

## **CODE OF CORPORATE GOVERNANCE FOR POEs**

*This Code of Corporate Governance sets the minimum standards to apply to each Publicly Owned Enterprise in Kosovo ('POE'). Each POE is expected to implement codes, safeguards and mechanisms, in addition to those mentioned in this Code, with the goal of bringing corporate governance into line with best international practice.*

### **I. Legal and Regulatory Framework for POEs**

1. The assets of the Publicly-owned Enterprises (POEs) in Kosovo are managed on behalf of Kosovo by a separate agency, independent of government, specifically responsible for their administration as trustee for the owners of the enterprises. The agency - known as the Kosovo Trust Agency (KTA) - is also responsible for preserving or enhancing the value, viability and governance of the enterprises under its jurisdiction.
2. The legal form of a POE must be that of a Joint Stock Company with the ownership rights vested in the KTA (or any successor entity).
3. Obligations and responsibilities of POEs outside of their primary function(s) must be mandated by law, disclosed to the public and accounted for in a transparent manner.
4. POEs shall be subject to all the laws of Kosovo applicable to business entities, except (i) where they are exempted by any such law by the KTA Regulation or other applicable UNMIK Regulations or (ii) when they are subject to disclosure and regulatory requirements in addition to those applicable to private businesses.
5. The capital structure of the POEs may be subject to adjustment provided, however, that such adjustment is either: (i) required by law or (ii) rationally related to the business purpose or the business plans of the POE. In no event may the capital structure of POEs be altered for reasons that are not directly relevant to the POE's business.
6. POEs should not receive preferential treatment regarding access to finance, provided, however, that in order to ensure the introduction of foreign financing into Kosovo, special arrangements may be made for certain POEs. These special arrangements may only be entered into for the initial capital flow and shall not be repeated once capital can be obtained on non-preferential terms.

### **II. The Governing Authorities in Kosovo as Trustees for the Owners**

1. The governing authorities should not be involved in the day-to-day management of POEs and will allow POEs' management full operational autonomy. The POE boards of directors should be treated as independent entities and allowed to exercise their responsibilities without interference. Each board of directors of a POE shall have a minimum percentage requirement of independent directors, which shall be no less than 33.3% and each member of the board of directors shall be required to have minimum experience qualifications related to the business of the POE.
2. The governing authorities' ownership rights should be exercised through the KTA.

3. The KTA must be held to account by the representative institutions, including UNMIK, the PISG and the Assembly; it should also be accountable to all responsible audit institutions.
4. The governing authorities' ownership rights should be exercised according to the legal structure of each POE.

### **III. Relations with stakeholders**

1. The governing authorities in Kosovo, the KTA and the POEs themselves should recognise and respect the rights of stakeholders in the enterprise.
2. POEs should report on stakeholder relations.
3. The boards of POEs must develop, implement and communicate compliance programmes for internal codes of ethics.

### **IV. Transparency and disclosure**

1. The KTA should develop consistent and aggregate reporting on POEs and publish annually an aggregate report on POEs (as well as cause the publication of individual reports on each POE).
2. POEs should develop efficient internal audit procedures and establish an internal audit function that is monitored by, and reports directly to, the board.
3. POEs should be subject to annual independent external audits. This is in addition to any requirements of the governing authorities for the auditing of publicly-owned institutions.
4. POEs should be subject to the same high quality accounting and auditing standards as listed companies. Until such time as a listing and trading regime develops in Kosovo, these standards should be borrowed from international best practices, such as the Internationally Accepted Accounting Principles, and POEs should not be subject to special state-sector or budgetary organisation type accounting regimes.
5. POEs should disclose to the public on an annual basis material information on all matters in the OECD Principles of Corporate Governance.

### **V. Responsibilities of the boards of directors of POEs**

1. The boards of directors of POEs are ultimately responsible for the performance of the enterprises but not their day-to-day management, which function should be left to the officers of the POE .
2. The boards of directors of POEs should be responsible for monitoring management performance and providing strategic guidance, as measured against the objectives set by the KTA. They should be responsible for appointing and removing the Chief Executive Officer.

3. The boards of directors of POEs shall be composed so that they can exercise objective and independent judgement. Good practice calls for the Chair to be separate from the CEO. Each board of directors of a POE shall have a minimum percentage requirement of independent directors, which shall be no less than 33.3% and each member of the board of directors shall be required to have minimum experience qualifications related to the business of the POE.
4. When necessary, specialised committees should be set up to support the full board in performing its functions, particularly in respect to audit, risk management and remuneration.
5. The boards of directors of POEs should carry out an annual evaluation to appraise their performance.