

# LAW ON CONCESSION

## I. BASIC PROVISIONS

### Article 1

This Law shall regulate the manner and the conditions under which public property of interest for the Republic of Macedonia, determined by Law, shall be given for utilisation, based on approval (concession).

### Article 2

Concession may be given to domestic or foreign legal and physical entity (Concessionaire), in compliance with the Act on Concession.

The Act on Concession represents the Law which shall regulate the manner and the conditions of utilisation of a certain public property of interest for the Republic of Macedonia, i.e. approval for carrying out activities or works related to the public property of interest for the Republic of Macedonia.

### Article 3

The Act on Concession shall particularly regulate the following:

- which public property of interest for the Republic shall be given for utilisation, i.e. what activities and works shall be approved for the public property of interest for the Republic (concession activity);
- the manner and the conditions on utilisation of the public property of interest for the Republic, i.e. on carrying out of the activities and works;
- the conditions which have to be fulfilled by the Concessionaire;
- the starting date and the duration period of the concession, as well as termination of the Agreement, prior the expiry of the period it has been concluded for;
- the amount and the manner of payment of the concession reimbursement;
- determination of the area at which concession activities shall be carried out;
- determination of possibility for forceful concession of public interest;
- the manner on acquiring of concession and its buy-out;
- supervision over concession activity; and
- the conditions for improvement and protection of the environment, when performing concession activity.

#### Article 4

The Provider of the Concession (the Provider) is the Republic of Macedonia.

On behalf of the Republic of Macedonia, the concession shall be given by the Government of the Republic of Macedonia, in compliance with the Act on Concession.

#### Article 5

Concession shall not be given for carrying out of activity or work, forbidden by the Act on Concession.

#### Article 6

Concession shall be given with reimbursement.

The assets obtained by the concession reimbursement shall represent a revenue of the Republic of Macedonia.

#### Article 7

The concession may be transferred completely or partially under the conditions and the manner set forth in the Act on Concession.

#### Article 8

The concession shall not be used contrary to the Law and the international agreements ratified by the Republic of Macedonia.

#### Article 9

The amendments of the Concession Acts shall not affect the relations set forth by the Concession Agreements.

## **II. ACQUIRING OF CONCESSION**

#### Article 10

Acquiring of concession shall be carried out through public announcement, and may be given based on a Bid, if such a manner for assigning of concession is being foreseen by the Act on Concession.

#### Article 11

The conditions of the public announcement shall be defined by the Government of the Republic of Macedonia, for each case separately, in compliance with the Act on Concession.

#### Article 12

The Decision on the selection of the Concessionaires based on the public announcement or submitted Bid, shall be made by the Government of the Republic of Macedonia.

In the procedure for adoption of the Decision referred to in Para 1 of this Article, all Bidders participating in the public announcement or those who have submitted their Bids, shall be considered as parties.

#### Article 13

The Bid shall particularly include the following:

- data on the Bidder;
- description of the public property of interest for the Republic, i.e. the concession activity and the purpose of utilisation of the property, i.e. carrying out of the concession activity;
- the period, the conditions and the manner of utilisation of the property, i.e. carrying out of the concession activity; and
- the amount of the reimbursement for utilisation of the property, i.e. carrying out of the concession activity.

#### Article 14

The Bid shall be submitted to the State Organ competent for the activities, in the field the concession was requested.

The State Organ referred to in Para 1 of this Article shall be obliged to inform the public for the offered concession and of its subject, within 8 days, as well as to determine the period for submission of Bids by other interested entities, which shall not be less than 30 days, as of the day of the announcement.

### **III. CONCESSION AGREEMENT**

#### Article 15

Based on the Concession Act and the Decision on Concession, the Government of the Republic of Macedonia and the Concessionaire shall conclude Concession Agreement.

## Article 16

The Concession Agreement shall include regulating and contractual provisions.

Based on the regulating provisions of the Concession Agreement, the Government of the Republic of Macedonia shall determine the manner and the conditions of utilisation of the public property of interest for the Republic, i.e. carrying out of concession activity.

Based on the contractual provisions set forth in the Concession Agreement, the Government of the Republic of Macedonia and the Concessionaire shall agree upon the relations regarding the subject of the Concession Agreement, particularly on:

- the manner, terms and guarantee for payment of the concession reimbursement;
- the rights and obligations regarding the assets invested by the Provider;
- the obligations of the Concessionaire regarding the data which should be made available to the Provider for the activities and the occurrences which may influence the execution of the concession activity, under the manner and conditions defined by the regulating provisions set forth in the Concession Agreement;
- the manner on carrying out supervision by the Provider;
- the responsibility related to breach of the concession conditions;
- mutual relations regarding the eventual damage caused by execution or non-execution of the Concession, i.e. the concession activity;
- responsibility for improvement and protection of environment;
- manner for solving of disputes;
- termination of the Concession Agreement and its eventual prolongation;
- transferring of the Provider's facilities and equipment (buy-out of a concession), or eventual restitution, following the termination of the Concession;
- conditions on withdrawal of Concession; and
- termination of the Concession Agreement.

## Article 17

The Concession Agreement shall be concluded in writing.

The Concession Agreement which has not been concluded in writing shall not have legal effect.

## Article 18

The property - legal issues regarding the property of public interest for which the Concession is being approved, have to be solved prior the Concession Agreement. shall be concluded.

#### Article 19

In case of dispute between the Provider and the Concessionaire during the implementation of the Concession Agreement, competence shall be given to the Court designated in the Concession Agreement.

#### Article 20

The Concession Agreement shall be subordinated to international legal protection, the provision of which shall be made by concluding of international agreements on protection of investments.

#### Article 21

Evidence on the concluded Concession Agreements shall be kept by the State Organ competent for development issues.

The State Organ referred to in Para 1 of this Article shall be obliged to submit a copy from the Concession Agreement concluded with foreign legal or physical entity, to the State Organ competent for foreign relation issues, within 8 days, as of the day the Agreement has been concluded.

A copy of the Concession Agreement shall also be submitted to the Republic Cadastre Office.

### **IV. TERMINATION OF THE CONCESSION AGREEMENT**

#### Article 22

The relation between the Provider and the Concessionaire shall be terminated in case of:

- termination of the validity of the Concession Agreement;
- buy-out of the concession by the Provider; and
- deprivation of the Concession.

#### Article 23

The Concession Agreement shall be considered terminated following the:

- expiry of the term it has been concluded for;
- termination prior the expiry of the period, it has been concluded for; and
- Vice Major.

#### Article 24

After the buy-out of the Concession by the Provider, the concession relation shall terminate, so that the Concessionaire shall end the concession activity, while the Provider shall undertake all facilities and equipment built by the Concessionaire or otherwise acquired by the Concessionaire in the course of the concession activity.

Buy-out of the Concession by the Provider shall be possible only when it is explicitly foreseen by the Concession Act, which also defines the conditions and the manner of the buy-out.

By exception, forceful buy-out may be performed in case of public interest, set forth in the Act on Concession.

#### Article 25

The Government of the Republic of Macedonia may withdraw the Concession from the Concessionaire should he/she fail to start performing the concession activity within the period set forth in the Concession Agreement.

#### Article 26

The Concessionaire shall be obliged to carry out the concession activity in accordance with the Concession Agreement, even in the case of Vice Major.

In case of Para 1 of this Article, the Concessionaire shall have the right to request from the Provider reimbursement of the costs resulting from performing of the concession activity.

### **V. RESPONSIBILITIES OF THE CONCESSIONAIRE**

#### Article 27

The Concessionaire shall be liable for the damage resulting from carrying out concession activity caused by its employees, towards legal or physical entities. The Concessionaire shall also be liable for the damage resulting from performing of concession activity or related to, which has been caused to legal or physical entities due to strike, imposed by the Concessionaire's employees.

### **VI. FINAL PROVISIONS**

#### Article 28

This Law shall come into force on the eighth day, as of the day it shall be published in the Official Gazette of the Republic of Macedonia.