LAW OF THE REPUBLIC OF AZERBAIJAN

On Public-Private Partnership (https://e-qanun.az/framework/53020)

This Law, in accordance with subparagraphs 11, 12 and 13 of Part I of Article 94 of the Constitution of the Republic of Azerbaijan, determines the organizational, legal and economic foundations for the implementation of activities in the field of public-private partnership.

Chapter 1

General Provisions

Article 1. Basic Definitions

1.1. For the purposes of this Law, the following basic terms shall have the following meanings:

1.1.1. Public-private partnership – the joint activity of the public partner and the private partner based on a contract concluded in accordance with this Law regarding the provision of public services, as well as the creation and management of infrastructure related to the provision of such services;

1.1.2. Public-private partnership project – a set of organizational, legal, scientific, technological and economic measures aimed at implementing a public-private partnership with a total value exceeding the amount determined by the body (institution) designated by the relevant executive authority;

1.1.3. Public-private partnership rules – a document regulating the implementation of public-private partnership determined by the body (institution) designated by the relevant executive authority;

1.1.4. Applicant – an individual or legal entity participating in the tender or direct negotiations for the implementation of a public-private partnership project or proposing a private initiative;

1.1.5. Public partner – state bodies (institutions), as well as municipalities or municipal enterprises that conclude a public-private partnership contract with the private partner;

1.1.6. Private partner – an individual or legal entity selected through a tender or direct negotiations for the implementation of a public-private partnership project and concluding a public-private partnership contract with the public partner;

1.1.7. Public services – goods produced, services provided, works performed by state bodies (institutions), as well as the management of state property, including legal entities with state participation;

1.1.8. Infrastructure – tangible and intangible assets intended for the provision of public services;

1.1.9. Strategic documents – state programs, strategies, concepts and national action plans that include public-private partnership projects;

1.1.10. Authorized body – the body (institution) determined by the relevant executive authority;

1.1.11. Project company – a legal entity established by the private partner to ensure the implementation of a public-private partnership project.

1.2. Other terms used in this Law shall have the meanings defined by normative legal acts of the Republic of Azerbaijan.

Article 2. Legislation on Public-Private Partnership

The legislation of the Republic of Azerbaijan on public-private partnership consists of the Constitution of the Republic of Azerbaijan, this Law, the Civil Code of the Republic of Azerbaijan, the Laws of the Republic of Azerbaijan "On Investment Activity", "On Licenses and Permits", other normative legal acts regulating relations in this field, as well as international treaties to which the Republic of Azerbaijan is a party.

Article 3. Scope of Application of This Law

3.1. Taking into account the provisions of other laws regulating relations in the field of public-private partnership, this Law regulates relations arising between the state, the authorized body, the public partner, the private partner and the applicant during the implementation of public-private partnership projects related to the provision of public services within the territory of the Republic of Azerbaijan, as well as the creation and management of infrastructure for providing such services.

3.2. The Laws of the Republic of Azerbaijan **"On Public Procurement"** and **"On Privatization of State Property"** shall not apply to relations regulated by this Law.

3.3. The provisions of this Law shall not apply to activities in the oil and gas sector in accordance with the Law of the Republic of Azerbaijan **"On Subsoil"**.

3.4. Public-private partnership related to the use of renewable energy sources in electricity generation shall be carried out in accordance with the Law of the Republic of Azerbaijan **“On the Use of Renewable Energy Sources in Electricity Production.”**

3.5. Relations in the field of public-private partnership in the **Alat Free Economic Zone** shall be regulated in accordance with the requirements of the Law of the Republic of Azerbaijan **“On the Alat Free Economic Zone.”**

Article 4. Basic Principles of Public-Private Partnership

4.1. Public-private partnership shall be implemented based on the following principles:

4.1.1. rule of law;

4.1.2. protection of free competition;

4.1.3. transparency and efficiency;

4.1.4. equality of applicants’ rights;

4.1.5. maintaining a balance of interests and risks between the parties.

Article 5. State Participation in Public-Private Partnership Projects

5.1. Public-private partnership projects shall be financed from sources not prohibited by the laws of the Republic of Azerbaijan.

5.2. The forms and methods of state participation in a public-private partnership project shall be determined by the authorized body based on the feasibility study of the project and shall be specified in the tender documentation.

5.3. Except for cases where economic and/or financial justification exists with the consent of the authorized body, the forms and methods of state participation in a public-private partnership project cannot be changed after the public-private partnership contract is concluded.

5.4. Taking into account Article 5.2 of this Law, the upper limit of state obligations related to public-private partnership shall be determined by the authorized body for each project.

Chapter 2

Regulation of Public-Private Partnership

Article 6. State Policy in the Field of Public-Private Partnership

6.1. The objectives of state policy in the field of public-private partnership are:

- increasing the efficiency of the use of public funds;
- improving the efficiency and quality of public services and increasing accessibility to them;
- stimulating sustainable development in various sectors of the economy;
- increasing the volume of private investments, including foreign direct investment;
- development and management of socio-economic and business-oriented infrastructure;
- creation of new jobs and ensuring balanced regional development;
- increasing the export of competitive products;
- improving efficiency and transparency in the economy.

Article 7. Authorized Body

7.1. The authorized body in the field of public-private partnership shall be determined by the body (institution) designated by the relevant executive authority.

7.2. The authorized body:

- participates in the formation and implementation of state policy in the field of public-private partnership;
- prepares tender documents and draft contracts or key terms of contracts;
- organizes tenders or direct negotiations for selecting a private partner;
- ensures evaluation of project proposals and creation of a database;
- determines requirements for tender participants;
- monitors the implementation of PPP projects and reports the results.

Chapter 3

Public-Private Partnership Projects, Their Selection Procedure and Requirements for Applicants

Article 8. Public-Private Partnership Project

8.1. The authorized body prepares a list of public-private partnership projects based on strategic documents and publishes it annually in the relevant information database, on its official website, and in the media after approval by the relevant executive authority.

8.2. If the implementation of a project falls under the authority of more than one public partner, the authorized body determines the public partner or decides on joint implementation.

8.3. Projects are determined based on the following criteria:

- importance of the project;
- economic efficiency;
- financial risks and their distribution between the parties.

8.4. The maximum duration of a public-private partnership project shall be **49 years**, determined considering infrastructure lifespan, investment size, repayment conditions and profitability.

8.5. PPP projects may also be proposed by applicants.

Article 9. Selection of PPP Projects

After the project list is published, interested parties may notify the authorized body of their intention to participate in the implementation of the project.

Article 10. Private Initiative of the Applicant

Applicants may submit project proposals not included in the official project list.

The authorized body evaluates the proposal and decides within **60 days** whether to accept, conditionally accept, or reject it.

If accepted, a summary of the proposal is published and other interested parties may apply within **60 days** to participate.

If at least two additional parties express interest, the project is put out to tender.

If not, the contract may be concluded through **direct negotiations**.

Article 11. Requirements for Applicants

Applicants must:

- have experience in similar projects;
- have financial resources or access to financing;
- possess necessary assets or the ability to obtain them;

- have management capacity, knowledge, innovation and technology;
- have no convictions for corruption, fraud, money laundering or terrorism financing;
- not be subject to international sanctions;
- not be under bankruptcy or liquidation proceedings.

Chapter 4

Public-Private Partnership Tender

Article 12. Preparation of a PPP Project for Tender

Preparation stages include:

- preparation of a feasibility study;
- preparation of tender documents;
- determination of the public partner if necessary;
- preparation of the draft PPP contract.

The feasibility study must include project description, environmental impact assessment results (if required), risk allocation, and proposed state support.

Article 13. Stages of the PPP Tender

The tender is conducted openly and includes:

1. announcement of the tender;
2. submission of applications;
3. qualification evaluation;
4. distribution of tender documents to qualified applicants;
5. evaluation of project proposals;
6. selection of the winner and second and third places.

Each participant may submit only **one proposal**.

Article 14. Announcement of the Tender

The announcement is published on the official website of the authorized body and in the media.

Information published includes:

- project description and location;
- state support and guarantees (if any);
- summary of tender conditions.

Article 15. Participation in the Tender

Applicants submit applications within the announced deadline.

Applicants may form **consortia** and combine financial and technical resources.

Article 16. Qualification Evaluation

The authorized body evaluates applicants' qualifications based on legal requirements while protecting intellectual property and commercial secrets.

Article 17. Tender Documentation

Tender documents include:

- detailed project description;
- state support and guarantees;
- project duration and expected outcomes;
- requirements for use of local resources;
- evaluation criteria;
- validity period of proposals;
- proposal guarantees;
- main terms of the PPP contract.

Article 18. Preparation and Submission of Proposals

Applicants prepare proposals according to the tender documentation and submit them before the deadline.

Late submissions are not accepted.

Article 19. Evaluation of Proposals

Evaluation includes:

- checking compliance with minimum technical requirements;
- scoring proposals according to evaluation criteria.

Criteria may include:

- payments by the state partner;
- level of state support;
- duration of the project;
- expected results and compensation mechanisms;
- technical and innovative characteristics;
- risk mitigation measures.

Article 20. Announcement of the Winner and Project Company

The applicant with the highest score is declared the winner.

A PPP contract must be concluded within **60 days**.

A **project company** may be created to implement the project.

The state may hold up to **49%** participation in the project company.

Chapter 5

Terms, Conclusion, Amendment and Termination of the PPP Contract

Article 21. Public-Private Partnership Contract

The contract is concluded with the tender winner or through direct negotiations.

If financed by creditors, a **direct agreement** between the public partner, private partner and creditors may be concluded.

Foreign law may be chosen if foreign investors or lenders are involved.

Article 22. Terms of the PPP Contract

The contract must include:

- parties to the contract;
- subject of the contract;
- infrastructure ownership arrangements;

- duration of the contract;
- obligations of the parties;
- state support and benefits;
- termination procedures;
- allocation of land;
- distribution of risks and responsibilities;
- share of participation of parties;
- investment terms.

Article 23. Amendment and Termination of the Contract

The contract may be amended or terminated according to the **Civil Code of Azerbaijan** and the PPP rules.

Consequences must include compensation procedures and ownership of infrastructure and intellectual property.

Article 24. Direct Negotiations

Contracts may be concluded without a tender in cases such as:

- only one applicant capable of providing the service;
- defense and security projects;
- unsuccessful tender or only one proposal;
- other cases specified by the Law.

Chapter 6

State Support and Guarantees

Article 25. Forms of State Support

Forms include:

- tax incentives and exemptions;
- financial support and guarantees;
- subsidies or loans;
- minimum revenue guarantees;
- purchase guarantees for project outputs;
- exclusive rights to provide services for a limited time.

Article 26. Guarantees for Private Partner Activities

No unlawful interference with the private partner's management of investments, assets, or project activities is allowed.

Article 27. Guarantee Against Changes in Legislation

If legal changes increase costs or reduce income, the private partner may receive **compensation**.

Article 28. Protection of Creditors' Rights

The private partner may pledge assets or shares as collateral for financing the project.

Article 29. Rights to Manage the Project

In risk situations, the public partner or creditors may assume project management or appoint a new private partner.

Article 30. Financing Methods

Applicants may choose among different financing methods if multiple options are available.

Article 31. Currency and Payment Guarantees

Private partners may open accounts in foreign banks and transfer foreign currency for financing purposes.

Contracts may include mechanisms to mitigate exchange rate risks.

Article 32. Regulated Tariff Protection

If tariff changes negatively affect the project, compensation mechanisms may be included in the contract.

Article 33. Property Rights

Contracts must determine ownership of infrastructure after completion or termination of the project.

Article 34. Allocation of Land to the Private Partner

Land may be provided through lease or use rights according to civil and land legislation.

Municipal or privately owned land may be transferred or acquired for project implementation.

Chapter 7

Monitoring and Reporting

Article 35. PPP Project Database

The authorized body maintains an electronic database containing project information, tender results, contracts, and reports.

Article 36. Monitoring of PPP Projects

The authorized body monitors implementation of contract obligations.

Article 37. Reporting

Project parties submit annual reports on project implementation.

If the private partner fails to fulfill obligations, a new partner may be selected.

Chapter 8

Final Provisions

Article 38. Dispute Resolution

Disputes regarding tender decisions may be appealed administratively or in court.

Contract disputes are resolved according to the contract or Azerbaijani law.

Article 39. Liability

Persons violating this Law bear liability under the **Civil Code, Administrative Offenses Code, and Criminal Code** of Azerbaijan.

Article 40. Transitional Provisions

40.1. Upon entry into force of this Law, the Law **“On Implementation of Investment Projects Related to Construction and Infrastructure Objects on the Basis of Special Financing”** is repealed.

40.2. Contracts concluded under that law remain subject to the Civil Code and the Law **“On Investment Activity.”**