

misrepresentation in the form and shall be subject to the administrative penalty previously mentioned. A change or misrepresentation shall only be considered “material” if it affects the enterprise’s classification as “small” or “medium” under this Article 4.

4.5. In addition to the personal administrative penalties specified in Article 4.4, the concerned enterprise shall be disqualified from participating in any program or initiative of the SME Agency for a period of two years.

4.6. The penalties provided in Articles 4.4 and 4.5 shall be in addition to, and not in lieu of, any other penalties provided by law.

CHAPTER II

Programs for Fostering SMEs Establishment and Development Measures for the establishment and development of the SMEs

Article 5

The Government of Kosovo may, after taking due consideration of the limited administrative and budgetary resources of Kosovo, authorize the Agency to support the establishment and development of a sound SME environment by:

- a). ensuring that private sector lenders provide SME’s with fair and non-discriminatory access to private loans and other credit facilities;
- b). working with private sector lenders to identify and reduce any legal, administrative or judicial impediments that may be unduly restraining private lending in Kosovo or private SME lending in particular;
- c). cooperating with the Statistics Office of Kosovo to compile, analyze and disseminate statistics and other information that can be used to:
 - (i) achieve a better understanding of the SME economic and commercial environment,
 - (ii) facilitate the development by the Government of rational and cost-conscious SME policies,
 - (iii) encourage investment in private sector suppliers of products, services, and information needed by SMEs, and
 - (iv) promote informed and rational choices by entrepreneurs, lenders, and customers of SME products and services.
- d). working with the Ministry of Finance and Economy, the Ministry of Agriculture and other public authorities, to ensure that no legislative instrument or administrative practice unreasonably discriminates against SMEs;
- e). regularly meeting and working with SMEs to identify and develop proposals for eliminating or reducing unnecessary, redundant or problematic bureaucratic barriers or requirements created by a law or other legislative instrument and/or the practice of a public authority;
- f). engaging business associations, professional societies, NGOs, and other civil society organizations to develop the support infrastructure necessary to facilitate SME formation and growth;

- g). ensuring that SME's are provided with fair and non-discriminatory opportunities to compete for public procurement contracts;
- h). working with the relevant international organizations and governmental institutions to open up trading opportunities outside of Kosovo for Kosovo-origin products and services of all description;
- i). working with the Ministry of Labor and Social Welfare and others to create the policies and legislative instruments needed to provide SMEs with the more flexible employer-employee rules that they require; and
- j). facilitating contact and communication a
 - (i) between and among SMEs,
 - (ii) between SME's and larger enterprises needing products and services that might be supplied by SMEs, and
 - (iii) between SME's and private consultants, trainers and professionals who may be able to increase the capacity and expertise level of the SME.

Objectives of Supporting SMEs Article 6

The objectives of the SME support programs are to provide legislative and regulatory assistance to facilitate private sector and non-profit sector initiatives that:

- a) create a favorable private entrepreneurial environment,
- b) Increase of employment,
- c) Increase of exports and adjustment to the global market,
- d) Increase of SME efficiency, quality and competition,
- e) Application of contemporary technologies and innovations,
- f) Increase of the number of SME entities,
- g) Stimulation of activities than do not pollute the environment.

Beneficiaries of the SME Support Programs Article 7

When fulfilling the functions specified in Article 5, the Agency shall give special consideration to SMEs in their start-up phase, SME's with majority ownership by women and SMEs having their principal place of business in a geographic area that the Ministry of Finance and Economy has officially and publicly designated as particularly depressed.

CHAPTER III Establishment of the SMEs Support Agency Article 8

8.1. SMEs Support Agency (hereafter "the Agency") shall be established under this present Law.

8.2. The SME Agency is hereby established within the Ministry and for the purpose of performing the tasks specifically assigned to it by the present law. The SME Agency may also undertake other activities that are directed toward encouraging private and nonprofit organizations to develop their own programs and projects that will benefit SMEs.

Head Office
Article 9

9.1. Head Office of the Agency shall be based in Prishtina.

9.2. The Government shall be responsible for developing, approving and issuing all sub-legal acts under the present law. The Government shall ensure that all such sub-legal acts are entirely consistent with all provisions of the present law.

Capital and Operating Stock of the Agency
Article 10

The Agency, its programs and operations shall be financed solely from Kosovo Consolidated Budget funds that are specifically appropriated for that purpose by the applicable annual appropriations law, and donations, contributions and sponsoring of local and international legal entities and persons.

The Agency shall be managed by the Head of the Agency.
Article 11

11.1. The Head of the Agency shall be proposed by the Minister, and appointed by the Government.

11.2. To be appointed, the Head of the Agency shall fulfill the following requirements:

- a). Be a Kosovo inhabitant,
- b). Hold a university degree and have at least 5 years of relevant work experience
- c). Not be subject of external impact while performing his/her duties,
- d). Work fulltime and not have a secondary employment.

11.3. Head of the Agency shall be discharged from the body that has made the appointment, in accordance with the present law, in case there is lack of professional skills, poor management of human and material resources, bad behavior, or in case he/she has been proven guilty of penal act and sentenced to 6 months or longer from the first day of imprisonment.

Head of the Agency
Article 12

12.1. With the approval of the Minister (of MTI), Head of the Agency approves the annual business plan of the Agency, which regulates in detail operations of the Agency over a period of one calendar year, supervises program implementation.

12.2. With the approval of the Minister, Head of the Agency approves the organizational chart and systematizing of positions necessary for performing the activities this Agency has been established for. Employees of the Agency shall be considered civil servants in accordance with Regulation No 2001/36.

Article 13

13.1. Head of the Agency shall be appointed within 60 days of the entry into force of this present Law.

13.2. Within 30 after he/she assumes position, the Head of the Agency shall be obliged to present to the Minister the organizational chart of the Agency, systematization of jobs and job description, along with the financial plan for a normal functioning of the Agency.

Article 14

Working hours of the Agency shall be identical to those of the Ministry of Trade and Industry.

Article 15

15.1. Time after time, the Agency informs the public on requirements, deadlines and manner of services offered by the Agency.

15.2. During organization of presentations, seminars, consulting and scientific events, besides sending out the invitations, the Agency shall be obliged to publish the agenda in the media.

Supervision

Article 16

16.1. The Ministry (Ministry of Trade and Industry) shall hold the Agency responsible for its operations, as set out by Law.

16.2. The Agency shall provide the Minister and the Government with six month reports.

16.3. The Government allows and approves the financial plan and the financial statement of the Agency.

CHAPTER IV

Final Provision

Entry into Force

Article 17

The present law shall enter into force after adoption by the Assembly of Kosova on the date of its promulgation by the Special Representative of the Secretary-General.

Law No. 02/L-5
23 March 2005

President of the Assembly

Academic Nexhat Daci