**PPP LEGAL FRAMEWORK SNAPSHOT - BULGARIA**

### GENERAL INFORMATION

| Capital: Sofia | Population: 7.22 million | GDP: USD 56,717 million |

### LEGAL AND INSTITUTIONAL FRAMEWORK

| PPP Law and other applicable texts | Public-Private Partnership Act (PPP Act)  
Regulations for Application of the Public-Private Partnership Act (PPP Regulations) |
|-----------------------------------|----------------------------------------------------------------------------------|
| Other applicable sectoral laws    | Ordinance on the terms and procedure for planning and the criteria for inclusion of PPP projects in the Operational plan and in the municipal development plan implementation programme  
Concessions Act  
Public Procurement Act |
| PPP Unit                         | Real Sector Finance (within the Ministry of Finance; serves as a specialized unit for PPP in Bulgaria) |
| Definition                        | Public-private partnership shall be long-term contractual cooperation between one or more public partners, of the one part, and one or more private partners, of the other part, for carrying out an activity of general interest while obtaining better value for invested public funds and distributing risks among the partners under the terms and according to the procedure of this Act. (PPP Act, art.3) |
| General Principles               | The principles of publicity, transparency, free and fair competition, non-discrimination, equality and proportionality shall be respected upon implementation of PPP. (PPP Act, art.2) |

**Tendering and contracting process / Choice of the private partner (PPP Act)**

- A private partner shall be selected by means of an open procedure, a restricted procedure, a competitive dialogue or a negotiated procedure or a negotiated procedure with publication of a contract notice. (PPP Act, art.33)
- Tenders shall be evaluated applying the criterion of the most economically advantageous tender. (PPP Act, art.37)
- Any interest party may propose the implementation of a PPP to a competent public partner and shall have the right, unless selected as private partner, to remuneration for the data from the pre-development study or from the development-project design used in the technical specification adopted by the public partner. However, the proposal of the interested party shall not give rise to any other rights or privileges for the proponent during tender process. (PPP Act, art.27, art.28; PPP Regulations, art.11)
Project Evaluation
(PPP Regulations)

- The public partner shall present to the Ministry of Finance proposals for State PPP projects and for inclusion in Operational Plan. Such proposals shall be accompanied by an *ex ante* evaluation of the feasibility of the project by means of PPP. (PPP Regulations, art.7)
- Where the proposal results from an initiative taken by an interested party, the *ex ante* evaluation of the feasibility of the project by means of PPP may be prepared on the basis of the documents presented on the part of the interested party. (PPP Regulations, art.7)
- The Minister of Finance shall prepare a list of proposals received and an analysis for inclusion of the project in the Operational Plan. The Council on Development with the Council of Ministers shall coordinate and adopt a decision proposing projects from such list before the Council of Ministers issue the approval. (PPP Regulations, art.8)

Rights and Obligations of the public partner
(PPP Act; PPP Regulations)

- Right to claim compensation upon early termination of the PPP contract through the fault of the private partner. (PPP Regulations, art.35)
- Right to monitor and control the performance of PPP contract to ensure effectiveness and efficiency of processes. (PPP Regulations, art.38)
- Obligation to provide access at no charge to the public through the website of Ministry of Finance the registered PPP data, excluding trade/technical secrets. (PPP Regulations, chapter 8)
- Right to terminate the PPP contract without allowing time for performance upon substantive non-performance by the private partner of essential obligation. (PPP Act, art.61)

Rights and Obligations of the private partner
(PPP Act; PPP Regulations)

- Obligation to furnish financial security to guarantee the fulfilment of the obligations under the PPP contract in the form of bank guarantees. (PPP Regulations, art.35)
- Obligation to assume the construction risk and at least either the availability risk or the demand risk for the service of general interest. (PPP Act, art.5)
- Obligation to ensure the financing and keep analytic accounts for the PPP project. (PPP Act, art.8)
- Right to participate in the PPP at a set rate of return on equity which shall be ensured by means of financial support from public partner. (PPP Act, art.8)
- Obligation to make available to the public-private company the resources necessary for the performance of the PPP contract. (PPP Act, art.53)
- Right of the successor in title to the private partner to request the PPP contract be extended. (PPP Act, art.57)
- Right to be entitled to compensation in the case of early termination of the PPP contract under certain circumstances. (PPP Act, art.62, art.63)
- Obligation to deliver to the public partner the facility owned by the public partner as well as the immovable together with the improvements and accretions thereto in all cases of termination of the PPP contract. (PPP Act, art.66)

Obligations and Rights of Both Public and Private Partners
(PPP Act)

- Obligation to not effect transactions transferring the facility whereby the activity of general interest is carried in favour of third parties. (PPP Act, art.5)
- Right to amend/supplement the PPP contract. (PPP Act, art.56)
- Right to terminate, unilaterally or by mutual agreement, the PPP contract under certain circumstances. (PPP Act, art.60, art.61)
Applicable Law

Dispute resolution (PPP Act)

- The decision or resolution of the authorities adopted in a procedure for selection of a private partner shall be appealable according to the Public Procurement Act. (art.72)
- Any disputes regarding the conclusion, performance, modification and termination of PPP contracts shall be resolved by the competent civil court. (art.73)

EXAMPLES OF PROJECTS STRUCTURED AS PPP

<table>
<thead>
<tr>
<th>Infrastructure sector - Telecom</th>
<th>Bulgarian Telecommunications Company</th>
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</thead>
<tbody>
<tr>
<td>Infrastructure sector - Power</td>
<td>Maritza East I Power Plant Project</td>
</tr>
<tr>
<td>Infrastructure sector - Transport</td>
<td>Varna and Bourgas Airports Concession</td>
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</tbody>
</table>