



## PROCURING INFRASTRUCTURE PUBLIC-PRIVATE PARTNERSHIPS 2018 IN MONTENEGRO

SURVEY QUESTION	ANALYSIS
<b>PPP Regulatory Framework</b>	
<b>2. Does the regulatory framework in your country allow procuring PPPs?</b>	Yes
<b>If yes, please specify the relevant regulatory framework and the year of adoption:</b>	<p>The regulatory framework in Montenegro that is applicable towards PPPs is mainly comprised of the following Laws:</p> <ul style="list-style-type: none"> <li>-Law of Concessions (2009, Official Gazete of Montenegro 08/09) (hereinafter “Concession Law”);</li> <li>-Law on Participation of Private Sector in Delivery of Public Services (2002, Official Gazete of Montenegro 30/02) (hereinafter “Private Sector Participation Law”)</li> </ul> <p>However, it should be pointed out that the Law of Concession replaced the provisions of the Law on Participation of the Private Sector for the Delivery of Public Services regarding concessions and BOT arrangements and amended the procedures under which contracting authorities can resort to and award this type of PPPs. Specifically, upon the implementation of the Concession Law, Chapters 4, 7 8 and 9 of the Private Sector Participation Law, along with Articles 141 to 143 of that law, ceased to have effect. More specifically, Purusant to Article 67 of the Concession Law: On the day of entry into force of this Law, provisions of chapters IV, VII, VIII, IX and Articles 141, 142 and 143 of the Law on the Participation of Private Sector in Delivery of Public Services (Official Gazette of the Republic of Montenegro, number 30/02), as well as provisions of other chapters which refer to concessions and BOT arrangements shall cease to have effect, and provisions of other laws which regulate the procedure of awarding concession shall not apply if they are contrary to this Law.</p> <p>Lastly, it should be noted that in Montenegro a Law on Public Procurement (Official Gazette of Montenegro 042/11, 057/14, 028/15, 042/17)(hereinafter “Procurement Law”) exists, however it does not apply towards the procurement of Concessions.</p>
<b>and provide a link to a government–supported website where the mentioned regulatory framework is available or provide an electronic copy of it:</b>	<p>Law of Concessions 2009 in English (unofficial translation): (<a href="http://www.oie-res.me/uploads/archive/Law%20on%20Concessions%202009%20EN.pdf">http://www.oie-res.me/uploads/archive/Law%20on%20Concessions%202009%20EN.pdf</a>)</p> <p>Law on Participation of Public Sector in Delivery of Public Services in English: (<a href="http://www.gov.me/files/1113820022.pdf">http://www.gov.me/files/1113820022.pdf</a>)</p>
<b>2.1. Are you aware of any reforms (in the regulatory frameworks – laws, regulations, policies, etc.- or in generally followed practices) related to PPPs</b>	No

<b>that: Took place in 2016, are ongoing and/or are planned to be adopted BEFORE June 1, 2017?</b>	
<b>Please describe:</b>	n/a
<b>2.2 Are ongoing and/or are planned to be adopted AFTER June 1, 2017?</b>	Yes
<b>Please describe:</b>	According to our contributors, it should be noted that a PPP Law is currently being drafted in Montenegro. The new law should cover both authority-pay and user-pay PPPs. The law is expected to define PPPs and set out a new institutional framework and procedures for the preparation and award of all types of PPPs. It is expected to substitute the Law on Concessions, the Law on Participation of the Private Sector for the Delivery of Public Services and a lot of the sectorial laws which, in some of their provisions, deal with the cooperation between the public and the private sectors in the delivery of public services.
<b>3.1 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Transportation.</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>3.2 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Water and Irrigation</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>3.3 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Energy generation and distribution.</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>3.4 Besides national defense and other matters of national security, does the regulatory</b>	No

<b>framework explicitly prohibit or restrict PPPs in any of the following sectors?: Telecom</b>	
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>3.5 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Other</b>	No
<b>If yes, specify and provide the relevant legal/regulatory provisions:</b>	n/a
<b>4. Does the regulatory framework provide for a specific tax regime for PPP transactions (i.e. tax incentives, special tax depreciation treatment, etc.)?</b>	No
<b>If yes, please specify and provide the relevant legal/regulatory provision (if any):</b>	n/a
<b>5. Please identify the PPP procuring authorities in Montenegro and provide their website(s) (if available):</b>	<p>The concession grantor can be Parliament, the Government or a municipality.</p> <ul style="list-style-type: none"> <li>- The Prime Minister's Office has a particularly active role in the promotion of international best practice in PPPs. The Office also oversees the implementation of key investment projects in Montenegro. With regard to user-pay PPPs, the Government is responsible for (i) the adoption of the annual plan on concessions to be awarded by the State in the following year and (ii) authorizing the award of concessions at the central level.</li> <li>- The Ministry of the Economy is responsible for the energy sector and for the geological exploration and exploitation of mineral resources</li> <li>- The Ministry of Transport and Maritime Affairs is in charge of rail, road, sea, and air transportation.</li> <li>- The Ministry of Finance is the body in charge of the supervision of expenditure under the State budget. Contracting authorities must report on the use of public funds for infrastructure projects among their regular reporting obligations to the Ministry. Also, prior to entering into PPP contracts which might have financial implications for the State budget, contracting authorities are required to obtain an approval or an opinion from the Ministry.</li> <li>- The Commission for Concessions was established in 2009 under the Law on Concessions.</li> <li>- Municipalities in Montenegro are autonomous from central government in the areas of local public transport, waste, water, urban development, tourism and the development of health and educational services at the local level. Within these remits, municipalities can enter to any kind of public contracts.</li> </ul>

<b>6. In addition to the PPP procuring authorities listed above, is there a specialized government entity that facilitates the PPP program (PPP Unit)?</b>	<p>Yes</p>
<b>If yes, please indicate its name, and its website (if available):</b>	<p>The Concession Commission is the body responsible for keeping the register of concessions, resolving the objections of the participants in the procedure for granting concessions related to the evaluation and ranking of the list of bidders and passing decisions on them, the approval of the implementation of the procedure for extending the deadline for granting concessions or extending the premises for performing concession activities, as well as the approval of the implementation of the procedure for granting concessions of the accompanying mineral raw materials on the approved exploitation field, without the implementation of the public tender procedure, and other tasks determined by the Law on Concessions. The concession commission of Montenegro is autonomous and independent in the performance of the tasks determined by this Law. The Commission has a president and eight members. Website: <a href="http://www.komisijazakoncesije.me/cg/index.php/o-nama">http://www.komisijazakoncesije.me/cg/index.php/o-nama</a></p>
<b>6.1 If yes, what are the main responsibilities of the PPP Unit (check all that apply): PPP regulation and policy guidance.</b>	<p>No</p>
<b>6.2 PPP capacity building for other public authorities.</b>	<p>No</p>
<b>6.3 PPP promotion among the public and/or private sectors in national and international forums.</b>	<p>No</p>
<b>6.4 Technical support in implementing PPP projects.</b>	<p>No</p>
<b>6.5 Identification and selection of PPP projects from the pipeline.</b>	<p>No</p>
<b>6.6 Revision of fiscal risks born by the Government.</b>	<p>No</p>
<b>6.7 Consultation with affected communities on potential impact of PPP projects.</b>	<p>No</p>
<b>6.8 Approval of PPP projects.</b>	<p>No</p>
<b>6.9 Undertaking the procurement of PPPs.</b>	<p>No</p>
<b>6.10 Oversight of PPP implementation.</b>	<p>No</p>
<b>6.11 Other</b>	<p>Yes</p>
<b>6.11 please specify:</b>	<p>Pursuant to Article 10 of the Concession Law: (1) The Concession Commission of Montenegro (hereinafter: the Commission) is an independent and independent in the performance of the tasks determined by this Law. (2) The Commission shall have a president and eight members. (3) The President and</p>

	<p>members of the Commission are appointed by the Government, as follows: - the president and one member at the proposal of the ministry responsible for economic affairs development; - two members on the proposal of the Assembly from the rank of distinguished experts; - one member upon proposal of the ministry responsible for finance; - one member upon proposal of the ministry competent for the affairs of traffic, maritime affairs and telecommunications; - one member upon proposal of the ministry responsible for agriculture, Forestry and Water Management; - one member on the proposal of the employers' association; - one member on the proposal of the Municipal Community. (4) The President and members of the Commission may be nationals of Montenegro only. (5) A person who has been convicted of a criminal offense may not be appointed to the Commission criminal offense against property, economy, constitutional order and abuse of official position. (6) The President and members of the Commission may not be: deputies, councilors, elders state bodies, organizations and institutions, the chief administrator and the head of the local authority administration. (7) The President of the Commission represents and manages the work of the Commission. (8) The President and a member of the Commission shall be appointed for a period of five years and may be appointed for another term. (9) If the President, or a member of the Commission, terminates the function before expiry mandate, the Government shall appoint, for the period until the expiry of the mandate, in accordance with paragraph 3 of this Article president, or member of the Commission. (10) The Commission may engage experts and professional institutions for particular areas if, according to the Commission's assessment, expert assistance is required. (11) Professional and administrative tasks for the needs of the Commission shall be performed by an administrative body in charge of property affairs.</p>
<p><b>Please provide the relevant legal/regulatory provisions:</b></p>	<p>According to Article 11 (1) of the Concession Law, the Commission shall: 1) decide upon the objections of the participants in the procedure of granting concessions related to evaluate and rank the list of bidders and make decisions based on them; 2) keeps a register of concession contracts; 3) approve the implementation of the procedure for extending the time limit for the granting of a concession or extension space for carrying out concession activities, as well as approving the implementation of the procedure granting concessions of associated mineral resources on an approved exploitation field, without conducting the public bidding procedure referred to in Article 20, paragraph 2, item 1, 2 and 3 of this Law</p>
<p><b>PPP Preparation</b></p>	
<p><b>8. Does the Ministry of Finance or Central Budgetary Authority approve the PPP project before launching the procurement process?</b></p>	<p>Yes</p>
<p><b>If yes, please provide the relevant legal/regulatory provisions (if any):</b></p>	<p>No regulatory basis</p>
<p><b>8.1. Does the Ministry of Finance or Central Budgetary Authority approve the PPP</b></p>	<p>No</p>

project before signing the PPP contract?	
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
8.2. Does the Ministry of Finance (or government more broadly) have a specific system of: Budgeting for PPP projects.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
Accounting liabilities (explicit and implicit, direct and contingent) arising from PPPs.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
Reporting liabilities (explicit and implicit, direct and contingent) arising from PPPs.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
8.3. If yes to question 8.2, which of the following alternatives best describes the regulation?: Accounting and reporting according to International Public Sector Accounting Standards (IPSAS).	n/a
Accounting and reporting according to other international standard (e.g. European System of Accounts).	n/a
Please specify:	n/a
Other.	n/a
Please specify:	n/a
9. Besides the procuring authority and the Ministry of Finance or Central Budgetary Authority, does any other authority(s) approve the PPP project before launching the procurement process (e.g. Cabinet, Cabinet Committee, Parliament, Supreme Audit Office, etc.)?	No

<b>If yes, please specify the relevant authority</b>	n/a
<b>and provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>9.1. Besides the procuring authority and the Ministry of Finance or Central Budgetary Authority, does any other authority(s) approve the PPP project before signing the PPP contract?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	<p>Pursuant to Article 9 of the Concession Law:</p> <p>(1) The Government or the Parliament, pursuant to Article 8 paragraph 2 of this Law, shall adopt a decision to award a concession for the concession subject matter of which the ownership rights and authorizations are exercised by Montenegro.</p> <p>(2) The Municipality shall adopt a decision to award a concession for the concession subject matter of which the Municipality exercises the ownership rights and authorizations.</p> <p>(3) A decision to award a concession for the concession subject matter, which exceeds the value established under law, shall be adopted by the Parliament upon a proposal of the Government and after the procedure conducted in accordance with this Law.</p> <p>(4) The appraisal of the value of immovable that is the subject matter of the concession referred to in paragraph 3 of this Article that shall be conducted by the administrative authority competent for property-related matters.</p> <p>(5) For the concession referred to in paragraphs 1 and 3 of this Article, the procedure for awarding concession for the subject matters of which ownership rights and authorizations are exercised by the Government or by the Municipality, shall be conducted by the competent authority.</p> <p>(6) In the procedure for awarding concession, the competent authority shall draw up a concession act, prepare and publish a public notice, prepare tender documentation; compose a tender committee, and perform other duties, in accordance with this Law.</p>
<b>10. Does the procuring authority use transaction advisors during the PPP project cycle?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Pursuant to Article 18 (4) of the Concession Law, the competent authority may engage professional legal entities or natural persons to deliver support in drafting or for drafting of the proposal of concession act and tender documentation.
<b>11. In a case comparable to the case study assumptions, please select the option that best describes the way your government integrates the</b>	No

<p><b>prioritization of PPP projects with other public investment project prioritization? (e.g. in the context of a national public investment system, multi-year perspective plans, medium-term budgetary framework): The regulatory framework provides for the inclusion of PPPs in the national public investment system/medium term budgetary framework and details a specific procedure to ensure the consistency of PPPs with other public investment priorities.</b></p>	
<p><b>If yes, please specify and provide the relevant legal/regulatory provisions (if any):</b></p>	n/a
<p><b>The regulatory framework prescribes the need for PPPs to be consistent with all other investment priorities without establishing a specific procedure to achieve that goal.</b></p>	Yes
<p><b>If yes, please provide the relevant legal/regulatory provisions (if any):</b></p>	<p>Pursuant to Article 7 of the Concession Law:</p> <p>1) Concessions shall be awarded pursuant to an annual plan adopted by the Government or the Municipality, and published on the Web Site of the Government or of the Municipality.</p> <p>2) The plan referred to in paragraph 1 of this Article shall be adopted for individual areas, upon a public debate that is conducted by the authority competent to deal with a corresponding area, by no later than the expiration of a current year for the next year.</p> <p>3) The public debate referred to in paragraph 2 of this Article shall also be deemed to be a public debate held during the procedure of adopting a development strategy for the specific area.</p> <p>4) The plan of awarding concessions shall stipulate the areas - localities, or the areas for which concession are to be awarded, the concession subject matter, guiding time-lines for publication of public notices for awarding concessions.</p>
<p><b>The regulatory framework does not include any provisions but the procuring authority evaluates the consistency of PPPs with other government investment priorities in practice.</b></p>	No
<p><b>If yes, please elaborate:</b></p>	n/a



<b>The procuring authority does not evaluate PPPs against existing government priorities.</b>	No
<b>Please elaborate and provide examples:</b>	n/a
<b>11.1. Based on your experience, is it always the case that this prioritization is done in practice in accordance with the provisions of the regulatory framework described above?</b>	Yes
<b>If yes, please specify:</b>	Public bodies follow provisions of regulatory framework, due to several reasons, including the fact that the use/application of concession procedures is common in Montenegro, hence the strict application of the laws.
<b>If no, please elaborate:</b>	n/a
<b>12.1 Which of the following assessments are conducted when identifying and preparing a PPP in order to inform the decision to proceed with it? (check all that apply): Socio-economic analysis (cost-benefit analysis of the socio-economic impact of the PPP project)</b>	Yes
<b>Relevant legal/regulatory provision (if any)</b>	<p>Article 18 of the Concession Law:</p> <p>The competent authority shall submit the concession act referred to in Article 17 paragraph 1 of this Law to the Government, or to the competent authority of the Municipality, in accordance with law.</p> <p>(2) Along with the concession act, the following shall also be submitted:</p> <ul style="list-style-type: none"> <li>– analysis of justifiability of achieving the public interest by awarding a concession, containing the indicators that such concession is capable of providing the public interests and the analysis of the possible alternatives in delivering the services concerned;</li> <li>– indicators that a planned concession is capable of ensuring an appropriate value for money;</li> <li>– analysis of the assessments and balance of risks between the Grantor and the Concessionaire;</li> <li>– consideration of the need that the Grantor has to have a stake in the concession company concerned (type and proportion of such stake);</li> <li>– report from the public debate.</li> </ul> <p>(3) Prior to sending a concession act to be adopted, the competent authority shall organize and carry out public debate, within 15 to 30 days as of the day of submission of the public notice to such public debate.</p>
<b>Is there a specific methodology for the assessment?</b>	No
<b>If yes, please elaborate</b>	n/a

<b>Is the assessment done in practice?</b>	No
<b>Details:</b>	n/a
<b>12.2. Affordability assessment, including the identification of the required long term public commitments (explicit and implicit, direct and contingent liabilities)</b>	Yes
<b>Relevant legal/regulatory provision (if any)</b>	<p>Pursuant to Article 18 of the Concession Law:</p> <p>(1) The competent authority shall submit the concession act referred to in Article 17 paragraph 1 of this Law to the Government, or to the competent authority of the Municipality, in accordance with law.</p> <p>(2) Along with the concession act, the following shall also be submitted:</p> <ul style="list-style-type: none"> <li>– analysis of justifiability of achieving the public interest by awarding a concession, containing the indicators that such concession is capable of providing the public interests and the analysis of the possible alternatives in delivering the services concerned;</li> <li>– indicators that a planned concession is capable of ensuring an appropriate value for money;</li> <li>– analysis of the assessments and balance of risks between the Grantor and the Concessionaire;</li> <li>– consideration of the need that the Grantor has to have a stake in the concession company concerned (type and proportion of such stake);</li> <li>– report from the public debate.</li> </ul>
<b>Is there a specific methodology for the assessment?</b>	No
<b>If yes, please elaborate</b>	n/a
<b>Is the assessment done in practice?</b>	n/a
<b>Details:</b>	n/a
<b>12.3. Risk identification, allocation and assessment (risk matrix)</b>	Yes
<b>Relevant legal/regulatory provision (if any)</b>	Pursuant to Article 18 (2) of the Concession Law, along with the concession act, an analysis of the assessments and balance of risks between the Grantor and the Concessionaire shall also be submitted (to the government or competent authority)
<b>Is there a specific methodology for the assessment?</b>	No
<b>If yes, please elaborate</b>	n/a
<b>Is the assessment done in practice?</b>	Yes
<b>Details:</b>	Majority of contributors indicated that this is done in practice
<b>12.4. Comparative assessment to evaluate</b>	Yes

<b>whether a PPP is the best option when compared to other procurement alternatives (i.e. value for money analysis, public sector comparator)</b>	
<b>Relevant legal/regulatory provision (if any)</b>	Pursuant to Article 18 (2) of the Concession Law, along with the concession act, an analysis of justifiability of achieving the public interest by awarding a concession, containing the indicators that such concession is capable of providing the public interests and the analysis of the possible alternatives in delivering the services concerned shall be submitted to the Government/Competent authority; indicators that a planned concession is capable of ensuring an appropriate value for money shall be submitted to the competent authority/government.
<b>Is there a specific methodology for the assessment?</b>	No
<b>If yes, please elaborate</b>	n/a
<b>Is the assessment done in practice?</b>	Yes
<b>Details:</b>	Majority of contributors indicated that this is done in practice
<b>12.5. Financial viability or bankability assessment</b>	Yes
<b>Relevant legal/regulatory provision (if any)</b>	No regulatory basis
<b>Is there a specific methodology for the assessment?</b>	No
<b>If yes, please elaborate</b>	n/a
<b>Is the assessment done in practice?</b>	Yes
<b>Details:</b>	Majority of contributors indicated that this is done in practice
<b>12.6. Market sounding and/or assessment (showing evidence of investors' interest in the market for the project)</b>	No
<b>Relevant legal/regulatory provision (if any)</b>	n/a
<b>Is there a specific methodology for the assessment?</b>	n/a
<b>If yes, please elaborate</b>	n/a
<b>Is the assessment done in practice?</b>	n/a
<b>Details:</b>	n/a
<b>12.7. Environmental impact assessment</b>	Yes

<b>Relevant legal/regulatory provision (if any)</b>	Article 19 (1) (11) of the Concession Law states that the concession act will include: environmental protection measures and measures for the improvement of energy efficiency, in accordance with regulations
<b>Is there a specific methodology for the assessment?</b>	No
<b>If yes, please elaborate</b>	n/a
<b>Is the assessment done in practice?</b>	No
<b>Details:</b>	n/a
<b>12.8. Consultation process with affected communities on potential impact of the PPP project</b>	Yes
<b>Relevant legal/regulatory provision (if any)</b>	Pursuant to Article 18 (2) of the Concession Law, along with the concession act report from the public debate has to be submitted to the competent authority/government.
<b>Is there a specific methodology for the assessment?</b>	No
<b>If yes, please elaborate</b>	n/a
<b>Is the assessment done in practice?</b>	Yes
<b>Details:</b>	There is a mandatory public discussion on any concession act proposal (the adoption of the concession act is a condition precedent for launching the concession award procedure)
<b>13. Does the procuring authority include the assessments (indicated in Question 12 above) in the request for proposals and/or tender documents (for example, as part of an Information Memorandum to the bidders)?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	No regulatory basis
<b>and specify which of the assessments are included in the request for proposals and/or tender documents:</b>	Financial viability; environmental impact assesment
<b>13.1. Are the assessments published online?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>specify the website</b>	n/a

<b>please specify which of the assessments are published online:</b>	n/a
<b>14. Does the procuring authority include a draft PPP contract in the request for proposals?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	According to Article 21 (2) of the Concession Law, the public notice will include the fundamental elements of the concession act. Furthermore, according to Article 19 (1) (8) of the Concession Law, the concession act includes draft concession contracts and other accessory contracts required for execution of the concession.
<b>If no, please elaborate</b>	n/a
<b>14.1. Are the tender documents published online?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>and please specify the website:</b>	n/a
<b>15. In a case comparable to the case study assumptions, have standardized PPP model contracts and/or transaction documents been developed?</b>	No
<b>If yes, please specify and provide a government-supported website where the mentioned standards are available or provide an electronic copy of them:</b>	n/a
<b>16.1 In a case comparable to the case study assumptions, who is the responsible party for each of the following requirements? Obtaining the required urban permits:</b>	No
<b>Procuring authority (or other Government entity)</b>	
<b>Private Partner</b>	No
<b>Private partner with facilitation role assigned to the procuring authority (or other Government entity)</b>	No
<b>To be established in the contract</b>	Yes
<b>Relevant legal/regulatory provision (if any)</b>	No regulatory basis
<b>16.2. Obtaining the required environmental permits:</b>	No

<b>Procuring authority (or other Government entity)</b>	
<b>Private Partner</b>	No
<b>Private partner with facilitation role assigned to the procuring authority (or other Government entity)</b>	No
<b>To be established in the contract</b>	Yes
<b>Relevant legal/regulatory provision (if any)</b>	No regulatory basis
<b>16.3. Obtaining the required operational permits: Procuring authority (or other Government entity)</b>	No
<b>Private Partner</b>	No
<b>Private partner with facilitation role assigned to the procuring authority (or other Government entity)</b>	No
<b>To be established in the contract</b>	Yes
<b>Relevant legal/regulatory provision (if any)</b>	No regulatory basis
<b>16.4. Obtaining the required land: Procuring authority (or other Government entity)</b>	No
<b>Private Partner</b>	No
<b>Private partner with facilitation role assigned to the procuring authority (or other Government entity)</b>	No
<b>To be established in the contract</b>	Yes
<b>Relevant legal/regulatory provision (if any)</b>	No regulatory basis
<b>16.5. Obtaining the required right of way: Procuring authority (or other Government entity)</b>	No
<b>Private Partner</b>	No
<b>Private partner with facilitation role assigned to the procuring authority (or other Government entity)</b>	No
<b>To be established in the contract</b>	Yes
<b>Relevant legal/regulatory provision (if any)</b>	No regulatory basis
<b>PPP Procurement</b>	

<b>18. Which of the following options best describes the required qualifications of the bid evaluation committee members? (Please select only one): The membership of the bid evaluation committee is specified and/or its members are required to meet detailed qualifications.</b>	<p>Yes</p>
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	<p>Pursuant to Article 26 of the Concession Law:</p> <p>1) The procedure of public competition, based on a public notice, shall be conducted by an ad hoc tender committee composed of an odd number of members that are appointed by the competent authority.</p> <p>3) The Tender Committee shall consist of a chairperson and a minimum of four members that are appointed from among the professionals in the area dealing with the subject matter of the concession (technical, law, finances, and other professions).</p> <p>4) One member of the Committee, for concessions falling within the competency of the Government, shall be appointed upon a proposal by a municipality within the territory of which the concession is executed.</p> <p>5) If the concession referred to in paragraph 4 of this Article is executed within the territory of two or more municipalities, one member to the Tender Committee shall be proposed by the Union of Municipalities, in cooperation with the municipalities within the territories of which the concession is executed.</p> <p>7) A member of the Tender Committee must not have any direct or indirect interests that, during the work of the Tender Committee, could cause the conflict of his/her personal or business interests with his/her tasks in the Tender Committee.</p>
<b>The bid evaluation committee members require sufficient qualification without specific details.</b>	<p>No</p>
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	<p>n/a</p>
<b>The bid evaluation committee members are not required to have any specific qualifications.</b>	<p>No</p>
<b>Please elaborate and provide examples:</b>	<p>n/a</p>
<b>19. Does the procuring authority issue a public procurement notice of the PPP project?</b>	<p>Yes</p>
<b>If yes, please specify the means of publication and provide the relevant</b>	<p>Pursuant to Article 21 (1) and 21 (2) of the Concession Law, the competent authority shall publish a public notice upon the adoption of the concession act. The Notice shall be published in the Official Gazette of Montenegro, on at</p>

<b>legal/regulatory provisions (if any):</b>	least one daily printed media that is circulated within the entire territory of Montenegro and on the Website of the competent authority; and in case a subject matter of concession is of strategic importance for Montenegro, for the subject matter of concession referred to in Article 6, paragraph 1, items 7 and 8 of this Law it shall also be published in one representative international economic printed media.
<b>19.1. If yes, is the public procurement notice published online?</b>	Yes
<b>If yes, please specify the website:</b>	Website of the procuring authority
<b>20. Are foreign companies prohibited from participating in the bidding process?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>21. In a case comparable to the case study assumptions, does the procuring authority grant the potential bidders a minimum period of time to submit their bids?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Pursuant to Article 21 (5) of the Concession Law, the deadline for submitting the offers referred to in paragraph 3, item 3 of this Article shall be determined according to the period required for the preparation of the offer and runs from the date of publication of the public advertisement in "Official Gazette of Montenegro" and can not be shorter than 30 days.
<b>and the time in calendar days:</b>	30
<b>22.1. In a case comparable to the case study assumptions, which are the procurement procedures available and/or set as default for PPP projects? Open tendering: Available</b>	No
<b>Default</b>	Yes
<b>Relevant legal/regulatory provision (if any)</b>	<p>Pursuant to Article 20 (1) of the Concession Law, a concession shall be awarded based on a public notice, by:</p> <ol style="list-style-type: none"> <li>1) Open procedure public competition (hereinafter referred to as: the open procedure),</li> <li>2) Two-stage procedure public competition (hereinafter referred to as: the two-stage procedure),</li> <li>3) Accelerated procedure public competition (hereinafter referred to as: the accelerated procedure).</li> </ol> <p>Furthermore, Articles 21 to 37 of the Concession Law define, in detail, the way that the open procedure will work.</p> <p>Pursuant to Article 38 (1) of the Concession Law, the two-stage procedure shall</p>



	<p>be carried out in the following cases: For granting a concession for projects which are complex from technical, technical and technological, legal, financial and other aspect, or When a large number of tenderers is expected.</p> <p>Furthermore, According to Article 39 (1) of the Concession Law, a competitive dialogue for awarding concession shall be carried out if a competent authority does not have a solution for realization of technical, technical and technological, legal, financial or other aspects of a complex project, in order to determine the best technical, technical and technological, legal, financial or other solution for the realization of the project.</p>
<b>22.2. Restricted tendering (with pre-qualification stage): Available</b>	Yes
<b>Default</b>	No
<b>Relevant legal/regulatory provision (if any)</b>	<p>Pursuant to Article 38 (1) of the Concession Law, the two-stage procedure shall be carried out in the following cases: For granting a concession for projects which are complex from technical, technical and technological, legal, financial and other aspect, or When a large number of tenderers is expected.</p> <p>Furthermore, Article 38 (2) states The two-stage procedure shall include: public announcement for pre-qualification; pre-qualification procedure, when the Tender Committee evaluates applications for pre-qualification and accepts or rejects applications based on pre-established pre-qualification criteria; submitting concession act to qualified tenderers, purchase of tender documentation and submitting tenders by qualified tenderers within given time limit; evaluation and ranking of tenders received from qualified tenderers;</p>
<b>22.3 Multi-stage tendering (with shortlisting of final candidate(s)): Available</b>	No
<b>Default</b>	No
<b>Relevant legal/regulatory provision (if any)</b>	n/a
<b>22.4. Competitive dialogue: Available</b>	Yes
<b>Default</b>	No
<b>Relevant legal/regulatory provision (if any)</b>	<p>Pursuant to Article 39 (1) of the Concession Law, a competitive dialogue for awarding concession shall be carried out if a competent authority does not have a solution for realization of technical, technical and technological, legal, financial or other aspects of a complex project, in order to determine the best technical, technical and technological, legal, financial or other solution for the realization of the project.</p>
<b>22.5. Direct negotiation with more than one candidate: Available</b>	No
<b>Default</b>	No
<b>Relevant legal/regulatory provision (if any)</b>	n/a
<b>22.6. Direct negotiation with only one candidate: Available</b>	No
<b>Default</b>	No

<b>Relevant legal/regulatory provision (if any)</b>	n/a
<b>22.7 Other. Specify:</b>	No
<b>Available</b>	n/a
<b>Default</b>	n/a
<b>Relevant legal/regulatory provision (if any)</b>	n/a
<b>22.8. Do the tender documents detail the procedure of the procurement process providing the same information to all the bidders?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	<p>Pursuant to Article 21 (3) of the Concession Law, related to the open procedure, states that:</p> <p>The public notice shall include, depending on the subject matter of concession, the following:</p> <ol style="list-style-type: none"> <li>1) description of the subject matter of the concession; boundaries of the region, district, area and locality whereon the subject matter of the concession is located;</li> <li>2) fundamental elements of the concession act;</li> <li>3) address and time-limit for the submission of tenders to a public notice;</li> <li>4) criteria for participation in the public notice and possibility to submit a joint tender;</li> <li>5) rules according to which a public notice is carried out;</li> <li>6) method of submitting tenders;</li> <li>7) possible time for visit to the locality whereon a concessionary activity will be performed;</li> <li>8) date, time and place for opening of the received tenders to a public notice;</li> <li>9) the deadline within which a tender to a public notice may be withdrawn;</li> <li>10) defining the type of the tender (technical and financial, or only financial tenders);</li> <li>11) data on the amount and the format of deposit and guarantee and the period for which are requested;</li> <li>12) requirements, deadline and method of returning deposit and guarantee ;</li> <li>13) the amount and the type of the stake of the Grantor and share of the Concessionaire in the ownership structure of a concession company;</li> <li>14) name of a person in charge of giving relevant information during the procedure of public notice;</li> <li>15) time and place where concession act and tender documentation can be obtained; as well as the price of tender documentation in the amount of costs of its development.</li> </ol> <p>Furthermore, Article 21 (4) states that a public notice may also include a financial support offer to the Concessionaire for performing non-profitable and insufficiently profitable activities of the public interests (payments for activities of the public interests; giving guarantees; financial support; donations, and alike).</p>
<b>If no, please elaborate:</b>	n/a

<b>22.9. Do the tender documents specify the prequalification/shortlisting criteria (when applicable) in order to make them available to all the bidders?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Pursuant to Article 38 (3) of the Concession Law, the competent authority shall set, in the notice for a two-stage procedure public competition, pre-qualification criteria which must be met by tenderers in order to qualify for the competition procedure. Furthermore, Article 38 (6) states that the public notice shall determine documentation which is necessary for pre-qualification, which proves that pre-qualification criteria are met.
<b>22.10. Based on your experience, is it always the case that the specified criteria are respected in practice?</b>	Yes
<b>If yes, please specify and provide the relevant legal/regulatory provisions (if any):</b>	No regulatory basis
<b>If no, please elaborate:</b>	n/a
<b>23. Can interested parties/potential bidders submit questions to clarify the public procurement notice and/or the request for proposals?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	No regulatory basis
<b>23.1. If yes, notwithstanding confidential information pertaining to the bidders, does the procuring authority disclose those questions and clarifications to all potential bidders?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>23.2. Based on your experience, is it always the case that this disclosure of information is done in practice?</b>	No
<b>If yes, please specify:</b>	n/a
<b>If no, please elaborate:</b>	There is no legislation dealing with these issues, hence the procuring authorities are dealing with these issues on a case-to-case basis
<b>24. Besides questions and clarifications, can the</b>	No

<b>procuring authority conduct pre-bidding conference?</b>	
<b>If yes, please specify and provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>24.1. If yes, notwithstanding confidential information pertaining to the bidders, does the procuring authority disclose the content and the results of the pre-bid conference to all bidders?</b>	n/a
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>24.2. Based on your experience, is it always the case that this disclosure of information is done in practice?</b>	n/a
<b>If yes, please specify:</b>	n/a
<b>If no, please elaborate:</b>	n/a
<b>25. In a case comparable to the case study assumptions, does the procuring authority require the bidders to prepare and present a financial model with their proposals?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>If no, please elaborate:</b>	Such requirement could be one of the tender conditions, but it is not mandatory.
<b>26. Does the procuring authority evaluate the proposals strictly and solely in accordance with the evaluation criteria stated in the tender documents?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Pursuant to Article 30 (3) of the Concession Law, the Tender Committee shall evaluate tenders by attributing certain number of points based on each criterion prescribed under tender documentation, and it shall produce a ranking list of tenderers based on the completed evaluation.
<b>Evaluation criteria is not set in the tender documents</b>	No
<b>27. In the case where only one proposal is submitted (sole proposals), which of the following options best</b>	No

describes the way the procuring authority deals with them? (Please select only one)?: The procuring authority follows a specific procedure before awarding a PPP contract where only one proposal is submitted.	
Please specify and provide the relevant legal/regulatory provisions (if any):	n/a
The procuring authority considers sole proposals valid as long as they meet the conditions outlined in the tender documents.	Yes
Please provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 37 of the Concession Law, if one tenderer submits the tender upon public notice, and the Tender Committee verifies that such tender meets the requirements and criteria of the public notice, the competent authority may annul the public notice or continue the procedure for awarding concession.
The procuring authority does not award a PPP contract if only one proposal is submitted.	No
Please provide the relevant legal/regulatory provisions (if any):	n/a
The regulatory framework does not include any provisions.	No
28. Does the procuring authority publish the award notice?	Yes
If yes, please specify the means of publication and provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 36 of the Concession Law (which applies towards open procedures): (1) Within five days as of the day of adoption of the decision on awarding concession, the competent authority shall inform the tenderers in writing of the results of public notice. (2) A decision on concession award or a decision on public notice annulment shall be published in the Official Gazette of Montenegro and on the Web Site of the competent authority.
28.1. If yes, is the public procurement award notice published online?	Yes
If yes, please specify the website:	The website of the competent authority.
29. Does the procuring authority provide all the bidders with the result of the PPP procurement process?	Yes

<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	<p>Pursuant to Article 36 of the Concession Law, within five days as of the day of adoption of the decision on awarding concession, the competent authority shall inform the tenderers in writing of the results of public notice. A decision on concession award or a decision on public notice annulment shall be published in the Official Gazette of Montenegro and on the Web Site of the competent authority.</p>
<b>If no, please elaborate:</b>	<p>n/a</p>
<b>29.1. If yes, does the notification of the result of the PPP procurement process include the grounds for the selection of the winning bid?</b>	<p>Yes</p>
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	<p>Article 30 of the Concession Law mentions that a ranking is produced by the tender committee with document on the minutes of opening as well as explanation on ranking:</p> <ol style="list-style-type: none"> <li>1) The Tender Committee shall evaluate tenders by attributing certain number of points based on each criterion prescribed under tender documentation, and it shall produce a ranking list of tenderers based on the completed evaluation.</li> <li>2) The Tender Committee shall be obliged to deliver to the competent authority a ranking list of tenderers within 30 days as of the day of opening of tenders, the report on the conducted procedure with the explanatory notes for the ranking list of tenderers, the minutes on the course of the procedure that shall mandatory include data on the conformity with the requirements prescribed to be met by a concessionaire and the fundamental elements from tenders as per the structure of criteria based on which the evaluation of tenders was performed.</li> <li>3) Public notice may set a longer time-limit than the time-limit referred to in paragraph 2 of this Article.</li> <li>4) The competent authority, upon a proposal by the Tender Committee, may extend the time-limit referred to in paragraphs 2 and 3 of this Article.</li> </ol> <p>Then Article 31 states that the documents with ranking and notes/explanations will be published on the bulletin or the website of the competent authority, and that bidders can appeal the rankings:</p> <ol style="list-style-type: none"> <li>1) A ranking list of tenderers shall be posted on the bulletin board or on the Web Site of the competent authority.</li> <li>2) Bidders shall be entitled to examine the documentation referred to in Article 30 paragraph 2 of this Law, within eight days as of the day of the publishing of the ranking list of tenderers on the Web Site of the competent authority, upon a written request.</li> </ol> <p>Then Article 33 mentions the following: The competent authority shall deliver to the grantor a proposal to award concession, with explanatory note, the ranking list of tenderers, the report on the conducted evaluation procedure together with the explanatory note for the ranking list of tenderers, the minutes of the Tender Committee on the course of the procedure, a proposal of a concession contract, a possible appeals by the tenderers if any, and the decision taken by the Committee</p>

	<p>upon such appeals.</p> <p>Article 34 mentions the time process for deciding:</p> <ol style="list-style-type: none"> <li>1) A grantor shall decide on awarding concession within 30 days as of the day of the receipt of the proposal referred to in Article 33 paragraph 1 of this Law if no appeals were presented about the ranking list of tenderers or about the procedure of evaluation.</li> <li>2) If the complexity of a concession requires so, the Grantor may extend the time-limit referred to in paragraph 1 of this Article for a maximum of 30 days, or 90 days if an administrative dispute has been initiated, of which it shall inform the tenderers.</li> <li>3) If a grantor has abandoned concession award, the grantor shall be obliged to compensate the first ranked tenderer the actual expenses of the participation in the public notice, unless otherwise prescribed under public notice.</li> </ol> <p>And lastly Article 36 delves into the process of informing the result/decision of the award process:</p> <ol style="list-style-type: none"> <li>1) Within five days as of the day of adoption of the decision on awarding concession, the competent authority shall inform the tenderers in writing of the results of public notice.</li> <li>2) A decision on concession award or a decision on public notice annulment shall be published in the Official Gazette of Montenegro and on the Web Site of the competent authority.</li> </ol>
<b>30. Is there a standstill (or pause) period after the contract award and before the signing of the contract in order to allow unsuccessful bidders to challenge the award decision?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>and the time in calendar days:</b>	n/a
<b>30.1. Is the standstill period set out in the notice of intention to award?</b>	n/a
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>31. Does the regulatory framework restrict negotiations with the selected bidder between the award and the signature of the PPP contract in order to prevent an unfair</b>	No

disadvantage to the other bidders?	
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
31.1. Based on your experience, is it always the case that this restriction is respected in practice?	Yes
If yes, please specify:	No regulatory basis
If no, please elaborate:	n/a
32. Does the procuring authority publish the PPP contract?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	According to Article 15, the register of Concession Contracts shall include the data on: the name of the Concessionaire; the name of the Grantor; the subject matter of concession; the date the concession contracts was concluded; and the term of validity of the concession.
32.1. If yes, which of the following options best describes this publication (choose only one)?: Publication of the full PPP contract including all its annexes and appendixes	No
Publication of the full PPP contract without including all its annexes and appendixes	No
Publication of a summary of the PPP contract without publishing the full PPP contract	Yes
Publication of a summary of the PPP contract along with the full PPP contract including all its annexes and appendixes	No
Publication of a summary of the PPP contract along with the full PPP contract without including all its annexes and appendixes	No
32.2. If yes, is it published online?	Yes
If yes, please specify the website:	<a href="http://www.komisijazakoncesije.me/cg/index.php/reg-koncesija">http://www.komisijazakoncesije.me/cg/index.php/reg-koncesija</a>
32.3. If yes, does the procuring authority also publish any subsequent amendment made to the PPP contract?	Yes



<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Pursuant to Article 15 (2) of the Concession Law, all changes relating to the concluded concession contracts shall be entered in the Register of Concession Contracts, in a chronological order.
<b>PPP Contract Management</b>	
<b>41. Has the procuring or contract management authority established a system to manage the implementation of the PPP contract (e.g. attributing responsibilities or establishing specific management tools)?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Pursuant to Article 49 of the Concession Law: (1) Competent authority shall monitor and control the execution of contractual obligations from the concession contract. (2) The competent authority can engage experts or professional institutions for monitoring the execution of contractual obligations by the Concessionaire. (3) Competent authority shall calculate the concession fee. (4) Authorities competent for the collection of public revenues shall collect the concession fee.
<b>41.1. If yes, which of the following tools does it include (check all that apply)? Establishment of a PPP contract management team</b>	No
<b>Relevant legal/regulatory provisions (if any):</b>	n/a
<b>Participation of the members of the PPP contract management team in the PPP procurement process and/or vice versa</b>	No
<b>Relevant legal/regulatory provisions (if any):</b>	n/a
<b>Elaboration of a PPP implementation manual or an equivalent document</b>	No
<b>Relevant legal/regulatory provisions (if any):</b>	n/a
<b>Establishment of personnel training programs (i.e. initial training and continued training throughout the course of the project)</b>	No
<b>Relevant legal/regulatory provisions (if any):</b>	n/a
<b>Establishment of a risk mitigation mechanism which considers the evolving nature of risks throughout the</b>	No

<b>project lifecycle (guidelines, specific processes, insurance regime, etc.)</b>	
<b>Relevant legal/regulatory provisions (if any):</b>	n/a
<b>41.2. Which of the following options best describes the required qualifications of the PPP contract management team members? (Please select only one): The membership of the PPP contract management team is specified and/or its members are required to meet detailed qualifications.</b>	n/a
<b>If yes, please specify and provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>The PPP contract management team members are required to meet sufficient qualification without specific details.</b>	n/a
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>The PPP contract management team members are not required to meet any specific qualifications.</b>	n/a
<b>Please elaborate and provide examples:</b>	n/a
<b>42. Does the procuring or contract management authority establish a system for tracking progress and completion of construction works under a PPP contract?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>42.1. If yes, is the PPP contract construction performance information made available to the public?</b>	n/a
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>42.2. If yes, is the PPP contract construction</b>	n/a

<b>performance information made publicly available online?</b>	
<b>If yes, please specify the website:</b>	n/a
<b>43. Does the procuring or contract management authority establish a monitoring and evaluation system of the PPP contract implementation after construction?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Pursuant to Article 49 of the Concession Law: (1) Competent authority shall monitor and control the execution of contractual obligations from the concession contract. (2) The competent authority can engage experts or professional institutions for monitoring the execution of contractual obligations by the Concessionaire. (3) Competent authority shall calculate the concession fee. (4) Authorities competent for the collection of public revenues shall collect the concession fee.
<b>43.1. If yes, which of the following tools does it include (check all that apply)?: Performance is assessed against evaluation criteria set in the tender documents and the PPP contract</b>	No
<b>Relevant legal/regulatory provisions (if any)</b>	n/a
<b>The procuring or contract management authority can abate (reduce) payments for non-performance of operating obligations under the PPP contract</b>	No
<b>Relevant legal/regulatory provisions (if any)</b>	n/a
<b>The private partner must provide the procuring or contract management authority with periodic operational and financial data</b>	No
<b>Relevant legal/regulatory provisions (if any)</b>	n/a
<b>The procuring or contract management authority must periodically gather information on the performance of the PPP contract</b>	No

<b>Relevant legal/regulatory provisions (if any)</b>	n/a
<b>The PPP contract performance information must be available to the public</b>	No
<b>Relevant legal/regulatory provisions (if any)</b>	n/a
<b>43.2. Is PPP contract performance information made publicly available online?</b>	No
<b>If yes, please specify the website:</b>	n/a
<b>44. Are foreign companies prohibited from repatriating the income resulting from the operation of a PPP project?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>45. Does the regulatory framework (including standard contractual clauses) expressly regulate changes in the ownership structure (i.e. stakeholder composition) of the private partner and/or assignment of the PPP contract?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	<p>Pursuant to Article 19 of the Concession Law, (1) According to the subject matter of the Concession, the concession act shall include the following:</p> <p>(5) excerpt from spatial planning documentation; ownership structure and the manner of solving ownership rights; as well as the data on infrastructure and other facilities that are situated within the area for performance of the concessionary activity;</p> <p>Furthermore Article 52 of the Concession Law States: (1) A concession contract can be assigned to another concessionaire with a prior consent of the grantor; provided that a new concessionaire meets at least the same requirements as the concessionaire.</p> <p>(2) Assigning of the concession without the consent of the grantor shall be null and void.</p>
<b>45.1. If yes, which of the following circumstances are specifically regulated? (check all that apply): Any change in the private partner during an initial period (e.g. construction and first five years of operation).</b>	No

<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	n/a
<b>Changes of ownership/contract assignment, at any time during the contract, must preserve the same technical qualifications as the original operator.</b>	Yes
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	Pursuant to Article 52 of the Concession Law: (1) A concession contract can be assigned to another concessionaire with a prior consent of the grantor; provided that a new concessionaire meets at least the same requirements as the concessionaire. (2) Assigning of the concession without the consent of the grantor shall be null and void.
<b>In other cases, flexibility to change the ownership structure and/or assign the contract.</b>	No
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	n/a
<b>46. Does the regulatory framework (including standard contractual clauses) expressly regulate the modification or renegotiation of the PPP contract (once the contract is signed)?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	Pursuant to Article 43 (2) of the Concession Law, the concession contract shall contain: 15) Conditions for amendments or termination of the contract in the case of changed circumstance and force majeure; 16) Description of events which are regarded as changed circumstances and force majeure;  Furthermore, according to Article 57 of the Concession Law, in the case of force majeure or extraordinary event which prevents the execution of the concession activity, which could not have been foreseen at the time the contract was concluded, rights and obligations from the concession contract shall temporarily stay until the force majeure or extraordinary event ceases. Grantor shall, based on the request of the Concessionaire in writing, make the decision on stay of rights and obligations from the concession contract.
<b>46.1. If yes, is an approval from a government authority,</b>	No

other than the procuring authority, required?	
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
46.2. If yes to question 46, which of the following circumstances are specifically regulated? (check all that apply): A change in the scope and/or object of the contract.	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
A change in the risk allocation of the contract.	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
A change in the financial and/or economic balance of the contract.	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
A change in the duration of the contract.	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
A change in the agreed price or tariff.	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
46.3. Can the procuring authority unilaterally modify a PPP contract?	No
If yes, please provide the relevant	n/a

<b>legal/regulatory/standard contractual provisions (if any):</b>	
<b>47. Does the regulatory framework (including standard contractual clauses) expressly regulate the following circumstances that may occur during the life of the PPP contract? (check all that apply): Force Majeure</b>	Yes
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	<p>Pursuant to Article 43 (2) of the Concession Law, the concession contract shall contain:</p> <p>15) Conditions for amendments or termination of the contract in the case of changed circumstance and force majeure;</p> <p>16) Description of events which are regarded as changed circumstances and force majeure;</p> <p>Furthermore, according to Article 57 of the Concession Law, in the case of force majeure or extraordinary event which prevents the execution of the concession activity, which could not have been foreseen at the time the contract was concluded, rights and obligations from the concession contract shall temporarily stay until the force majeure or extraordinary event ceases. Grantor shall, based on the request of the Concessionaire in writing, make the decision on stay of rights and obligations from the concession contract.</p>
<b>Material Adverse government action .</b>	No
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	n/a
<b>Change in the Law.</b>	No
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	n/a
<b>Refinancing.</b>	No
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	n/a
<b>Subcontracting and replacement of the subcontractors.</b>	No
<b>If yes, please provide the relevant legal/regulatory/standard</b>	n/a

<b>contractual provisions (if any):</b>	
<b>48. Does the regulatory framework (including standard contractual clauses) allow for administrative and/or contractual complaint review mechanisms to address disputes arising from the implementation of PPP contracts?</b>	Yes
<b>If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	Pursuant to Article 43 (2)(21) of the Concession Law, the concession contract needs to contain: the manner of disputes resolution and exercising applicable law;
<b>48.1. If yes, please specify which of the following options are available (check all that apply): Local administrative review body</b>	No
<b>If yes, please specify:</b>	n/a
<b>Local courts</b>	No
<b>Domestic arbitration</b>	Yes
<b>International arbitration</b>	Yes
<b>Investor-State Dispute Settlement (ISDS)</b>	Yes
<b>Mediation</b>	Yes
<b>Please provide the relevant legal/ regulatory/standard contractual provisions (if any)</b>	<p>Montenegro ratified the New York Convention on October 23rd, 2006. NY Convention ("1. The Convention is applied in regard to the Socialist Federal Republic of Yugoslavia only to those arbitral awards which were adopted after the coming of the Convention into effect. "2. The Socialist Federal Republic of Yugoslavia will apply the Convention on a reciprocal basis only to those arbitral awards which were adopted on the territory of the other State Party to the Convention. "3. The Socialist Federal Republic of Yugoslavia will apply the Convention [only] with respect to the disputes arising from the legal relations, contractual and non-contractual, which, according to its national legislation are considered as economic." Declaration: "The first reservation only constituted an affirmation of the legal principle of retroactivity and that the third reservation being essentially in accordance with article I (3) of the Convention, the word "only" was therefore to be added to the original text and note taken that the word "economic" had been used therein as a synonym for "commercial".)</p> <p>Furthermore, Montenegro is a member of ICSID (entered into force on may 10, 2013)</p>
<b>48.2. If applicable, are arbitration awards enforceable by the local courts?: Domestic Arbitration</b>	Yes



<b>If yes, please provide the relevant legal/ regulatory provisions/standard contractual provisions (if any):</b>	Arbitration Law (Official Gazette of Montenegro no. 47/2015)
<b>International arbitration</b>	Yes
<b>If yes, please provide the relevant legal/ regulatory provisions/standard contractual provisions (if any):</b>	Montenegro ratified the New York Convention on October 23rd, 2006. NY Convention (“1. The Convention is applied in regard to the Socialist Federal Republic of Yugoslavia only to those arbitral awards which were adopted after the coming of the Convention into effect. “2. The Socialist Federal Republic of Yugoslavia will apply the Convention on a reciprocal basis only to those arbitral awards which were adopted on the territory of the other State Party to the Convention. “3. The Socialist Federal Republic of Yugoslavia will apply the Convention [only] with respect to the disputes arising from the legal relations, contractual and non-contractual, which, according to its national legislation are considered as economic.” Declaration: “The first reservation only constituted an affirmation of the legal principle of retroactivity and that the third reservation being essentially in accordance with article I (3) of the Convention, the word “only” was therefore to be added to the original text and note taken that the word “economic” had been used therein as a synonym for “commercial”.)
<b>Investor-State arbitration</b>	Yes
<b>If yes, please provide the relevant legal/ regulatory provisions/standard contractual provisions (if any):</b>	Montenegro is a member of ICSID (entered into force on may 10, 2013)
<b>49. Does the regulatory framework (including standard contractual clauses) allow for the restructuring of a PPP private partner (SPV) in financial difficulty prior to insolvency?</b>	No
<b>If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	n/a
<b>50. Does the regulatory framework (including standard contractual clauses) allow for the lenders to take control of the PPP project (lender step-in rights) if either the private partner defaults or if the PPP contract is under threat of termination for failure to meet service obligations?</b>	No

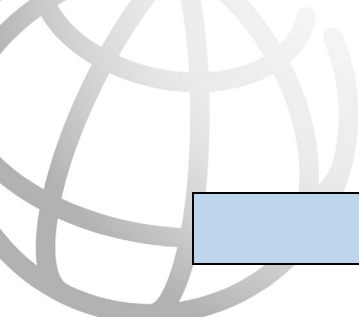
<p>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</p>	<p>n/a</p>
<p>50.1. If yes, which of the following options best describes the lender step-in right? (Please select only one): The regulatory framework expressly regulates the lender step-in rights.</p>	<p>n/a</p>
<p>If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):</p>	<p>n/a</p>
<p>The regulatory framework prescribes that a direct agreement should be signed with the lenders.</p>	<p>n/a</p>
<p>If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):</p>	<p>n/a</p>
<p>The regulatory framework prescribes that the lender step-in rights should be regulated in the contract.</p>	<p>n/a</p>
<p>If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):</p>	<p>n/a</p>
<p>Other.</p>	<p>n/a</p>
<p>Please Specify:</p>	<p>n/a</p>
<p>51. Does the regulatory framework (including standard contractual clauses) expressly establish the grounds for termination of a PPP contract?</p>	<p>Yes</p>
<p>If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):</p>	<p>Pursuant to Article 53 of the Concession Law:  (1) A concessionary relation shall cease:  1) by expiration of the term for which concession contract was concluded; 2) by revoking concession; 3) by cancellation of the concession contract; 4) based on an agreement between the grantor and the concessionaire.  (2) Concession shall be revoked if:  1) a concessionaire does not carry out a concession activity in line with the</p>

	<p>schedule and in the scope as determined by a concession contract, except in the case of unforeseen circumstances or force majeure; 2) a concessionaire does not carry out preparatory activities within contracted term or does not start the concession activity in contracted term; 3) a concessionaire does not pay a concession fee; 4) bankruptcy or liquidation procedure is initiated in a concessionaire, except in the case of a reorganization procedure under law which governs insolvency of business organizations; 5) concession is awarded based on false data important for decision making on awarding concession; 6) execution of concession activity endangers the environment and people's health or area and structures protected by law, which could not have been foreseen at the time of awarding the concession, and measures prescribed by special regulations are not sufficient to prevent that; 7) a concessionaire assigns a concession without a consent of grantor.</p> <p>(3) Prior to initiating a procedure for revoking a concession, in cases referred to in paragraph 2 items 1, 2 and 3 of this Article, the competent authority shall warn a concessionaire in writing and determine an appropriate deadline to execute contractual obligation.</p> <p>(4) In the case of revoking concession referred to in paragraph 2 of this Article, a concessionaire shall not have the right of damage compensation.</p>
<p><b>51.1. If yes, does the regulatory framework (including standard contractual clauses) establish the consequences for the termination of the PPP contract?</b></p>	<p>Yes</p>
<p><b>If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):</b></p>	<p>Pursuant to Article 54 of the Concession Law: (1) Upon termination of a concessionary relation for concessions referred to in Article 4 paragraph 1, item 2 of this Law, a concessionaire shall transfer to the grantor the structures, devices and plants which were built and serve for carrying out the concession activity, after completed restoration, in good functioning state and without encumbrances, in line with the concession contract.</p> <p>(2) After termination of a concession contract, the concessionaire shall first offer to the Grantor assets intended for sale which were in the function of concession activity.</p> <p>(3) If the grantor fails to respond to the offer within 30 days as of the receipt of the offer, the concessionaire can sell such assets to a third party under conditions which are not more favorable than those offered to the grantor. Furthermore, According to Article 55: A concessionaire shall carry out rehabilitation or reclamation of the areas which were degraded by the execution of the concession activity, within deadlines and in scope as determined in the concession contract.</p> <p>Article 56 states that a Concession cannot be the subject of bankruptcy or liquidation procedure.</p> <p>Lastly, according to Article 57 of the Concession Law, In the case of force majeure or extraordinary event which prevents the execution of the concession activity, which could not have been foreseen at the time the contract was concluded, rights and obligations from the concession contract</p>

	shall temporarily stay until the force majeure or extraordinary event ceases. Grantor shall, based on the request of the Concessionaire in writing, make the decision on stay of rights and obligations from the concession contract.
<b>Unsolicited Proposals</b>	
<b>34. Are unsolicited proposals in Montenegro : (choose only one): Explicitly prohibited by the legal framework? (If prohibited, skip to section F)</b>	No
<b>Explicitly allowed by the legal framework?</b>	Yes
<b>Not regulated by the legal framework, but do happen in practice?</b>	No
<b>Not regulated by the legal framework, and do not happen in practice? (if not done in practice, skip to section F)</b>	No
<b>If the legal framework explicitly prohibits or allows unsolicited proposals, please provide the relevant legal/regulatory provisions</b>	<p>Pursuant to Article 41 of the Concession Law:</p> <p>(1) An interested party may submit an initiative to the competent authority to commence the procedure of awarding concession which is not included in the plan referred to in Article 7 paragraph 1 of this Law.</p> <p>(2) The initiative shall be submitted to the competent authority and shall include data and information necessary for the preparation of a concession act referred to in Article 19 of this Law.</p> <p>(3) If the competent authority estimates that the initiative is acceptable it shall determine the deadline for the party submitting the initiative to deposit the estimated amount for the development of the concession act, including the development of tender documentation and draft concession contract, costs for the work of tender committee and the costs for carrying out a public debate.</p> <p>(4) Competent authority shall be obliged to, within 15 days as of the day of depositing funds, commence the preparation of documents referred to in paragraph 3 of this Article.</p> <p>(5) If, in the implemented procedure, a concession is awarded to a tenderer who is not a party that submitted the initiative for awarding concession, the competent authority shall, without a delay, return to the party who submitted the initiative deposited money, decreased by the amount for the purchase of tender documents, while the costs for development of the concession act shall be collected from the concessionaire.</p>
<b>35. Does the procuring authority conduct an assessment to evaluate unsolicited proposals? (if not, skip to question 37)</b>	Yes
<b>If yes, please specify and provide the relevant legal/regulatory provisions (if any)</b>	<p>Article 41 (3) which states:</p> <p>If the competent authority estimates that the initiative is acceptable it shall determine the deadline for the party submitting the initiative to deposit the estimated amount for the development of the concession act, including the</p>

	development of tender documentation and draft concession contract, costs for the work of tender committee and the costs for carrying out a public debate.
<b>35.1. If yes, is there any vetting procedure and/or pre-feasibility analysis before fully assessing the unsolicited proposal?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>36. Which of the following options best describe how the procuring authority ensures that unsolicited proposals are consistent with existing government priorities? (Please select only one): The procuring authority follows a specific procedure to ensure the consistency of PPPs with other government investment priorities.</b>	No
<b>If yes, please specify and provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>The regulatory framework requires unsolicited proposals to be among the existing government priorities without establishing specific procedures to achieve that goal.</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>The procuring authority does not evaluate unsolicited proposals against existing government priorities.</b>	Yes
<b>Please elaborate and provide examples:</b>	Article 41 of the Concession Law, which relates to private initiatives, does not specify that the USP has to be evaluated against existing government priorities.
<b>37. Does the procuring authority initiate a competitive PPP procurement procedure when proceeding with the unsolicited proposal?</b>	Yes

<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Pursuant to Article 41 (5) of the Concession Law, if, in the implemented procedure, a concession is awarded to a tenderer who is not a party that submitted the initiative for awarding concession, the competent authority shall, without a delay, return to the party who submitted the initiative deposited money, decreased by the amount for the purchase of tender documents, while the costs for development of the concession act shall be collected from the concessionaire. This implies that there will, in fact, be a competitive procedure for the selection of the private partner. Furthermore, Article 41 (3) state that the private initiator has to deposit the costs for carrying out a public debate.
<b>38. Does the procuring authority grant a minimum period of time to additional prospective bidders (besides the proponent) to prepare their proposals?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	The competitive procurement based on an unsolicited proposal does not differ from the regular competitive procurement procedure. Hence, the general deadline for open tendering of minimum 30 days from the date of publish of a request for proposal shall apply to all potential bidders, including the proponent.
<b>and the time in calendar days:</b>	30
<b>39.1 Does the procuring authority use any of the following incentive mechanisms to reward/compensate the presentation of unsolicited proposals? (check all that apply): Access to the best and final offer (BAFO) process and/or automatic shortlisting.</b>	No
<b>39.2 Developer's fee (reimbursing the original proponent for the project development cost).</b>	Yes
<b>39.3 Bid Bonus.</b>	No
<b>39.4 Swiss challenge (If unsuccessful, the original proponent has the option to match the winning bid and win the contract).</b>	No
<b>39.5 Other.</b>	No
<b>Please specify:</b>	n/a
<b>Please provide the relevant legal/regulatory provisions (if any):</b>	Pursuant to Article 41 (5) of the Concession Law If, in the implemented procedure, a concession is awarded to a tenderer who is not a party that submitted the initiative for awarding concession, the competent authority shall, without a delay, return to the party who submitted the initiative deposited money, decreased by the amount for the purchase of tender



documents, while the costs for development of the concession act shall be collected from the concessionaire.