

Track Changes

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August 2020

CHANGES AND AMENDMENTS TO THE CONCESSION LAW IN THE REPUBLIC OF SRPSKA

The National Assembly of the Republic of Srpska (**RS**) enacted the Law on Changes and Amendments to the Concession Law which entered into force on 24 July 2020. The Law was published in the Official Gazette of RS no. 70/20.

Some of the most relevant reforms introduced with these changes and amendments include the following:

- the subject of the concession within the meaning of the law may be *inter alia* the construction and use of energy facilities except for energy facilities using biomass, biogas and solar production facilities with photovoltaic cells on rooftops, regardless of the installed capacity, as well as ground-mounted solar production facilities with photovoltaic cells with an installed capacity up to 250 kW for which the investor is not obliged to obtain a concession right;
- the list of events in which the concession may be granted based on the negotiation proceedings without public tender has been extended. Accordingly, the concession can be granted where there is: (i) an offer of the legal entity which finalized exploration of the mineral resources based on the concession agreement or exploration approval, provided that the total value of the exploration works exceeds BAM 5,000,000, (ii) an increase of the installed capacity for the facilities for which the concession was not mandatory prior to these Changes and Amendments of the Concession Law entering into force; (iii) as well as in other events provided by the special law;
- based on the negotiation proceedings the annex to the concession agreement can be concluded in the following events: (i) the concessionaire makes an offer for extension of the concession period and (ii) the concessionaire's offer is for exploitation of the designated

reserves of the mineral resources which are located outside of the concession area and which represent the indivisible entirety of the mineral resources which are the subject of the concession;

- if RS is the owner of the real property on which the business activity (for which the concession is granted) will be performed, the concession grantor will also grant to the concessionaire the right to use the real property for the entire concession period. Also, if an easement right is needed for exercising the concession right, the concession grantor will grant the easement right to the concessionaire provided the real property subject of the easement is owned by RS;
- If RS is not an owner of the real property on which the business activity (for which the concession is granted) will be performed, then the concessionaire is obliged to obtain the necessary property rights on the real property, or expropriation should be performed.

Having in mind that the RS National Assembly has changed and amended the Concession Law twice in the past seven years since its enactment, it can be concluded that the issue of concessions in RS remains particularly important. Hence there is a constant need to adjust and develop the legal framework to allow a better position of the concessionaires and concession grantor by regulating certain issues in an adequate and more detailed manner.

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For more information about our services, please contact:



Lana Sarajlić

Attorney-at-law in cooperation with
Wolf Theiss

zana.sarajlic@lawoffice-sarajlic.com

T: +387 33 953 452



Amar Močević

Associate

amar.mocevic@wolftheiss.com

T: +387 33 953 463

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Wolf Theiss
Schubertring 6
AT – 1010 Vienna

www.wolftheiss.com