

**Disclaimer**

This document is the literal English translation of the decrees which were initially written and published in French.

It does not hold any legal value.

This translation was produced for ease of understanding of the legal framework in which Public Private Partnerships are operated in Cote d'Ivoire.

DECREE N° 2012-1152 OF 19 DECEMBER 2012  
ON THE POWERS, ORGANISATION AND FUNCTIONING  
OF THE PUBLIC-PRIVATE PARTNERSHIPS  
INSTITUTIONAL STEERING FRAMEWORK

THE PRESIDENT OF THE REPUBLIC

Upon a report by the Prime Minister, Minister of the Economy and Finance,

Having regard to the Constitution,

In view of Decree N° 2009-259 of 6 August 2009 on the Code governing public procurement,

In view of Decree N° 2009-260 of 6 August 2009 on the organisation and functioning of the National Authority for the Regulation of Public Procurement (ANRMP),

In view of Decree N° 2011-222 of 07 September 2011 on the organisation of the Ministry of the Economy and Finance,

In view of Decree N° 2012-625 of 06 July 2012 assigning functions to the members of the Government,

In view of Decree N° 2012-1118 of 21 November 2012 appointing the Prime Minister,

In view of Decree N° 2012-1119 of 22 November 2012 appointing the members of the Government,

**The Council of Ministers meeting,**

**DECREES**

**CHAPTER I: GENERAL PROVISIONS**

**Article 1:** The objective of this decree is to lay down the powers, organisation and functioning of the institutional steering framework of development projects to be carried out under Public-Private Partnerships, or PPPs in abbreviated form.

**Article 2:** PPPs include public service delegation contracts, as defined in the Code of Public Procurement, as well as contracts through which a Contracting Authority entrusts to a

third party, for a fixed period of time, a global mission on the financing, construction or transformation, service and maintenance, operation or management of infrastructure, equipment or intangible assets on behalf of the Contracting Authority concerned.

## **CHAPTER II: INSTITUTIONAL STEERING FRAMEWORK OF DEVELOPMENT PROJECTS CARRIED OUT UNDER PUBLIC-PRIVATE PARTNERSHIPS**

**Article 3:** The institutional steering framework of PPPs shall be under the authority of the President of the Republic.

The PPP Institutional Steering Framework includes:

- The PPP National Steering Committee, or CNP-PPP in abbreviated form,
- The PPP Executive Secretariat, or SE-PPP in abbreviated form,
- The PPP Operational Unit, or CO-PPP in abbreviated form.

**Article 4:** The PPP National Steering Committee is the decision-making, validation and policy-setting body of the PPP Institutional Steering Framework.

As such, it shall be responsible for:

- Coming up with the PPP development strategies to be submitted to the Government, as well as the draft legislative and regulatory texts,
- Validating the projects to be undertaken under the PPP framework,
- Validating the tender documents prepared by the contracting authorities, and especially the contractual terms and financial schemes, the modes of selection of the bidders and the evaluation criteria,
- Validating proposals for awarding contracts or agreements,
- Defining the dialogue framework with external financial partners,
- Monitoring project delivery by the contracting authorities,
- Submitting an annual report on projects undertaken under PPPs to the Government,
- Approving business plans presented by the SE-PPP,
- Raising the necessary funding.

**Article 5:** The CNP-PPP includes permanent and non-permanent members.

The permanent members are:

- The representative of the President of the Republic, Chair
- The representative of the Prime Minister, Vice-Chair
- The representative of the Minister of Planning and Development, Member
- The representative of the Minister of Industry, Member
- The representative of the Minister of Economy and Finance, Member
- The Director General of Budget and Finance, Member
- The Director General of the National Technical Studies and Development Office, or BNETD in abbreviated form. Member
- The Director General of the Investment Promotion Centre of Côte d'Ivoire, CEPICI in abbreviated form, Member
- The Director of Public Procurement, Member.

The permanent members shall be appointed by Prime Ministerial Order.

The non-permanent members shall be the representatives of the line ministries initiating projects that are under review by the CNP-PPP and shall be expressly invited to take part in the work of the CNP-PPP. They shall not have any voting right.

**Article 6:**

The CNP-PPP shall meet at least once a month and each time the need arises.

The meetings of the CNP-PPP shall be convened by its Chair, who sets the agenda of the said meetings.

The proceedings of the meetings of the CNP-PPP shall be consigned in minutes signed by the Chair and Executive Secretary.

The permanent members of the CNP-PPP may be represented by another permanent Member. No member shall hold more than one proxy.

Should the Chair not be able to attend a meeting, the Vice-Chair shall assume this role.

The CNP-PPP can invite any expert at its meetings, when it deems it necessary. The said expert shall not have the right to vote.

The SE-PPP shall act as the Secretariat of the CNP-PPP.

**Article 7:**

The duties of member of the CNP-PPP shall not be remunerated. However, the Government may authorise the reimbursement of expenses associated with missions accomplished by the members of the CNP-PPP in the course of their duties, upon presentation of supporting documents of the expenses incurred. They shall also be entitled to allowances set by Prime Ministerial Order.

**Article 8:**

The SE-PPP shall assist the CNP-PPP in the performance of its tasks.

As such, it shall be responsible for:

- Developing an annual action plan to be submitted to the CNP-PPP for validation and for which it will ensure the execution,
- Preparing the meetings of the CNP-PPP and acting as the Secretariat at these meetings,
- Monitoring the execution and implementation of the CNP-PPP decisions, directives and resolutions,
- Ensuring the coordination of the relations between all the PPP actors,
- Ensuring the management of the equipment, furniture and logistics put at the disposal of the CNP-PPP,
- Preparing progress reports, as well as the CNP-PPP Annual Activity Report,
- Developing and implementing the training and capacity building strategies of national actors in the area of PPPs,
- Organising the dialogue with external financial partners,
- Making proposals or recommendations to the CNP-PPP on the definition of the strategy and its implementation, the matrices of actions, the prioritisation of projects and their categorisation,
- Proposing draft texts and reforms on PPP good practices, as well as the procedures and tools of PPP development,
- Ensuring the monitoring and evaluation of the execution of the contracts.

**Article 9:**

The SE-PPP shall be based at the Ministry of the Economy and Finance.

The SE-PPP shall be composed of personnel and experts appointed by a Prime Ministerial Order from the Minister of the Economy and Finance.

The SE-PPP shall be run by an Executive Secretary appointed by an Order from the Minister of the Economy and Finance, and a Deputy Executive Secretary appointed by an Order from the Minister of Industry, upon advice from the CNP-PPP.

The remuneration of the members of the SE-PPP shall be determined by the Minister of the Economy and Finance.

**Article 10:** The Operational Unit shall support the SE-PPP and CNP-PPP in their missions.

As such, it shall be responsible for:

- Providing support and expertise to the SE-PPP and CNP-PPP, as part of the PPP development strategy and the draft regulatory and legislative texts pertaining thereto,
- Providing support and expertise to the SE-PPP and CNP-PPP, as part of the advice the latter provide, pursuant to Articles 4 and 8 of this Decree, and especially on the efficiency of the development projects proposed to the CNP-PPP by the Contracting Authorities, and on the feasibility of their implementation under a PPP,
- Providing support and expertise to the SE-PPP and CNP-PPP by proposing, if necessary, optimisation of the partnership scheme to be put in place after comparing options and carrying out financial simulations,
- Preparing the tender documents on the basis of the technical elements provided by the Contracting Authorities and their consultants,
- Providing the Contracting Authorities during the awarding of PPP contracts and concluding of agreements,
- Participating in the monitoring and implementation of PPP contracts.

**Article 11:** The SE-PPP shall submit files to the CNP-PPP for review. These files shall be the subject of prior discussions between the SE-PPP and CO-PPP.

The review of the files by the CNP-PPP shall be done in the presence of the Contracting Authority and representatives of the SE-PPP and CO-PPP.

**Article 12:** The CO-PPP shall be based at the BNETD.

**Article 13:** The CO-PPP shall be composed of independent experts appointed by the BNETD, after advice from the CNP-PPP.

The CO-PPP shall be run by a Coordinator appointed by Prime Ministerial Order, on a proposal from the Chair of the CNP-PPP.

### CHAPTER III: FINAL PROVISIONS

**Article 14:** The members of the CNP-PPP, SE-PPP and CO-PPP, as well as any person taking part in the implementation of PPP projects, shall be subject to compliance with the rules of the Code of Deontology in public procurement and public service delegation contract.

**Article 15:** The expenditure related to the functioning of the CNP-PPP, SE-PPP and CO-PPP shall be chargeable to the State Budget.

The CNP-PPP, SE-PPP and CO-PPP shall be eligible for study funds assembled by the Government and the financial assistance from Development Partners for the execution of their missions.

**Article 16:** This Decree shall repeal all previous provisions stipulating otherwise, including Inter-ministerial Order N° 592/MEF/MI of 2 December 2011 on the creation, organisation and functioning of the National Committee on Public-Private Partnerships and modifying Inter-ministerial Order N° 855 of 11 November 2010.

**Article 17:** The Prime Minister, Minister of the Economy and Finance shall be responsible for the execution of this Decree, which shall be published in the Official Gazette of the Republic of Côte d'Ivoire.

**Done in Yamoussoukro on 19 December 2012**

**Alassane OUATTARA**

Certified true copy of the original  
The General Secretary of the Government

(Illegible signature and Stamp)

Sansan KAMBILE  
Magistrate