

Act Amending and Supplementing the Concessions Act
(promulgated SG 96/ 2017, supplemented, SG 103/ 2017, amended SG 7/2018, SG
15/2018)

§ 1. Art. 19 shall be amended to read as follows:

“Art. 19 (1) An economic operator having submitted an application or an application and a preliminary offer, shall have the rights of an applicant in the procedure for designation of a concessionaire.

(2) From the date of submission of an application and an offer, preliminary offer and offer, or offer, the economic operator acquires the rights of a participant in the procedure for designation of a concessionaire.”

§ 2. In Art. 20, paragraph 3 third sentence, at the end, a comma and the following text shall be added: “as provided for therein”.

§ 3. In Art. 21, paragraph 5 shall be amended to read as follows:

“(5) The concession agreement shall provide that the economic operators, participating in the group, referred to in par. 2 and 3, as well as the economic operator referred to in paragraph 4, shall be responsible jointly with the project company for the implementation of the concession agreement, as provided for therein, taking into account the nature and extent of the participation of each of the economic operators in the project company or of their undertaking to provide resources to the project company.”

§ 4. In Art. 29, paragraph 3, second sentence, the words “estimated value” shall be replaced with “thus calculated value”.

§ 5. In Art. 61 paragraph 1, the words “para. 2 – 6” shall be replaced with “para. 2 – 5”.

§ 6. In Art. 63 paragraph 3 shall be amended to read as follows:

“(3) The third person, with the abilities of which the fulfilment of the financial and economic condition requirements is proven, shall be jointly liable with the concessionaire for the implementation of the concession agreement, as provided for therein, taking into account the nature and extent of the undertaking by such third person for the provision of capabilities or resources.”

§ 7. In Art. 77, paragraph 3 shall be revoked.

§ 8. In Art. 118, paragraph 3, the words “under art. 117, para. 2, items 1, 2 and 5” shall be replaced with the words “under art. 117, para. 1, items 1, 2 and 5”.

§ 9. In Art. 122, the following amendments and supplements shall be made:

1. In paragraph 2, item 22 shall be amended to read as follows:

“22. the review clauses, if provided for, and the grounds, procedures and consequences of an early termination of the agreement”.

2. In paragraph 4, new item 4 shall be created:

“4. the conditions under which joint liability with the concessionaire is assumed by the economic operators, the private partner or third parties in the cases provided for in this Act.”

§ 10. In Art. 142, the following amendments and supplements shall be made:

1. In paragraph 1, the words “by the court in accordance with the Code of Civil Proceedings” shall be replaced with the words “in accordance with the procedure provided for in the agreement”.

2. In paragraph 2, the words “of the court judgement” shall be replaced with the words “the decision under paragraph 1”.

§ 11. In Art. 150, the following amendments and supplements shall be made:

1. In paragraph 3, item 1, the words “reduced by the amount corresponding to the rate of return determined by the financial and economic model of the concessionaire for the entire duration of the contract, but not exceeding the market value of the investments made by the concessionaire in the object of the concession at the date of termination of the contract” shall be replaced with the words “determined according to paragraph 5”;

2. Paragraph 4 shall be amended to read as follows:

“(4) In the cases under paragraph 2, the reimbursement of the expenditures of the concessionaire for investments shall cover the equity with a rate of return determined by the financial and economic model at the termination date, and the outstanding part of the borrowed capital, including outstanding principal, interests, fees and other costs related to termination of financing, in compliance with the allocation of risks according to art. 31.”

3. Paragraph 5 shall be amended to read as follows:

“(5) In the cases under paragraph 3, item 1, the compensation shall include the outstanding part of the borrowed capital, including outstanding principal, interests, fees and other costs related to termination of financing, in compliance with the allocation of risks according to art. 31.”

§ 12. In Art. 152, paragraph 1 shall be amended to read as follows:

“Art. 152. (1) In case of early termination of the concession agreement for a reason which none of the parties can be held responsible for, the parties may agree on the consequences of such termination depending on the reason for the termination and the conditions under which it is provided for.”

§ 13. In Art. 154 the following amendments and supplements shall be made:

1. Paragraph 2 shall be amended to read as follows:

“(2) Any disputes concerning the conclusion, implementation, amendment and termination of a concession agreement shall be resolved in accordance with the Code of Civil Proceedings, except for the cases under paragraph 3.”

2. A new paragraph 3 shall be created:

“(3) With the concession agreement for a concession with a cross-border interest the parties may agree that all or particular disputes shall be resolved by an arbitration court.”

§ 14. In Art. 158, paragraph 3, item 4 shall be amended as follows:

“4. a document for paid state fee”.

§ 15. New Art. 178a shall be created:

“Art. 178a. For the proceedings under this chapter before the Commission for Protection of Competition and the Supreme Administrative Court state fees and expenses shall be due in accordance with a tariff approved by the Council of Ministers. The state fees for cassation appeals before the Supreme Administrative Court shall be determined in the amount of the fees due for proceedings on appeals before the Commission for Protection of Competition. State fees for annulment of effective court rulings and for interlocutory appeals before the Supreme Administrative Court shall be determined in accordance with the Code of Administrative Proceedings.”

§ 16. In Art. 179, paragraph 2, item 6, in the end, the words “or contrary to another requirement of this Act” shall be deleted.