

05 Annex - Public Procurement

24. LAW ON CONCESSIONS

Pursuant to Article 95, item 3 of the Constitution of Montenegro, I hereby issue the

DECREE PROMULGATING THE LAW ON CONCESSIONS

(Official Gazette of Montenegro 08/09 of 4 February 2009)

I hereby promulgate the Law on Concessions adopted by the 23rd assembly of Parliament of Montenegro at the sitting of the first extraordinary session in 2009 on 26 January 2009.

No: 01-217/2

Podgorica, 29 January 2009

The President of Montenegro

Filip Vujanović, m.p.

LAW ON CONCESSIONS

I GENERAL PROVISIONS

Subject Matter of the Law

Article 1

This Law shall govern requirements, manner, and procedure for awarding concessions, the subject matter of concessions, and other matters of relevance to effectuate the concession.

Purpose of the Law

Article 2

- (1) Concessions shall be awarded under the equal, transparent and non-discriminatory requirements, for the usage of natural wealth, goods in general use and other goods of general interest, performing activities of the public interest, and enabling infrastructure development and functioning.
- (2) Concessions shall be awarded in order to:
 - 1) Achieve relevant public interest; enable higher employment, introduce new technologies and provide for an accelerated economic development; and provide revenues for a grantor;
 - 2) Provide for rational, cost-effective, proper, and efficient usage of natural wealth, goods in general use and other goods of the general interest;
 - 3) Provide for technical and technological advancement, and provide for the unity of infrastructure system;
 - 4) Improve the activity being the subject matter of the concession;
 - 5) Provide for construction, reconstruction, and modernization of the structures of importance for the provision of public services;
 - 6) Enable the competition in the field wherein the concessions are being awarded;
 - 7) Provide for protection and improvement of the environment.

Principles

Article 3

- (1) Awarding concessions shall be grounded on the principles of transparency, non-discrimination, and competitiveness.
- (2) The exercise of the principle of transparency in the procedure for awarding concession shall ensure that all parties to the procedure for awarding concession shall have complete, accurate, and timely information about: the very procedure, standards, and criteria for selection of the

cessionaire, a tenderer that has been awarded with a concession, and the requirements under the submitted tender thereof.

- (3) The exercise of the principle of non-discrimination in the procedure for awarding concession shall ensure that all tenderers have equal treatment in the procedure for awarding concession.
- (4) The exercise of the principle of competition in the procedure for awarding concession shall ensure that a higher number of tenderers will participate therein.

Meaning of Terms

Article 4

For the purpose of this Law, the certain terms shall have the following meaning:

- 1) **Concession** shall mean the right:
 - to use the state owned natural wealth, goods in general use and other goods of the general interest; or to perform activities of the public interest, subject to the payment of a concession fee by a concessionaire, or the delivery of a financial compensation or other support to a concessionaire for achieving relevant public interest,
 - to fund, explore, design, construct or reconstruct, use, maintain, recover or sell structures, facilities or plants owned by a grantor within a contracted period, including also other similar forms thereof.
- 2) **Concession Contract** shall mean a contract in writing concluded for a defined period of time, which governs mutual rights and obligations between a grantor and a concessionaire;
- 3) **Grantor** shall mean the Parliament of Montenegro (hereinafter referred to as: the Parliament); the Government of Montenegro (hereinafter referred to as: the Government); local self-government, the Capital, and the Historic Royal Capital (hereinafter referred to as: the Municipality);
- 4) **Concessionaire** shall mean a national or a foreign business organization or another legal entity, entrepreneur or natural person that acquired a concession right, as well as consortium or other form of business associations that regulates their mutual relations under a separate contract;
- 5) **Competent Authority** shall mean a state administration authority (a ministry or an administration authority) for concessions the awarding of which is within the competence of the Parliament or the Government, or a local government authority for concessions the awarding of which is within the competence of the Parliament or municipalities, in accordance with law;
- 6) **Tenderer** shall mean a national or a foreign business organization or another legal entity, entrepreneur or natural person, consortium or other form of business association that participates in the procedure for awarding concession;
- 7) **Concession Document** shall mean the fundamental document based on which the procedure for awarding concession shall be initiated.

II SUBJECT MATTER AND TERMS OF CONCESSION AWARD

Requirements for Awarding Concession

Article 5

A concession may be awarded to a Tenderer in the manner and under the requirements set forth under this Law.

Subject Matter of the Concession

Article 6

- (1) In accordance with law, a subject matter of the concession may be:
- 1) Exploration or exploitation, or exploration and exploitation of mineral resources;
 - 2) Usage of watercourses and other waters or the parts or certain quantities thereof, for the purposes provided for under a separate law;
 - 3) Construction or reconstruction, maintenance and usage of water-related facilities;
 - 4) Forests exploitation;
 - 5) Use of radio frequencies;
 - 6) Construction of hydro-amelioration systems and extraction of materials from waterlogged land;
 - 7) Construction, maintenance, and usage, or reconstruction, modernization, maintenance, and usage, or use of:
 - roads, road-related and the accessory structures thereof,
 - railroads,
 - air traffic facilities and airports,
 - water transport facilities and ports,
 - telecommunication facilities,
 - oil pipelines, gas pipelines, warehousing structures, structures for oil and gas transport and distribution,
 - structures of healthcare and education institutes,
 - structures of public utility services, for the delivery of public utility services;
 - 8) Designing, constructing, maintaining and using of the energy-related and other structures for generation, transmission, and distribution of electrical energy, thermal energy, and gas or the reconstruction, modernization, maintenance, and usage thereof;
 - 9) Use of the river banks and lake shores;
 - 10) Carrying out state educational curricula ;
 - 11) Organizing lottery games of chance and specific games of chance in casinos;
 - 12) Construction, maintenance, and usage of sport and recreation facilities, sport grounds and spaces designated for sport, recreation and cultural activities;
 - 13) Construction, maintenance, and usage of facilities, or reconstruction, modernization, maintenance and usage of the existing structures in the areas with natural healing features and other natural values.
- (2) In addition to the subject matter of the concession referred to in paragraph 1 of this Article, the usage of other natural wealth, goods in general use and other state owned goods of the general interest may also be the subject matter of the concession, in accordance with law, as well as the performance of other activities provided for under law as activities of the public interest.

Notification on Concession Subject Matters and Areas of Concessions

Article 7

- (1) Concessions shall be awarded pursuant to an annual plan adopted by the Government or the Municipality, and published on the Web site of the Government or of the Municipality.

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- (2) The plan referred to in paragraph 1 of this Article shall be adopted for individual areas, upon a public consultation that is conducted by the authority competent to deal with a corresponding area, by no later than the expiration of a current year for the next year.
- (3) The public consultation referred to in paragraph 2 of this Article shall also be deemed as a public consultation held during the procedure of adopting a development strategy for the specific area.
- (4) The plan of awarding concessions shall stipulate the areas - localities, or the areas for which concessions are to be awarded, the subject matter of the concession, deadlines for publication of public notices for awarding concessions.

Term of the Concession Period

Article 8

- (1) A term for which a concession shall be awarded shall be set depending on the public interest, the subject matter of the concession, time needed for the return on investment and realization of an adequate profit from the concession-related activity.
- (2) The term referred to in paragraph 1 of this Article may not exceed 30 years in case the decision on awarding concession is adopted by the Government and the Municipality, nor it may exceed 60 years in case the decision on awarding concessions is adopted by the Parliament.
- (3) The term of the concession period may be extended following the expiry of initially contracted period and thus for a maximum of a half of the already contracted period which is prescribed by the Concession Contract.

III INSTITUTIONAL STRUCTURE

Competence to Award Concessions

Article 9

- (1) The Government or the Parliament, pursuant to Article 8 paragraph 2 of this Law, shall adopt a decision to award a concession for the subject matter of the concession of which Montenegro exercises the ownership rights and authorisations.
- (2) The Municipality shall adopt a decision to award a concession for the concession subject matter of which the Municipality exercises the ownership rights and authorisations.
- (3) The Parliament shall adopt the decision to award a concession for the subject matter of the concession which exceeds the value established under law, upon a proposal of the Government and after the procedure conducted in accordance with this Law.
- (4) The administrative authority competent for property-related matters shall conduct the appraisal of the value of immovable property that is the subject matter of the concession referred to in paragraph 3 of this Article.
- (5) For the concessions referred to in paragraphs 1 and 3 of this Article, the procedure for awarding concession for the subject matters of which the Government or the Municipality exercises ownership rights and authorisations, shall be conducted by the Competent Authority.
- (6) In the procedure for awarding concession, the Competent Authority shall draw up a Concession Document, prepare and publish a public notice, prepare tender documentation; compose a Tender Commission, and perform other duties, in accordance with this Law.

Establishing and Competency of the Concession Commission

Article 10

- (1) The Concession Commission of Montenegro (hereinafter referred to as: the Commission) shall be autonomous and independent in performing the duties set forth under this Law.
- (2) The Commission shall have a chairperson and eight members.
- (3) The Commission's chairperson and members shall be appointed by the Government and so as follows:
 - the chairperson and one member upon a proposal by the ministry competent for economic development;
 - two members upon a proposal of the Parliament from among the reputable experts;
 - one member upon a proposal by the ministry competent for finances;
 - one member upon a proposal by the ministry competent for transportation, maritime affairs and telecommunications;
 - one member upon a proposal by the ministry competent for agriculture, forestry and water resource management;
 - one member upon a proposal by a union of employers;
 - one member upon a proposal by the Union of Municipalities.
- The Commission's chairperson and members may be only the citizens of Montenegro.
- A person convicted of a crime by a final and binding judgment against property, economy, constitutional order, and of abuse of office may not be appointed to the Commission.
- Members of the Parliament; members of a municipal parliament; heads of public administration authorities, organisations or institutes; chief administrator or heads of local self-government authorities may not be appointed to the Commission either as the chairperson or as members.
- The chairperson shall represent the Commission and manage the work of the Commission.
- The chairperson and a member of the Commission shall be appointed for a five-year term of office and they may be appointed for one additional term of office.
- If the function of the chairperson or a member of the Commission expires prior to the expiration of the term of office, the Government shall appoint a chairperson or a member to the Commission for the period up to the expiration of such term of office in accordance with paragraph 3 of this Article.
- The Commission may engage experts and professional institutions for certain areas, if the Commission deems that such professional assistance is required.
- Professional and administrative duties for the needs of the Commission shall be performed the administration authority competent for property-related affairs.

Competency of the Commission

Article 11

- (1) The Commission shall:
 - 1) Act upon appeals presented by the participants in the procedure for awarding concessions, with regard to the evaluation and the ranking list of tenderers, and it shall decide thereupon;
 - 2) Keep the register of concession contracts;
 - 3) Approve the carrying out of the procedure to extend the term of the concession award or to expand the area of a concession-related activity, as well as approve the procedure for awarding concessions for the exploitation of accessory mineral resources within an

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approved exploitation field without a public competition procedure referred to in Article 20 paragraph 2 items 1, 2 and 3 of this Law;

- 4) Adopt the rules of procedure;
 - 5) Perform also other duties as set forth under this Law.
- (2) The Commission shall make decisions by a majority of votes of the total number of members.
 - (3) The Commission's decisions shall be final and no administrative dispute may be initiated against them.

Conflict of Interests

Article 12

- (1) The Commission member must not have direct or indirect interests in the subject matter of the concession award, which could cause a conflict between his/her personal and business interests in awarding concession.
- (2) In case the chairperson or a member of the Commission is in a conflict of interests, he/she shall be obliged to inform the Government thereof, and the Government shall appoint a person to replace such chairperson or member of the Commission having the conflict of interest.

Termination of the Term of Office and Revocation from Duty

Article 13

The term of office of the chairperson or a member of the Commission shall terminate:

- upon a revocation proposed by the entity that proposed his/her appointment;
- upon a personal written request;
- if being convicted of crime by a final and binding judgement against property, economy, constitutional order and of abuse of office;
- if his/her business capacity has been permanently lost;
- if he/she performs the duties negligently and incompetently;
- due to an unexcused absence from three consecutive meetings of the Commission;
- if he/she was appointed to any of the duties referred to in Article 10 paragraph 6 of this Law.

Financing of the Commission

Article 14

The funds for the work of the Commission shall be allocated in the Budget of Montenegro.

Register of Concession Contracts

Article 15

- (1) Concession contracts shall be registered in the Register of Concession Contracts kept by the Commission.
- (2) All changes relating to the concluded concession contracts shall be entered in the Register of Concession Contracts, in a chronological order.
- (3) The Register of Concession Contracts shall include the data on: the name of the Concessionaire; the name of the Grantor; the subject matter of the concession; the date the concession contracts was concluded; and the term of validity of the concession.

- (4) Detailed contents and the manner of keeping the Register of Concession Contracts shall be set forth by way of regulation of the ministry competent for economic development.
- (5) The Register of Concession Contracts shall be published on the Web site of the Commission.

Annual Report on Operations

Article 16

- (1) No later than 31 March of a current year, the Commission shall table to the Government an annual report on its operations in the previous year.
- (2) The Commission shall submit the report referred to in paragraph 1 of this Article to the Parliament and municipalities for consideration.

IV PROCEDURE FOR AWARDING CONCESSIONS

Initiative to Commence the Procedure

Article 17

- (1) The procedure for awarding concessions shall be initiated by the Competent Authority upon a development of a Concession Document, in accordance with the plan referred to in Article 7 of this Law.
- (2) The procedure referred to in paragraph 1 of this Article may also be initiated upon an initiative presented by an interested party.

1. Initiative of the Competent Authority

Concession Document

Article 18

- (1) The Competent Authority shall submit the Concession Document referred to in Article 17 paragraph 1 of this Law to the Government, or to the competent authority of the Municipality, in accordance with law.
- (2) Along with the Concession Document, the following shall also be submitted:
 - analysis of justifiability of achieving the public interest by awarding a concession, containing the indicators that such concession is capable of providing the public interests and the analysis of the possible alternatives in delivering the services concerned;
 - indicators that a planned concession is capable of ensuring an appropriate value for money;
 - analysis of the risk assessments and balance of risks between the Grantor and the Concessionaire;
 - consideration of the need that the Grantor has to have a stake in a concession company concerned (type and scale of such stake);
 - report from the public consultation.
- (3) Prior to sending a Concession Document to be adopted, the Competent Authority shall organize and carry out a public consultation, within 15 to 30 days as of the day of submission of the public notice to such public consultation.
- (4) The Competent Authority may engage professional legal entities or natural persons to deliver support in drafting or for drafting of the proposal of the Concession Document and tender documentation.

- (5) The persons referred to in paragraph 4 of this Article may not be tenderers in any procedure for awarding concessions for which they have delivered support in development of the Concession Document or they have drafted the Concession Document.
- (6) The Government or the competent authority of the Municipality shall adopt the Concession Document.

Contents of the Concession Document

Article 19

- (1) According to the subject matter of the Concession, the Concession Document shall include the following:
 - 1) Description of the subject matter of the concession; boundaries of the region, district, area and locality whereon the concession-related activity will be performed;
 - 2) Basic parameters for evaluation of the cost-effectiveness of the investment;
 - 3) Minimum or maximum term of validity of the concession;
 - 4) List of necessary technical documentation accompanied by the requirements for development thereof, permits, approvals and consents that should be acquired prior to the commencement of the concession-related activity, in accordance with law;
 - 5) Excerpt from spatial planning documentation; ownership structure and the manner of solving ownership rights; as well as the data on infrastructure and other structures that are situated within the area for performance of the concession-related activity;
 - 6) Requirements the Concessionaire is obliged to meet regarding technical equipping, financial standing, and other references and evidences on the fulfilment of such requirements;
 - 7) Fundamental elements of the tender documentation (notice, documents related to the tender)
 - 8) Draft concession contract and other accessory contracts required for execution of the concession;
 - 9) Criteria for the selection of the most economically advantageous tender;
 - 10) Requirements and the method of performing the concession-related activity, and in particular the conditions, the manner and the quality and scope of delivery of services to the users;
 - 11) Environmental protection measures and measures for the improvement of energy efficiency, in accordance with regulations;
 - 12) Initial amount of a concession fee;
 - 13) Method of setting tariffs for the delivery of services;
 - 14) List of regulations that are applicable to the procedure for awarding concession and carrying out of the concession-related activity;
 - 15) Other elements of importance for awarding concession.
- a. If the subject matter of the concession is the exploitation of a mineral resource, the Concession Document shall also contain the data on completed geological explorations and data concerning the established quantities and the quality of the mineral resource.
- b. If the subject matter of the concession is the reconstruction or modernization of the existing structures, the Concession Document shall also contain the estimates of investments amount to be determined against the value of such structure the reconstruction or modernization thereof is the subject matter of the concession, as well as the condition of the structure at the event of the turnover upon the expiry of the concession period.

Method for Awarding Concessions

Article 20

- (1) A concession shall be awarded based on a public notice, by:
 - 1) Open procedure public competition (hereinafter referred to as: the open procedure),
 - 2) Two-stage procedure public competition (hereinafter referred to as: the two-stage procedure),
 - 3) Accelerated procedure public competition (hereinafter referred to as: the accelerated procedure).
- (2) Notwithstanding the provision of paragraph 1 of this Article, the public competition procedure based on a public notice may be excluded in the cases of:
 - 1) an extension of the period for awarding concession referred to in paragraph 3 of Article 8 of this Law;
 - 2) an expansion of the area designated for concession-related activity, that, due to technical and technological requirements, may not be established as a separate exploitation field for carrying out of the concession-related activity by another concessionaire;
 - 3) use of other mineral resources as the accessory ones within the approved exploitation field, provided that the term of the concession may not be longer than the period stipulated under the concession contract for the exploitation of the primary mineral resource within such exploitation field;
 - 4) when public competition would endanger national defence and security;
 - 5) tenders that include a project of technical and technological design and other elements based on which it is possible to consider the public interest and cost-effectiveness of the development of infrastructure and other needs having strategic importance for Montenegro, in case of the subject matters of the concession referred to in Article 6, paragraph 1, items 7 and 8 of this Law which are not established under the plan referred to in Article 7 of this Law, and awarding of concession in this manner would accelerate the execution of the project;
 - 6) carrying out of the concession which is performed pursuant to an international agreement or contract entered between Montenegro and one or more countries or international organisations, whereby joint carrying out of the concession by the parties to the agreement is envisaged.
- (3) Extension of the period, expansion of area designated for the concession-related activity, or use of other mineral resources as the accessory ones within the approved exploitation field, referred to in paragraph 2 items 1, 2 and 3 of this Article, shall be carried out upon entering into an annex to the contract, after obtaining prior consent of the Commission and a decision of the Government, or of the competent authority of the Municipality.
- (4) Exclusion of the public competition based on the public notice referred to paragraph 2 item 4 of this Article shall be done with the consent of the Government.
- (5) In the case referred to in paragraph 2 item 5 of this Article, the tender of any interested party must also contain the elements referred to in Article 19, paragraph 1, items 1, 2, 3, 5, 8, 10, 11, 12, and 13 of this Law.
- (6) The Government, with the consent of the Parliament shall adopt the decision on awarding concession referred to in paragraph 2 items 5 and 6 of this Article.
- (7) If the Parliament does not give its consent to the decision referred to in paragraph 6 of this Article, the party submitting the request shall not be entitled to reimbursement of expenses incurred during the preparation of the tender.

2. Open Procedure

Public Notice

Article 21

- (1) The Competent Authority shall publish a public notice upon the adoption of the Concession Document.
- (2) The Notice shall be published in the *Official Gazette of Montenegro*, at least one daily printed media outlet circulated within the entire territory of Montenegro and on the Web site of the Competent Authority; and in case that a subject matter of the concession is of strategic importance for Montenegro, for the subject matters of the concession referred to in Article 6, paragraph 1, items 7 and 8 of this Law it shall also be published in one representative international economic printed media outlet.
- (3) The public notice shall include, depending on the subject matter of the concession, the following:
 - 1) description of the subject matter of the concession; boundaries of the region, district, area and locality whereon the subject matter of the concession is located;
 - 2) fundamental elements of the Concession Document;
 - 3) address and deadline for the submission of tenders to the public notice;
 - 4) criteria for participation in the public notice and possibility to submit a joint tender;
 - 5) rules according to which the public notice is carried out;
 - 6) manner of submitting tenders;
 - 7) possible time to visit the locality whereon a concession-related activity will be performed;
 - 8) date, time and place for opening of the received tenders to the public notice;
 - 9) the deadline within which a tender to the public notice may be withdrawn;
 - 10) defining the type of the tender (technical and financial, or only financial tenders);
 - 11) data on the amount and the format of deposit and guarantee and the period for which those are requested;
 - 12) requirements, deadline and the manner of returning deposit and guarantee ;
 - 13) the amount and the type of the stake of the Grantor and share of the Concessionaire in the ownership structure of a concession company;
 - 14) name of a person in charge of giving relevant information during the procedure of the public notice;
 - 15) time and place where the Concession Document and tender documentation can be obtained; as well as the price of the tender documentation set at the level of costs of its production.
- (4) The public notice may also include a financial support offer to the Concessionaire for performing non-profitable and insufficiently profitable activities of the public interests (payments for activities of the public interests; giving guarantees; financial support; donations, and alike).
- (5) The deadline for submitting tenders referred to in paragraph 3 item 3 of this Article shall be defined according to the time required to prepare tender and shall run as of the day of the publication of the public notice in the *Official Gazette of Montenegro* and may not be shorter than 30 days.
- (6) The authority publishing the notice shall bear the costs of publishing the public notice.

Changes

Article 22

- (1) Upon its publication, the Competent Authority may change a public notice, except for the elements stipulated under a Concession Document.
- (2) The change of the public notice must be published in the manner in which the original text of such public notice was published; provided that the deadline for submitting tenders must be extended for the time that has expired since the original public notice was published.

Eligibility to Participate

Article 23

- (1) The following shall be considered as ineligible to participate in a public competition for concession award:
 - 1) business organizations, other legal entities and entrepreneurs against which bankruptcy or liquidation procedure was initiated, except for the reorganization procedure in line with the law that governs insolvency of business organizations;
 - 2) business organizations, other legal entities, entrepreneurs, and natural persons that were convicted by a final and binding judgment for a crime in performance of the professional activity;
 - 3) business organizations, other legal entities, entrepreneurs, and natural persons that have unsettled tax liabilities and liabilities arising from penalties pronounced in criminal or misdemeanour procedure in a period of at least three years prior to publishing of the public notice.
- (2) The tenderers shall evidence the eligibility to participate in the public notice for awarding concessions by submitting of evidences issued by competent authorities, evidence not issued more than 90 days prior to the day of publishing of the public notice.

Submission of Tenders

Article 24

A business organization, other legal entity, entrepreneur or natural person may submit only one tender to a public notice, independently, under a consortium or other form of business association.

Security

Article 25

- (1) A tenderer shall be obliged to submit, along with the tender, evidence on monetary deposit payment or secured bank guarantee, in the amount and for the period that are defined under a public notice.
- (2) The amount of the deposit and the bank guarantee referred to in paragraph 1 of this Article, and the period for which security shall be provided, shall be set commensurate with the value of the subject matter of the concession.

Tender Commission

Article 26

- (1) The procedure of public competition, based on a public notice, shall be conducted by an *ad hoc* tender commission composed of an odd number of members that are appointed by the Competent Authority.

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- (2) In the procedure of public competition, the Tender Commission shall carry out the following procedures: opening of tenders; evaluation and verification of eligibility of the tenderers to participate in the public notice; verification of the authenticity of tenders with regard to the requirements prescribed under the public notice and tender documentation; evaluation of tenders and composing a ranking list of tenderers.
- (3) The Tender Commission shall consist of a chairperson and a minimum of four members appointed from among the professionals in the area dealing with the subject matter of the concession (technical, legal, financial, and other professions).
- (4) One member of the Tender Commission, for concessions falling within the competency of the Government, shall be appointed upon a proposal by a municipality within the territory of which the concession is executed.
- (5) If the concession referred to in paragraph 4 of this Article is executed within the territory of two or more municipalities, the Union of Municipalities shall propose one member to the Tender Commission, in cooperation with the municipalities within the territories of which the concession is executed.
- (6) The costs of the Tender Commission work shall be borne by the authority that has appointed the Tender Commission.
- (7) A member of the Tender Commission must not have any direct or indirect interests that, during the work of the Tender Commission, could cause the conflict of his/her personal or business interests with his/her tasks in the Tender Commission.
- (8) The chairperson and a member of the Tender Commission shall be obliged to inform the Competent Authority of a conflict of interests.
- (9) In the case that a member of the Tender Commission has a conflict of interests, the Competent Authority shall appoint another member.
- (10) A detailed manner for conducting public competition procedure referred to in paragraph 2 of this Article shall be governed by way of regulation of the Government.

The Tender Commission Work

Article 27

- (1) Only timely submitted tenders shall be taken into consideration in a public competition procedure, accompanied by the required documentation. The Tender Commission shall compile a ranking list of tenderers, pursuant to the criteria prescribed under a public notice, tender documentation and submitted tenders.
- (2) Untimely tender, as well as the tender not accompanied by the documentation required under the public notice and by the tender documentation referred to in paragraph 1 of this Article, shall not be taken into consideration in the public competition and shall be returned unopened to the tenderer.
- (3) The Tender Commission shall take the minutes of the course of public competition, and the Tender Commission's members and the authorized representatives of tenderers shall sign it.
- (4) Upon completion of the public competition, the Tender Commission shall approach the evaluation of tenders, based on the criteria set forth under the public notice and tender documentation, and shall compose a ranking list of tenderers.
- (5) The Tender Commission shall make decisions by the majority of votes of the total number of members.

Verification of Tenders

Article 28

Tenders shall be verified prior to evaluation thereof, for the purpose of establishing possible shortcomings and discrepancies from the requirements prescribed under a public notice and tender documentation.

Tender Evaluation Criteria

Article 29

- (1) The criteria based on which evaluation of tenders shall be done, depending on the subject matter of the concession, shall be as follows:
 - 1) term of the requested concession;
 - 2) offered amount of the concession fee;
 - 3) offered price or tariff for delivery of services;
 - 4) references of the tenderer (technical and/or financial standing, track record in performance of concession-related activity and alike);
 - 5) quality of services;
 - 6) the level of achievement of the public interest;
 - 7) the extent to which natural wealth will be used;
 - 8) effects on employment, infrastructure and economic development;
 - 9) programme and extent of environmental protection, and measures for improving energy efficiency;
 - 10) the scope and the amount of the expected financial assistance and support of the Grantor;
 - 11) other criteria established by the Grantor.
- (2) The value of points shall be set under the tender documentation per each selected criterion for evaluation, whereat the sum of all points shall be 100.

Ranking List of Tenderers

Article 30

- (1) The Tender Commission shall evaluate tenders by attributing certain number of points based on each criterion prescribed under the tender documentation, and it shall produce a ranking list of tenderers based on the completed evaluation.
- (2) The Tender Commission shall be obliged to deliver to the Competent Authority a ranking list of tenderers, the report on the conducted procedure with the explanatory notes for the ranking list of tenderers, the minutes on the course of the procedure that must include data on the conformity with the requirements prescribed to be met by a concessionaire and the fundamental elements from tenders as per the structure of criteria based on which the evaluation of tenders was performed, within 30 days as of the day of opening of tenders.
- (3) Public notice may set a longer deadline than the deadline referred to in paragraph 2 of this Article.
- (4) The Competent Authority, upon a proposal by the Tender Commission, may extend the deadline referred to in paragraphs 2 and 3 of this Article.

Right of Access and Appeal

Article 31

- (1) A ranking list of tenderers shall be posted on the bulletin board or on the Web site of the Competent Authority.
- (2) Tenderers shall be entitled to examine the documentation referred to in Article 30 paragraph 2 of this Law, within eight days as of the day of the publishing of the ranking list of tenderers on the Web site of the Competent Authority, upon a written request.
- (3) The Tenderer shall be entitled to lodge an appeal about the ranking list of tenderers within 15 days as of the day of the publishing of the ranking list of tenderers on the Web site of the Competent Authority.
- (4) The Commission shall act upon the appeal of the tenderer within 30 days as of the day of the expiration of the deadline referred to in paragraph 3 of this Article.
- (5) The Tenderer shall lodge the appeal referred to in paragraph 2 of this Article in two copies, of which the Commission shall deliver one copy to the Competent Authority without any delay.

Acting upon Appeals

Article 32

- (1) Upon an objection of the Tenderer, the Commission shall :
 - 1) examine whether the Tender Commission performed properly the evaluation of tenders and ranking of tenderers;
 - 2) examine whether the Tender Commission applied properly the criteria for evaluation of tenders and ranking of tenderers.
- (2) If the Commission establishes that there was a breach of procedure or that criteria were inappropriately applied, the ranking list of tenderers shall be returned to the Tender Commission for the elimination of the established irregularities.

Proposal to Award Concession

Article 33

- (1) The Competent Authority shall submit to the Grantor a proposal to award concession with explanatory note, the ranking list of tenderers, the report on the conducted evaluation procedure with the explanatory note for the ranking list of tenderers, the minutes of the Tender Commission on the course of the procedure, a proposal of a concession contract, appeals by the tenderers if any, and the decision taken by the Commission upon such appeals.
- (2) The Competent Authority shall be also obliged to submit, upon a request by the Grantor, other documentation.

Decision on Determining the Concessionaire

Article 34

- (1) The Grantor shall decide on awarding concession within 30 days as of the day of the receipt of the proposal referred to in Article 33 paragraph 1 of this Law, if no appeals were presented to the ranking list of tenderers or to the evaluation procedure.
- (2) If the complexity of the concession requires so, the Grantor may extend the deadline referred to in paragraph 1 of this Article for a maximum of 30 days, or 90 days if an administrative dispute has been initiated, of which it shall inform the tenderers.

- (3) If the Grantor abandons the concession award, the Grantor shall be obliged to compensate the first ranked tenderer the actual costs of the participation in the public notice, unless otherwise prescribed under the public notice.

Withdrawal from Conclusion of the Concession Contract

Article 35

If the first ranked tenderer withdraws from the conclusion of the concession contract or fails to concluded the concession contract within the deadline stipulated under the decision on awarding concession, the Grantor may call the tenderers, as per the order on the ranking list, to conclude a contract or may annul the public notice.

Informing of the Result of the Public Notice

Article 36

- (1) The Competent Authority shall inform the tenderers in writing of the results of public notice within five days as of the day of adoption of the decision on awarding concession.
- (2) The decision on awarding concession or a decision on public notice annulment shall be published in the Official Gazette of Montenegro and on the Web site of the Competent Authority.

Procedure when there is one Application upon the Public Notice

Article 37

If one tenderer submits the tender upon a public notice, and the Tender Commission verifies that such tender meets the requirements and criteria of the public notice, the Competent Authority may annul the public notice or continue the procedure for awarding concession.

3. Two-stage Procedure

Implementation of the procedure

Article 38

- (1) The two-stage procedure shall be carried out in the following cases:
- For granting a concession for projects which are complex from a technical, technical and technological, legal, financial, or other aspect, or
 - When a large number of Tenderers is expected.
- (2) The two-stage procedure shall include:
- public announcement for pre-qualification;
 - pre-qualification procedure, when the Tender Commission evaluates applications for pre-qualification and accepts or rejects applications based on pre-established pre-qualification criteria;
 - submitting of the Concession Document to qualified Tenderers, purchase of tender documentation and submitting tenders by qualified Tenderers within established deadline;
 - evaluation and ranking of tenders received from qualified Tenderers;
 - the proposal for awarding concession with explanatory note and selection of a Tenderer as a concessionaire.

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- (3) The Competent Authority shall set, in the public notice for the two-stage procedure public competition, a pre-qualification criteria which must be met by Tenderers in order to qualify for the competition procedure.
- (4) The pre-qualification criteria must be set in an objective, non-discriminatory, and transparent manner.
- (5) The pre-qualification criteria are determined in line with the subject matter of the concession and shall contain details on, including but not limited to:
 - capacity to execute the concession (technical and/or financial requirements);
 - professional references, or experience in carrying out the concession-related activity.
- (6) The public notice shall determine documents which are necessary for pre-qualification, which prove that pre-qualification criteria are met.
- (7) The deadline for submitting documents for pre-qualification cannot be shorter than 20 days, as of the day of publishing of the public notice.
- (8) Provisions for an open procedure referred to in Articles 21 to 37 of this Law shall apply accordingly in the procedure referred to in paragraph 2 of this Article, unless otherwise determined by this Article.
- (9) If only one Tenderer applies in pre-qualification who meets the pre-qualification criteria, the Competent Authority may decide to continue with or annul the concession awarding procedure.
- (10) Details for implementation of the two-stage procedure, documents that are to be enclosed with the tender, the manner in which the tender opening and tender evaluation procedure are carried out in the pre-qualification procedure shall be determined by way of a regulation of the Government.

Competitive Dialogue

Article 39

- (1) Competitive dialogue for awarding concession shall be carried out if a Competent Authority does not have a solution for realisation of technical, technical and technological, legal, financial or other aspects of a complex project, in order to determine the best technical, technical and technological, legal, financial or other solution for the realisation of the project.
- (2) Criteria for choosing a Tenderer for the competitive dialogue and the subject matter of concession with necessary elements for its realization for which it is necessary to choose an appropriate solution shall be determined in a public notice for pre-qualification.
- (3) After carrying out the pre-qualification procedure referred to in Article 38 of this Law, qualified Tenderers shall be invited to initiate a competitive dialogue during which an appropriate solution for realisation of the concession will be defined.
- (4) The Competent Authority shall be obliged to organise the competitive dialogue in an objective and non-discriminatory manner and must not reveal to other Tenderers, without the approval of the Tenderer, offered solutions and information obtained during such dialogue.
- (5) The Competent Authority shall carry out the competitive dialogue until a solution which matches the needs expressed in a public notice is determined. The Competent Authority may determine in the public notice for pre-qualification that the procedure for the selection of an appropriate solution will take place in several stages, throughout which the number of Tenderers can be reduced.
- (6) By determining the appropriate solution referred to in paragraph 5 of this Article, the Competent Authority shall inform Tenderers that the competitive dialogue is concluded and shall proceed with development of a Concession Document in line with this Law.
- (7) The Competent Authority shall submit to qualified Tenderers, with whom the competitive dialogue was completed, the Concession Document referred to in paragraph 6 of this Article

and purchased tender documentation so that they can submit their final tenders for the concessions, in line with this Law.

4. Accelerated Procedure

Concession Awarding Procedure

Article 40

- (1) Concessions with the term of validity of the award of up to three years shall be awarded in the procedure which is determined in Articles 17 – 37 and Article 40 of this Law, whereas in the procedure for awarding concession:
 - the public consultation referred to in Article 7 of this Law does not need to take place;
 - a Concession Document is prepared which, depending on the subject matter of the concession, includes items 1, 3, 8, 9, 10, 11, 12, and 13 of paragraph 1 of Article 19 of this Law, as well as other elements as determined by the Competent Authority;
 - the deadline for submission of tenders is determined, which cannot be shorter than 15 days as of the day of publication of a public notice in the Official Gazette of Montenegro;
 - ranking list of Tenderers which is determined by the Tender Commission referred to in Article 26 of this Law is submitted to the Competent Authority within 20 days as of the day of opening of tenders.
- (2) If the Government, or the municipality, at the proposal of the Competent Authority, adopts a model of the draft concession contract for certain subject matters of the concession, initial amounts of concession fee and other elements of importance for awarding concession referred to in paragraph 1, indent 2 of this Article, the Competent Authority shall prepare a Concession Document in line with the elements determined by the Government or the Municipality.
- (3) In the case referred to in paragraph 2 of this Article, the Government or the Municipality shall not adopt the Concession Document in line with Article 18 of this Law for each individual case of concession award referred to in paragraph 1 of this Article, but it shall be regarded as adopted.

5. The Initiative of an Interested Party

Initiating a Procedure

Article 41

- (1) An interested party may submit an initiative to the Competent Authority to commence the procedure of awarding concession which is not included in the plan referred to in Article 7 paragraph 1 of this Law.
- (2) The initiative shall be submitted to the Competent Authority and shall include data and information necessary for the preparation of the Concession Document referred to in Article 19 of this Law.
- (3) If the Competent Authority estimates that the initiative is acceptable it shall determine the deadline for the party submitting the initiative to deposit the estimated amount for the development of the Concession Document, including the development of tender documentation and the draft concession contract, costs for the work of a Tender Commission and the costs for carrying out a public consultation.
- (4) The Competent Authority shall be obliged to, within 15 days as of the day of depositing funds, commence the preparation of documents referred to in paragraph 3 of this Article.
- (5) If, in the implemented procedure, a concession is awarded to a Tenderer who is not a party that submitted the initiative for awarding concession, the Competent Authority shall, without any delay, return deposited money to the party who submitted the initiative, decreased by the

amount for the purchase of tender documentation, while the costs for development of the Concession Document shall be collected from a Concessionaire.

V PROTECTION OF THE RIGHTS OF PARTICIPANTS IN PUBLIC NOTICE

Rights of the Participants in the Public Notice Procedure

Article 42

- (1) A participant at a public notice, a representative or proxy thereof, shall have the right to attend the opening of tenders.
- (2) The participant in the public notice shall have the right, with the request in writing, to withdraw a tender at the latest by the expiration of the deadline established in the public notice. The tender shall be regarded as withdrawn upon the receipt of the request in writing for tender withdrawal, which should be returned unopened to a Tenderer without any delay.
- (3) The Tenderer shall have the right to lodge an appeal to the Commission about the evaluation of tenders and ranking list of Tenderers.
- (4) An administrative dispute can be initiated against the Decision on awarding concession.
- (5) The Tenderer shall have the right to reimbursement of the monetary deposit or bank guarantee in the manner and within the deadline as established in the public notice.
- (6) No interest shall be calculated for the deposit reimbursed within the deadline established in the public notice.
- (7) The Tenderer who withdraws from the conclusion of the concession contract shall have no right to reimbursement of the monetary deposit or bank guarantee referred to in paragraph 5 of this Article.

VI CONCESSION CONTRACT

Conclusion and the Contents of the Concession Contract

Article 43

- (1) A Concession Contract shall be concluded within 15 days as of the day of the adoption of the decision, or within the deadline as determined in a decision on awarding concession, in line with tender documentation, submitted tender and decision on awarding concession.
- (2) The Concession Contract shall contain, including but not limited to, the details on:
 - 1) Parties to the contract;
 - 2) Rights and obligations of parties to the contract;
 - 3) Subject matter of the Concession;
 - 4) Requirements and manner of use of the subject matter of the Concession;
 - 5) Term of use of the subject matter of the Concession;
 - 6) Amount, deadlines, requirements, and the manner of payment of a Concession Fee;
 - 7) Commencement of the concession-related activity;
 - 8) Manner and deadlines for securing funds for financing concession-related activity (financial plan) and investment schedule;
 - 9) Duration of preparatory activities;
 - 10) Products and services standards, technology transfer;
 - 11) Funds and property given to use by the Grantor;
 - 12) Amount and the manner of providing guarantees for execution of the Concession Contract;

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- 13) Actions of the Concessionaire with regard to objects found during use of the subject matter of the concession, which represent a historical, cultural, or natural value;
 - 14) Obligation of revitalization of renewable natural wealth, or rehabilitation-reclamation of the areas degraded by the performance of the concession-related activity;
 - 15) Conditions for amendments or termination of the contract in the case of changed circumstance and force majeure;
 - 16) Description of events which are regarded as changed circumstances and force majeure;
 - 17) Conditions for cessation of the Concession Contract, sanctions and fees in case that parties to the contract fail to meet their obligations;
 - 18) Requirements for carrying out concession-related activity, criteria and methods for determining prices or tariffs for products and services for end users;
 - 19) Rights and obligations with regard to undertaking measures for providing overall safety, health protection and environmental protection, improvement of the energy efficiency as well as responsibility for compensation of damage caused by jeopardising overall safety and environmental protection;
 - 20) Provisions on time and manner of transfer of the immovable property, structures, devices or plants to the Grantor and the condition in which they have to be transferred;
 - 21) Manner of dispute resolution and exercising applicable law;
 - 22) Other elements important for the subject matter of the concession.
- (3) Prior to concluding the contract on awarding concession, the Competent Authority shall determine if the Tenderer with whom contract shall be concluded still meets the requirements referred to in Article 23 paragraph 1 of this Law.
 - (4) The Contract shall also determine the manner of mutual notification on execution of contractual obligations, manner of control of such execution and exercise of rights and obligations of parties to the contract.
 - (5) A person who is designated by the Grantor under the decision on awarding concession and an authorised person of the Concessionaire shall sign the Contract.

Expropriation

Article 44

- (1) If expropriation of immovable property must be executed in relation to the use of concession or a development of buildable land, the costs, manner and deadline for payment of a compensation for expropriation of immovable property or development of buildable land shall be determined and carried out in accordance with law.
- (2) If the owner of the land referred to in paragraph 1 of this Article is the Grantor, the expropriation shall not be carried out, but it shall be regarded as that a Concessionaire obtained the consent for its use by getting the Concession.

Registration of Notes to the Concession Contract for Immovable Property

Article 45

An encumbrance note shall be registered for the immovable property, which is the subject matter of the concession, based on the concluded Concession Contract, in line with law which governs the registration of the rights on the immovable property.

Notification Obligation

Article 46

The Competent Authority shall submit, within 15 days as of the day the contract is concluded a, a copy of the concluded Concession Contract to the Commission, administration authority competent for collection of public revenues and administration authority competent for property affairs, for the purpose of registration of an encumbrance note in the cadastre of immovable property.

Increase in Value of the Subject Matter of the Concession

Article 47

Unless otherwise determined by the Concession Contract, any investment of the Concessionaire in devices and plants owned by the state, which are in the function of carrying out the concession-related activity, shall represent the state ownership.

Discoveries

Article 48

- (1) Any discovery on the location where the concession-related activity is performed having historical, cultural or natural value shall be regarded as the state property and a Concessionaire shall, without any delay, inform of the discovery the state authority competent for the protection of historical, cultural, and natural values. If the concession-related activity can jeopardise discovered objects having historical, cultural or natural value, the Concessionaire shall be obliged to forthwith stop or limit the concession-related activity and thereabout without any delay inform the authority competent for protection of historical, cultural, and natural values.
- (2) The competent authority referred to in paragraph 1 of this Article shall be obliged to forthwith, and no later than 10 days as of the day of the receipt of the notification, give instructions to the Concessionaire about actions in relation to the discovery referred to in paragraph 1 of this Article, or about the need to stop or limit execution of the concession-related activity on the location on which objects referred to in paragraph 1 of this Article were found.
- (3) The deadlines set forth under the Concession Contract shall stand still during the period of interruption of the concession-related activities.

Monitoring the Execution of Contractual Obligations

Article 49

- (1) The Competent Authority shall monitor and control the execution of contractual obligations from the Concession Contract.
- (2) The Competent Authority can engage experts or professional institutions for monitoring the execution of contractual obligations by the Concessionaire.
- (3) The Competent Authority shall calculate the Concession Fee.
- (4) Authorities competent for the collection of public revenues shall collect the concession fee.

Concessionaire's Rights

Article 50

- (1) Pursuant to the Concession Contract, a Concessionaire shall have the right to carry out a concession-related activity.
- (2) The Concessionaire shall have the right to use resources and property of the Grantor in line with the Concession Contract.

- (3) The Concessionaire shall also realize other rights as determined by this Law and the Concession Contract.

Concessionaire's obligations

Article 51

- (1) A Concessionaire shall be obliged to meet proscribed requirements for carrying out a concession-related activity.
- (2) The Concessionaire shall be obliged to, within 60 days as of the day of concluding of the Concession Contract, establish and register a business organisation or other legal entity, with registered office in Montenegro, which will carry out the concession-related activity or expand the registration for carrying out the concession-related activity.
- (3) The Concessionaire may change the registered office or the status of the business organisation or legal entity referred to in paragraph 2 of this Article with a prior consent of the Grantor.

Assigning the Contract

Article 52

- (1) A Concession Contract can be assigned to another concessionaire with a prior consent of the Grantor, provided that the new concessionaire meets at least the same requirements as the Concessionaire.
- (2) Assigning the Concession without the consent of the Grantor shall be null and void.

Cessation of the Concession Contract

Article 53

- (1) A concession-based relation shall cease:
- 1) by expiration of the term for which the Concession Contract was concluded;
 - 2) by revoking of the Concession;
 - 3) by cancellation of the Concession Contract;
 - 4) based on an agreement between the Grantor and the Concessionaire.
- (2) The Concession shall be revoked if:
- 1) the Concessionaire fails to carry out a concession-related activity in line with the schedule and in the scope as determined by the Concession Contract, except in the case of unforeseen circumstances or force majeure;
 - 2) the Concessionaire fails to carry out preparatory activities within contracted deadline or fails to start the concession-related activity within the contracted deadline;
 - 3) the Concessionaire fails to pay a Concession Fee;
 - 4) bankruptcy or liquidation procedure is initiated of the Concessionaire, except in the case of a reorganization procedure under a law which governs insolvency of business organisations;
 - 5) the Concession is awarded based on false data important for decision making on awarding concession;
 - 6) the execution of concession-related activity endangers the environment and people's health or areas and structures protected by law, which could not have been foreseen at the time of awarding of the Concession, and measures prescribed by special regulations are not sufficient to prevent that;

- 7) the Concessionaire assigns the Concession without a consent of the Grantor.
- (3) Prior to initiating a procedure for revoking of the Concession, in cases referred to in paragraph 2 items 1, 2, and 3 of this Article, the Competent Authority shall warn the Concessionaire in writing and determine an appropriate deadline for him to execute the contractual obligation.
- (4) In the case of revoking the Concession referred to in paragraph 2 of this Article, the Concessionaire shall not have the right of damage compensation.

Transfer of the Structure

Article 54

- (1) Upon termination of a concession-based relation for concessions referred to in Article 4 paragraph 1, item 2 of this Law, the Concessionaire shall transfer to the Grantor the structures, devices and plants which were built and serve for carrying out the concession-related activity, after completed restoration, in good functioning state and without encumbrances, in line with the Concession Contract.
- (2) After termination of the Concession Contract, the Concessionaire shall first offer to the Grantor assets intended for sale which were in the function of the concession-related activity.
- (3) If the Grantor fails to respond to the offer within 30 days as of the receipt of the offer, the Concessionaire can sell such assets to a third party under conditions which are not more favourable than the one offered to the Grantor.

Rehabilitation and Reclamation of the Area

Article 55

A Concessionaire shall carry out rehabilitation or reclamation of the areas degraded by the execution of the concession-related activity, within deadlines and in scope as determined by the Concession Contract.

Exemption

Article 56

The Concession cannot be the subject of bankruptcy proceeding or liquidation proceeding.

Stay of Rights and Obligations from the Concession Contract

Article 57

In the case of force majeure or extraordinary event preventing the execution of the concession-related activity, which could not have been foreseen at the time the Concession Contract was concluded, the rights and obligations from the Concession Contract shall temporarily stay until the force majeure or extraordinary event ceases. The Grantor shall, based on the request of the Concessionaire in writing, make the decision on stay of rights and obligations from the Concession Contract.

VII CONCESSION FEE

Payment of the Concession Fee

Article 58

- (1) A Concession Contract may determine the payment of a Concession Fee, which is paid for the granted Concession in line with regulations and the Concession Contract.
- (2) The Concession Fee for concessions awarded by the Government shall be the revenue of the Budget of Montenegro.

Allocation a portion of the Concession Fee

Article 59

A portion of the Concession Fee for concessions awarded by the Government shall be allocated to the municipality at whose territory the subject matter of the Concession is located, in line with a law which governs the manner of financing of local self-government units.

Exemption from Payment of the Concession Fee

Article 60

- (1) A Concessionaire can be, pursuant to the contract, partially or completely exempted from the payment of the Concession Fee in the cases of unforeseen circumstances or force majeure, while such unforeseen circumstance or force majeure lasts.
- (2) The Grantor shall adopt the decision referred to in paragraph 1 of this Article, based on a written request with explanatory note of the Concessioner.

Criteria for Determining the Minimum Concession Fee

Article 61

- (1) A minimum Concession Fee shall be determined based on:
 - 1) type, category, quantity, quality and market price of a resource which is the subject matter of a Concession Contract;
 - 2) type of activity which is the subject matter of the Concession Contract and market conditions for its performance;
 - 3) term of validity of the Concession;
 - 4) a return on investment period;
 - 5) expected gain;
 - 6) other criteria pursuant to law and the subject matter of the concession.
- (2) Criteria referred to in paragraph 1 item 1 of this Article shall be regulated in more details by way of a regulation of the Government.

VIII TRANSITIONAL AND FINAL PROVISIONS

Transitional provisions

Article 62

Enabling regulations for the implementation of this Law will be adopted within three months as of the day this Law enters into force.

Article 63

- (1) The Government shall appoint the Concessions Commission within 60 days as of the day this Law enters into force.
- (2) Until the appointment of the Commission referred to paragraph 1 of this Article, its tasks will be performed by the Commission for Concessions and BOT Arrangements, which is established by the Decision on Founding a Commission for Concessions and BOT Arrangements (Official Gazette of the Republic of Montenegro 48/03).

Article 64

The Register of Concession Contracts referred to in Article 15 of this Law shall be established within 90 days as of the day of adoption of the enabling regulation on keeping of the Register.

Article 65

- (1) Procedures for awarding concessions which were initiated prior to the entry into force of this Law shall be completed in accordance with this Law.
- (2) Notwithstanding the provision of paragraph 1 of this Article, certain procedures for awarding concessions initiated prior to entry into force of this Law shall be completed in accordance with the provisions of the Law on Participation of Private Sector in Delivery of Public Services (Official Gazette of the Republic of Montenegro 30/02), based on the proposal of the Commission for Concessions and BOT Arrangements.
- (3) The Commission referred to paragraph 2 of this Article shall perform activities within its competence with regard to certain procedures referred to in paragraph 2 of this Article until those are finalized.

Article 66

- (1) Competent authorities shall be obliged to submit to the Commission valid concession contracts within 45 days as of the day of setting up the Register of Concession Contracts.
- (2) Concession contracts, which were concluded prior to the entry into force of this Law, will remain valid.

Final provisions

Article 67

On the day of entry into force of this Law, the provisions of chapters IV, VII, VIII, IX and Articles 141, 142 and 143 of the Law on the Participation of Private Sector in Delivery of Public Services (Official Gazette of the Republic of Montenegro 30/02), as well as provisions of other chapters which refer to concessions and BOT arrangements shall cease to have effect, and provisions of other laws which regulate the procedure of awarding concession shall not apply if contrary to this Law.

Article 68

Until the adoption of enabling regulations pursuant to authorisations contained in this Law, the enabling regulations adopted under the Law on the Participation of Private Sector in Delivery of Public Services (Official Gazette of the Republic of Montenegro 30/02) shall apply unless those contrary to this Law.

Article 69

This Law shall enter into force on the eight day of its publication in the Official Gazette of Montenegro.

SU-SK No. 01-631/26-08

Podgorica, 26 January 2009

The Parliament of Montenegro

Speaker,

Ranko Krivokapić, m.p.