

# LAW OF THE CONCESSIONS

Prom. SG. 36/2 May 2006, amend. SG. 53/30 Jun 2006, amend. SG. 65/11 Aug 2006, amend. SG. 105/22 Dec 2006, amend. SG. 41/22 May 2007, amend. SG. 59/20 Jul 2007, amend. SG. 109/20 Dec 2007

## Chapter one. GENERAL PROVISIONS

Art. 1. This law shall provide the conditions and the order for granting, fulfilment and termination of concessions.

Art. 2. (1) The concession shall be right to exploitation over object of public interest, granted by concedent to trader – concessionaire, against the obligation of the concessionaire to construct and/or manage and maintain the object of the concession at own risk.

(2) The concession shall be granted on the basis of long term written contract with defined material interest, concluded between the concedent and the concessionaire.

(3) According to their subject the concessions shall be:

1. concession for construction;
2. concession for service;
3. concession for extraction.

Art. 3. The concession for construction shall have as subject fulfilment of construction – object of the concession and its management and maintenance after setting telecommunications into exploitation the remuneration consisting in the right of the concessionaire to exploit the object of the concession or in this right and compensation n behalf of the concedent under art. 6.

Art. 4. (1) The concession for service shall have as subject management and maintenance of the object of the concession the remuneration consisting in the right of the concessionaire to exploit the object of the concession or in this right and compensation on behalf of the concedent under art. 6.

(2) The concession for service may also include implementing of partial construction and mounting works in the cases when there is need for:

1. finishing of started construction, or
2. partial expanding, partial reconstruction, partial rehabilitation or repair of the subject of the concession.

(3) In the cases of para 2 the decision for opening the procedure for granting concession and in the concession contract the partial construction and mounting works shall be determined as consequence or supplement of the basic subject of the concession.

Art. 5. (1) The concession for extraction shall have as subject exploitation of natural resources by extraction which is implemented with means ensured by the concessionaire and at his own risk.

(2) The granting of concession for extraction of underground resources shall be implemented under the conditions and by the order of the Law of the underground resources.

(3) This law shall be applied for the fulfilment and the termination of the concession for extraction of underground resources as far as in the Law of the underground resources other is not provided.

Art. 5a. (new – SG 65/06, in force from 11.08.2006) (1) The concession for extraction of mineral waters shall have as a subject use of mineral waters through water taking.

(2) The concession under par. 1 shall be granted under the conditions and the procedure set in this law, unless otherwise provided in the Law for the waters.

Art. 6. (1) The compensation of art. 3 and art. 4, para 1 shall be implemented by payment by the concedent to the concessionaire for part of the expenses for the object of the concession.

(2) The compensation of para 1 shall not exempt the concessionaire from taking the basic part of the risk from the construction and/or the management and the maintenance and it shall be admitted upon need of:

1. achieving of socially acceptable price of the services rendered with the object of the concession when the price is determined with a normative act, or

2. restoration of the object of the concession after case of force majeure.

(3) The compensation for construction or restoration of the object of the concession of para 2, item 2 shall be implemented after starting the exploitation of the object.

(4) The compensation for management and maintenance of the object of concession shall be implemented only for the time in which with the object are rendered services, respectively other economic activity is implemented.

Art. 7. (1) Obligation of the concessionaire to implement concession payment to the concedent for the granted right to exploitation of the object of the concession may be provided.

(2) The extent of the concession payment shall be determined in each concrete case depending on:

1. the economic benefit which the concessionaire will receive from the concession;

2. the fair distribution of the economic benefit between the concedent and the concessionaire;

3. the achieving of socially acceptable price of the services rendered with the object of the concession when the price is determined with normative act.

(3) The order and the terms for implementing the concession payment shall be determined with the concession contract.

Art. 8. The opportunity for implementing compensation and concession payment shall be determined with the decision for opening procedure for granting of concession depending on the economic effectiveness of the exploitation of the object of concession determined on the basis of:

1. the term of the concession, and

2. the prognosticated expenses for construction, management and maintenance and revenues from the exploitation.

Art. 9. (1) The granting of the concession shall include:

1. implementing of preparatory actions;

2. conducting of procedure for granting of concession;

3. concluding of concession contract.

(2) The procedure for granting concession shall include:

1. accepting of decision for opening of procedure for granting of concession;

2. conducting of open procedure, limited procedure or competition dialogue for granting of concession;

3. determining of concessionaire.

Art. 10. (1) The concession shall be granted for term up to 35 years without right to extension. The term of the concession shall start from the date the concession contract enters into force.

(2) At determining the term of the concession shall be taken into account its financial – economic indices and the technical and/or the technological characteristics of the subject of the concession.

Art. 11. (1) The object of the concession may also include the adjacent infrastructure and belongings, existing or which will be constructed by the concessionaire.

(2) At concession for construction the construction and/or the expansion, and/or the reconstruction, and/or the rehabilitation of the object of the concession at risk of the concessionaire shall be condition for implementation of the concession.

Art. 12. (1) At granting and fulfilment of the concession shall be observed the requirements of the laws regulating the activities connected with the respective object of the concession.

(2) Concession shall not be granted upon danger for the national security and the defence of the country, the environment, human health protected territories, zones and objects and for the public order as well as in other cases determined with a law.

## **Chapter two.**

### **OBJECTS AND SUBJECTS OF THE CONCESSION**

Art. 13. Concession by the order of this law shall e granted for the objects of public interest:

1. objects announced as exclusive state property;
2. objects, properties or parts of properties – public state or public municipal property with which economic activity is implemented;
3. objects, properties or parts of properties – private state or private municipal property with which economic activity is implemented;
4. properties or parts of properties – property of public organisation with which economic activity is implemented.

Art. 14. (1) The objects of art. 13, items 1 and 2 shall be granted for construction and exploitation only by concession for construction and for exploitation – only by concession for service, respectively concession for extraction, except in the cases under the Law of the public procurement orders.

(2) The objects of art. 13, items 3 and 4 shall be granted for concession for construction when the remuneration for their construction, management and maintenance consist in the right of the concessionaire to exploit them or in this right and compensation on behalf of the concedent of art. 6.

(3) The objects of art. 13, items 3 and 4 may e granted for concession for service when the remuneration for their management and maintenance consists in the right of the concessionaire to exploit them or in this right and compensation on behalf of the concedent of art. 6.

Art. 15. (1) The concedent shall preserve the right of ownership in the object of the concession.

(2) At concession for construction the built object shall be ownership of the concedent from the date of entering in exploitation by the order of the Law of spatial planning.

(3) The accretions and the improvements of the object of the concession including when they are not in fulfilment of the concession contract shall become ownership of the concedent from the moment of their occurrence.

(4) At transfer of the ownership in object or property of art. 13, items 3 and 4, granted for concession the concession contract shall remain in force for the acquirer.

Art. 16. (1) In the procedure for granting of concession may participate each individual or corporate body or association thereof.

(2) In the procedure for granting of concession may not participate independently or as member corporate body:

1. which has been announced insolvent;

2. which is in procedure of liquidation;

4. which manager or member of the management body, and in case member of the management body is corporate body – its representative in the respective management body, has been sentenced with a verdict entered into force for crime against property, against economy, against the financial, tax or insurance system (money laundering or fraud), for criminal breach of trust or for bribe (corruption) as well as for crimes connected with participation in criminal group.

(3) Candidate or participant may be removed from participation in the procedure for granting of concession, who:

1. is in insolvency procedure;

2. has liabilities for public receivables of the state or municipality in the sense of art. 162, para 2 of the Tax Insurance Procedure Code established with entered into force act of competent body unless deferment or delay of the liabilities is admitted;

3. has delayed pecuniary liabilities to the workers and the employees which employer he s;

4. has been concessionaire and the concession contract has been terminated due to his fault;

5. is guilty for professional breaches for which the commission of art. 23, para 3 has written proofs issued by competent body;

6. has not conceded the whole information required by the candidates or the participants in the procedure for granting of concession, or the information conceded by him is untrue or incomplete.

(5) The circumstances of para 4 which existence is ground for removal of candidate or participant shall be determined with the announcement of art. 41.

(6) The circumstances of para 1 – 4 shall be certified with documents and declarations by order determined with the regulation for implementation of the law.

Art. 17. For the concessions granted by the order of this law concedent shall be:

1. the Council of Ministers – for the objects – state property;

2. the municipal council – for the objects – municipal property;

3. public organisation represented by a body according to its structural act – for the objects of its ownership.

Art. 18. (1) Concessionaire shall be the participant in procedure for granting of concession with whom the concedent has concluded concession contract.

(2) In the cases when the participant determined as concessionaire s corporate body or association which is not trader the concession shall be granted to newly established commercial company in which the corporate body is sole owner of the capital, respectively the participants in the association own the whole capital in the ratio of the association contract. In this case the concession contract shall be concluded with the newly established commercial company – concessionaire which is bound with the offer of the corporate body, respectively the association.

(3) In the cases when the participant determined as concessionaire is individual the concession shall be granted to newly established commercial company in which the participant is sole owner of the capital or to newly registered by him sole entrepreneur.

## **Chapter three. PREPARATORY ACTIVITIES**

Art. 19. (1) The preparatory activities and the submitting of proposal for granting of concession for subject – state property, called hereinafter "state concession", shall be implemented by a minister determined with a law. In the cases when there is no authorisation by a law the preparatory activities shall be implemented by the minister:

1. who manages the ministry to which the respective subject is conceded for management;

2. whose secondary administrator is the department to which the respective subject is conceded for management;

3. who exercises the rights of ownership in trader – public enterprise, to which the respective subject is conceded for management;
  4. of regional development and public works – in the other cases.
- (2) The preparatory activities and the submitting of proposal for granting of concession for subject – municipal property, called hereinafter "municipal concession", shall be implemented by the mayor of the respective municipality.
- (3) The preparatory activities and the submitting of proposal for granting of concession for subject – property of public organisation, called hereinafter "public concession", shall be implemented by the person who manages it.
- (4) The bodies of para 1 – 3 shall implement also other activities connected with the granting and the implementing of the concessions for which they are authorised with a law or act of the concedent.

Art. 20. The preparatory activities for granting of concession shall start on initiative of the respective body of art. 19, para 1 – 3 and they shall be implemented by order defined with the regulation for implementation of the law.

- Art. 21. (1) The preparatory activities shall include working out of substantiation of the concession by the body of art. 19, para 1 – 3. The substantiation of the concession shall be based on at least legal, financial – economic, technical and ecological analysis.
- (2) With the substantiation of para 1 shall be motivated the proposal for granting concession and shall be determined the characteristics of the subject of concession and its basic content.
- (3) To the substantiation shall be attached the documents defined with the regulation for implementation of the law, including documents for the result of the respective procedure of chapter six of the Law of preservation of environment.
- (4) The requirements for the content of the substantiation of the concession and the analyses and the order for their working out and approval shall be determined with the regulation for implementation of the law.

Art. 22. On the basis of the substantiation the body of art. 19, para 1 – 3 shall prepare drafts of:

1. decision for opening of the procedure for granting of concession;
2. announcement for conducting of the procedure;
3. concession contract;
4. documentation for participation – upon opened and limited procedure, or descriptive document – upon competitive dialogue.

## **Chapter four.**

### **PROCEDURE FOR GRANTING OF CONCESSION**

Art. 23. (1) Concession shall be granted observing the following principles:

1. publicity and transparency;
  2. free and loyal competition;
  3. equality of all candidates and participants in the procedure for granting of concession and not admitting discrimination.
- (2) In the decision for opening of procedure for granting of concession, in the announcement or in the documentation for participation in the procedure for granting of concession cannot be included conditions or requirements giving priority or ungrounded restrict the participation of defined persons.
- (3) The commission for conducting the procedure for granting of concession, called hereinafter "the commission", shall not have right to concede information with which is discriminated or favoured candidate or participant in the procedure.

Art. 24. (1) The concessionaire shall be determined by conducting of:

1. opened procedure;
2. limited procedure;
3. competitive dialogue;
4. electronic tender – as additional procedure at the opened or the limited procedure.

(2) At the choice of procedure shall be taken into consideration:

1. the specifics of the subject of the concession and the economic activities implemented with it;
2. the number of the expected candidates;
3. the amount and the complexity of the documentation for conducting the procedure;
4. the expected amount and complexity of the offers.

(3) The conducting of procedure of competitive dialogue shall be admitted when the conditions of art. 32, para 3 exist.

Art. 25. (1) At conducting of procedure for granting of concession the commission shall remove with decision from participation in the procedure the candidates or the participants for whom some of the circumstances of art. 16, para 2 and 3 exist. From participation in the procedure shall also be removed the candidates or the participants for whom exist circumstance of art. 16, para 4 which is determined with the announcement of art. 41.

(2) The procedure for granting of concession shall be conducted also in the cases when there is only one participant.

Art. 26. (1) The commission shall implement selection of the candidates or the participants admitted to participation in the procedure for granting of concession according to the following criteria:

1. fitness for fulfilment of professional activity;
2. economic and financial status;
3. technical abilities and/or professional qualification.

(2) The criterion fitness for fulfilment of professional activity shall be proven by:

1. registration in professional and commercial register according to the legislation of the state in which the candidate is settled, and/or
2. experience in the fulfilment of activities identical or similar to the activities which may be implemented with the subject of the concession as well as the possession of licenses or permits for implementing the respective activities according to the legislation of the state in which the candidate is settled.

(3) The criterion economic and financial status shall be proven by:

1. registered capital stock fund of the candidate;
2. balance sheet and/or market value of the assets of the candidate which shall be certified with the annual financial report or with the respective market valuation prepared by licensed valuers;
3. annual financial reports of the candidate for the last three years.

(4) The criterion technical abilities and/or professional qualification shall be proven by:

1. declaration containing lists of fulfilled or being fulfilled during the last 5 years contracts with subject identical or similar with the subject of the concession including the basic elements of the contracts, and/or
2. description of the technical equipment and the abilities for ensuring high quality fulfilment of the concession contract, and/or
3. list of the technical persons, including these who will be responsible for the quality of fulfilment of the concession contract, and/or
4. certificates for quality management or preservation of environment, and/or
5. documents certifying the education and the professional qualification of the managerial staff who will be responsible for the fulfilment of the activities of the concession contract, and/or
6. data about own or hired technical persons who the candidate or the participant will use for fulfilment of the construction – upon concession for construction.

(5) The criteria for selection of the candidates shall be determined in compliance with the specifics of the subject of the concession and the economic activities implemented with it and they shall be pointed out in the announcement.

(6) With the decision for opening of procedure for granting of concession may be provided opportunity the proving of the compliance with the criteria of para 1, items 2 and 3 to be implemented through the capacities of third persons. In these cases the candidate should present proofs that he will have at disposal the capacity of the third person.

(7) The candidates who meet the criteria for selection shall be determined with decision of the commission and may continue their participation in the procedure and the rest shall be removed.

(8) Upon limited procedure and competitive dialogue the announcement may include also limitation of the number of the candidates who as result of the selection, respectively the conducted discussions, are invited to present offers. In these cases in the announcement shall be pointed out objective and non discriminating criteria which shall be applied, as well as the minimum number of the invited candidates.

(9) In the cases of para 8 the minimum number of the candidates who are invited to submit offers cannot be less than five – at limited procedure, and three – at competitive dialogue. When in the procedure participate smaller number of candidates the commission shall be obliged to invite all candidates meeting the criteria pointed out in the announcement.

Art. 27. (1) At opened procedure, limited procedure and competitive dialogue the criterion for assessment of the offers shall be the economically most favourable offer.

(2) The economically most favourable offer shall be determined on the basis of complex assessment of the offer according to the criteria determined in the decision and in the announcement for opening of procedure for granting of concession.

Art. 28. (1) The criteria forming the complex assessment of the offer shall be:

1. connected with the subject of the concession as:

a) quality of the construction and/or of the management and the maintenance of the subject of the concession;

b) quality of the rendered services;

c) price of the construction;

d) price of the rendered services;

e) technical advantages, in this number technical equipment and material technical base;

f) functional characteristics of the subject of concession;

g) term for finishing the construction;

h) conditions for implementing the compensation of art. 6 if such is provided with the decision for opening of procedure for granting of concession;

2. measures for preservation of environment when such are necessary;

3. term of the concession;

4. the lowest price of the investment for construction and/or the lowest price of the rendered services with the subject of the concession – at concession for construction;

5. the lowest price of the rendered services with the subject of the concession – at concession for services;

6. amount of the concession payment if such is provided;

7. others depending on the specifics of the concession.

(2) In the decision for opening of procedure for granting of concession, in the announcement of art. 41 and in the methods for assessment of the offers shall be pointed out the criteria and the relative weight of each of them. The way of assessment of the separate criteria shall be determined with the methods for assessment which shall be integral part of the documents for participation in the procedure.

(3) An offer which does not meet the criteria and the requirements for their satisfaction shall not be assessed.

Art. 29. (1) If in the offer of some participant is proposed price of the construction or the rendered services which is lower with more than 30 percent of the average price in the other offers the commission shall require from the participant detailed written rationale for the offered price determining reasonable term for presenting the rationale which cannot be shorter than three working days after receiving the request for this.

(2) The commission may accept the written rationale of para 1 and not remove the offer when some of the following objective circumstances is pointed out, connected with:

1. original for fulfilment of the construction or for rendering the services;
2. technical solution;
3. existence of exceptionally favourable conditions for the participant;
4. economy at fulfilment of the construction or of rendering the services;
5. receiving of state support.

(3) The offer shall not be assessed when:

1. the participant does not present in time the written rationale, or
2. the commission estimates that the circumstances pointed out in the rationale are not objective, or
3. the participant does not prove the lawful ground for the received state support in the term defined by the commission.

Art. 30. Opened procedure shall be the procedure for granting of concession at which each person may submit an offer.

Art. 31. (1) Limited procedure shall be the procedure for granting of concessions at which an offer may submit a candidate who has received invitation after the selection.

(2) The limited procedure for granting of concession shall be conducted in two stages:

1. admitting and selection by the order of art. 25 and 26;
2. submitting of offers by the candidates received invitation after the selection.

Art. 32. (1) Competitive dialogue shall be the procedure for granting of concessions at which an offer may submit candidate who has received invitation after conducting conversations with the admitted candidates.

(2) The competitive dialogue shall be conducted in three stages:

1. admitting and selection by the order of art. 25 and 26;
2. conducting conversations with the candidates who have received invitation to continue their participation in the procedure after the selection, for discussion of proposals meeting the criteria and the requirements pointed out in the announcement of art. 41 or in the descriptive document;
3. submitting of offers by the candidates offered suitable solutions and received invitation.

(3) Procedure of competitive dialogue shall be conducted only for concessions for construction in particularly complex cases when due to objective reasons some of the following circumstances cannot be defined:

1. the technical specifications for achieving of the objectives and/or the parameters of the concession referring to the designing, the methods of calculation in connection with designing and construction, the fulfilment of the construction and/or the used materials
2. the legal and/or the financial framework of the concession.

(4) The circumstances of para 3 shall be pointed out in the announcement and/or in the descriptive document.

(5) The conducting of the conversations with the admitted candidates shall be implemented in rounds at which the commission shall discuss with each candidate separately the solutions proposed by him.

(6) As result of the conducted conversations the commission shall work out documentation for participation in the procedure. If necessary before the approval of the documentation the commission may propose to the concedent to supplement the decision for opening of the procedure before directing invitations for submitting of offers.

- (7) In the cases of para 6 the concedent may approve decision for supplement of the decision for opening of the procedure. The decision shall be promulgated in State Gazette. After the promulgation of the decision the commission shall propose and the body of art. 19, para 1 – 3 shall approve the documentation for participation.
- (8) The commission shall extend invitations for submitting of offers to the candidates offered suitable solutions and concede to them the documentation for participation.
- (9) The offer of a participant in the competitive dialogue must meet the requirements and the conditions of the concession determined with the documentation for participation.
- (10) The participant presented the economically most favourable offer may be obliged to specify in writing its parameters. The specifications cannot change the basic parameters of the offer.
- (11) With the decision for opening of the procedure may be defined remuneration for the candidates presented written proposals which have been subject to conversations and have received high assessment.

Art. 33. (1) Electronic tender may be conducted by opened or limited procedure when the technical specifications of the concession are precisely defined and in the decision for opening of procedure for granting of concession it is provided that after preliminary assessment of the offers the defining of concessionaire is implemented by electronic tender. The conducting of electronic tender shall be pointed out also in the announcement for conducting of the procedure.

(2) The electronic tender shall be conducted after implementing of preliminary assessment of the offers of the participants according to the criteria of art. 28, para 1 in compliance with the methods for assessment and it may be conducted in consecutive rounds.

(3) Conducting of electronic tender with objective impeding, restricting or breaching of the competition or change of the subject of the concession pointed out in the announcement and in the technical specifications shall not be admitted.

(4) Electronic tender cannot be conducted for granting of concession for construction including in its subject of activity also intellectual activity as designing of construction sites.

Art. 34. (1) The criteria for assessment of the results of the electronic tender shall be:

1. price:

a) at concession for construction – the lowest price of the construction;

b) at concession for service – the lowest price of the rendered services by the concessionaire to third persons;

c) at concession for extraction – the highest extent of the concession payment;

2. the economically most favourable offer; in these cases shall be assessed the offered prices and the criteria pointed out in the methods for assessment.

(2) Criteria of para 1, item 2 may be:

1. the technical characteristics which values are subject to electronic tender under the condition that these characteristics are quantitatively definable and may be expressed in figures or percentage;

2. all restrictions for the values which may be presented which are result of the specifications connected with the subject of the concession;

3. the information conceded to the participants in the progress of the electronic tender and the term for its conceding;

4. the information connected with the conducting of the electronic tender;

5. the conditions for bidding, including the minimum step at bidding;

6. the information connected with the used electronic equipment as well as the conditions and the technical specifications for connecting.

Art. 35. (1) To the participants presented offers meeting the indices pointed out in the methods for assessment of the offers shall be sent in electronic way an invitation for participation in the electronic tender accompanied with the results of the preliminary assessment. The participants shall present:

1. new prices – at the criterion price;

2. new prices and new values of the indices – at the criterion economically most favourable offer.

(2) The invitation of para 1 shall contain:

1. the whole information about the individual connecting to the to the used electronic equipment;
2. the date and the hour of the beginning of the electronic tender;
3. the duration of the time for each separate round of the tender;
4. the conditions and the terms for termination of the electronic tender.

(3) The electronic tender cannot start earlier than two working days after the date of sending of the invitations of para 1.

(4) When the criterion for assessment of the results from the electronic tender is the economically most favourable offer the invitation shall contain the mathematical formula which should be used in the electronic tender for the objectives of the automatic re-grading on the basis of the presented new prices and/or values. The formula shall include the weight of all criteria defining the economically most favourable offer as it is pointed out in the announcement of art. 41 or in the specifications in the documentation for participation and for this purpose all ranges shall be reduced preliminary to defined value.

(5) When in the announcement is not restricted the presentation of variants of the offer for the different variants shall be worked out separate mathematical formulae.

(6) During each consecutive round of the electronic tender the commission shall concede to all participants sufficient information which is to give them opportunity to check their place in the grading at any moment. The commission may also concede information about offered other prices or values under the condition that this is indicated in the specifications. The commission may announce at any time also the number of the participants in each round of the electronic tender.

(7) In the cases of para 6 the commission cannot reveal the identity of the participants in the electronic tender.

Art. 36. (1) The commission shall terminate the electronic tender:

1. at the preliminary defined in the invitation for participation in the tender date and hour, or
2. after elapse of preliminary defined term from termination of the receiving of new prices or values meeting the defined minimum step, or
3. when all rounds of the electronic tender defined in the invitation for participation in the tender have finished.

(2) The classification of the participants shall be implemented automatically in electronic way.

Art. 37. The order and the terms for organising of the procedures for granting of concession shall be determined with the regulation for implementation of the law.

## **Chapter five. DECISION FOR OPENING OF PROCEDURE FOR GRANTING OF CONCESSION**

Art. 38. (1) As result of the implemented preparatory activities the body of art. 19, para 1 – 3 shall make motivated proposal before the concedent for opening of procedure for granting of concession.

(2) To the proposal shall be attached the rationale of art. 21, the drafts of art. 22 and other documents defined with a law or with the regulation for implementation of this law.

Art. 39. (1) On the basis of the proposal of art. 38, para 1 the concedent shall take decision for opening of procedure for granting of concession.

(2) With the decision of para shall be determined:

1. the subject and the object of the concession;
2. the economic activities which may be implemented through the object of the concession;

3. in the cases of art. 11, para 1 – the adjacent to the object of the concession infrastructure and appurtenances;
  4. the maximum term of the concession;
  5. the initial date of the concession;
  6. the conditions for implementing the concession;
  7. the basic rights and obligations in the concession contract;
  8. the conditions for assigning the construction of the object of the concession to subcontractors;
  9. the conditions and/or the prohibitions for letting the object of the concession for rent and for granting of activities for its exploitation and maintenance to subcontractors;
  10. the kind and the extent of the guarantees for fulfilment of the obligations under the concession contracts and/or other securities;
  11. the conditions for implementing the concession payment when such is provided, including:
    - a) the extent of the one time concession payment due by the date of entering into force of the concession contract;
    - b) the extent of the minimum annual concession payment for the term of the concession;
    - c) the maximum grace period during which the concessionaire is exempt from implementing concession payment – when such is provided;
    - d) the order for implementing the concession payment;
  12. the requirements connected with the national security and the defence of the country, with the preservation of environment, human health, protected territories, zones and objects and of public order;
  13. the form, the extent and the conditions for implementing of compensation under art. 6 when such is provided;
  14. the obligation of the concessionaire to insure the object of the concession for the term of the concession for his account and in favour of the concedent;
  15. other requirements connected with the character of the concession which are not normatively defined;
  16. the procedure for granting of concession, including for conducting of electronic tender – when such will be conducted with open or limited procedure;
  17. the criteria for complex assessment of the offers and their relative weight;
  18. the extent and the way of payment of the guarantee for participation in the procedure for granting of concession.
- (3) At procedure of competitive dialogue the decision may not contain some of the elements of para 2 which are connected with these of art. 32, para 3.
- (4) The decision of para 1 shall be promulgated in State Gazette.
- (5) The decision of para 1 may be changed or supplemented in the cases provided in this law.

Art. 40. (1) In 7 days term after the decision for opening of procedure for granting of concession enters into force the body of art. 19, para 1 – 3 shall approve with an order announcement for conducting of the procedure, documentation for participation in open and limited procedure, respectively descriptive document at competitive dialogue, and draft concession contract and send the announcement for promulgation in State Gazette and entering in the National concession register.

(2) At the issuing of the order the body of art. 19, para 1 – 3 shall be bound with the decision for opening of procedure for granting of concession.

## **Chapter six.**

### **CONDUCTING OF PROCEDURE FOR GRANTING OF CONCESSION**

#### **Section I.**

#### **Announcement for conducting of procedure for granting of concession**

Art. 41. The announcement for conducting of procedure for granting of concession, called hereinafter "the announcement", shall contain the following data:

1. subject of the concession;
2. the body which organises the conducting of the procedure for granting of concession: name, address, fax, e-mail and person for contact;
3. kind of the object of the concession;
4. location of the object of the concession;
5. individualisation of the object of the concession;
6. description of the construction and extent of the investments for construction – for the concession for construction;
7. description and amount of the services and/or the economic activities which the concessionaire may implement through the object of the concession;
8. the percent of the total value of the construction which should be implemented by subcontractors – in the cases of art. 53, para 1;
9. kind of the procedure for granting of concession;
10. amount of the guarantee for participation in the procedure and the conditions for its conceding or payment;
11. term of validity of the offers;
12. place for receiving, price and way of payment of the documentation for participation in the procedure;
13. term for receiving of the documentation for participation in the procedure;
14. place and term for receiving of the applications for participation in the procedure – upon limited procedure and competitive dialogue;
15. place and term for receiving the offers;
16. place and date of opening of the offers;
17. language in which must be written the applications and the offers;
18. the circumstances of art. 16, para 2 and 3 and the documents for certifying them;
19. the circumstances of art. 16, para 4 upon which existence the commission shall remove a candidate or participant in the procedure and the way of their certifying;
20. the criteria for selection and the documents for proving the compliance with them;
21. the restrictions for presenting of variants in the offer;
22. the criteria forming complex assessment of the offers and the weight of each of them;
23. the conditions and the term for termination of the electronic tender – when such is provided;
24. date of sending of the announcement to State Gazette;
25. order and term for appealing of the order for approval of the announcement;
26. others, depending on the specifics of the object of the concession and the economic activities implemented with it.

Art. 42. (1) The announcement shall be filled in electronic form.

(2) The body of art. 19, para 1 – 3 shall send the electronic form with the announcement to the electronic site of State Gazette for promulgation and to the National concession register for entering. The announcement shall be promulgated in 5 days term after its sending and it shall be entered in the National concession register in three days term after its promulgation.

(3) Simultaneously with its sending to State Gazette the announcement for concession for construction with value defined in the regulation for implementation of the law, shall also be sent in electronic way to the European Commission.

Art. 43. (1) After the promulgation of the announcement in State Gazette the body of art. 19, para 1 – 3 shall publish announcement about the procedure for granting of concession in the mass media and/or in Internet.

(2) In the announcement shall be pointed out at least the object of the concession, the date and the issue of State Gazette in which the announcement has been promulgated.

(3) In the announcement cannot be included information which is not contained in the decision for opening of procedure for granting of concession and in the announcement.

## **Section II.**

### **Documentation for participation in the procedure for granting of concession and draft of concession contract**

Art. 44. (1) The documentation for participation in the procedure for granting of concession shall contain:

1. description of the object of the concession and the documents which individualise it;
  2. the conditions which must be met by the offer, including the technical specifications and the specification for the electronic tender when such is provided;
  3. the investment designs – upon concession for construction if such have been worked out;
  4. the minimum requirements which must be met by the variants and the way of their presentation – when in the announcement the opportunity for presenting variants in the offer is not restricted;
  5. the criteria for complex assessment of the offers, their relative weight and the methods for assessment of the offers;
  6. model of the offer and instruction for its working out;
  7. others, depending on the subject of the concession and the envisaged procedure.
- (2) The methods of para 1, item 5 shall contain precise and detailed instructions for determining the assessment by each criteria and for determining the complex assessment of the offer.
- (3) The technical specifications of para 1, item 2 shall be determined under the Law of the public procurement orders.
- (4) The commission may define part of the documentation for participation in the procedure as confidential. In these cases the candidates and the participants in the procedure shall be obliged to submit declaration according to a model attached to the documentation with which they are obliged not to divulge the confidential data.

Art. 45. To the documentation for participation in the procedure shall be attached copies of the decision for opening of the procedure, of the announcement and of the draft concession contract as well as other documents defined with the regulation for implementation of the law.

## **Section III.**

### **Commission for conducting of the procedure for granting of concession**

Art. 46. (1) The procedure for granting of concession shall be organised by the body implemented the preparatory activities and it shall be conducted by commission appointed by:

1. the Prime Minister – for the state concessions;
2. the mayor of the municipality – for the municipal concessions;
3. the body managing the public organisation – for the public concessions.

- (2) The commission shall be comprised by chairman, deputy chairman and at least three members.
- (3) The commission shall affirm its decisions with majority of its members.
- (4) In the commission cannot participate a person who:
  1. has material interest in the granted concession;
  2. is related person with candidate or participant in the procedure for granting of concession and in the cases when the candidate or the participant is a corporate body – also with member of its management or control body.
- (5) The chairman, the deputy chairman and the members of the commission shall be obliged in three days term:
  1. after receiving the order for appointing of the commission to submit declaration about the lack of material interest in the granted concession;
  2. after coming to know the circumstance that in the procedure for granting of concession participates a person related with them to submit request for discharging from the commission.
- (6) If there is material interest in the granted concession, upon submitted request for discharging from the commission, as well as in other cases at which due to objective reasons a person of para 5 cannot fulfil his obligations the respective body of para 1 shall appoint his substitute.

Art. 47. (1) The chairman of the commission for the state concessions shall be the minister implemented the preparatory activities for granting of the concession. In the cases of art. 46, para 6 as chairman of the commission shall be appointed deputy minister of the respective ministry.

(2) As members of the commission for the state concessions shall be obligatory included at least one representative of the respective ministry and one representative of the administration of the Council of Ministers and the Ministry of Finance. In opinion of the Prime Minister in the commission may also be included representatives of other departments and the regional governor.

(3) The majority of the commission for the state concessions, including the chairman and the deputy chairman cannot be formed by representatives of one department.

Art. 48. (1) The commission shall:

1. organise the accepting and the preservation of the applications and the offers;
  2. admit and remove from participation in the procedure the candidates or the participants;
  3. implement the selection and determine the candidates who receive right to continue their participation in the procedure;
  4. conduct the conversations with the candidates received right to continue their participation in the competitive dialogue;
  5. determine the candidates to whom to extend invitation for presenting of offer in limited procedure and competitive dialogue;
  6. give clarifications and concede additional information or documents;
  7. make proposals for removal of unlawfulness in the announcements, the documentation for participation and the draft concession contract;
  8. consider and assess the offers and implement classification of the participants and propose the classified at first place to be determined as concessionaire;
  9. conduct electronic tender when such is envisaged, including define the content of the invitations;
  10. work out draft decision for determining of concessionaire r draft of decision for terminating the procedure for granting of concession.
- (2) The decisions of the commission shall be motivated and together with the activities implemented by it shall be reflected in a record. Upon electronic tender in the record shall also be reflected the results of the classification of art. 36, para 2.
- (3) The commission shall notify all candidates or participants in the procedure about the implemented activities and the affirmed decisions.
- (4) The commission may co-opt as consultants employees or external experts. The provisions of art. 46, para 4 – 6 shall also be applied for the consultants.
- (5) Remuneration shall be paid to the members of the commission and the consultants under conditions and by order determined with the regulation for implementation of the law.

## Section IV. Applications and offers

Art. 49. (1) Application for participation in limited procedure and competitive dialogue and offer for participation in open procedure may submit a person of art. 16, para 1 about whom the circumstance of art. 16, para 2 – 4 does not exist.

(2) Offer for participation in limited procedure, competitive dialogue and electronic tender may submit a candidate who has received invitation after selection at limited procedure, after conducting conversations at competitive dialogue or after preliminary assessment of the offer at electronic tender.

Art. 50. (1) The terms for receiving of applications and offers shall be determined in the announcement of art. 41.

(2) The terms for receiving of application cannot be shorter than:

1. fifty two days from the date of promulgation of the announcement in State Gazette – at concession for construction with value of the provided investment for construction of the object of the concession above the one defined in the regulation for implementation of the law;
2. thirty five days from the date of promulgation of the announcement in State Gazette – for the other cases.

(3) The terms for receiving of offers shall be determined from the date of the promulgation of the announcement in State Gazette – at open procedure, or from the date of sending the invitation for submitting of offers at limited procedure and competitive dialogue, and they cannot be shorter than:

1. fifty two days – at concession for construction with value of the provided investment for construction of the object of the concession above the one defined in the regulation for implementation of the law;
2. thirty five days – for the other cases.

Art. 51. (1) At working out of the offer the candidates shall observe the conditions defined with the documentation for participation.

(2) Till the elapse of the term for receiving of the offers each participant in the procedure may change, supplement or withdraw his offer.

(3) The candidate in a procedure for granting of concession shall have right to submit only one offer.

(4) The candidate may propose several variants in his offer except in the cases when with the announcement the opportunity for this is restricted.

(5) The commission shall consider and classify only the variants of the offers which meet the requirements announced with the documentation for participation.

Art. 52. (1) To the offer each participant may attach declaration in which he points out which part of the information contained in it is confidential.

(2) Confidential may be the information including technical or commercial secrets of the candidate.

(3) The data which must be contained in the file of the registered concession in the National concession register cannot be declared as confidential.

(4) The information pointed out in the declaration of para 1 shall preserve its confidentiality also after its including in the concession contract – till its termination or for a term defined by the concessionaire.

(5) The commission and the co-opted consultants shall be obliged not to divulge and not to deliver to other persons the information of para 1 except in the cases provided in the Law of access to public information.

Art. 53. (1) With the decision for opening of procedure for granting of concession for construction the concedent may set condition at least 30 percent of the total value of the construction to be implemented by third persons – subcontractors.

- (2) Out of the cases of para 1 the candidates may freely propose with their offer the assigning of part of the construction to subcontractors and define the percentage of the value of the construction works which will be fulfilled by them.
- (3) The proposal of the participant determined as concessionaire about the hiring of subcontractors for implementing part of the construction shall be included in the concession contract.

Art. 54. (1) In the cases of art. 53 the concessionaire shall determine the subcontractors by the order of the Law of the public procurement orders except for the term of receiving of:

1. applications for participation in the procedure which cannot be shorter than 37 days from the date on which the announcement is promulgated in State Gazette;
2. the offers, which cannot be shorter than 40 days from the date on which the announcement is promulgated in State Gazette, or from the date on which were sent the invitations for presenting of offers.

(2) The provision of para 1 shall not be applied in the cases when a subcontractor is related person with the concessionaire.

(3) List of the related persons of para 2 shall be included in the offer of the participant and it shall be updated after each change in the relations between the persons.

(4) The lists of para 3 shall be attached to the concession contract. At change of the relations between the concessionaire and the person related to him an additional agreement to the concession contract shall be concluded by the order of art. 70.

## **Section V. Guarantees**

Art. 55. (1) Together with their offers the candidates shall present guarantee for participation in the procedure in the form of paid deposit or bank guarantee. The form of the guarantee shall be chosen by the candidates.

(2) The guarantee of para 1 shall secure the participation of the candidate in the procedure for granting of concession and the concluding of the concession contract by the participant determined as concessionaire. When the guarantee is in the form of bank guarantee at its issuing must be ensured validity guaranteeing its use according to the requirements of this section.

(3) The guarantee shall be released with an order by the body who organises the conducting of the procedure for granting of concession, in 7 days term after the elapse of the term for appealing the decision for determining of concessionaire, respectively of the decision for termination of the procedure.

(4) The guarantees of participants who have terminated their participation in the procedure shall be withheld, respectively used.

(5) Within the term of para 3 shall not be released the guarantee of:

1. the participant determined as concessionaire;
2. the participant appealed the decision for determining of concessionaire.

(6) The guarantee of participant determined as concessionaire shall be withheld, respectively used in the cases when he does not conclude the concession contract in the defined term and when he concludes it – the guarantee shall be released in 7 days term.

(7) The guarantee of participant appealed the decision for determining of concessionaire shall be withheld, respectively used, in the cases when the decision entered into force leaves the appeal without respect. In the other cases the guarantee shall be released in 7 days term after the decision on the appeal enters into force.

Art. 56. The concessionaire shall present guarantees and/or other securities for fulfilment of his obligations under the concession contract.

Art. 57. The guarantees and the securities shall be determined with the decision for opening of procedure for granting of concession.

## **Chapter seven. DETERMINING OF CONCESSIONAIRE**

Art. 58. (1) The body organising the conducting of the procedure for granting of concession shall present to the concedent report and draft of decision for determining of concessionaire in term defined with the order for appointment of the commission which cannot be longer than three months and in the cases of electronic tender – in two weeks term after its finishing. To the report shall be attached the record of the commission of art. 48, para 2.

(2) On the basis of the report and the record of the commission after independent assessment of the facts and the circumstances presented in them the concedent shall take decision about:

1. determining as concessionaire the participant classified at first place, or
2. assigning to the commission to remove established irregularities after which to implement new classification, or
3. termination of the procedure in the cases of art. 60, para 1, items 1 – 4.

(3) The decision shall be promulgated in State Gazette and it may be appealed in 10 days term after the promulgation by the order of chapter eleven.

(4) At concessions for construction with value of the provided investment for construction of the object of the concession above the one determined with the regulation for implementation of the law, simultaneously with its sending to State Gazette the decision shall be sent in electronic way also to the European Commission.

Art. 59. (1) The decision doe determining of concessionaire shall:

1. specify the basic elements of the concession in compliance with the offer of the participant proposed as concessionaire which are not defined or defined within limits with the decision for opening of procedure for granting of concession;
2. determine term for concluding of the concession contract which cannot be longer than three months.

(2) The concedent may determine as concessionaire the participant classified at second place under the condition that the one classified at first place does not conclude the concession contract in the defined term.

(3) For the state concessions with the decision of the Council of Ministers shall be determined the body which:

1. concludes the concession contract and represent the concedent in it, except its terminating;
2. organise the control of the fulfilment of the concession contract.

(4) For the municipal and the public concessions the authorities of para 3 shall be implemented by the respective body of art. 19, para 2 and 3.

## **Chapter eight. TERMINATING OF THE PROCEDURE FOR GRANTING OF CONCESSION**

Art. 60. (1) The procedure for granting of concession shall be terminated with decision of the concedent when:

1. applications or offers have not been submitted or there is no admitted candidate;
2. the content of no one offer meets the requirements of the decision for opening of procedure for granting of concession or the conditions announced with the documentation for participation;

3. the need of conducting of the procedure falls away as result of circumstances which are not provided or could not have been provided at the taking of the decision for opening the procedure;

4. breaches are established at the opening and the conducting of the procedure which cannot be removed without changing the conditions under which the procedure is announced;

5. the participants classified at first and second place subsequently refuse to conclude concession contract.

(2) The decision for terminating of the procedure may:

1. change the decision for opening of procedure for granting of concession and announce new procedure, or

2. announce new procedure under the conditions of the terminated one.

(3) The decision of para 1 shall be promulgated in State Gazette.

(4) At terminating of the procedure for granting of concession in the cases of para 1, items 3 and 4 the respective body shall restore to the candidates or the participants the expenses incurred by them for buying of the documentation for participation in 14 days term after the promulgation of the decision of para 1 and release or return the guarantees paid by them by the order of art. 55, para 3.

Art. 61. New procedure for granting of concession for the same object may be opened when the initially announced procedure is terminated and the decision for terminating has entered into force.

## **Chapter nine. CONCESSION CONTRACT**

### **Section I. Concluding of concession contract**

Art. 62. (1) The concession contract shall be concluded after the elapse of the term for appeal of art. 58, para 3 when there is no submitted appeal or in the submitted appeal request for imposing of provisional measure has not been made.

(2) When there is submitted appeal with request for imposing of provisional measure the term for concluding of the concession contract shall start:

1. from the date of entering into force of the definition of the Commission for protection of competition for rejecting the request for imposing of provisional measure;

2. from the date of expiry of the term for conceding of the security of art. 86, para 3 – in the cases when security has not been conceded;

3. from the date of entering into force of the decision of the Commission for protection of competition for leaving the appeal without respect – in the cases when security has been conceded.

Art. 63. (1) At concluding of the concession contract the participant determined as concessionaire shall be bound with the proposals made with his offer and with the draft concession contract.

(2) In the cases of art. 59, para 2 the concession contract shall be concluded with the participant classified at second place under the conditions of the first and in the same term which starts from the receiving of written invitation.

Art. 64. (1) The concession contract shall be concluded in written form in at least three original copies – one for each of the parties and one for the National concession register. The appendices to the concession contract shall be worked out in so many copies as the originals of the contract.

(2) The concession contract for municipal concession shall be signed in 4 original copies. The fourth copy shall be sent to the municipal council in three days term after the signing of the concession contract.

(3) For the unsettled issues of concluding, fulfilment and termination of the concession contract shall be applied respectively the provisions of part three of the Commercial Law and the general part of the Law of obligations and contracts.

## **Section II. Content of the concession contract**

Art. 65. (1) With the concession contract the concedent shall submit to the concessionaire the right of exploitation of the object of the concession and the concessionaire shall be obliged at his risk to construct it and/or to manage and maintain it.

(2) The concession contract shall contain;

1. determining of the subject of the concession;
2. data about the commercial and other registrations of the concessionaire;
3. data about the body representing the concedent;
4. description of the object, and in the cases of art. 11, para 1 also description of the adjacent infrastructure and appurtenances;
5. the date of entering into force of the contract, the preliminary conditions if there are such and the term of the concession;
6. the conditions, the order and the terms for delivery of the object of the concession at the beginning and at the end of the concession’;
7. the conditions for implementing of the concession and the encumbrances if there are such;
8. the rights and the obligations of the parties, including the conditions and the terms for their fulfilment;
9. the extent, the terms and the order for implementing of the concession payment when such is provided;
10. the kind, the extent and the terms for fulfilment of the obligations for investments;
11. the form, the extent and the conditions for implementing of compensation of art. 6 when such is provided;
12. the kind, the extent and the terms and the ways for conceding of the guarantees and the securities for fulfilment of the obligations under the contract;
13. the requirements connected with the national security and the defence of the country, with the preservation of environment, human health, protected territories, zones and sites and of public order;
14. the conditions and the order for financing the removal of the inflicted ecological damages;
15. the responsibilities for non fulfilment of the obligations under the contract;
16. the conditions and the order for implementing the control of the fulfilment of the contract;
17. the conditions and the order for resolving the disputed between the parties;
18. the grounds and the order for pre-term termination of the contract;
19. the applicable law;
20. other.

(3) The concession contract for concession for construction shall also contain:

1. individualisation of the territory on which will be constructed or expanded the object of the concession except in the cases when for determining the territory for expansion is necessary affirmation of detailed development plan or amendment of acting one;
2. the site and the sub-sites which will be constructed and/or reconstructed, and/or rehabilitated at risk of the concessionaire;
3. the obligations of the concedent connected with ensuring and providing to the concessionaire the territory for construction or expanding of the object of the concession as well as for input of public investments connected with the object of the concession or with ensuring its use for designation;
4. the requirements about the status in which the object of the concession is delivered to the concedent after elapse of the concession.

### **Section III. Fulfilment of the concession contract**

Art. 66. (1) The concession contract shall enter into force from the date of its signing by the parties except in the cases of para 2.

(2) The entering into force of the concession contract may be put in dependence on the fulfilment of conditions defined with the decision for opening of the procedure for granting of concession or with the acting legislation. The fulfilment of the conditions may be bound with a term.

Art. 67. (1) The body representing the concedent in the concession contract shall deliver the object of the concession or the territory for its construction to the concessionaire in the term and by the order defined with the concession contract.

(2) When the object of the concession is managed by a regional governor the delivery shall be implemented with his cooperation.

Art. 68. The body representing the concedent in the concession contract shall present in the National concession register information according to model about the fulfilment of the contract by order defined in the regulation for implementation of the law.

### **Section IV. Amendment of the concession contract**

Art. 69. (1) At subsequent arising of danger for the national security and the defence of the country, for environment, human health, protected territories, zones and sites and for the public order the party in the concession contract that has come to know about this shall be obliged to notify the other party.

(2) When the existence of a circumstance of para 1 has been established by a competent body it shall immediately notify the concedent.

(3) The occurrence of a circumstance of para 1 may be ground for amendment or termination of the concession contract.

Art. 70. (1) The concession contract may be amended and/or supplemented with additional agreement.

(2) When the amendments and the supplements are within the frameworks of the decision for opening of procedure for granting of concession, the decision for determining of concessionaire and the offer of the concessionaire, the additional agreement shall be concluded with the body representing the concedent in the concession contract.

(3) Out of the cases of para 2 additional agreement may be concluded after motivated decision of the concedent:

1. upon following occurrence of danger for the national security and the defence of the country, environment, human health, protected territories, zones and sites and for the public order;
2. upon partial loss of the object of the concession or objective impossibility for its use for designation;
3. upon change of the legislation;
4. upon occurrence of circumstances explicitly pointed out in the decision for opening of procedure for granting of concession leading to change of the factual or the legal situation regarding the object of the concession or the economic activity implemented with it;
5. in other cases defined with a law.

(4) Art. 64, para 2 shall be applied for the additional agreement to the concession contract.

Art. 71. (1) When after concluding of the concession contract occur changes in circumstances of art. 65, para 2, item 2 the concessionaire shall be obliged in 7 days term to notify about this the body representing the concedent in the concession contract.

(2) In the cases of para 1 as well as upon change of the body representing the concedent in the concession contract the parties shall conclude additional agreement in which are reflected the occurred changes.

Art. 72. (1) Upon decease of the individual concessionaire or at termination of the corporate body concessionaire with legal successor in three months term after the entering of the legal successor in the commercial register he may require extension of the concession contract with him by presenting proofs that he is trader, that the circumstances of art. 16, para 2 – 4 do not exist as well as that he meets the other requirements determined with a law and with the decision for opening of procedure for granting of concession. The order for submitting of the request shall be determined with the regulation for implementation of the law.

(2) When in the term of para 1 request for extending of the concession contract has not been submitted it shall be terminated by right.

(3) The concedent may affirm decision for continuing of the concession contract with the legal successor in two months term after submitting of the request or removal of the irregularities in it.

(4) In case the legal successor does not meet the requirements of para 1 the concedent shall affirm decision for refusal of continuing of the concession contract.

(5) On the basis of the decision of para 3 the body representing the concedent in the concession contract shall conclude contract for its continuation with the legal successor.

(6) The conditions, the rights and the obligations in the concession contract cannot be amended with the contract of para 5.

## **Section V. Termination of the concession contract**

Art. 73. The concession contract shall be terminated with the expiry of the term of the concession.

Art. 74. (1) Before the expiry of the term of the concession the concession contract shall be terminated without neither of the parties to owe notice:

1. with loss of the object of the concession – from the date of the loss;

2. upon decease of the individual or termination of the corporate body concessionaire with legal successor – from the date of the decease, respectively the termination, unless a contract for continuing of the concession contract with the legal successor has been concluded under the conditions and by the order of art. 72;

3. upon decease of the individual or termination of the corporate body concessionaire without legal successor – from the date of the decease, respectively the termination;

4. upon entered into force decision for announcing insolvent the concessionaire – from the date of entering into force of the decision;

5. on other grounds provided in a law or in the concession contract – from the date pointed out in them.

(2) At termination of the contract in the cases of para 1, item 4 the state, respectively the municipality shall have the rights of preferent creditor.

Art. 75. (1) The concession contract may be terminated unilaterally or by mutual consent of the parties:

1. upon following occurrence of danger for the national security and the defence of the country, environment, human health, protected territories, zones and sites and for the public order, or  
2. on conditions provided in a law or in the concession contract.

(2) The unilateral termination of the concession contract on behalf of the concedent as well as the extending of proposal or the accepting of proposal for termination with mutual consent shall be implemented with decision of the concedent.

Art. 76. (1) In the cases of not fulfilment of the concession contract the right party may terminate it after giving to the other party appropriate term for fulfilment with notice that after the elapse of the term the contract will be considered terminated. The notice shall be made in writing by order and in terms defined in the contract.

(2) When party to be charged is the concessionaire actions for termination of the concession contract shall be undertaken after decision of the concedent.

Art. 77. With the decision of the concedent of art. 75, para 2 and art. 76, para 2 a body shall be authorised to undertake the actions for termination of the concession.

## **Section VI. Consequences of termination of the concession contract**

Art. 78. (1) At termination of the concession contract the concessionaire shall be obliged to deliver the object of the concession to a commission appointed by the body of art. 77, and in the cases of termination by right – by the body representing the concedent in the concession contract. Record shall be compiled for the delivery and receipt of the object which shall be signed by the members of the commission and authorised representative of the concessionaire.

(2) The term of delivery and/or receipt of the object of the concession shall be 30 days from the date of termination of the concession contract and in the cases of refusal of continuing of the concession contract with legal successor – from the date of the refusal.

(3) When the concessionaire refuses to deliver the object as well when by the date of termination of the concession contract the concessionaire has been terminated without legal successor the commission of para 1 shall compile fact finding record for receipt of the object. The record shall be ground for issuing of order for seizure of the object by:

1. the regional governor by the order of the Law of state property;
2. the mayor of the municipality by the order of the Law of municipal property.

(4) From the date of acceptance of the object, and in the cases of para 3 – from the date of the seizure:

1. the object – state property, shall pass into management of the respective regional governor or other person defined with normative act, act of the Council of Ministers or in the act for state property;
2. the object – municipal property, shall pass into management of the mayor of the municipality;
3. the object – property of public organisation shall pass into its possession.

(5) With the regulation for implementation of the law shall be provided the members of the commission of para 1 and the financing of the activity for preservation and maintenance of the objects during the time of their management by the regional governor in the cases of para 4, item 1.

Art. 79. (1) In 14 days term from the date of accepting of the object the body of art. 77, and in the cases of art. 74, para 1 – the body representing the concedent in the concession contract, shall notify the concedent and present information in the National concession register about the ground, the date of termination of the contract and the date of accepting of the object.

(2) When the object of the concession is state property in the term of para 1 the respective body shall notify also the Minister of Regional Development and Public Works or the regional governor about the implemented accepting of the object for noting in the act for state property.

Art. 80. (1) At pre-term termination of the concession the concessionaire shall have right to indemnification for the improvements and the accretions of the object made in compliance with the concession contract in extent of their historic price after deduction of the respective depreciation deductions which annual extent cannot be less than the tax recognised depreciations for the term of the concession.

(2) The provision of para 1 shall not be applied when the concession contract has been unilaterally terminated by the concessionaire or due to his fault.

## **Chapter ten. FINANCING OF THE ACTIVITY FOR THE CONCESSIONS**

Art. 81. (1) When with a law other is not provided the pecuniary receipts from concession payments for state concessions and from guarantees and indemnifications shall be distributed as follows:

1. eighty five percent – for income of the republican budget;
2. fifteen percent – for income of the budget of the Ministry of Finance for covering the expenses for the concessions.

(2) The order for collecting, spending and accounting of the resources of para 1, item 2 as well as the requirements for the reports of the ministries for the expenses made by them shall be determined with the regulation for implementation of the law.

(3) The Minister of Finance shall approve every year the incomes and the expenses for the concession activity of the ministries according to the Unified budget classification.

Art. 82. The pecuniary incomes from concession payments for municipal concessions shall be distributed by the municipal council.

## **Chapter eleven. APPEAL**

Art. 83. (1) Any decision, action or omission of a body, the commission or official in the procedure for granting of concession shall be subject to appeal about its lawfulness before the Commission for protection of competition.

(2) Appeal may file any interested person in 10 days term after the promulgation of the decision in State Gazette, respectively the notification about the decision or the action.

(3) When there is no notification the interested person shall file appeal of para 1 in 10 days term from:

1. the date of coming to know but not later than the elapse of the 10 days term for appeal of the decision for determining of concessionaire, or
2. the date on which has expired the term of implementing of action established normatively or required by the candidates, or
3. the expiry of the term for issuing of the respective act.

(4) The appeal shall not stop the procedure for granting of concession unless preliminary measure is imposed.

Art. 84. Any interested person may file a claim for establishing the invalidity of concession contract as well as claim for indemnifications and damages suffered as result of breach of law at conducting of procedure for granting of concession, by the order of the Civil Procedure Code.

Art. 85. (1) The appeal shall be lodged to the Commission for protection of competition with copy to the concedent for decision under art. 39 and art. 58, para 2, respectively – to the body organising the conducting of the procedure.

(2) The appeal must be written in Bulgarian language and contain:

1. the name of the body to which it is lodged;
2. for appellant – corporate body: the name, the seat and the address of management and data about registration according to the legislation of its establishing, and for appellant – individual: name, address and identity;
3. the name and the address of the body which decision, action or omission is being appealed;
4. data about the procedure and the decision, the action or omission being appealed;
5. the complaints and the request of the appellant;
6. signature of the person lodging the appeal or his proxy.

(3) To the appeal shall be attached the proofs which the appellant disposes with and document for paid state fee defined with tariff approved by the Council of Ministers.

(4) Till the Commission for protection of competition pronounces decision under art. 91 the respective body can on itself remove the breach alleged in the appeal.

(5) If the appeal does not meet the requirements of para 2 and 3 the chairman of Commission for protection of competition shall notify the appellant and give him three days term to remove the irregularities.

(6) The Commission for protection of competition shall not form proceeding when:

1. the appeal is lodged after expiry of the respective term of art. 83;
2. the irregularities are not removed in the term of para 5;
3. document for paid state fee is not presented.

(7) In the cases of para 6 the chairman of the Commission for protection of competition shall return the appeal with order which is subject to appeal before three members of the Supreme Administrative Court in 7 days term after the notification.

Art. 86. (1) Upon motivated request of the appellant the Commission for protection of competition may impose preliminary measure – stopping of the procedure for granting of concession. At pronouncing on the request the Commission for protection of competition shall assess the unfavourable consequences from the delay of the procedure and the possibility of significant damaging of public interest or the interests of the parties.

(2) The request of para 1 shall be made simultaneously with the lodging of the appeal.

(3) For imposing of preliminary measure the appellant shall be obliged to present security in extent defined by the Commission for protection of competition but not more than 500 000 levs in the form of pecuniary deposit in account of the Commission for protection of competition or bank guarantee in its favour.

Art. 87. (1) In three days term after receiving the appeal or removal of the irregularities in it the chairman of the Commission for protection of competition shall initiate proceeding and define reporter.

(2) In 7 days term after initiation of the proceeding the Commission for protection of competition shall in a closed session pronounce with a definition on the request for imposing of preliminary measure as well as upon admitting it define also the extent of the security.

(3) The definition for admitting of the preliminary measure shall be notified to the appellant. The definition with which is refused admitting of the preliminary measure shall be notified to both parties.

- (4) The security shall be paid by the appellant in 5 days term after the notification. The preliminary measure shall be considered imposed from the date of presenting of the security till finishing the proceeding for appeal with decision entered into force.
- (5) The Commission for protection of competition shall notify the adverse party about the imposed preliminary measure on the day of its imposing.
- (6) The definition which the Commission for protection of competition pronounces on the request for imposing of preliminary measure shall be subject to appeal before three members of the Supreme Administrative Court in 7 days term after the notification of the refusal of para 3 or the imposed measure of para 5.
- (7) The appealing of the definition shall not stop the proceeding before the Commission for protection of competition and the fulfilment of the imposed preliminary measure. The definition of the court shall be ultimate.
- (8) The security shall be subject to returning with order of the chairman of the Commission for protection of competition in 7 days term after the definition of the court with which is revoked the imposed preliminary measure or the entering into force of the decision with which is respected the appeal of art. 83. Upon leaving the appeal without respect the presented security shall be transferred as income to the state budget.

Art. 88. (1) The reporter shall investigate the circumstances in the appeal for which he shall be assisted by the administration of the Commission for protection of competition.

(2) In the proceeding before the Commission for protection of competition shall be admitted verbal and written proofs and expert statements.

(3) When expert statements of para 2 are used the sums for remuneration of the experts shall be paid in advance by the party requested the expertise. At appointing of expertise on initiative of the Commission for protection of competition the expenses for remuneration of the experts shall be assigned to:

1. the appellant – when the appeal is left without respect or the proceeding is terminated;
2. the respective body – in the cases of art. 91, para 1, item 2 and para 2, item 2 and when the appeal is withdrawn due to removal of the alleged in it breach of art. 85, para 4.

(4) The parties in the proceeding, the state bodies and the officials shall be obliged to render cooperation to the Commission for protection of competition at fulfilling the obligations assigned to it with the law.

(5) The proofs collected in the proceeding before the Commission for protection of competition cannot be divulged if they are production, commercial or other secret protected with law. When they contain data being classified information shall be applied the order provided in the Law of protection of classified information.

(6) After finishing of the investigation to the parties shall be given opportunity to acquaint with the proofs collected in the file.

(7) The parties shall be obliged to present all their proofs at latest on the day before the session for considering the appeal.

Art. 89. (1) After the investigation is finished the reporter shall present the file to the chairman of the Commission for protection of competition who shall set open session for considering it.

(2) (amend. – SG 59/07, in force from 01.03.2007) The parties shall be summoned by the order of the Civil Procedure Code. At the summoning the rule of art. 56, para 3 of the Civil Procedure Code shall not apply.

(3) The parties may use solicitor's defence.

Art. 90. (1) The sessions shall be regular when at least five members of the Commission for protection of competition are present.

(2) The Commission for protection of competition shall take decisions with open voting and with majority of four votes. When at the session are present less than seven members and majority of four

votes cannot be achieved it shall be accepted that the appeal is left without respect or that the request for imposing of preliminary measure is rejected.

(3) A member of the Commission for protection of competition shall be obliged to challenge himself when some of the following grounds exist:

1. when he has been proxy of some of the parties;
2. when he has been in employment or civil legal relation with some of the parties;
3. when due to other circumstances he can be considered prejudiced or interested directly or indirectly in the outcome of the file.

(4) The session shall start with resolving of the preliminary issues about the regularity of the procedure.

(5) If there is ground of para 3 the parties may require challenge of a member of the Commission for protection of competition.

(6) The parties in the proceeding may be asked questions by order defined by the chairman of the Commission for protection of competition.

(7) When it is considered that the circumstances from the appeal are clarified the chairman shall give opportunity to the parties to present statements.

(8) After clarifying the dispute from factual and legal aspect the chairman shall close the session.

Art. 91. (1) The Commission for protection of competition shall in a closed session decree decision with which:

1. leaves the appeal without respect, or
2. revokes the unlawful decision of the body or establishes unlawful action, respectively omission, and with obligatory instructions returns the file to the body for continuing the procedure for granting of concession from the last lawful decision or action.

(2) When the decision for determining of concessionaire is appealed and there is no imposed preliminary measure the Commission for protection of competition shall:

1. leave the appeal without respect, or
2. establish the unlawfulness of the decision.

(3) In the cases of para 2, item 2 the concluded concession contract shall preserve its effect and the interested persons shall have right to seek indemnification by the order of the Civil Procedure Code.

(4) The decision of the Commission for protection of competition shall be in writing and it shall contain:

1. name of the body issued it;
2. motives;
3. operative part;
4. before which body and in what term the decision may be appealed.

(5) A member of the Commission for protection of competition who does not agree with the decision shall sign it with reserve which shall be attached to the decision.

Art. 92. (1) The Commission for protection of competition shall pronounce on the appeal in two months term after the proceeding is initiated.

(2) The decision together with the motives shall be worked out and announced at latest in 14 days term after the pronouncing on the appeal.

Art. 93. (1) The Commission for protection of competition shall terminate the proceeding:

1. when the appeal is inadmissible;
2. when the appellant – individual, has deceased or the corporate body is terminated without legal successor;
3. upon withdrawal of the appeal.

(2) The definition of para 1 shall be subject to appeal before three members of the Supreme Administrative Court in 14 days term after notifying it to the parties.

Art. 94. The administrative procedure order for disputing administrative acts shall be applied for all unsettled issues about the procedure for appealing before the Commission for protection of competition.

Art. 95. (1) The decision of the Commission for protection of competition of art. 91 shall be subject to appeal by the order of art. 93, para 2.

(2) The decision of the Supreme Administrative Court shall be ultimate.

## **Chapter twelve. NATIONAL CONCESSION REGISTER**

Art. 96. (1) The Council of Ministers shall maintain National concession register in which shall be entered data about all concessions.

(2) Public archive shall be kept at the National concession register in which shall be preserved the dossiers of all granted concessions.

(3) The National concession register shall be public and access shall be ensured to it through Internet.

Art. 97. (1) The National concession register shall contain file for each concession with the following data:

1. identification number of the entering;
  2. the kind of the concession;
  3. the decisions for opening of the procedure for granting of concession, for determining of concessionaire as well as all following decisions on the granted concession;
  4. the announcement of art. 41;
  5. the subject and the object of the concession;
  6. individualisation of the object of the concession;
  7. the term if the concession;
  8. the date of concluding and the date of entering into force of the concession contract;
  9. the name, the seat, the address of management, the representation and registrations of the concessionaire;
  10. the body concluded the concession contract and representing the concedent in the contract and the body who implements control over the fulfilment of the concession contract;
  11. the basic content of the concession:
    - a) the basic rights and obligations of the parties in the contract;
    - b) the kind and the extent of the responsibility for not fulfilment of the obligations under the contract;
    - c) the grounds for pre-term termination of the contract and the rights of the right party;
  12. the date, the ground and the act for termination of the concession contract and at termination under art. 74 – the date and the ground for termination;
  13. notes on the entered circumstances.
- (2) In the file of each concession shall be included also all changes about the entered data.

Art. 98. In the dossiers of the archive of the National concession register shall be preserved originals of the concession contracts, of the additional agreements and the attachments to them as well as:

1. copies of the acts of art. 97, para 1, item 3;
2. originals or duly certified copies of the documents certifying data of art. 97, para 1.

Art. 99. (1) In 14 days term after the concluding of concession contract the respective body representing the concedent in the concession contract shall be obliged to present in the National concession register:

1. the concession contract and the other documents of art. 98;
2. electronic form with filled in data of art. 97, para 1.

(2) In 14 days term after occurrence of changes about entered data in the National concession register the respective body shall be obliged to present in the register:

1. the document with which is certified the change in the entered data in the National concession register;
2. electronic form with filled in data of para 1.

(3) In 30 days term after the maturity of concession payment the respective body shall be obliged to present in the National concession register electronic form filled in with the data about the payment.

Art. 100. (1) In 14 days term after the finishing or the termination of procedure for granting of concession the body organising the conducting of the procedure shall present in the National concession register written report on the procedure containing the following information:

1. the body conducted the procedure for determining of concessionaire – name and address;
2. the kind of the concession;
3. the location of the object of the concession;
5. the description and the amount of the services and/or the economic activities which the concessionaire may implement in connection with the concession;
6. the kind of the procedure and the circumstances which ground its applying;
7. the name and the nationality of the candidates admitted to participation in limited procedure and competitive dialogue, and the motives for their admitting;
8. the name and the nationality of the participant classified at first place and the motives for this;
9. the name and the nationality of the other participants in the procedure and the motives for their assessment;
10. the value of the obligations of the concessionaire for:
  - a) construction;
  - b) other investments;
  - c) expenses for management;
  - d) expenses for maintenance;
11. date of finishing, respectively termination of the procedure;
12. ground for termination of the procedure.

(2) On the basis of the reports of para 1 the Council of Ministers shall work out statistical report which on request shall be presented to the European Commission. If necessary to the statistical report shall be attached the reports of para 1 or their basic characteristics.

(3) The reports of para 1 and 2 shall be public.

(4) With the regulation for implementation of the law shall be determined the form of the reports of para 1 and 2 and of the electronic forms of art. 99. With the regulation shall be determined also other information which is included in the reports of para 1 and 2.

Art. 101. The order for keeping the National concession register and for maintaining the archive with it shall be determined with the regulation for implementation of the law.

## **Chapter thirteen. COORDINATION AND CONTROL**

Art. 102. General control of the fulfilment of the law, including follow up control of conducting the procedures for granting of concessions, shall be implemented by the Audit Office and the bodies of the Agency for state financial inspection in compliance with their competence.

Art. 103. The bodies of art. 19 shall send for statement before submitting them for considering to the concedent:

1. the drafts of decisions of the Council of Ministers – to the ministries and the specialised administration of the Council of Ministers, and the drafts of decisions for opening of procedure for granting of concession as well as the drafts of decisions for their amendments and/or supplements – also to the regional governor and to the mayor of the municipality at the location of the object of the concession;
2. (amend. and suppl. – SG 109/07, in force from 01.01.2008) the drafts of decisions of the municipal council for opening of procedure for granting of concession as well as the drafts of decisions for their amendments and/or supplements – to the regional governor as well as to the Minister of Defence, the Minister of Interior, the Minister of Environment and Waters and the Chairman of State Agency “National Security”, about the circumstances of art. 12, para 2;
3. The drafts of decisions of the body of art. 19, para 3 – to the body exercising the rights of ownership in the capital or who exercises directly or indirectly dominating influence over the concedent – for the public concessions.

Art. 104. The regional governor shall exercise control of the decisions of the municipal council for opening of procedure for granting of concession as well as of the decisions for their amendments and/or supplements.

Art. 105. (1) The body organising the control of the fulfilment of the concession contract shall determine officials from the respective administration and appoint commissions to which is assigned the current control of fulfilment of the concluded concession contracts.

(2) In the commissions of para 1 for the state concessions shall be obligatory included representatives of the respective administration as well as representatives of the specialised administration of the Council of Ministers, the Ministry of Finance, the Ministry of Environment and Waters and representatives of other departments having relation to the subject of the controlled concessions.

(3) The functions of the persons and the commissions of para 1 as well as the order for implementing the control shall be determined with the regulation for implementation of the law.

## **Chapter fourteen. ADMINISTRATIVE PUNITIVE PROVISIONS**

Art. 106. (1) Individual or corporate body who uses object of public interest without lawful ground shall be punished with fine, respectively proprietary sanction, in extent from 5000 to 50 000 levs.

(2) Who does not fulfil obligation of art. 99 or 100 shall be punished with fine from 1000 to 2000 levs.

(3) Who implements action with which is breached procedure for determining of concessionaire under this law and the regulation for its implementation shall be punished with fine from 1000 to 5000 levs if the action is not a crime.

(4) A person who breaches the requirement for confidentiality of art. 52 shall be punished with fine from 1000 to 2500 levs.

(5) When breach of para 1 – 4 is committed again to the perpetrator shall be imposed fine, respectively proprietary sanction in the extent of the initially imposed, multiplied by the number of the respective breach.

Art. 107. (1) The punitive decrees shall be issued for breaches of:

1. art. 106, para 1 – by the body managing the object;

2. art. 106, para 2 – by the chief secretary of the Council of Ministers or official authorised by him;

3. art. 106, para 3:

a) by the bodies of the Agency for state financial inspection – in the cases when the breach is implemented by a body of art. 19m para 1 – 3;

b) by the body appointed the commission or by official authorised by it – in the other cases.

(2) The acts for establishing of the breaches shall be compiled by officials determined by the respective body of para 1.

Art. 108. The establishing of the breaches, the issuing, appealing and fulfilment of the punitive decrees shall be implemented by the order of the Law of the administrative offences and penalties.

Art. 109. (1) Upon non fulfilment of entered into force decision or definition of the Commission for protection of competition under this law, or of obligation of a party in the proceeding of art. 88, para 4 the Commission for protection of competition shall impose:

1. to corporate bodies and sole entrepreneurs – proprietary sanction from 5000 to 100 000 levs;

2. to individuals – fine from 500 to 5000 levs.

(2) The acts for the breaches shall be compiled and the proprietary sanctions and the fines shall be imposed with decision of the Commission for protection of competition which shall be subject to appeal before the Supreme Administrative Court.

(3) The proprietary sanctions and the fines of decisions of the Commission for protection of competition entered into force shall be subject to collecting by the order of the Tax Insurance Code.

## **Additional provisions**

§ 1. In the sense of this law:

1. "Extraction" is the separation of natural resource and acquiring ownership in the separated substance including the technological waste from the separation.

2. "Dominating influence" is the influence of one person over corporate body when the first:

a) owns the majority share of the capital of the corporate body;

b) owns blocking quota in the capital of the corporate body, or

c) can appoint more than half of the members of the management or the control bodies of the corporate body.

3. "Exploitation" is the rendering of services to third persons and/or the implementation of other economic activities with the object of the concession against receiving of revenues from the activity.

4. "Electronic tender" is repeated standard process including electronic device for conceding of new lower prices and/or new values of some indices from the complex assessment of the offers after preliminary assessment of the offers which gives opportunity they to be classified by using methods for automatic assessment.

5. "Legislation of the state in which the candidate or the participant has settled" is:

- a) for the individuals – their fatherland law in the sense of art. 48 of the Code for international private law;
  - b) for the corporate bodies – the law of the state determined according to art. 56 of the Code for international private law;
  - c) for the associations which are not corporate bodies – the law of the state in which they are registered or established.
6. "Historic price" is the price of acquisition defined in the concession contract.
  7. "Candidate" is individual or corporate body or association of such persons who has bought documentation for participation in procedure for granting of concession and has interest:
    - a) to submit offer at open procedure, or
    - b) to receive invitation to present offer at participation in limited procedure or competitive dialogue.
  8. "Adjacent infrastructure" are elements of the technical infrastructure of item 31 of § 5 of the additional provisions of the Law of spatial planning which service the object of the concession and are designated to ensure unhampered and/or full implementation of its functions.
  9. "Appurtenance" is the land on which are constructed or which is designated for construction of the object of the concession, the territory adjacent to the object of the concession, connected with the economic activity implemented by it, and each individual chattel ensuring unimpeded and normal functioning of the object of the concession without being necessary to be physically connected with it.
  10. "Natural resources" are the mineral waters, forests, underground resources and biological, mineral and energy resources of the continental shelf and in the exclusive economic zone.
  11. "Public organisation" is:
    - a) corporate body for which is fulfilled some of the following conditions:
      - aa) more than half of its revenues for the previous year are financed from the state budget, from the budgets of the Bulgarian national bank, the state public insurance or the National health insurance fund, from the municipal budgets or by assignor of art. 7, item 1 of the Law of public procurement orders;
      - bb) more than half of the members of its management or control body are determined by assignor of art. 7, item 1 of the Law of public procurement orders;
      - cc) it is subject to management control on behalf of art. 7, item 1 of the Law of public procurement orders; management control exists when a person can in whatever way exercise dominating influence over the activity of other person;
    - b) association between person of item "a", the state or municipality.
  12. "Expansion of the object of the concession" is expanding of the territory of the object of the concession and/or attached structure or superstructure of built object.
  13. (amend. – SG 41/07) "Reconstruction of the object of the concession" is concession for construction connected with restoration, substitution of construction elements, basic parts, facilities or installations and the construction of new ones with which are increased the bearing ability, the stability and the durability of the object of the concession or parts of it; reconstruction is also the rehabilitation of parts of the elements of the road, transport, electronic communications, energy, water supply, sewerage and hydro-melioration infrastructure.
  14. "Related person" is any person over whom a candidate or participant in procedure for granting of concession can exercise direct or indirect dominating influence or person who can exercise control over the candidate or the participant or who together with the latter is subject to dominating influence of other person through ownership, financial participation or the norms subordinated.
  15. "Building" is result of implementing simultaneously of land or higher construction which is object of concession and which may be set into operation in order to fulfil independent economic or technical function.
  16. "Construction" is fulfilment or designing and fulfilment in compliance with the requirements of the concedent of:
    - a) construction;
    - b) construction and mounting works in the sense of appendix No 1 of the Law of the public procurement orders, or
    - c) activities for construction of building.
  17. "Trader" is any person recognised as trader by the legislation of the state in which he has settled.
  18. "Participant" is individual or corporate body or association of such, who has presented an offer.

## Temporary and concluding provisions

§ 2. This law shall revoke the Law of concessions (prom. SG 92/95; SG 16/96 – Decision No 2 of the Constitutional Court of 1996, amend. SG 44/96, SG 61, 123/97, SG 93/98, SG 23, 56, 64, 67/99, SG 12, 64, 97/00, SG 28, 63/02, SG 24, 80, 104/04).

§ 3. When by the date of entering in force of this law there is affirmed decision of the Council of Ministers of art. 7, para 7 of the revoked Law of the concessions or decision of municipal council of the revoked § 16, item 3, art. 71, para 1, item 1 of the Law of municipal property, the procedure shall be finished by the previous order.

§ 4. (1) (amend. – SG 105/06) In the cases of § 17a of the transitional and concluding provisions of the Law of privatisation and post-privatisation control, term till March 31, 2007 the respective ministers shall submit proposal for granting of concession to company which after its privatisation but not later than September 30, 2003 has submitted application for receiving concession before a state body. When after its privatisation the company is transformed by the order of chapter sixteen of the Commercial Law or the enterprise has been transferred to it by the order of art. 15 of the Commercial Law the concession shall be granted to the company or the acquirer of the enterprise. The concession shall be granted without tender or competition by the order of the revoked Law of the concessions.

(2) (new - SG 53/06, in force from 01.07.2006) Rights under para 1 shall also have trade companies or their successors, who were entitled to submit an application before a state authority, however, have done so later than the term under § 17a, para 1, second sentence of the Transitional and Concluding provisions of the Law for privatisation and post-privatisation control and no later than the 30th of June 2004.

(3) (prev. text of para 2 – SG 53/06, in force from 01.07.2006) At submitting of proposal for granting of concession of para 2 the respective minister may not attach the analyses of art. 6, para 3 of the revoked Law of the concessions. With his proposal the minister shall motivate the conditions and the basic rights and obligations in the proposed concession.

(4) (prev. text of para 3 – SG 53/06, in force from 01.07.2006) The concession shall be granted under the conditions and by the order of § 17a, para 2 of the transitional and concluding provisions of the Law of privatisation and post-privatisation control and observing the following conditions:

1. payment by the concessionaire of the lawful interest on the due concession remuneration for the period of transfer of the ownership in the privatisation contract till the concluding of the concession contract;
2. determining the extent of the concession remuneration on the basis of approved methods or independent expert assessment guaranteeing market level of the concession remuneration.

§ 4a. (new - SG 105/06) By 31 March 2007 at the latest in respect of a privatized state or municipal enterprise, which by the date of conclusion of the privatization contract has been carrying out extraction, as well as in respect of the purchaser of a distinct part of a privatized state or municipal enterprise technologically and directly related to the usage of an underground natural resource, respectively of their successors, the respective ministers shall make a proposal for granting a concession for extraction of underground natural resources under Art. 2 of the Law for the Underground Natural Resources according to the conditions and the order referred to in § 4, Para 1 – 4.

§ 4b. (new - SG 105/06) (1) By 31 March 2007 at the latest the persons or their successors to whom, according to the order of the Law for Reinstatement of the Ownership of Nationalized Real Estates, the ownership of a real estate was reinstated and the purpose of usage of which is directly related to extraction of underground natural resources under Art. 2 of the Law for the Underground Natural Resources, shall file an application to the competent minister to be granted a concession without auction or competition under the order of the revoked Law of the Concessions.

(2) With the application referred to in Para 1 the persons shall provide also the analyses referred to in Art. 8 of the revoked Regulations on Implementation of the revoked Law of the Concessions (prom. - SG 111/95; amend. - SG 15/97, 39/98, 27/02, 13 and 101/04, 10, 78, 83 and 96/05; revoked – SG 54/06).

(3) Within a term of three months from filing the application referred to in Para 1 the competent minister shall make a proposal before the Council of Ministers for granting a concession without auction or competition to a trade company, in which there are persons the ownership of whom was reinstated, or their successors own the whole capital, provided that for the underground natural resource indicated in the application there was no authorization for search and examination provided, or a commercial finding was not registered, or a concession for extraction by a third person was not provided.

(4) The concession contract shall enter into force from the date of its conclusion.

(5) Under the order of Para 1 – 3 a concession shall be granted also in the cases referred to in § 2 of the transitional and concluding provisions of the Law for the Underground Natural Resources. In these cases the concession contract shall enter into force from 15 March 1999. For the period of entry into force of the concession contract to its conclusion the concessionaire shall owe a concession payment together with the legal interest for delay, unless it proves the payment of a quarry fee under the Law for Local Taxes and Fees.

(6) When the reserves of the underground natural resource indicated in the application referred to in Para 1 were not entered into the National Balance of the Resources, the applicant, respectively the persons referred to in Para 3, shall be issued an authorization for search and examination for 6 months after which the concession shall be granted under the order of the Law for the Underground Natural Resources.

§ 5. In the Law of the higher education (prom. SG 112/95; amend. SG 28/96, SG 56/97; corr. SG 57/97; amend. 58/97, SG 60, 113/99, SG 54/00, SG 22/01, SG 40, 53/02, SG 48,70/04, SG 77, 83, 103/05, SG 30/06) in art. 89 para 3 shall be changed to:

"(3) Detached parts of the immovable properties of para 2 may be let for rent under the conditions and by the order of the Law of the state property."

§ 6. In the Law of waters (prom. SG 67/99; amend. SG 81/00, SG 34, 41, 108/01, SG 47, 74, 91/02, SG 42, 69, 84, 107/03, SG 6, 70/04, SG 18, 77, 94/05, SG 29, 30/06) the following amendments and supplements shall be made:

1. In art. 10, para 1 item 3 shall be changed to:

"3. The Minister of Economy and Energy – for hydro-energy systems and sites;"

2. In art. 20 para 3 and 4 shall be revoked.

3. In art. 21 para 4 and 5 shall be changed to

"(4) The rationale of the concession of art. 21 of the Law of the concessions for mineral waters – public municipal property, shall be worked out according to methodical instructions for working out of rationale for granting of concession for mineral waters approved by the Ministry of Environment and Waters.

(5) The proposal of the mayor of the municipality of art. 38, para 1 of the Law of the concessions shall be coordinated with the Minister of Environment and Waters with regard to the parameters of the concession and the conditions for guarding and monitoring of the mineral water."

4. In art. 40 item 3 shall be revoked.

5. Art. 47 shall be changed to:

"Art. 47. (1) Concession for extraction of mineral waters – exclusive state property, shall be granted under the conditions and by the order of the Law of the concessions.

(2) Concession for extraction of mineral waters shall be granted when the water use is with commercial purpose and is designated for:

1. bottling of natural mineral water and/or fizzy and other drinks in which mineral water is included;
2. extraction of valuable substances;
3. obtaining of hydro-geothermal energy.

(3) Concession for extraction of mineral waters shall be granted accounting for the needs of the medical establishments for hospital care and the general water use for drinking and taking away.

(4) At granting of concession for extraction of mineral water – exclusive state property, part of the concession payment, not less than 30 percent, determined with the decision of the Council of Ministers for opening of procedure for granting of concession shall be paid by the concessionaire to the municipality on which territory the concession right is established."

6. Art. 47a shall be created:

"Art. 47a. Concession for construction or concession for service for water economic systems and facilities and for the related water sites as well as for hydro-technical, hydro-energy, hydro-melioration and sewerage systems and facilities shall be granted under the conditions and by the order of the Law of the concessions."

7. In art. 49, para 3 item 2 shall be changed to:

""2. concession;".

8. In art. 63, para 1 item 2 shall be changed to:

"2. the water use and/or the use is required for private water site or object granted to concession;".

9. Art. 95 shall be changed to:

"Art. 95. When procedure for granting of concession for water economic system with complex designation is opened the preparatory activities shall be implemented in coordination and the proposals of art. 38, para 1 of the Law of the concessions shall be made simultaneously by the competent ministers if they are different."

10. In art. 96a:

a) para 1 shall be changed to:

"(1) Concession for water economic systems and facilities which are state or mixed state – municipal property and belong to unified technological scheme or have unified system of management on the territory of more than one municipality shall be granted by the Council of Ministers by the order of the Law of the concessions.";

b) para 9 shall be changed to:

"(9) The representatives of the municipalities of para 7 shall participate in the preparation of the draft of concession contract."

11. Art. 98 shall be changed to:

"Art. 98. At granting of concession for extraction of mineral waters – exclusive state property and public municipal property the regional governors and the mayors of municipalities shall undertake the necessary measures for realisation of the concession according to their competence."

12. Art. 100 shall be revoked.

13. In art. 101, para 1 the words "the decision of the Council of Ministers for granting of concession" shall be substituted by "the decision of the Council of Ministers for opening of procedure for granting of concession".

14. Art. 102 shall be revoked.

15. In art. 151, para 2, item 1, item "b" after the words "concession for" shall be added "extraction of materials".

16. In art. 182, para 1 item 2 shall be changed to:

"2. the ministers of art. 10, para 1, items 1, 2 and 3 who conclude the concession contract;".

17. In art. 195 para 2 shall be revoked.

§ 7. In the Law of the forests (prom. SG 125/97; amend. SG 79, 133/98, SG 26/99, SG 29, 78/00, SG 77, 79, 99/02 and SG 16, 107/03, SG 72, 105/05, SG 29, 30/06) art. 16 shall be changed to:

"Art. 16. (1) Establishing of right of use and easements on forests and lands of the forest entirety – private state property, with area over 10 ha shall be implemented by the Council of Ministers on proposal by the Minister of Agriculture and Forests and up to 10 ha – by the Minister of Agriculture and Forests on proposal by the chief of the National department of forests. The proposals shall be

coordinated with the Minister of Environment and Waters. The right of use shall be established for term not longer than 30 years.

(2) Establishing of easements for fulfilment of designs of the technical infrastructure on forests and lands of the forest entirety – public state property, shall be implemented by the Council of Ministers on proposal by the Minister of Agriculture and Forests for the term of exploitation of the infrastructure object.

(3) Gratuitous right of use of para 1 may be established with order of the Council of Ministers on proposal by the Minister of Agriculture and Forests only for objects immediately related to the national security and with the defence of the country or for other particularly important state needs.

(4) Gratuitous right of use of para 1 shall be granted with order of the Council of Ministers on proposal by the Minister of Agriculture and Forests and the Minister of Education and Science to state schools, scientific institutes and corporate bodies at budget maintenance which conduct training or implement scientific activity connected with the management, keeping development and preservation of forests.

(5) Right of use in forests and lands of the forest entirety may be established for:

1. implementing of activities related to prospecting and investigation of underground resources by the order of the Law of the underground resources;
2. disposing of movable objects which are not durably connected with the terrain, for implementing of commercial and other servicing activities;
3. implementing of activities connected with long term and short term recreation, physical culture, sport and tourism for which building up is not required in the sense of art. 12, para 1 of the Law of spatial planning.

(6) Easement on forests and lands of the forest entirety may be established for:

1. laying of telephone, telegraph, radio-communication and other lines;
2. underground water supply pipelines with diameter up to 1500 mm, sewers, cables and other elements of the technical infrastructure.

(7) Right of use and easements may be established on areas of the municipal forest entirety with decision of the municipal council.

(8) The owner shall preserve the ownership in the timber from the conceded areas."

§ 8. In the Civil Procedure Code (prom. Izv. 12/52; amend. 92/52, 89/53, 90/55, 90/56, 90/58, 50, 90/61; corr. 99/61; amend. SG 1/63, SG 23/68, SG 27/73, SG 89/76, SG 36/79, SG 28/83, SG 41/85, SG 27/86, SG 55/87, SG 60/88, SG 31, 38/89, SG 31/90, SG 62/91, SG 55/92, SG 61, 93/93, SG 87/95, SG 12, 26, 37, 44, 104/96, SG 43, 55, 124/97, SG 21, 59, 70, 73/98, SG 64, 103/99, SG 36, 85, 92/00, SG 25/01, SG 105, 113/02, SG 58, 84/03, SG 28, 36/04, SG 38, 42, 43, 79, 86, 99, 105/05, SG 17/06) the following amendments and supplements shall be made:

1. In art. 18 para 5 shall be created:

"(5) In procedures referring to fulfilment and termination of concession contracts the state shall be represented by a minister determined with the decision of the Council of Ministers of art. 58, para 2 of the Law of the concession."

2. In art. 237 item "l" shall be created:

"l) concession contracts about the contained in them obligations for concession payments and obligations for delivery of the object of the concession."

3. In art. 242, para 2 after the words "items "f" to "h" shall be added "and item "l".

4. In art. 243:

a) new para 2 shall be created:

"(2) The writ of execution of art. 237, item "l" shall be issued on the basis of:

1. request on behalf of the body representing the concedent in the concession contract;
2. certified copy of the concluded contract, and
3. written invitation to the concessionaire for voluntary payment of the receivable or for delivery of the object of the concession with reliable data of receipt.";

b) the previous para 2 shall become para 3.

§ 9. In the Law of the civil aviation (prom. SG 94/72; amen. SG 30/90, SG 16/97, SG 85/98, SG 12/00, SG 34, 111/01, SG 52, 70/04, SG 88, 102/05, SG 30/06) the following changes shall be made:

1. In art. 43b:

a) para 2 shall be changed to:

"(2) The Minister of Transport shall implement the preparatory activities for granting of concession on civil airfields for public use, conclude the concession contracts and implement the control of their fulfilment."

b) in para 3 the words "of art. 7, para 1 of the Law of the concessions" shall be substituted by "for opening of procedure for granting of concession";

c) para 5 – 10 shall be revoked.

2. In art. 122c, para 1, para 3, item 3 and para 5 the words "of art. 7, para 1 of the Law of the concessions" shall be substituted by "for opening of procedure for granting of concession".

§ 10. In the Law of State Gazette (prom. SG 89/95; corr. SG 92/95; amend. SG 123/97, SG 56/99, SG 1/00, SG 97/01, SG 9, 42/03, SG 31/05) in art. 7, para 2 after the words "the Law of the public procurement orders" shall be added "and for granting of concessions under the Law of the concessions".

§ 11. In the Law of state property (prom. SG 44/96; amend. SG 104/96, SG 55, 61, 117/97, SG 93, 124/98, SG 67/99, SG 9, 12, 26, 57/00, SG 1/01, SG 38/01 – Decision No 7 of the Constitutional Court pf 2001, amend. SG 45/02, SG 63/03, SG 24, 93/04, SG 32/05, SG 17, 30/06) the following amendments and supplements shall be made:

1. In art. 2 para 2 shall be changed to:

"(2) Public state property shall be:

1. the objects of art. 18, para 1 of the Constitution of the Republic of Bulgaria determined with a law as exclusive state property; "

2. the objects and the properties determined with a law or with an act of the Council of Ministers as public state property;

3. the chattels determined with a law or with an act of the Council of Ministers as public state property;

4. the properties conceded to the departments for fulfilment of their functions;

5. the properties of national importance designated for durable satisfaction of public needs of national importance by common use, determined by the Council of Ministers."

2. In art. 7 para 2 shall be revoked.

3. Art. 15a shall be revoked.

4. In art. 16:

a) para 1 and 2 shall be changed to:

"(1) Properties – public state property, cannot be used for not their designation and conceded to third persons except in the cases of para 2 and art. 16a.

(2) Separate properties or parts of properties – public state property, may be let for rent by the order of art. 19, para 1 for term up to 5 years under the condition that they are used according to their designation and the implementation of the activities for which they are conceded for management are not impeded."

b) para 3 and 4 shall be revoked.

5. Art. 16a shall be created:

"Art. 16a. (1) Out of the cases of art. 14 and 15 the objects of public interest in the sense of the Law of the concessions shall be conceded to third persons only through concession.

(2) When procedure for granting of an object of public interest on concession has been conducted and finished without concession contract the Council of Ministers may concede the management of the object to state enterprise established by the order of art. 62, para 3 of the Commercial Law or to sole owned commercial company with state property.

(3) Against the conceded management of para 2 the state enterprises and the sole owned commercial companies with state property shall be obliged to maintain the object and they shall have right to exploit them receiving incomes form the rendering of services to third persons and/or from the implementing of other economic activities with the object.

(4) The persons of para 3 may let for rent parts of the object of public interest conceded for management under the conditions of art. 16, para 2.

(5) The right of management of para 2 shall be with term till the granting of concession for the object by the order of the Law of the concessions."

6. Art. 84 shall be changed to:

"Art. 84. Who breaches prohibition of art. 16, para 1 shall be punished with fine from 500 to 2000 levs."

§ 12. In the Law of the railway transport (prom. SG 97/00; amend. SG 47, 96/02, SG 70, 115/04, SG 77, 88/05) the following amendments shall be made:

1. In art. 3 para 4 shall be changed to:

"(4) The objects of the railway infrastructure with economic designation which are not directly connected with the system for management and security of movement may be let for rent by the order of the Law of the state property under the condition that the safety of movement is not breached."

2. In art. 25 para 2 shall be revoked.

§ 13. In the Law of the local taxes and fees (prom. SG 117/97; amend. SG 71, 83, 105, 153/98, SG 34, 102/00, SG 28, 45, 56, 119/02, SG 84, 112/03, SG 6, 18, 36, 70, 106/04, SG 87, 94, 100, 103, 105/05, SG 30/06) in art. 11 the following amendments and supplements shall be made:

1. In para 3 the second sentence shall be deleted.

2. Para 4 shall be created:

"(4) Upon concession the tax liable person shall be the concessionaire."

§ 14. In the Law of obligations and contracts (prom. SG 275/50; corr. Izv 2/50; amend. 69/51, 92/52; SG 85/63, SG 27/73, SG 16/77, SG 28/82, SG 30/90, SG 12, 56/93, SG 83, 104/96, SG 83, 103/99, SG 34/00, SG 19/03, SG 42, 43/05) in art. 136, item 2 at the end a comma shall be put and shall be added "as well as receivables ensuing from concession payments, interests and forfeits from concession contracts;".

§ 15. In the Law of the sea areas, the internal water ways and the ports of the Republic of Bulgaria (prom. SG 12/00; amend. SG 111/01, SG 24, 70/04, SG 11/05, SG 45/05 – Decision No 5 of the Constitutional Court of 2005, amend. SG 87, 88, 94, 102, 104/05, SG 30/06) the following amendments shall be made:

1. In art. 115 para 2 item 3 shall be revoked.

2. Art. 116a shall be changed to:

"Art. 116a. (1) Apart from the port services of art. 116 in the ports for public transport accompanying activities may also be implemented.

(2) The activities of para 1 shall be implemented under the condition they will not impede the rendering of the port services.

(3) The accompanying activities in the ports for public transport with national importance may be implemented by a person received concession for an object under art. 117c, para 1. In these cases the implementing of the accompanying activity shall be determined as additional subject to the subject of the concession contract.

(4) Except in the cases of para 3 accompanying activities may be implemented by a person received concession under the conditions and by the order of the Law of concessions.

(5) Accompanying activities in the ports for public transport of regional importance shall be implemented by the owner or by persons concluded contract with him."

3. In art. 117c, para 1 and 2 shall be changed to:

"(1) Concession shall be granted for one or more terminals of a port for public transport of national importance with subject implementing of port service of art. 116, para 3, item 2.

(2) Depending on the subject the concession of para 1 may be for construction or for service."

4. In art. 117d:

a) para 2 shall be changed to:

"(2) The Minister of Transport shall implement the preparatory activities for granting concession on port terminals of ports for public transport of national importance, conclude the concession contracts and implement the control of their fulfilment."

b) para 3 shall be revoked.

5. Art. 117e and 117f shall be revoked.

§ 16. In the Law of the municipal property (prom. SG 44/96; amend. SG 104/96, SG 55/97, SG 22, 93/98, SG 23, 56, 64, 67, 69, 96/99, SG 26/00, SG 34/01, SG 120/02, SG 101/04, SG 29, 30/06) the following amendments shall be made:

1. In art. 9, para 3 the words "of art. 69" shall be substituted by "granted to concession".

2. In art. 54, para 2 the words "for management" shall be substituted by "of the enterprises".

3. Chapter eight "Granting of concessions" with articles 67 – 75a shall be revoked.

4. In § 9 of the transitional and concluding provisions of para 1 shall be revoked.

5. In § 46 of the transitional and concluding provisions of the Law of amendment and supplement of the Law of municipal property (SG 96/99) para 5 shall be revoked.

§ 17. In the Law of defence and armed forces of the Republic of Bulgaria (prom. SG 112/95; amend. SG 67/96, SG 122/97, SG 70, 93, 152, 153/98, SG 12, 67, 69/99, SG 49, 64/00, SG 25/01, SG 1, 40, 45, 119/02, SG 50, 86, 95, 112/03, SG 93, 111/04, SG 27, 38, 76, 88, 102, 105/05, SG 30/06) in art. 14 para 2 shall be changed to:

"(2) Subject of the contracts of para 1 cannot be properties – public state property."

§ 18. In the Law of privatisation and post-privatisation control (prom. SG 28/02; amend. SG 78/02, SG 20, 31/03; SG 39/03 – Decision No 5 of the Constitutional Court of 2003, amend. SG 46, 84/03, SG 55, 115/04, SG 28, 39, 88, 94, 103, 105/05) the following amendments and supplements shall be made:

1. Art. 36 shall be changed to:

"Art. 36. (1) Commercial companies in which the state owns stocks or shares, with announced procedure for privatisation, which use objects – public state property, shall receive concessions by right for the used objects except in the cases of art. 38.

(2) The respective ministers of art. 19, para 1 of the Law of concessions shall in three months term after announcing of privatisation of the respective companies shall implement the necessary activities and submit to the Council of Ministers proposal for affirming of decision for determining of concessionaire of the company with announced privatisation. The Council of Ministers shall affirm decision not later than two months after submitting the proposal.

(3) At working out of analyses of the legal status and privatisation valuations shall be taken into consideration the granted concession rights and the basic obligations in the concession, including the concession payment and the necessary investments if such are determined.

(4) The Privatisation Agency shall take decision for determining of method for privatisation after affirming the decision of para 2.

(5) The concession contract shall enter into force from the date of transfer of the ownership under the privatisation contract.

(6) Commercial companies in which there is 50 and more percent municipal participation, with open procedure for privatisation shall receive concession by right for the used objects – public municipal property.

(7) In the cases of para 6 the mayor of the municipality shall in three months term after announcing privatisation of the respective companies shall implement the necessary activities and submit in the municipal council proposal for affirming of decision for determining of concessionaire of the company with announced privatisation. The municipal council shall take decision for determining method of privatisation after affirming the decision for determining of concessionaire."

2. Art. 37 shall be changed to:

"Art. 37. (1) At privatisation of detached part of the property of commercial company with more than 50 percent state participation which is technologically directly connected with an object – public state property, the concession shall be granted to the buyer of the detached part in the privatisation contract.

(2) The respective minister of art. 19, para 1 of the Law of concessions shall implement the necessary activities and submit to the Council of Ministers proposal for affirming of decision for determining of concessionaire of the buyer of the detached part in three months term after the decision of art. 3, para 3, item 1 or item 3.

(3) The conditions and the requirements of the decision for granting of concession shall be obligatory included in the privatisation valuation and the information memorandum of the detached part and they shall be taken into consideration at taking decision for method.

(4) The privatisation contract shall be concluded under deferring condition that the concession contract is concluded.

(5) At privatisation of detached part of the property of a commercial company with more than 50 percent municipal participation which is technologically directly connected with object – public municipal property, the concession shall be granted to the buyer of the detached part in the privatisation contract.

(6) In the cases of para 5 the mayor of the municipality shall implement the necessary activities and submit to the municipal council proposal for affirming of decision for determining of concessionaire of the buyer of the detached part in three months term from the decision of art. 3, para 3, item 2."

3. Art. 37a shall be created:

"Art. 37a. In the cases of art. 36 and 37 may be granted concession for service or concession for extraction. The decision for determining of concessionaire shall contain the elements of art. 39, para 2, items 1 – 15 and art. 59, para 3 of the Law of concessions."

4. Art. 38 shall be changed to:

"Art. 38. In the cases when the commercial companies of art. 36, para 1 use port terminals of ports for public transport of national importance or civil airports for public use concession may be granted only by the order of the Law of concessions."

§ 19. In the Law of roads (prom. SG 26/00, amend. SG 8800, SG 111/01, SG 47, 118/02, SG 9, 112/03, SG 6, 14/04, SG 88, 104/05, SG 30/06) the following amendments shall be made:

1. Art. 11 shall be changed to:

"Art. 11. (1) Concession on the republican and the municipal roads or on separate parts of them shall be granted under the conditions and by the order of the Law of concessions.

(2) The preparatory activities for granting of concession on the republican roads or separate parts of them, the concluding of the concession contracts and the implementation of the control over them shall be implemented by the Minister of Regional Development and Public Works."

2. Art. 12 and 13 shall be revoked.

3. In art. 14 para 1 shall be changed to:

"(1) The concession territory shall encompass concrete republican road or separate section of it and the adjacent areas of art. 5."

4. Art. 15 – 17 shall be revoked.

§ 20. In the Law of physical training and sport (prom. SG 58/96, SG 53/97 – Decision No 8 of the Constitutional Court of 1997, amend. SG 124/98, SG 51, 81/99, SG 53/00, corr. SG 55/00, amend. SG 64/00 SG 75/02, SG 95/02 – Decision No 6 of the Constitutional Court of 2002, amend. SG 120/02, SG 96/04, SG 88, 103/05, SG 30/06) the following amendments and supplements shall be made:

1. Art. 50 shall be changed to:

"Art. 50. (1) The sport objects and facilities – property of the state or the municipalities, shall be used for the needs of the physical training and sport and the servicing and auxiliary activities connected with them.

(2) The sport objects and facilities – public state and public municipal property, shall be used for the needs of the school, student and army sport as well as for training and competition activity.

(3) The state and the municipalities shall concede gratuitously entirely or partially for defined time sport and tourist objects and facilities to kindergartens, general, secondary, special, professional and higher schools and to the off school units for realisation of the obligatory study programmes and to the off class, off school, facultative and free exercising of physical training, sport and tourism and for training and competition activity of the students under conditions and by order determined by the respective bodies.

(4) The sport objects and facilities – property of the state, the municipalities and the schools, shall also be used by the school and student sport clubs for implementing the programmes for development of the physical training, sport, recreation and tourism of students.

(5) The municipal councils shall determine the order by which sport and tourist objects and facilities – municipal property, are used by the citizens for achieving of the goals of the physical training and sport."

2. Art. 50a shall be created

"Art. 50a. (1) Out of the cases of art. 50 the sport objects and facilities – public state property and public municipal property, shall be granted to individuals and corporate bodies through concession by the order of the Law of concessions.

(2) In the cases of para 1 the concessionaire shall be obliged to concede the object of the concession for use against payment or gratuitously to other individuals or corporate bodies for training or competition activity."

§ 21. In the Law of underground resources (prom. SG 23/99; amend. SG 28/00, SG 108/01, SG 47/02, SG 86/03, SG 28, 94/05, SG 30/06) in art. 61, para 3 second sentence shall be created: "Part of the concession remuneration but not more than 30 percent, determined with the decision for granting of concession, shall be paid to the budgets of the municipalities at the location of the concession area."

§ 22. The Council of Ministers shall approve the regulation for implementation of the law till July 1, 2006.

§ 23. The law shall enter into force on July 1, 2006 except art. 42, para 3 and art. 58, para 4 which shall enter into force by the date of accession of the Republic of Bulgaria to the European Union.

§ 24. (1) The fulfilment of the law shall be assigned to the Council of Ministers and the municipal councils.

(2) Methodical instructions for the implementation of the law shall be given by directorate in the administration of the Council of Ministers determined with an order of the Prime Minister.

(3) With the regulation for implementation of the law shall be determined also other functions of the directorate of para 2 connected with the fulfilment of the law.

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The law was passed by the 40th National Assembly on April 17, 2006 and is affixed with the official seal of the National Assembly.

**Temporary and concluding provisions  
TO THE LAW FOR AMENDMENT AND SUPPLEMENT OF THE LAW FOR  
PRIVATISATION AND POST-PRIVATISATION CONTROL**

(PROM. – SG 53/06, IN FORCE FROM 30.06.2006)

§ 3. The law shall enter in force from the day of its promulgation in State Gazette, except for § 2, which shall enter into force from the 1st of July 2006.

**Temporary and concluding provisions  
TO THE LAW FOR AMENDMENT AND SUPPLEMENT OF THE LAW FOR  
THE WATERS**

(PROM. – SG 65/06, IN FORCE FROM 11.08.2006)

§ 145. This law shall enter into force from the date of its promulgation in the State Gazette, except for the provisions of:

1. Paragraph 18, item 3, which shall enter into force one year after entering into force of this law;
2. Paragraph 48 – in its part related to the provisions of Art. 118a, par. 1, item 1, which shall enter into force on 22 December 2013;
3. Paragraph 60, item 5, which shall enter into force on 1 March 2007;
4. Paragraph 73 – in its part related to the provisions of Art. 155a, par. 1, item 1, which shall enter into force one year after entering into force of this law.

**Temporary and concluding provisions  
TO THE CIVIL PROCEDURE CODE**

(PROM. – SG 59/07, IN FORCE FROM 01.03.2008)

§ 61. This code shall enter into force from 1 March 2008, except for:

1. Part Seven "Special rules related to proceedings on civil cases subject to application of European Union legislation";
  2. paragraph 2, par. 4;
  3. paragraph 3 related to revoking of Chapter Thirty Two "a" "Special rules for recognition and admission of fulfillment of decisions of foreign courts and of other foreign bodies" with Art. 307a – 307e and Part Seven "Proceedings for returning a child or exercising the right of personal relations" with Art. 502 – 507;
  4. paragraph 4, par. 2;
  5. paragraph 24;
  6. paragraph 60,
- which shall enter into force three days after the promulgation of the Code in the State Gazette.