

Pursuant to Article 13 (i) and 18 (b) of the Constitution of Sarajevo Canton ("Official Gazette of Sarajevo Canton", No.1/96, 2/96, 3/96 , 16/97, 14/00, 4/01 and 28/04) and Article 40 of the Law on Concessions ("Official Gazette of the Federation of Bosnia and Herzegovina", No. 40/02 and 61/06), at the session held on 24 October 2011, the Assembly of Sarajevo Canton passed the following

LAW ON CONCESSIONS

I – GENERAL PROVISIONS

Article 1

(Subject-matter of the Law)

This Law defines the meaning of concession, basic terms, subject of the concession, determines the planning and preparatory actions for concession award, establishment and competences of the Concessions Commission, the procedure for granting concession, concession agreements, concessionaire's rights and duties, supervision, and other issues relevant for concessions in the area of Sarajevo Canton (hereinafter: the Canton).

Article 2

(Definition of the concession)

The concession means granting rights to exploitation of natural resources, goods in common use or performing activities of general interest that the competent Cantonal authority (hereinafter: the Concessor) awards for a specified period of time, with the payment of concession fee, to a domestic or foreign legal or physical entity registered to perform business activities (hereinafter: the Concessionaire) under the terms set forth in this Law.

Article 3

(Purpose)

The purpose of this Law is to set forth a transparent, non-discriminatory and clear legal framework for defining the requirements under which legal or physical domestic or foreign entities registered to perform business activities may be awarded concession in the Canton, and to encourage the investments of domestic and foreign capital in the sectors defined in this Law.

Article 4 (Principles)

(1) Defining requirements, method and procedure for granting concession shall be based on the principles of equal and fair treatment, free market competition, and autonomous will of the contracting parties.

(2) The principle of equal and fair treatment includes the prohibition of discrimination on any ground between the participants in the procedure of concession awarding and selection of concessionaire, as well as the obligation to provide the participants in the selection process with complete and accurate information on the procedure, standards and criteria for the selection of concessionaire.

(3) The principle of free market competition includes the prohibition to restrict the competition between participants and the obligation to accept all participants whose bids meet the requirements defined by law.

(4) The principle of autonomy gives freedom to the contracting parties to define their mutual rights and obligations based on their own will, pursuant to law and other regulations and according to good business practices.

Article 5 (Basic terms)

The terms used in this Law shall have the following meaning:

a) *The Conceding Authority (the Concessor)* is the Sarajevo Canton – the Government of Sarajevo Canton (hereinafter: the Concessor), conducting the concession awarding procedure, that is, concluding the contracts on concession, through respective Ministries.

b) *Concession* is the right to carry out business activities using natural resources, goods in common use, and perform activities of general interest set forth under this Law.

c) *Concessionaire* is a legal entity established in accordance with specific laws of the Federation or a physical domestic or foreign person who is awarded the concession and executes the concession contract pursuant to this Law.

d) *Contract on Concession* is a contract entered into by the Concessor as one party and the Concessionaire as the other party, and includes provisions on mutual rights and obligations pertaining to the use of awarded concession.

e) *Concession fee* is a fee paid by the Concessionaire based on the Contract on Concession.

f) *Register of Concessions* is an integrated electronic record of concession contracts awarded in the territory of the Canton.

g) *Decision on Selection of the Most Favorable Bidder* is an administrative act issued by the Concessor at the proposal of the Concession Commission (hereinafter: the Commission) following the evaluation of received bids for the concession award, in accordance with the bidding documentation and the criteria for selection of the most favorable bidder.

h) *Bidder* is a legal or physical domestic or foreign entity who submitted the bid for

the concession award or filed a bid on its own initiative.

Article 6

(Subject of the concession)

(1) Pursuant to the provisions of this Law, subject of the concession shall be the following:

- 1) parking facilities (public land and/or underground garages, parking lots);
- 2) construction and/or use of roads in the competence of the Canton;
- 3) construction and/or use of facilities in the area of energy industry and energy media (hydropower facilities, thermo-electric power plants, thermo power facilities, wind-power facilities, pipelines) with the installed power up to 5 MW;
- 4) construction and/or use of water management and water supply facilities (hydro-accumulations, water supply facilities, exploitation of water streams and other waters);
- 5) public utility services (water supply, housing units heating, funeral services, etc.);
- 6) cantonal and municipal passenger transport;
- 7) all types of regular passengers transport lines on the territory of the Canton;
- 8) commercial, sport, and touristic use of ski lifts;
- 9) use of construction land for civil engineering;
- 10) use of agricultural land;
- 11) use of curative, thermal, mineral, thermo-mineral waters and thermo-mineral waters for heating;
- 12) hydraulic land-reclamation systems and systems for extracting materials from water streams and water areas;
- 13) exploration and/or exploitation of non-metallic mineral raw materials, including secondary mineral raw materials defined under separate law;
- 14) all types of energy and other mineral raw materials, including all types of salt and salt waters defined under separate law;
- 15) disposal of solid waste;
- 16) recycling metallic and non-metallic waste objects and residues;
- 17) management of hunting-grounds and commercial fishing ;
- 18) hotels and other touristic facilities;
- 19) certain activities within the protected natural areas, and use of other protected natural values and speleological facilities;
- 20) premises and structures of cultural-historical and natural heritage;
- 21) medical and pharmaceutical services pursuant to the Law on Health Protection and the Law on Medical Insurance;
- 22) sport-recreational facilities;
- 23) any other activities suitable for the concession awarding.

(2) Public companies in the field of water-supply founded by the Canton or a municipality in the Sarajevo Canton shall be exempted from the obligation of signing a concession contract.

(3) The Government of Sarajevo Canton shall issue a separate regulation determining the method and criteria for defining public good and recording and establishing a register of property characterized as public good, and shall determine authorities for the implementation thereof.

II – PLANING AND PREPARATORY ACTIONS FOR THE CONCESSION AWARD

Article 7

(Planned approach)

(1) All ministries of the Canton shall produce medium-term (three-year) and annual plan of concession award as stipulated by this Law.

(2) Municipalities in the Sarajevo Canton shall propose projects suitable for the concession award; if the competent Ministry finds the projects justified, it may include them in the plans referred to under Paragraph (1) of this Article.

(3) The competent Ministry may also include proposals of business companies in the plans under Paragraph (1) of this Article.

(4) Before the end of the current calendar year, the Concessor shall determine a list of projects planned to be implemented in the following year through concessions awarding; the list shall be published on their website.

(5) The medium-term concession award plan shall state economic and other areas of responsibility of the competent Ministry included in the plan on concession award for the use of common or other goods, concessions for public works and concessions for public services, as well as planned income and expenditures related to the concession and estimate of expected benefit from the planned concessions. The medium-term plan may also include other elements relevant for the efficient concession implementation.

(6) Before the end of the current year, all ministries of the Canton shall produce annual concession award plan under their competence for the following calendar year, as a constituent part of their annual work program. This annual plan must be in accordance with the medium-term concession award plan.

(7) The annual concession award plan shall include the following:

- a) planned number of concessions,
- b) type of each concession,
- c) planned concession award deadlines,
- d) legal basis for the concession award, and
- e) estimated annual fee for individual concessions.

Article 8

(Competence for the concession award)

A decision to award concession for certain goods shall be passed by the Assembly of Sarajevo Canton at the proposal of the Government of Sarajevo Canton (hereinafter:

the Cantonal Government), based on the medium-term (three-year) and the annual concession award plan.

Article 9
(Preparatory actions)

(1) The preparatory actions for the concession award shall be undertaken by the Cantonal Government.

(2) The preparatory actions shall include in particular:

- a) development of justifiability study for the concession award,
- b) estimate of the concession value,
- c) appointment of the Commission,
- d) development of tender/bidding documentation, and
- e) undertaking any other measures preceding the concession award procedure pursuant to the provisions of this Law and special regulations closely defining individual types of concession.

Article 10
(Justifiability study for the concession award)

In the development of the justifiability study for concession award, the Conceding Authority (Concessor) shall inquire into the public interest, effect on the environment, protection of natural and cultural values, investments, employment, financial effects of the entire concession project, financial effects in favor of the future concessionaire, and the concession effect on the Cantonal budget, that is, budgets of the local self government units, and its compliance with the business development plans and the Concessor's plans.

Article 11
(Estimate of the concession value)

(1) The estimate of the concession value shall include a financial effects value statement within specified economic lifetime of use of the concession goods, that is, discounted cash flows within the economic lifetime of the project.

(2) Elements for the concession value estimation shall be defined by the concession award justifiability study.

(3) The concession value shall be determined by the Cantonal Government at the proposal of the competent Ministry.

Article 12
(Tender documentation)

- (1) The tender documentation shall specify the format of the bid, contents of the bid, bid validity period, description of the subject of concession (technical specifications, which must not limit the market competition), draft concession contract, requirements and evidence that the bidders must enclose with the bid to prove that they meet suitability criteria, the deadline for passing the decision on selection of the most favorable bidder, and all other requirements that the bidder must meet.
- (2) The Concessor shall determine the absolute amount of guarantee for the weightiness of the bid, which may not exceed 5% of the estimated concession value.

Article 13
(Establishment and composition of the Concession Commission)

- (1) Prior to the commencement of the concession award procedure, the Conceding Authority shall appoint a commission for each concession award, comprised of eminent experts in law, economy, technical and other relevant field, depending on the subject of concession.
- (2) The Commission shall comprise five members, including the Commission President.
- (3) The Commission members shall include a representative of the competent Ministry, representative of the local self-government unit(s) depending on the location of the subject of concession, representative of the Ministry of Finance of Sarajevo Canton, and two eminent experts in the field of the concession concerned.
- (4) Provisions of the Law on Conflict of Interest in Organs of the Federation of Bosnia and Herzegovina ("Official Gazette of the Federation BiH, No. 70/08) shall apply to the Commission.
- (5) The Commission shall have a secretary who shall not take part in decisions and shall be elected from among the civil servants in the Ministry competent for the concession in question.

Article 14
(Competences of the Commission)

- (1) The Commission shall have the following duties:
 - a) prepare and develop the tender documentation, set rules and requirements for the evaluation of bidders and received bids, and the criteria for the bid selection,
 - b) analyze the project proposal for the concession, for the purpose of establishing if it involves a public-private partnership project as defined by regulations on the public private partnership,
 - c) review and evaluate the bids submitted,
 - d) determine a proposal of the decision for selection of the most favorable bidder for the concession award, or proposal of the decision on cancellation of the concession award procedure, and a reasoning thereof, e) draft proposals of the concession contracts,

f) perform other activities required for the concession award procedure. The Commission shall keep record of its work, which shall be signed by all members of the Commission.

(2) To perform certain expert jobs, the Concessor may, as necessary, hire professional, advisory, or specialized bodies or experts in economy-finance, law and technical field.

Article 15

(Resources for the Commission work)

(1) The resources for the activities and jobs within the competence of the Commission shall be secured from the budget of competent ministries.

(2) At the proposal of the Ministry of Economy of the Sarajevo Canton (hereinafter: the Ministry), the Cantonal Government shall determine uniform criteria for payments for the concession award commissions.

III – CONCESSION AWARD PROCEDURE

Article 16

(Approval of the concession project)

(1) Competent Ministry shall draft proposal of the concession award justifiability study for each project intended for the award under the plan referred to in Article 7, Paragraph(1) of this Law.

(2) Competent Ministry shall also submit to the Concessor documents on the settlement of preliminary issues, including an excerpt from the spatial planning document and consent of the Municipal Council.

(3) The Concessor shall take into consideration the study under Paragraph (1) of this Article.

(4) The Sarajevo Canton Assembly shall issue the Decision on Commencement of the Concession Award, at the proposal of the Concessor, who shall approve the study under Paragraph (3) of this Article.

(5) Should the Concessor decide not to approve the study under Paragraph (1) of this Article, it may give proposal or recommendations to make the project more acceptable.

(6) Following the approval of the study under Paragraph (4) of this Article, the Commission shall draft public invitation that the competent Ministry shall publish in the media. Should the Concessor find it necessary, an international public invitation shall also be announced.

(7) The concession award procedure shall commence on the day of issue of the public invitation for concession award in the “Official Gazette of the Federation BiH”, which shall be published on the Concessor’s webpage, whereas it may also be published in other mass media provided that its contents remain the same.

(8) The concession award procedure shall be completed upon the issue of final Decision on Selection of the Most Favorable Bidder or the Decision on Cancellation of the Concession Award Procedure.

Article 17
(Public invitation)

(1) A public invitation shall include:

- a) extract from the spatial planning document;
- b) project description;
- c) definition of economic and legal requirements, and the request pertaining to the project;
- d) principles and methods for calculation of the concession fee;
- e) minimum amount of the concession fee and the fee and charge for participation in the public invitation;
- f) description of assets and property to be made available to the Concessor;
- g) criteria pertaining to the evaluation of bids and the concession award, based on clear, public and accessible-to-all non-discriminatory principles;
- h) deadline for submitting the bids;
- i) list of necessary permits and approvals or authorizations;
- j) tax incentives related to the project, if any;
- k) financial secure measures for the bid;
- l) draft concession contract; and
- m) If there were any inquiry actions, the invitation shall include the value of the actions and clear information that in the concession award procedure the Commission shall evaluate the resources and efforts invested in the inquiry for the potential concessionaire.

(2) If the concession award justifiability study was not produced, the Commission may request the public invitation to include the bidder's duty to produce the study and include therein the assessments and measures for the protection of environment.

(3) The concession award justifiability study shall be taken into consideration in the evaluation of the concession award criteria.

Article 18
(Criteria for the selection of the most favorable bid)

The criteria for the most favorable bid selection are the following:

- a) the criteria for the most favorable bid with respect to the subject of the concession are: quality, amount of the fee, price, technical achievement, esthetic, functional and ecological characteristics, operative costs, cost-efficiency, servicing after the handover and technical assistance, date and delivery deadlines or work completion deadlines;
- b) the highest concession fee offered;
- c) criteria determined by special regulations indicating a long term sustainability of bidders during the implementation of the concession within the scheduled deadline.

Article 19

(Decision on Selection of the Most Favorable Bidder)

(1) The Concessor shall issue decisions pursuant to the Law on Administrative Proceedings.

(2) At the proposal of the Commission, the Concessor shall issue decision on the selection of the most favorable bidder, if all requirements and criteria have been met as defined in the public invitation.

(3) At the proposal of the Commission, the Concessor may also issue decision referred to under Paragraph (2) of this Article if only one bid arrived with respect to the public invitation.

(4) The Decision under Paragraph (1) of this Article shall be delivered to all participants in the public invitation.

(5) The Decision on the Selection of the Most Favorable Bidder shall include:

- a) name of the Concessionaire, with the number and date of the Decision,
- b) the Ministry that will conclude the contract on behalf of the Concessor,
- c) name of the Concessionaire,
- d) subject of the concession,
- e) nature, scope and place of activities related to the concession,
- f) term of the concession contract,
- g) special requirements that the bidder must meet during the concession,
- h) amount of the concession fee or the basis for determining the concession fee amount to be paid by the Concessionaire,
- i) deadline for signing the concession contract by the most favorable bidder and the Concessor,
- j) reasoning for the selection of bidder,
- k) legal remedy.

(6) The Concessor's Decision referred to under Paragraph (1) of this Article may not be appealed, however, administrative action may be taken before the Cantonal Court in Sarajevo.

Article 20

(Unsolicited bid)

(1) In the event that the bidder submits to the competent Ministry an application for concession that was not subject to a public invitation and was not included in the documentation under Article 7 of this Law, the Cantonal Government shall establish the Commission under Article 13 of this Law; the Commission shall assess if there is a public interest and submit a proposal of the decision to the Cantonal Government through the competent Ministry.

(2) In addition to the application under Paragraph (1) of this Article, it is obligatory to submit a justifiability study for the concession award and documents on the settlement of preliminary issues (excerpt from the spatial planning document, consent of the Municipal Council, and other documents specific for the field of concession).

(3) In evaluation of the application under Paragraph (1) of this Article, particular attention shall be paid to the following:

- a) the fact that the project subject to proposed concession can be achieved only with process, design, methodology or concept of research for which the bidder owns exclusive rights, and
- b) urgent need for providing services or the existence of infrastructure for public use.

(4) The Ministry shall file request with the Cantonal Government to obtain approval for negotiations with the bidder, should the Cantonal Government assess that there is a public interest for the concession.

(5) Within the period of 30 (thirty) days, the Cantonal Government shall notify the Ministry whether it approves granting the authorization.

(6) The authorization granted by the Cantonal Government shall contain the obligation to monitor the process or inspect the documentation.

(7) The Ministry may not enter into a concession contract on the basis of unsolicited bid without the approval by the Cantonal Government.

(8) The Cantonal Government may refuse to grant the authorization for negotiations in the event that the unsolicited bid is not provided under Article 7 of this Law (planned approach); however, if the Cantonal Government renders it justified, the concession award shall be conducted according to the procedure stipulated by this Law.

(9) If the Cantonal Government assesses there is no public interest for the concession award, it shall render a decision on dismissal of the application notifying the unsolicited bidder thereof within 60 (sixty) days following the receipt of the application. The decision on absence of public interest must be reasoned.

(10) The Decision under Paragraph (9) of this Article may not be appealed; however, administrative action may be taken before the Cantonal Court in Sarajevo.

IV – CONCESSION CONTRACT

Article 21

(Contents of the concession contract)

(1) A concession contract shall specify:

- 1) contracting parties,
- 2) subject of the concession,
- 3) amount of the concession fee,

- 4) measures providing financial security for the contract,
- 5) rights and obligations of the contracting parties, including the obligation to provide reliable services to users at the lowest price,
- 6) obligations of the concessionaire in the field of environmental protection,
- 7) obligation to revitalize the renewable natural resources, or to recultivate the unrenewable natural resources,
- 8) obligation to register the concession contracts in the land registers.
- 9) actions related to obtaining necessary authorizations for undertaking activities in accordance with the concession contract,
- 10) investment requirements,
- 11) assets and property made available by the Concessor,
- 12) exemptions in the exploitation of land,
- 13) terms, manner and time for using the subject of concession,
- 14) requirements for the contract renewal,
- 15) the Concessor's actions with respect to objects found in the course of use of the subject to concession, if the objects are values of natural, historical, cultural and/or architectural legacy of Bosnia and Herzegovina,
- 16) the Concessor's actions in the event that further use of the subject of concession would threaten the site or the value and unity of the objects that represent values of natural, historical – cultural and/or architectural legacy of Bosnia and Herzegovina,
- 17) measures for facilitating the project financing,
- 18) description of events considered as force majeure,
- 19) establishment and adjustment of tariffs,
- 20) sanctions and fees for a failure to fulfill the contractual obligations by the parties,
- 21) procedure in a case of prevention from the contract implementation if that is not a responsibility of any party,
- 22) termination of the contract and the procedure in the case of contract termination prior to the expiry date set in the contract,
- 23) modalities of dispute settlement, including international arbitration if agreed so by the contracting parties,
- 24) agreed court jurisdiction, and
- 25) other elements relevant for the subject of concession.

(2) The concession contract shall define the rights and obligations of the Conceding Authority and the Concessionaire, pursuant to the provisions of this Law and special regulations governing respective concession.

(3) The concession contract matters not regulated by this Law shall be governed by the regulations on obligations.

(4) In the case of a concession that is a constituent part of a public-private partnership project, the regulation governing the content of a public-private partnership contract shall apply accordingly.

Article 22

(The term of concession)

(1) The contract on concession shall be concluded for a specified term, given that the period may not be shorter than five or longer than thirty years. The contract on concession may be renewed for a period not longer than half the period originally defined, provided that the concession contract has been fully implemented and based on the justifiability study for concession awarding.

(2) The concession term shall be defined so as not to limit the market competition more than necessary, in order to ensure amortization of the concessionaire's investment and a reasonable return of investment, taking into account the risks related to the business use of the concession.

Article 23

(Transfer of the concession contract)

(1) The concession contract may not be transferred to another concessionaire without prior approval by the Assembly of Sarajevo Canton. The concession contract may be transferred only if the contract requirements related to the investments have been met.

(2) If the Concessionaire failed to fulfill his obligation to an international financial institution that Bosnia and Herzegovina is a member of, the concession contract may not be transferred to the respective institution without consent of the Concessor.

(3) In consideration of the request for approval referred to in Paragraph (1) of this Article, the Concessor shall take into account the following:

- a) financial standing of the new proposed Concessionaire,
- b) expertise and capacity of the new proposed Concessionaire to provide services and fulfill the obligations under the concession contract, and
- c) the effect of the concession award on the concentration of ownership in the respective sector.

(4) The new Concessionaire shall assume the rights and obligations of the previous Concessionaire.

Article 24

(Concession fee)

(1) The concession fee is an obligatory and constituent element of concession contracts, and a contract without defined obligation to pay the concession fee shall be invalid.

(2) The concession fee shall have monetary character, consisting of the following:

one-time fee for entitlement, with respect to entering into the concession contract and the concession fee for utilization, which is presented in percentages and related to the annual gross income generated through the exploitation of public goods or providing services, or with units of measurement – ton, m³, m² and liter.

(3) The concession fee may be agreed as a constant amount and/or as variable amount, depending on particularities of individual concessions.

(4) The amount of the concession fee shall be established depending on the field of activity, term of the concession, business risk and expected profit, quality of equipment and surface area of the common or public good.

(5) The concession contract shall define adjustment of the concession fee within a certain period of time during the concession contract, which shall be indicated in the tender documentation.

(6) The concession fees shall constitute the revenue of the Cantonal budget and the local self-government budget, distributed in the ratio of 60% to the Cantonal budget and 40 % to the budget of the municipality where the subject of the concession is located.

(7) During the contract on concession, the Concessor may not sign or enter into agreements with the Concessionaire with respect to any form of compensation for the payment of the concession fee.

Article 25 (End of the contract)

The contract on concession shall end:

- a) upon expiry of the agreed term of concession pursuant to this Law,
- b) in case of initiation of bankruptcy proceedings against the Concessionaire
- c) if the subject of the concession no longer exists,
- d) upon termination of the concession contract, and
- e) if the Concessionaire fails to meet the objectives and effects of the awarded concession.

Article 26 (Termination of contract)

(1) The concession contract may terminate:

- a) if the Concessionaire has been insolvent for more than six months,
- b) if the Concessionaire or the Concessor fail to fulfill the contractual obligations, and
- c) if he performs the activities contrary to the provisions of the concession contract.

Article 27

(Prevention from fulfilling a contractual obligation that is not a responsibility of any party
– contract discontinuation)

(1) When it is impossible for a party to fulfill a contractual obligation due to the circumstances beyond the responsibility of any party, whereas neither party wishes to terminate the contract, the concession shall continue upon discontinuation of the circumstances that prevented the concession activities or caused the failure to fulfill the contractual obligations. These circumstances shall include the following:

- a) if the concession activities threaten the human environment and health or legally protected areas and buildings, which could not be envisaged in the moment of concession award,
- b) if the Concessionaire is prevented from performing the activities due to major damage on the subject of concession that was not his fault nor a consequence of gross negligence of the Concessionaire, and
- c) in other cases defined by the concession contract.

(2) The term of the concession contract shall be extended for the same amount of time during which it was impossible to fulfill the contract obligations.

Article 28

(The Register of Concessions)

(1) The Register of Concessions is a uniform electronic record of concessions awarded in the area of the Canton established on the basis of the Registers of Concessions of relevant Ministries.

(2) The uniform Register of all awarded concession contracts shall be kept by the Ministry of Finance of Sarajevo Canton.

(3) The Register of Concessions shall guarantee that the data are available to public. The public data shall include: name of the Conceding Authority, identification number of the Conceding Authority, start date of the concession implementation, name (type) of the concession and location of the concession.

(4) The Register of Concessions shall also include contracts on prior concessions the term of which has not ended in the moment of entry into force of this Law, and any contracts that will be concluded following the entry into force of this Law.

(5) The Ministry of Finance of the Sarajevo Canton shall issue a Rulebook on Establishment and Keeping of the Register of Concessions within 6 months following the day of entry into force of this Law, wherein it may determine that the activities of establishment and keeping of the uniform Register of Concessions shall be entrusted with the organization that has adequate information equipment and staff to keep the Register.

V – CONCESSIONAIRE

Article 29

(Legal status of the Concessionaire)

The Concessionaire is a legal or physical domestic or foreign entity registered to perform activities who enters into a contract on concession with the Concessor and has rights and obligations defined by the contract pursuant to this Law.

Article 30

(Rights of the Concessionaire)

The Concessionaire has the right to own and use the assets and property made available by the Concessor in accordance with the concession contract.

Article 31

(Obligations of the Concessionaire)

The Concessionaire shall perform the activities defined as the subject of concession and may not extend them beyond the scope determined in the concession contract.

VI – SUPERVISION

Article 32

(Supervision over the implementation of the Law and the contract)

(1) The competent Ministry shall continuously supervise the activities of the Concessionaire and fulfillment of its obligations under the contract on concession, and regularly monitor the scope and extent to which the concession rights are being exercised.

(2) In the event of deviations from the agreed exercise of the concession rights, with respect to the time and the extent of the rights, the competent Ministry shall notify thereof the Concessor and the Ministry of Finance and undertake measures before the competent inspection authority within 30 days following the day it learned about the deviations.

(3) The Ministry of Finance shall monitor the execution of all payments within its competence, and in the event of failure to fulfill the contractual obligations, it shall

undertake all necessary collection measures with the competent authorities and notify the Concessor thereof.

(4) In the procedures when it is impossible fulfill the obligations from the concession contract or due to other deficiencies, the Concessor shall report it to the competent Public Attorney's Office and other competent inspection services, and undertake all necessary measures in order to eliminate the deficiencies, and shall notify thereof the Ministry of Finance within 30 days following the day when the measures were undertaken.

Article 33 (Settlement of disputes)

(1) In the case of disputes in relation to the fulfillment of contractual obligations by the Concessor and the Concessionaire, the Municipal Court in Sarajevo shall have the jurisdiction.

(2) In case of disputes in relation to the competence for the concession award between the Federation BiH and the Canton, it shall be the competence of the Special Joint Commission for Concessions defined by the Law on Concessions ("Official Gazette of the Federation BiH", No. 40/02 and 61/06).

(3) In case of disputes in relation to the competence for the concession award between Cantons, the arbitration shall be requested from the Commission referred to under Paragraph (2) of this Article.

(4) In case of disputes related to the competence for the concession award when the property concerned is on the territory of two or more municipalities of the Canton, the Cantonal Government shall establish a Joint Commission composed of representatives of the Canton and the municipalities where the subject of the concession is located.

(5) In case of disputes related to the competence for the concession award that cannot be settled, an administrative action shall be initiated before the Cantonal Court in Sarajevo.

VII – PENALTIES

Article 34 (Penalties)

(1) A legal entity using the natural resources, common good, without a signed concession contract shall be fined in an amount ranging between KM 5,000.00 and KM

15,000.00, for the misdemeanor.

(2) A responsible person from the legal entity who undertakes the actions under Paragraph (1) of this Article shall be fined in an amount ranging between KM 1,500.00 and KM 3,000.00 for the misdemeanor.

(3) A physical person using the natural resources, common good, without a signed concession contract shall be fined in an amount ranging between KM 500.00 KM and KM 1,500.00 KM, for the misdemeanor.

(4) A legal entity – Concessionaire using the subject of the concession to the extent greater than defined in the contract shall be fined in an amount ranging between KM 3,000.00 and KM 10,000.00 for the misdemeanor.

(5) A responsible person from the legal entity – Concessionaire, who undertakes the actions under Paragraph (4) of this Article shall be fined in an amount ranging between KM 1,500.00 and KM 3,000.00, for the misdemeanor.

(6) A physical person – Concessionaire using the subject of the concession to the extent greater than defined in the contract shall be fined in an amount ranging between KM 500.00 and KM 1,000.00, for the misdemeanor.

(7) A legal person – Concessionaire who provided false information in order to ensure transfer of share, stocks or a certificate on shares, based on which the Concessor gives the authorization for transfer, shall be fined in an amount ranging between KM 2,000.00 and KM 12,000.00.

(8) A responsible person from the legal entity – Concessionaire who undertook the actions under Paragraph (7) of this Article shall be fined in an amount ranging between KM 500.00 and KM 3,000.00 KM for the misdemeanor.

(9) Persons referred to under Paragraphs (7) and (8) of this Article shall be fined in an amount ranging between KM 1,000.00 and KM 3,000.00 for misdemeanor if they do the following:

- a) fail or refuse to complete and return incomplete documents in violation of the provisions of this Law;
- b) fail or refuse to answer questions asked in the documents;
- c) deliberately provide false information in their answer;
- d) fail to answer questions that may help established the facts required by the question
- e) fail to present to the person authorized by the competent Minister to inspect books, documents, invoices, archives or other documentation, at the request of the Concessor;
- f) fail or refuse to perform a duty entrusted to them, when there is no penalty defined for the duty;
- g) fail or refuse to execute a request or order issued by the Concessor, or a verdict of the competent court; or
- h) fail to fulfill to obligation to register it in the land registers of concession contracts

(Article 21, Paragraph (1), Subparagraph 8).

(10) Pursuant to Paragraph (8) of this Article, an act, failure or fault by any responsible person, officer, agent, or other person who acts on behalf a concessionaire or is employed with a concessionaire and acts in line with his official duty and instructions, shall by all means be regarded as act, failure or fault of the concessionaire.

VIII – TRANSITIONAL AND FINAL PROVISIONS

Article 35

(Signing contracts with existing beneficiaries)

(1) A business company that is a holder of the right to use common or other goods shall enter into contract on concession without conducting a procedure stipulated by this Law, for the period of five (5) years, if the right holder meets the requirements for the concession award set forth under this Law.

(2) A beneficiary of the common or other good under Paragraph (1) of this Article shall file request for signing a concession contract within 30 (thirty) days following the day of entry into force of this Law.

(3) The Concessor shall complete the proceedings related to the Concessionaire's request under Paragraph (2) of this Article within 90 (ninety) day.

4) Should the business company fail to act pursuant to Paragraph (2) of this Article, the concession shall be awarded according to the proceedings set forth under this Law.

(5) The time period under Paragraph (2) of this Article shall begin from the day of entry into force of this Law.

(6) If the contract under Paragraph (1) of this Article is not concluded within the stipulated deadline, the competent inspection authority shall issue a procedural decision forbidding the use of concession.

(7) The provisions of Article 22, Paragraph (1) of this Law shall not apply to the concessionaires who signed concession contracts for the subjects of concession in the competence of the Canton based on applicable regulations, for the period of 5 (five) years; instead, they shall be entitled to sign a new concession contract through the procedure set forth in this Law.

Article 36
(Obligations of public companies)

Public companies, except the public companies under Article 6, Paragraph (2) of this Law, shall also be liable to the obligation of signing concession contracts, pursuant to Article 35 of this Law.

Article 37
(Validity of the Law)

On the day of entry into force of this Law, the Law on Concessions ("Official Gazette of Sarajevo Canton", No. 21/03) shall cease to be effective.

Article 38
(Entry into force of the Law)

This Law shall enter into force on the eighth day following its publication in the "Official Gazette of Sarajevo Canton".

No:01-02-27838/11
24 October 2011

CHAIRMAN OF THE
ASSEMBLY OF SARAJEVO CANTON
Prof. dr Mirjana Malić