

PROCURING INFRASTRUCTURE PUBLIC-PRIVATE PARTNERSHIPS 2018 IN ROMANIA

SURVEY QUESTION	ANALYSIS
PPP Regulatory Framework	
2. Does the regulatory framework in your country allow procuring PPPs?	Yes
If yes, please specify the relevant regulatory framework and the year of adoption:	<p>In 2016, Romania transposed the European directives on public procurement into the national legislation, by adopting:</p> <p>Law No. 98/2016 on public procurement (“hereinafter Public Procurement Law”), as further amended and supplemented, which transposes Directive 2014/24/EU on public procurement and repealing Directive 2004/18/EC;</p> <p>Government Decision No. 395/2016 on approving the Methodological Norms for applying the provisions on awarding public procurement contracts/framework agreements of Law No. 98/2016 on public procurement, as further amended and supplemented;</p> <p>Law No. 99/2016 on utility-sector procurement (hereinafter “Utility Procurement Law”, which transposes Directive 2014/25/EU on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC;</p> <p>Government Decision No. 394/2016 on approving the Methodological Norms for applying the provisions on awarding sectoral contracts/framework agreements of Law No. 99/2016 on utility-sector procurement, as further amended and supplemented;</p> <p>Law No. 100/2016 on works concessions and services concessions (“hereinafter Concession Law”), which transposes Directive 2014/23/EU on the award of concession contracts;</p> <p>Government Decision No. 867/2016 on approving the Methodological Norms for applying the provisions relating to the award of works concessions and service concessions of Law No. 100/2016 on works concessions and service concessions;</p> <p>Law No. 101/2016 on the remedies and appeals concerning the award of public procurement contracts, utility-sector contracts and works concession contracts and service concession contracts and the organization and functioning of the National Council for Solving Complaints.</p> <p>Furthermore, the above-mentioned regulatory framework was supplemented further to the adoption of Law No. 233/2016 on public-private partnership (hereinafter “PPP Law”).</p>
and provide a link to a government-supported website where the mentioned regulatory framework is available or provide an electronic copy of it:	<p>Law 100.2016: http://anap.gov.ro/web/1715-2/</p> <p>Law 98/2016: http://anap.gov.ro/web/legea-nr-982016-privind-achizitiile-publice/</p> <p>Law 233/2016: http://www.dreptonline.ro/legislatie/legea_233_2016_parteneriatul_public_privat.php</p>
2.1. Are you aware of any reforms (in the regulatory frameworks – laws,	Yes

<p>regulations, policies, etc.- or in generally followed practices) related to PPPs that: Took place in 2016, are ongoing and/or are planned to be adopted BEFORE June 1, 2017?</p>	
<p>Please describe:</p>	<p>Following the need to implement the new directives on public procurement and concession contracts, Romania adopted a new set of laws regulating public procurement/concessions awarding, namely (i) Law no. 98/2016 on public procurement, for the implementation of Directive 2014/24/UE ("Law 98"), (ii) Law no. 99/2016 on sectorial acquisitions, for the implementation of Directive 2014/25/UE ("Law 99"), (iii) Law no. 100/2016 on concession contracts of works and services, for the implementation of Directive 2014/23/UE ("Law 100"), and (iv) Law no. 101/2016 on remedies and appeal against the award of public procurement, sectorial contracts, concession contracts and the organisation and functioning of the National Council for Solving Complaints (CNSC) ("Law 101"). Furthermore, a new law on public-private partnership (i.e. Law no. 233/2016) was entered into force as of 25 December 2016.</p>
<p>2.2 Are ongoing and/or are planned to be adopted AFTER June 1, 2017?</p>	<p>Yes</p>
<p>Please describe:</p>	<p>According to Law 233/2016, Ministry of Finance should have elaborated the methodological norms for application of the PPP Law by March 25, 2017. Until June 1, 2017, no draft methodological norms were published for public consultation or adopted by the Government.</p>
<p>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.</p>	<p>Yes</p>
<p>If yes, please provide the relevant legal/regulatory provisions:</p>	<p>Art. 27 paragraph (1) letter c) of Law 100/2016 provides that the law does not apply to services concessions for air transportation granted based on an operating license as per EC Regulation no 1.008/2008. Art. 27 paragraph (1) letter d) of Law 100/2016 provides that the law does not apply to services concessions for public transportation granted based as per EC Regulation no 1.370/2007.</p>
<p>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</p>	<p>No</p>
<p>If yes, please provide the relevant legal/regulatory provisions:</p>	<p>n/a</p>
<p>3.3 Besides national defense and other matters</p>	<p>No</p>

<p>of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Energy generation and distribution.</p>	
<p>If yes, please provide the relevant legal/regulatory provisions:</p>	<p>n/a</p>
<p>3.4 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Telecom</p>	<p>No</p>
<p>If yes, please provide the relevant legal/regulatory provisions:</p>	<p>n/a</p>
<p>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</p>	<p>Yes</p>
<p>If yes, specify and provide the relevant legal/regulatory provisions:</p>	<p>There are not explicit mentions in current Romanian legislation in respect to PPPs as the specific legislation was repealed and Law 233/2016 refers to the application of Law 100/2016. As such, general types of limitations from the works and services concessions law apply also to public-private partnership arrangements. Law no. 100/2016 does not apply to concessions for general non-economic services. Law 100/2016 expressly provides that it does not apply to contracts attributed by international financial institutions.</p> <p>Furthermore, the law covers only the building/development or rehabilitation and the extension of an asset/some assets which are intended to provide a public service or the operation of a public service. (Art.2 para.2 of the PPP Law). Also, the PPP contracts can be entered into for the purpose of developing an activity within the relevant sectors of public utility (ie gas and thermal energy, electrical energy, water, transportation, airports and ports, postal services and extracting of natural gas and oil) covered by the Law on public utilities procurement No. 99/2016 (the Sectorial Procurement Law) and for the purpose of providing public services by an operator as provided by Law No. 51/2006 regarding public services with the observance of the provisions of the PPP Law.</p>
<p>4. Does the regulatory framework provide for a specific tax regime for PPP transactions (i.e. tax incentives, special tax depreciation treatment, etc.)?</p>	<p>No</p>

If yes, please specify and provide the relevant legal/regulatory provision (if any):	<p>n/a</p>
5. Please identify the PPP procuring authorities in Romania and provide their website(s) (if available):	<p>According to the PPP Law, the public partner (ie the contracting authority) is represented by any authority identified as such under Art. 4 of the Law No. 98/2016 (the Procurement Law) and under Art. 4 of the Sectorial Procurement Law and Art. 9 and 10 Law No. 100/2016 on works and services concessions (the Concessions Law). Thus, according to the legislation mentioned above, a contracting authority is one of the following:</p> <p>a) the public authorities or public institutions (acting at central or local level), together with their structures which act like credit ordinator and which are qualified in public procurements;</p> <p>b) any public law organisms;</p> <p>c) any association formed by at least one contracting authority among those referred to under a) or b).</p> <p>By any public law organisms as referred to under b), we understand any entities other than those contemplated under a), which accomplish one of the following cumulative conditions:</p> <ul style="list-style-type: none"> - are established for the specific purpose of meeting needs in the general interest, without commercial or industrial character; financed, for the most part, by a contracting authority, as defined under a) above, or by another public body; - have legal personality; - are financed, for the most part, of a contracting authority, as defined under a) or another public body or are subordinated or are under the supervision of a contracting authority, as defined under a) above, or of another public body or more than half of the members of its board of directors/management or supervision body are appointed by a contracting authority, as defined under a) above, or of another public body. <p>Also, under the Utilities Procurement Law and the Concession Law, in addition to the above, a contracting authority can also be: (i) a public enterprise (as defined under the relevant law) and (ii) any other legal entity that is functioning based on certain exclusive or special rights (as defined under the relevant legislation).</p> <p>It is quite difficult to provide the websites for all the PPP procuring authorities as there is a large number of such authorities, provided they meet the conditions contemplated by the law.</p> <p>However, certain public bodies carrying out PPP projects are listed below:</p> <ul style="list-style-type: none"> - Ministry of Transports (www.mt.ro); - National Company for Motorways and National Roads (www.cnadnr.ro); - City of Bucharest (www.pmb.ro); - City of Iasi (www.primaria-iasi.ro).
6. In addition to the PPP procuring authorities listed above, is there a specialized government entity that facilitates the PPP program (PPP Unit)?	<p>Yes</p>

If yes, please indicate its name, and its website (if available):	Central entity: Department for Foreign Investments and Public-Private Partnership: http://dpiis.gov.ro/new_dpiis/en/ . There is also the Central Unit for the Coordination of PPP (in Romanian “Unitatea centrala pentru coordonarea parteneriatului public privat” or “UCCPPP”), but its existence, attributions and responsibility are vague and unclear following the abrogation of the old PPP legislation (i.e., Law no. 178/2010 and the relevant application norms)
6.1 If yes, what are the main responsibilities of the PPP Unit (check all that apply): PPP regulation and policy guidance.	Yes
6.2 PPP capacity building for other public authorities.	Yes
6.3 PPP promotion among the public and/or private sectors in national and international forums.	Yes
6.4 Technical support in implementing PPP projects.	Yes
6.5 Identification and selection of PPP projects from the pipeline.	No
6.6 Revision of fiscal risks born by the Government.	Yes
6.7 Consultation with affected communities on potential impact of PPP projects.	No
6.8 Approval of PPP projects.	No
6.9 Undertaking the procurement of PPPs.	No
6.10 Oversight of PPP implementation.	Yes
6.11 Other	No
6.11 please specify:	n/a
Please provide the relevant legal/regulatory provisions:	The previous PPP Unit (i.e. the Central Unit for the Coordination of PPP) appears to be disbanded following the abrogation of the old PPP legislation (i.e., Law no. 178/2010 and its application norms). Establishment of a new PPP Unit should be sought under the application norms of the PPP Law.
PPP Preparation	
8. Does the Ministry of Finance or Central Budgetary Authority approve the PPP project before launching the procurement process?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 44 (b) of GEO No. 88/2013, the prior consent of the Ministry of Public Finances on the project is necessary for the purposes of proceeding to the preparation of the feasibility study.

8.1. Does the Ministry of Finance or Central Budgetary Authority approve the PPP project before signing the PPP contract?	No
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.	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	General reference in art. 13 of PPP Law to European System of Accounts, directly applicable in Romania pursuant to Regulation EU 549/2013
Accounting liabilities (explicit and implicit, direct and contingent) arising from PPPs.	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	General reference in art. 13 of PPP Law to European System of Accounts, directly applicable in Romania pursuant to Regulation EU 549/2013
Reporting liabilities (explicit and implicit, direct and contingent) arising from PPPs.	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	General reference in art. 13 of PPP Law to European System of Accounts, directly applicable in Romania pursuant to Regulation EU 549/2013
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).	No
Accounting and reporting according to other international standard (e.g. European System of Accounts).	Yes
Please specify:	Regulation EU 549/2013 (ESA 2010)
Other.	No
Please specify:	n/a
9. Besides the procuring authority and the Ministry of Finance or Central Budgetary Authority, does	Yes

any other authority(s) approve the PPP project before launching the procurement process (e.g. Cabinet, Cabinet Committee, Parliament, Supreme Audit Office, etc.)?	
If yes, please specify the relevant authority	The National Agency for Public Procurement has to approve only the content of the awarding documentations which are to be published and part of the tendering procedure
and provide the relevant legal/regulatory provisions (if any):	<p>Pursuant to Art 23 (1) of GD No 395/2016 and Art 25 (1) of GD No 394/2016, the National Agency for Public Procurement shall evaluate, prior to submission for publication of contract notice/simplified contract notice/competition by contracting authorities and/or contracting entities, the compliance of the tender documents with applicable public procurement/utility-sector procurement laws for awarding public procurement/utility-sector contracts/framework agreements which falls under the law, except for the specifications or descriptive documentation, to the extent that estimated value of the procurement is equal to or greater than certain thresholds. Pursuant to Art 23 of Law 100/2016, the National Agency for Public Procurement shall evaluate, prior to submission for publication of the notice of concession, the compliance with the provisions of Law No 100/2016, the tender documents relating to contracts awarded under the law.</p> <p>Regarding Law No 233/2016, the implementing rules are not yet drafted, so that we are not aware of the relevant authority which will evaluate a PPP project before launching.</p>
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?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
10. Does the procuring authority use transaction advisors during the PPP project cycle?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	According to Article 23 (3) of the PPP Law, in order to prepare the substantiation study, the public partner may contract, according to the law, technical, economic and legal consulting services.
11. In a case comparable to the case study assumptions, please select the option that best describes the way your government integrates the prioritization of PPP projects with other public	Yes

<p>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.</p>	
<p>If yes, please specify and provide the relevant legal/regulatory provisions (if any):</p>	<p>Art.17 of the PPP Law refers to the Government Emergency Ordinance 88/2013 on the adoption of of fiscal-budgetary measures for the accomplishment of the engagements agreed with international entities and the completion and amendment of several normative acts (“GEO 88/2013”). Geo 88/2013 contemplates in Chapter 2 the criteria for the prioritization of the significant public investments projects. The criteria are detailed in the schedule of GEO 88/2013 (ie the opportunity of the project in the context of sectorial or national strategies, the economic and social justification of the project, the affordability of the project, the performance of the project’s implementation).</p>
<p>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.</p>	<p>No</p>
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	<p>n/a</p>
<p>The regulatory framework does not include any provisions but the procuring authority evaluates the consistency of PPPs with other government investment priorities in practice.</p>	<p>No</p>
<p>If yes, please elaborate:</p>	<p>n/a</p>
<p>The procuring authority does not evaluate PPPs against existing government priorities.</p>	<p>No</p>
<p>Please elaborate and provide examples:</p>	<p>n/a</p>

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?	No
If yes, please specify:	n/a
If no, please elaborate:	Difficult to assess, as in practice no such PPP were concluded following the enactment of Law no. 233/2016 on PPP.
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)	Yes
Relevant legal/regulatory provision (if any)	Pursuant to Article 24 of the PPP Law, the economic efficiency of the project is demonstrated by the elaboration and inclusion of a cost-benefit analysis in the substantiation study, the structure and objectives of which will be carried out in accordance with the provisions of the law.
Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	No
Details:	No project was implemented based on the PPP Law so far.
12.2. Affordability assessment, including the identification of the required long term public commitments (explicit and implicit, direct and contingent liabilities)	Yes
Relevant legal/regulatory provision (if any)	Pursuant to Article 20 of the PPP Law, the study should include: (1) The degree of supportability of the project is the generic possibility of the project to mobilize the financial resources necessary to cover the costs. (2) The degree of supportability of the project concerns the financial capacity of the public partner and any other public entities involved in the fulfillment of the financial obligations assumed under the public-private partnership agreement and, as the case may be, the financial capacity of the direct beneficiaries of the asset / goods or public service that form the subject of public-private partnership.

Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	No
Details:	The legal framework
12.3. Risk identification, allocation and assessment (risk matrix)	Yes
Relevant legal/regulatory provision (if any)	Pursuant to Article 21 of the PPP Law, the substantiation/preliminary study will include an identification of the risk categories associated with the project implementation, their quantification and a presentation of risk allocation alternatives between the contracting parties, depending on each party's ability to manage the risk assumed.
Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	No
Details:	n/a
12.4. Comparative assessment to evaluate whether a PPP is the best option when compared to other procurement alternatives (i.e. value for money analysis, public sector comparator)	Yes
Relevant legal/regulatory provision (if any)	Pursuant to Article 19 (1) (a) of the PPP Law, the substantiation study should highlight the following main elements, which economically justify the implementation of the project, including: the degree of support of the project and the comparison of alternative contractual options / arrangements for project implementation;
Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	No
Details:	No PPP Project has been implemented based on the New PPP Law so far.
12.5. Financial viability or bankability assessment	Yes
Relevant legal/regulatory provision (if any)	Pursuant to Article 23 of the PPP Law, the substantiation study shall analyze and establish the financing of the project in a public-private partnership. A project is considered to be financially viable if its technical, financial and legal structure allows, under market conditions, to attract credits and / or other financial resources in order to ensure the financing of the project throughout its life.

Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	No
Details:	No PPP Project has been implemented based on the New PPP Law so far.
12.6. Market sounding and/or assessment (showing evidence of investors' interest in the market for the project)	No
Relevant legal/regulatory provision (if any)	n/a
Is there a specific methodology for the assessment?	n/a
If yes, please elaborate	n/a
Is the assessment done in practice?	n/a
Details:	n/a
12.7. Environmental impact assessment	Yes
Relevant legal/regulatory provision (if any)	Environmental Impact Assessment as per Directive 2011/92
Is there a specific methodology for the assessment?	Yes
If yes, please elaborate	Environmental Impact Assessment as per Directive 2011/92
Is the assessment done in practice?	No Data
Details:	No Data
12.8. Consultation process with affected communities on potential impact of the PPP project	No
Relevant legal/regulatory provision (if any)	n/a
Is there a specific methodology for the assessment?	n/a
If yes, please elaborate	n/a
Is the assessment done in practice?	n/a
Details:	n/a
13. Does the procuring authority include the assessments (indicated in Question 12 above) in the request for proposals	Yes

and/or tender documents (for example, as part of an Information Memorandum to the bidders)?	
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>Pursuant to Articles 19 - 24 of the PPP Law. More specifically:</p> <p>Article 19 (1) The substantiation study should highlight the following main elements, which economically justify the implementation of the project: a) the degree of support of the project and the comparison of alternative contractual options / arrangements for project implementation; b) the risk distribution structure for each alternative project implementation option; c) characterization of the project in relation to the public deficit and the public debt, calculated according to the methodology applicable under the legislation of the European Union; d) project financing; e) economic efficiency of the project. (2) The content and the procedure for the realization and updating of the substantiation study, including the main elements stipulated in paragraph (1) shall be detailed in the rules for the application of this law.</p> <p>Article 20 (1) The degree of supportability of the project is the generic possibility of the project to mobilize the financial resources necessary to cover the costs. (2) The degree of supportability of the project concerns the financial capacity of the public partner and of any other public entities involved in the fulfillment of the financial obligations assumed under the public-private partnership contract and, as the case may be, the financial capacity of the direct beneficiaries of the asset / goods or public service that form the subject of public-private partnership.</p> <p>Article 21 The substantiation study will include an identification of the risk categories associated with the project implementation, their quantification and a presentation of risk allocation alternatives between the contracting parties, depending on each party's ability to manage the risk assumed.</p> <p>Article 22 From the substantiation study, it must be ascertained to what extent the obligations to be assumed by the public partner under the public-private partnership contract affect the public debt and budget deficit limits, calculated according to the methodology applicable under European Union law.</p> <p>Article 23 (1) The substantiation study should analyze and establish the project's financing in a public-private partnership. (2) A project is considered to be financially viable if its technical, financial and legal structure allows, under market conditions, to attract credits and / or other financial resources in order to ensure the financing of the project throughout its life.</p> <p>Article 24 The economic efficiency of the project is demonstrated by the elaboration and inclusion of a cost-benefit analysis in the substantiation study, the structure and objectives of which will be carried out in accordance with the provisions of the law.</p>
and specify which of the assessments are included in	The pre-feasibility study (in Romanian: studiu de fundamentare) should provide for the following main elements, which justify, from an economic perspective, the

the request for proposals and/or tender documents:	implementation of the PPP project: a) the degree of affordability of the project and a comparison of the alternative contractual options/arrangements for the implementation of the project; b) risk allocation for each alternative implementation option; c) characterization of the project by reference to public debt and deficit; d) bankability of the project; and d) financial viability of the project.
13.1. Are the assessments published online?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Depending on the type of contract to be awarded (concession, public procurement, utilities procurement): article 150 of the Public Procurement Law; article 160 of the Utilities Procurement Law; article 70 of the Concession Law
specify the website	https://www.e-licitatie.ro/Public/Common/Content.aspx?f=PublicHomePage
please specify which of the assessments are published online:	usually, in practice the cost-benefit analysis and affordability assessment are published because may be part of the tender documents. However, it should be noted that such details shall be further regulated throughout the normatives to the PPP Law.
14. Does the procuring authority include a draft PPP contract in the request for proposals?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 20 (1) (c) of Law No 98/2016, Article 19 (3) (c) of Law No 99/2016 and Article 19 (3) (c) of Law No 100/2016: the tender documents includes the following documents the model contract containing the mandatory terms of the contract.
If no, please elaborate	n/a
14.1. Are the tender documents published online?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Art.21 para. 2 of the Implementation Norms for the Public Procurement Law provides that the contracting authority has to publish the awarding documentation together with the supporting documents in SEAP (The Electronic System for Public Procurement)
and please specify the website:	https://www.e-licitatie.ro/Public/Common/Content.aspx?f=PublicHomePage
15. In a case comparable to the case study assumptions, have standardized PPP model contracts and/or transaction documents been developed?	Yes
If yes, please specify and provide a government-supported website where the mentioned standards are available or provide an electronic copy of them:	ANRMAP developed drafts for some concessions of works and some of these drafts are customarily used by public authorities but can be amended or not used at all, considering such drafts are developed to a guidance purpose. There is not one clear rule to that matter. (http://anap.gov.ro/web/documentatii-standardizate/).
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:	No

Procuring authority (or other Government entity)	
Private Partner	No
Private partner with facilitation role assigned to the procuring authority (or other Government entity)	No
To be established in the contract	Yes
Relevant legal/regulatory provision (if any)	Article 32 of the PPP Law sets out the contents of the PPP agreement.
16.2. Obtaining the required environmental permits: Procuring authority (or other Government entity)	No
Private Partner	No
Private partner with facilitation role assigned to the procuring authority (or other Government entity)	No
To be established in the contract	Yes
Relevant legal/regulatory provision (if any)	Article 32 of the PPP Law sets out the contents of the PPP agreement.
16.3. Obtaining the required operational permits: Procuring authority (or other Government entity)	No
Private Partner	No
Private partner with facilitation role assigned to the procuring authority (or other Government entity)	No
To be established in the contract	Yes
Relevant legal/regulatory provision (if any)	Article 32 of the PPP Law sets out the contents of the PPP agreement.
16.4. Obtaining the required land: Procuring authority (or other Government entity)	Yes
Private Partner	No
Private partner with facilitation role assigned to the procuring authority (or other Government entity)	No
To be established in the contract	Yes

Relevant legal/regulatory provision (if any)	Pursuant to Article 34 (1)(a) of the PPP Law, the public partner may transfer for the benefit of the PPP company those concession rights over the assets that are owned in the public property.
16.5. Obtaining the required right of way: Procuring authority (or other Government entity)	Yes
Private Partner	No
Private partner with facilitation role assigned to the procuring authority (or other Government entity)	No
To be established in the contract	No
Relevant legal/regulatory provision (if any)	Pursuant to Article 34 (1) (b) of the PPP Law, the public partner may transfer for the benefit of the PPP company the superficies or right of use over those assets that are owned in private property.
PPP Procurement	
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.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
The bid evaluation committee members require sufficient qualification without specific details.	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 126 (2) of GD No 395/2016, Article 132 (2) of GD No 394/2016, and Article 80 (1) of GD No 867/2016, the evaluation committee may include members belonging to the departments of the contracting authority/contracting entity.
The bid evaluation committee members are not required to have any specific qualifications.	No
Please elaborate and provide examples:	n/a
19. Does the procuring authority issue a public procurement notice of the PPP project?	Yes

<p>If yes, please specify the means of publication and provide the relevant legal/regulatory provisions (if any):</p>	<p>Pursuant to Article 142 of Law No 394/2016, the contracting authority has the obligation to ensure transparency of the procedure for the award of public procurement contracts/ framework agreements by publishing contract notices in SEAP. The notice shall also be published in the Official Journal of the European Union in case the estimated value of the PPP contract to be implemented is equal to or exceeds the thresholds provided by Law No 98/2016, Law No 99/2016 and Law 100/2016. The notices cannot be published at national level in SEAP before the date of their publication in the Official Journal of the European Union.</p> <p>Furthermore, Pursuant to Article 21 (2) of the Implementation Norms for the Public Procurement Law provides that the contracting authority has to publish in SEAP (The Electronic System for Public Procurement) the award documentation together with the supporting documents. Publication with the Official Journal of the European Commission is mandatory when the value of the agreement is above the thresholds provided in Article 7 (1) of the Public Procurement Law.</p>
<p>19.1. If yes, is the public procurement notice published online?</p>	<p>Yes</p>
<p>If yes, please specify the website:</p>	<p>https://www.e-licitatie.ro/Public/Common/Content.aspx?f=PublicHomePage</p>
<p>20. Are foreign companies prohibited from participating in the bidding process?</p>	<p>No</p>
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	<p>n/a</p>
<p>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?</p>	<p>Yes</p>
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	<p>Pursuant to Articles 54 and 56 of Law no. 100/2016, for open tenders and competitive dialogue, the time frame for submitting the offers following the submission of the notice for publication in the Official Journal of the European Union is of at least 30 calendar days. If the procedure is organized in 2 phases, the timeframe for submitting the improved offers following the invitation to participate to the negotiation phase is of at least 22 days. In addition, the deadline for submitting the offers in the third phase of the procedure is of at least 22 days since the invitation to participate thereto</p>
<p>and the time in calendar days:</p>	<p>30</p>
<p>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</p>	<p>Yes</p>

Default	No
Relevant legal/regulatory provision (if any)	<p>According to Article 51 (1) of the Concession Law: open tender is initiated by sending for publication of a concession notice, according to Art. 63 by the contracting entity require economic operators submit tenders. (2) Open procedure is generally carried out in a single step. Furthermore Articles 51 to 54 in general outline and regulate the open auction procedure.</p> <p>According to Article 71 of the Public Procurement Law, In the open procedure any operator is entitled to submit a tender following publication of a contract notice. Furthermore Articles 71 to 75 of the Public Procurement Law regulate the open procedure.</p>
22.2. Restricted tendering (with pre-qualification stage): Available	Yes
Default	No
Relevant legal/regulatory provision (if any)	Pursuant to Article 76 of the Public Procurement Law: In the restricted procedures any economic operator has the right to file an application for participation following publication of a notice, following that only candidates meeting the criteria for qualification and selection criteria established by the contracting authority have the right to submit offer the subsequent step. Furthermore, Articles 76 to 79 of the Public Procurement law regulate the restricted procedure.
22.3 Multi-stage tendering (with shortlisting of final candidate(s)): Available	Yes
Default	No
Relevant legal/regulatory provision (if any)	<p>The Concession Law states that the open procedure can be done using two stages. Art. 51 (1) open tender is initiated by sending for publication of a concession notice, according to Art. 63 by the contracting entity require economic operators submit tenders. (2) Open procedure is generally carried out in a single step. (3) it shall be established by the concession notice and tender documentation open tender procedure take place in two stages, in compliance with art. 52 - 54: a) First stage - tenders prepared in accordance with the information and requirements provided in the tender documentation and the documents demonstrating compliance qualification and selection criteria established by the contracting entity; b) Second stage - acceptable for negotiation in order to improve and assessment for improved by the application of the award criteria. (4) If they choose to apply the open procedure with negotiation stage entity Contracting determined by the tender documentation elements may be subject to negotiation. (5) In the tender documents contracting entity defines the subject concession works concession or service by describing the contracting authority's needs and characteristics required for the work or services to be leased and sets award criteria and the distribution of risks. (6) the description of the items referred to in para. (5) The contracting entity shall determine the minimum requirements which bids must meet. (7) The information provided by the tender documentation must be sufficiently precise, clear and complete to enable economic operators to determine the nature and scope of concession works concession or service, and based on that decide on submitting an offer or non-participation in the tendering procedure. Art. 52 (1) The contracting entity shall indicate in the concession notice criteria qualification and if you use the negotiation stage, the rules applicable. (2) Following the completion of the first</p>

	<p>stage, the contracting entity sends to all tenderers who submitted tenders an invitation to negotiation stage. Art. 53 (1) The contracting entity negotiates the negotiation phase with each bidder who submitted a bid admissible and was invited as art. 52 para. (2) in order to improve their content. (2) During the negotiations, the entity and the tenderers may discuss any aspects Concession indicated in the tender documentation, except the object of the concession criteria Attribution minimum requirements that cannot be changed during negotiation. (3) During the negotiation, the contracting entity is obliged to ensure that the principle equal treatment and not to provide information in a discriminatory manner that could create one / some of the bidders an advantage over the other. (4) The contracting entity shall not disclose the proposed solutions or other bidders other confidential information communicated by a tenderer participating in the negotiations without an agreement , expressed in writing, on every intention of communicating certain information specific. Art. 54 (1) The period between the date of sending the notice for publication in the Journal concession Journal of the European Union and the deadline for submission of tenders, where the procedure open auction is carried out in a single step, namely the initial submission of bids in If the procedure is carried out in two stages, of at least 30 days. (2) The period between the time the invitation to the negotiation stage, and the latest Deadline for submission of offers improved if the procedure is carried out in two stages, It is at least 22 days. (3) The period of reception for 5 days may be reduced, if the entity accepts that tenders be made by electronic means</p>
22.4. Competitive dialogue: Available	Yes
Default	No
Relevant legal/regulatory provision (if any)	<p>Pursuant to Article 57 of the Concession Law: The competitive dialogue procedure is conducted in three stages: a) First stage - submitting requests to participate and the selection of candidates by applying qualification and selection criteria set out in the tender documentation; b) Second stage - the dialogue with the candidates selected in order to identify the solution / solutions aimed at meet the needs of the contracting entity on which / who will submit their final tenders; c) Stage Three - submitting final offers by the remaining candidates from the stage of dialogue and their evaluation by applying the award criteria. Furthermore Articles 55 to 61 regulate the competitive dialogue procedure.</p> <p>Furthermore, Pursuant to Article 88 (1) of the Public Procurement Law: The competitive dialogue procedure is conducted in three stages: a) requests to participate stage submission and selection of candidates by applying the criteria qualification and selection; b) the stage of the dialogue with the candidates selected in order to identify the solution / solutions aimed at contracting authority's needs and on which / who will submit their final tenders; c) the final stage of submission of tenders by the remaining candidates from the stage for dialogue and evaluation them, by applying the award criteria and evaluation factors. Furthermore, Articles 86 to 94 of the Public Procurement Law regulates the competitive dialogue procedure.</p>
22.5. Direct negotiation with more than one candidate: Available	No
Default	No
Relevant legal/regulatory provision (if any)	n/a

22.6. Direct negotiation with only one candidate: Available	No
Default	No
Relevant legal/regulatory provision (if any)	n/a
22.7 Other. Specify:	Innovative Partnership
Available	Yes
Default	No
Relevant legal/regulatory provision (if any)	Paragraph 6 of the Public Procurement Law allows for and regulates the Innovative Partnership mechanism.
22.8. Do the tender documents detail the procedure of the procurement process providing the same information to all the bidders?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Art 150 (1) of Law No 98/2016, Art 160 (1) of Law No 99/2016, Art 70 (1) of Law 100/2016, the contracting authority/contracting entity provides electronically through SEAP, direct access, completely unrestricted and free of economic operators to the tender documents from the contract notice. Furthermore, Pursuant to Article 20 (2) of the Implementation Norms for Public Procurement Law, the tender documents shall provide any information necessary for the candidate in order for him to be completely, correctly and explicitly informed about the procurement process.
If no, please elaborate:	n/a
22.9. Do the tender documents specify the prequalification/shortlisting criteria (when applicable) in order to make them available to all the bidders?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 52 (1) of Law 100/2016, the contracting authority has to include into the concession notice the qualification criteria, and, in case it uses a negotiated procedure, the applicable rules.
22.10. Based on your experience, is it always the case that the specified criteria are respected in practice?	Yes
If yes, please specify and provide the relevant legal/regulatory provisions (if any):	In general, the specified criteria are respected in practice.
If no, please elaborate:	n/a
23. Can interested parties/potential bidders submit questions to clarify the public procurement	Yes

notice and/or the request for proposals?	
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Art 160 (1) of Law No 98/2016 and Art 172 (1) of Law No 99/2016 any interested economic operator has the right to request clarification or additional information about the tender documents. According to Art 160 (2) of Law No 98/2016, Art 173 of Law No 99/2016 and Art 70 (8) of Law No 100/2016, the contracting authority/contracting entity has the obligation to respond clearly and completely as soon as possible to any request for clarification or additional information in a period not to exceed, usually three calendar days following the receipt of such a request from a bidder, but with at least 6 calendar days prior to the deadline for the receipt of tenders/request for participation, if the request was addressed in a timely manner. However, such requests cannot result in the modification of the key elements of the bid or of the essential terms of the contract, which could lead to the distortion of the competition or discrimination.
23.1. If yes, notwithstanding confidential information pertaining to the bidders, does the procuring authority disclose those questions and clarifications to all potential bidders?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 160 (3) of Law No 98/2016 and Article 172 (3) of Law No 99/2016, the contracting authority/contracting entity is obliged to publish the answers accompanied by questions related to the internet where the tender documents are available. Furthermore, Article 71 (3) of the Concession Law provides that the contracting authority has to inform all economic operators on any amendments to the concession notice or the awarding documentation or other documents referring to the concession
23.2. Based on your experience, is it always the case that this disclosure of information is done in practice?	Yes
If yes, please specify:	Failure to observe the obligation to disclose clarification requests to all potential bidders has been punished in practice (in the early years of implementing the public procurement legislation) by cancellation of the procedure for lack of transparency. Therefore, this obligation is well known and observed by procuring entities.
If no, please elaborate:	n/a
24. Besides questions and clarifications, can the procuring authority conduct pre-bidding conference?	Yes
If yes, please specify and provide the relevant legal/regulatory provisions (if any):	According to Article 139 (1) of the Public Procurement Law, the procuring authority may organize consultations with the market for the preparation of the tender.
24.1. If yes, notwithstanding confidential information	Yes

pertaining to the bidders, does the procuring authority disclose the content and the results of the pre-bid conference to all bidders?	
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 139 (1) of the Public Procurement Law, before commencing the award procedure, the contracting authority has the right to organize market consultations in preparation for the acquisition, by reference to the contract of public procurement and to inform operators on acquisition plans and requirements contemplated in connection therewith, making this known through SEAP, as well as by any other means.
24.2. Based on your experience, is it always the case that this disclosure of information is done in practice?	No
If yes, please specify:	n/a
If no, please elaborate:	Difficult to assess, as in practice no such PPP were concluded following the enactment of Law no. 233/2016 on PPP.
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?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
If no, please elaborate:	The bidders have to present an offer that includes the financial offer and the technical offer. The financial offer contains details such as: the price, the tariff, the other financial and commercial conditions that have to satisfy the requirements of the contracting authority.
26. Does the procuring authority evaluate the proposals strictly and solely in accordance with the evaluation criteria stated in the tender documents?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 187 (2) of the Public Procurement Law, the procuring authority shall select the most advantageous economic offer based upon the awarding criteria and the evaluation factors included in the tender book. Furthermore, Pursuant to Article 72 of the Concession Law, the procuring authority shall evaluate the offers submitted by interested private investors and shall award the agreement based on the awarding criteria established in the procurement notice.
Evaluation criteria is not set in the tender documents	No
27. In the case where only one proposal is submitted	No

<p>(sole proposals), which of the following options best 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.</p>	
<p>Please specify and provide the relevant legal/regulatory provisions (if any):</p>	n/a
<p>The procuring authority considers sole proposals valid as long as they meet the conditions outlined in the tender documents.</p>	Yes
<p>Please provide the relevant legal/regulatory provisions (if any):</p>	No regulatory basis
<p>The procuring authority does not award a PPP contract if only one proposal is submitted.</p>	No
<p>Please provide the relevant legal/regulatory provisions (if any):</p>	n/a
<p>The regulatory framework does not include any provisions.</p>	No
<p>28. Does the procuring authority publish the award notice?</p>	Yes
<p>If yes, please specify the means of publication and provide the relevant legal/regulatory provisions (if any):</p>	Pursuant to Article 145 (1) of the Public Procurement Law, the contracting authority shall submit for publication a notice of award within 30 days from: a) conclude the public procurement contract / framework agreement after completing the process of award; b) the completion of a contest winner solution by setting the competitor; c) the award of a public contract by a dynamic purchasing system; d) closing a dynamic purchasing system
<p>28.1. If yes, is the public procurement award notice published online?</p>	Yes
<p>If yes, please specify the website:</p>	https://www.e-licitatie.ro/Public/Common/Content.aspx?f=PublicHomePage
<p>29. Does the procuring authority provide all the bidders with the result of the PPP procurement process?</p>	Yes

If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 215 (1) of the Public Procurement Law, the contracting authority shall inform every candidate / tenderer on decisions Regarding the selection result, outcome of the procedure or award / contract procurement / framework agreement or admission to a dynamic purchasing system, including the reasons underlying any decision not to award a contract to enter into a framework agreement not to implement a dynamic purchasing system or to resume award as soon as possible, but no later than five days from the issuance decisions.
If no, please elaborate:	n/a
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?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 215 (2) of the Public Procurement Law, in its Communication on the outcome of the procedure in par. (1) authority contracting shall include: a) any unsuccessful candidate of concrete reasons that led to the decision to reject the his request to participate; b) any tenderer who submits a tender unacceptable or non-compliant, concrete reasons led to the decision of the contracting authority; c) any tenderer who has made an admissible tender that has not been declared winner, characteristics and relative advantages of the successful tender / tenders in relation to the winning bid his name to the tenderer that is awarded the contract procurement or, where appropriate, the tenderer / tenderers to conclude a framework agreement; d) any tenderer who has made an admissible tender of the conduct and progress of negotiations and dialogue with tenderers.
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?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	According to Article 7 of the Law on the remedies and the challenging of the awarding procedures (the Law on Challenging and Dispute Resolution) provides that the signing of the contract is suspended for a certain period if a prior notice for challenging the acts of the awarding authority is submitted with the awarding authority, ie (i) 10 calendar days for the contracts the value of which is equal to or higher than the thresholds that impose the publication of the participation notices with the Official Journal of the European Union and (ii) 5 days for the contracts that have a lower value than the thresholds established for the publication of participation notices with the Official Journal of the European Union.
and the time in calendar days:	10
30.1. Is the standstill period set out in the notice of intention to award?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	No regulatory basis

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 disadvantage to the other bidders?	<p>Yes</p>
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>Pursuant to Article 207 (1) of the Procurement Law, Art. 219 of the Sectorial Procurement Law, the contracting authority shall conclude the contract with the winning bidder based on the technical and financial proposal comprised in the bid.</p>
31.1. Based on your experience, is it always the case that this restriction is respected in practice?	<p>Yes</p>
If yes, please specify:	<p>Not observing the principles of public procurement represent a breach of the legislation, which may lead to potential competition and criminal liabilities.</p>
If no, please elaborate:	<p>n/a</p>
32. Does the procuring authority publish the PPP contract?	<p>No</p>
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>n/a</p>
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	<p>n/a</p>
Publication of the full PPP contract without including all its annexes and appendixes	<p>n/a</p>
Publication of a summary of the PPP contract without publishing the full PPP contract	<p>n/a</p>
Publication of a summary of the PPP contract along with the full PPP contract including all its annexes and appendixes	<p>n/a</p>
Publication of a summary of the PPP contract along with the full PPP contract without including all its annexes and appendixes	<p>n/a</p>

32.2. If yes, is it published online?	n/a
If yes, please specify the website:	n/a
32.3. If yes, does the procuring authority also publish any subsequent amendment made to the PPP contract?	n/a
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
PPP Contract Management	
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)?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 44 (1) of the PPP Law, public entities intending to carry out public-private partnership projects can organize and operate the inhouse units to coordinate public-private partnership projects. The effective procedure of implementing the public-private partnership projects shall be set out by the methodological norms which are in the process of drafting.
41.1. If yes, which of the following tools does it include (check all that apply)?: Establishment of a PPP contract management team	Yes
Relevant legal/regulatory provisions (if any):	Article 41 of the PPP Law states: The public partner has the right to monitor and control the way the private partner and / or the project company executes the obligations arising out of the public-private partnership contract and / or the legal provisions during the entire period of the public partnership contract applicable. Furthermore article 44 (1) of the PPP Law states that: The public entities intending to carry out public-private partnership projects may organize and put into operation internal units for the coordination of the public-private partnership projects, in accordance with the provisions of the norms for the application of this law.
Participation of the members of the PPP contract management team in the PPP procurement process and/or vice versa	No
Relevant legal/regulatory provisions (if any):	n/a
Elaboration of a PPP implementation manual or an equivalent document	No

Relevant legal/regulatory provisions (if any):	n/a
Establishment of personnel training programs (i.e. initial training and continued training throughout the course of the project)	Yes
Relevant legal/regulatory provisions (if any):	Pursuant to Article 44 (2) of the PPP Law, the members of the internal co-ordination units of the public-private partnership projects shall undergo training courses in order to specialize in the public-private partnership.
Establishment of a risk mitigation mechanism which considers the evolving nature of risks throughout the project lifecycle (guidelines, specific processes, insurance regime, etc.)	No
Relevant legal/regulatory provisions (if any):	n/a
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.	No
If yes, please specify and provide the relevant legal/regulatory provisions (if any):	n/a
The PPP contract management team members are required to meet sufficient qualification without specific details.	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 44 (2) of the PPP Law, the members of the internal co-ordination units of the public-private partnership projects shall undergo training courses in order to specialize in the public-private partnership.
The PPP contract management team members are not required to meet any specific qualifications.	No

Please elaborate and provide examples:	n/a
42. Does the procuring or contract management authority establish a system for tracking progress and completion of construction works under a PPP contract?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
42.1. If yes, is the PPP contract construction performance information made available to the public?	n/a
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
42.2. If yes, is the PPP contract construction performance information made publicly available online?	n/a
If yes, please specify the website:	n/a
43. Does the procuring or contract management authority establish a monitoring and evaluation system of the PPP contract implementation after construction?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>Article 41 of the PPP Law states: The public partner has the right to monitor and control the way the private partner and / or the project company executes the obligations arising out of the public-private partnership contract and / or the legal provisions during the entire period of the public partnership contract applicable.</p> <p>Furthermore article 44 (1) of the PPP Law states that: The public entities intending to carry out public-private partnership projects may organize and put into operation internal units for the coordination of the public-private partnership projects, in accordance with the provisions of the norms for the application of this law.</p> <p>Lastly, Article 32 sets out aspects that need to be included within the contract which includes methods of monitoring and control.</p>
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	No

documents and the PPP contract	
Relevant legal/regulatory provisions (if any)	n/a
The procuring or contract management authority can abate (reduce) payments for non-performance of operating obligations under the PPP contract	Yes
Relevant legal/regulatory provisions (if any)	Pursuant to Article 32 (q) of the PPP Law, the PPP contract should regulate the following aspect: contractual liability, including sanctions and penalties applicable to the private partner in the event of non-performance of its obligations, especially in the case of non-observance or non-observance of performance objectives or indicators, and, where appropriate, the possibility of offsetting the amounts owed by the private partner to the payments owed by the partner publicly under the public-private partnership contract;
The private partner must provide the procuring or contract management authority with periodic operational and financial data	No
Relevant legal/regulatory provisions (if any)	n/a
The procuring or contract management authority must periodically gather information on the performance of the PPP contract	No
Relevant legal/regulatory provisions (if any)	n/a
The PPP contract performance information must be available to the public	No
Relevant legal/regulatory provisions (if any)	n/a
43.2. Is PPP contract performance information made publicly available online?	No
If yes, please specify the website:	n/a
44. Are foreign companies prohibited from repatriating the income resulting from the operation of a PPP project?	No

If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
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?	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Pursuant to Article 42 (2) of the PPP Law, the private partner or the project company are not entitled to assign or to encumber those rights and obligations that are borne under the PPP agreement, except in those situations expressly mention in the law. Also, as per Article 40 of the PPP Law, at the termination of the PPP agreement the public partner can or shall take over, depending on the termination case, ownership of the shares of the private partner within the project company.
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).	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
Changes of ownership/contract assignment, at any time during the contract, must preserve the same technical qualifications as the original operator.	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Pursuant to Article 105 of the Concession Law: (1) Concession contracts can be changed without a new award procedure, When a new dealer replaces the contracting entity which initially awarded works concession or services concession in one of the following: a) following a review clauses or options set out by the contracting entity according to art. 101; b) the rights and obligations arising from the original concessionaire concession contract are taken following a universal or universal succession in a process reorganization, including the merger or division to another operator satisfying the qualification and selection initially established provided that this change would not involve other substantial modifications to the concession and are not carried out in order to circumvent the award procedures provided by this law; c) early termination of the concession contract and transfer contracts with subcontractors by the concessionaire of the contracting entity, as a result of clauses review or options set out

	<p>by the contracting entity under Art. 101. (2) When the review clause or option set by the contracting par. (1) lit. a) provides for financial institutions granting the right to assign the contract concession to another operator, it must meet the qualification and selection established by the concession notice and tender documentation.</p> <p>Furthermore Articles 100-109 overall of the Concession Law regulates the changes to Concession contracts (if the PPP was procured using the Concession Law).</p>
<p>In other cases, flexibility to change the ownership structure and/or assign the contract.</p>	<p>Yes</p>
<p>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</p>	<p>Pursuant to Article 42 of the PPP Law:</p> <p>(1) Except as expressly provided by this law, the private partner or the project company shall not be able to assign or strike with duties its own rights and obligations arising from the public-private partnership contract.</p> <p>(2) The private partner shall not be able to alienate or strike with actions the shares or shares held in the project company, except with the express consent of the public partner and the project financiers, except in the cases expressly provided in the present law.</p>
<p>46. Does the regulatory framework (including standard contractual clauses) expressly regulate the modification or renegotiation of the PPP contract (once the contract is signed)?</p>	<p>Yes</p>
<p>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</p>	<p>Pursuant to Article 36 of the PPP Law, the PPP contract can be amended if so provided by the law regulating the procurement procedure applicable to the PPP agreement. Also, in accordance to Article 35 of the PPP Law, the public partner can unilaterally amend the PPP agreement for exceptional reasons related to public interest (e.g. public health; protection of the environment; safety and quality standards; the affordability of the tariff by the service users; necessity to ensure the unrestricted access to a certain public service).</p> <p>Specifically Articles 35 specifies:</p> <p>(1) For exceptional reasons related to the public interest, the public partner may unilaterally or unilaterally denounce the public-private partnership agreement, subject to the following conditions:</p> <p>a) this possibility, including the categories of exceptional reasons related to the public interest, was included in the awarding documentation, in a clear, precise and unequivocal manner, as well as in the public-private partnership contract;</p> <p>b) the modification of the contract does not alter the generic nature of the initial contract;</p> <p>c) with the prior notification of the private partner and the project company.</p> <p>(2) For the purposes of the present law, such as public health, environmental protection, safety and quality standards, the affordability of the tariff by the users of the service, the need to ensure unobstructed access to a certain service may constitute exceptional reasons related to the public interest public.</p>

	<p>(3) If the amendment or unilateral termination of the contract causes damages, the private partner has the right to a fair indemnity, determined according to the provisions of the law, the method of determination being provided in the public-private partnership contract.</p> <p>(4) The public-private partnership contract must contain a mechanism for adjusting the payments to the private partner and the project company, in case the unilateral modification of the contract by the public partner is favorable to the private partner by reducing the works to be executed or in any other way.</p> <p>(5) In case of disagreement on the amount of the indemnity / adjustment, it shall be determined by the competent court.</p> <p>Disagreement will in no case allow the non-execution or improper execution of the obligations by the private partner or, as the case may be, the project company.</p> <p>And Article 36 states: The public-private partnership contract may be modified only in the cases and under the conditions of the contract modification provided by the law governing the award procedure, according to the provisions of art. 25.</p>
46.1. If yes, is an approval from a government authority, other than the procuring authority, required?	<p>No</p>
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	<p>n/a</p>
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.	<p>Yes</p>
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	<p>Articles 100 to 109 of the Concession Law which regulate modification (if PPP Award procedure was done as using the Concession Law): Concession contracts can be changed without a new award procedure, only in the cases provided for in this section. Art. 101 (1) Concession contracts can be changed without a new award procedure, when changes, whether or not monetised and regardless of the these were provided in the original documents or works concession services in the form of review clauses clear, precise and unequivocal, which may include clauses review of the amount or any other options. (2) In the situation provided in par. (1) review clauses specify the purpose, scope and nature possible modifications or options as well as conditions in which to use them and not may provide for modifications or options that would affect the overall nature of the concession contract. Art. 102 (1) Concession contracts can be changed without a new award procedure, if met, the following conditions: a) it is necessary to purchase the original concession of services or works Further, not included in the concession contract initially but became strictly necessary to achieve it; b) change the concessionaire is impossible. (2) For the purposes of paragraph. (1) lit. b)</p>

change the concessionaire is impossible when They are met, the following conditions:

a) changing the concessionaire cannot be made for economic or technical, and requirements for interchangeability and interoperability of equipment, services or existing installations purchased under the original concession contract; b) change the contracting entity concessionaire would cause significant difficulty or significant cost.

(3) In the case of concessions awarded by contracting authorities in order carrying out an activity other than those listed in Annex. 2, any increase in value cannot exceed 10% of the concession works or concession of initial services. (4) Where the contracting authority carries out several successive changes, they do not exceed the aggregate, an increase of more than 10% of the works or concession. The initial services. Art. 103

Concession contracts can be changed without a new award procedure, if met, the following conditions: a) changes became necessary following circumstances an entity contracting act with due diligence could not foresee; b) amendment does not affect the overall nature of the concession works or concession services; c) Concession contracts awarded by contracting authorities to conduct other ones than those listed in Annex. 2, the change does not involve an increase in the More than 10% of the initial concession, applying properly the provisions art. 102 par. (4). Art. 104 Contracting entities modify a concession in the cases provided for in art. 102 and art. 103, are required to post a notice to that effect in the Official Journal of the European Union and national level, in compliance with the standard form set by the European Commission under provisions of art. 33 of Directive 2014/23 / EU of the European Parliament and Council. Art. 105

(1) Concession contracts can be changed without a new award procedure, When a new dealer replaces the contracting entity which initially awarded works concession or services concession in one of the following: a) following a review clauses or options set out by the contracting entity according to art. 101; b) the rights and obligations arising from the original concessionaire concession contract are taken following a universal or universal succession in a process reorganization, including the merger or division to another operator satisfying the qualification and selection initially established provided that this change would not involve other substantial modifications to the concession and are not carried out in order to circumvent the award procedures provided by this law; c) early termination of the concession contract and transfer contracts with subcontractors by the concessionaire of the contracting entity, as a result of clauses review or options set out by the contracting entity under Art. 101. (2) When the review clause or option set by the contracting par. (1) lit. a) provides for financial institutions granting the right to assign the contract concession to another operator, it must meet the qualification and selection established by the concession notice and tender documentation.

Art. 106 (1) Concession contracts can be changed without a new award procedure, when changes, regardless of their value, are not substantial under paragraph. (2). (2) An amendment to a concession contract validity period is considered substantial change when this amendment, the character gets concession substantially different from the one initially concluded concession. It is a substantial change any amendment that meets one of the following conditions: a) the modification introduces conditions which, if it were included in the initial assignment procedure would have allowed the selection of other candidates than those initially selected or accepting another offer than the originally agreed or would attract more participants to tender; b) the modification changes the economic balance of the concession contract for concession and / or allocation of risk between the parts in a way that has not been provided in the works concession or services concession of the original; c) the modification extends

	<p>considerably the scope of the concession works or concession services; d) a new concessionaire replaces the original concessionaire, in cases other than those referred to in art. 105. Art. 107 (1) Concession contracts can be changed without a new award procedure, if met, the following conditions: a) the amount of change is less than the threshold provided in art. 11 para. (1); b) the amount of change is less than 10% of the original works concession or Initial service concession. (2) Change the concession contract according to para. (1) shall not prejudice generality of works concession or services concession. (3) In the situation provided in par. (1), where several successive modifications are carried out, the changes will be determined based on the net global value of such changes succession. (4) When calculating the amount referred to in paragraph. (1), Art. 102 par. (3) and Art. 103 lit. c) using present value, which is: a) the reference value when the concession includes an indexation; b) the value based on the average inflation rate published by the National Institute of Statistics, when the concession contract does not include an indexation clause. Art. 108 The rules for the implementation of this law shall be imputed contracting entity's obligation to notify the institution responsible for the ex-ante intention to make changes to concession contracts, under this section. Art. 109 (1) Any amendment to a concession contract during its validity, or except in the cases and conditions provided for in this section shall be made by a new organization award procedure in accordance with this law. (2) In case of non-compliance with paragraph. (1) The contracting entity is entitled to terminate unilateral concession contract initially. (3) The contracting entity introduces the right of withdrawal provided for in paragraph. (2) contractual conditions contained in the tender documentation.</p>
A change in the risk allocation of the contract.	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	<p>Articles 100 to 109 of the Concession Law which regulate modification (if PPP Award procedure was done as using the Concession Law):</p> <p>Concession contracts can be changed without a new award procedure, only in the cases provided for in this section. Art. 101 (1) Concession contracts can be changed without a new award procedure, when changes, whether or not monetised and regardless of the these were provided in the original documents or works concession services in the form of review clauses clear, precise and unequivocal, which may include clauses review of the amount or any other options. (2) In the situation provided in par. (1) review clauses specify the purpose, scope and nature possible modifications or options as well as conditions in which to use them and not may provide for modifications or options that would affect the overall nature of the concession contract. Art. 102 (1) Concession contracts can be changed without a new award procedure, if met, the following conditions:</p> <p>a) it is necessary to purchase the original concession of services or works Further, not included in the concession contract initially but became strictly necessary to achieve it; b) change the concessionaire is impossible. (2) For the purposes of paragraph. (1) lit. b) change the concessionaire is impossible when They are met, the following conditions:</p> <p>a) changing the concessionaire can not be made for economic or technical, and requirements for interchangeability and interoperability of equipment, services or existing installations purchased under the original concession contract; b) change the contracting entity concessionaire would cause significant difficulty or significant cost. (3) In the case of concessions awarded by contracting authorities in order carrying out an activity other than those listed in Annex. 2, any increase in value can not exceed 10% of the concession works or concession of initial services. (4) Where the contracting</p>

authority carries out several successive changes, they do not exceed the aggregate, an increase of more than 10% of the works or concession. The initial services. Art. 103 Concession contracts can be changed without a new award procedure, if met, the following conditions: a) changes became necessary following circumstances an entity contracting act with due diligence could not foresee; b) amendment does not affect the overall nature of the concession works or concession services; c) Concession contracts awarded by contracting authorities to conduct other ones than those listed in Annex. 2, the change does not involve an increase in the More than 10% of the initial concession, applying properly the provisions art. 102 par. (4). Art. 104 Contracting entities modify a concession in the cases provided for in art. 102 and art. 103, are required to post a notice to that effect in the Official Journal of the European Union and national level, in compliance with the standard form set by the European Commission under provisions of art. 33 of Directive 2014/23 / EU of the European Parliament and Council. Art. 105 (1) Concession contracts can be changed without a new award procedure, When a new dealer replaces the contracting entity which initially awarded works concession or services concession in one of the following: a) following a review clauses or options set out by the contracting entity according to art. 101; b) the rights and obligations arising from the original concessionaire concession contract are taken following a universal or universal succession in a process reorganization, including the merger or division to another operator satisfying the qualification and selection initially established provided that this change would not involve other substantial modifications to the concession and are not carried out in order to circumvent the award procedures provided by this law; c) early termination of the concession contract and transfer contracts with subcontractors by the concessionaire of the contracting entity, as a result of clauses review or options set out by the contracting entity under Art. 101. (2) When the review clause or option set by the contracting par. (1) lit. a) provides for financial institutions granting the right to assign the contract concession to another operator, it must meet the qualification and selection established by the concession notice and tender documentation.

Art. 106 (1) Concession contracts can be changed without a new award procedure, when changes, regardless of their value, are not substantial under paragraph. (2). (2) An amendment to a concession contract validity period is considered substantial change when this amendment, the character gets concession substantially different from the one initially concluded concession. It is a substantial change any amendment that meets one of the following conditions: a) the modification introduces conditions which, if it were included in the initial assignment procedure would have allowed the selection of other candidates than those initially selected or accepting another offer than the originally agreed or would attract more participants to tender; b) the modification changes the economic balance of the concession contract for concession and / or allocation of risk between the parts in a way that has not been provided in the works concession or services concession of the original; c) the modification extends considerably the scope of the concession works or concession services; d) a new concessionaire replaces the original concessionaire, in cases other than those referred to in art. 105. Art. 107 (1) Concession contracts can be changed without a new award procedure, if met, the following conditions: a) the amount of change is less than the threshold provided in art. 11 para. (1); b) the amount of change is less than 10% of the original works concession or Initial service concession. (2) Change the concession contract according to para. (1) shall not prejudice generality of works concession or services concession. (3) In the situation provided in par. (1), where several successive

	<p>modifications are carried out, the changes will be determined based on the net global value of such changes succession. (4) When calculating the amount referred to in paragraph. (1), Art. 102 par. (3) and Art. 103 lit. c) using present value, which is: a) the reference value when the concession includes an indexation; b) the value based on the average inflation rate published by the National Institute of Statistics, when the concession contract does not include an indexation clause. Art. 108 The rules for the implementation of this law shall be imputed contracting entity's obligation to notify the institution responsible for the ex-ante intention to make changes to concession contracts, under this section. Art. 109 (1) Any amendment to a concession contract during its validity, or except in the cases and conditions provided for in this section shall be made by a new organization award procedure in accordance with this law. (2) In case of non-compliance with paragraph. (1) The contracting entity is entitled to terminate unilateral concession contract initially. (3) The contracting entity introduces the right of withdrawal provided for in paragraph. (2) contractual conditions contained in the tender documentation.</p>
<p>A change in the financial and/or economic balance of the contract.</p>	<p>Yes</p>
<p>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</p>	<p>Articles 100 to 109 of the Concession Law which regulate modification (if PPP Award procedure was done as using the Concession Law):</p> <p>Concession contracts can be changed without a new award procedure, only in the cases provided for in this section. Art. 101 (1) Concession contracts can be changed without a new award procedure, when changes, whether or not monetised and regardless of the these were provided in the original documents or works concession services in the form of review clauses clear, precise and unequivocal, which may include clauses review of the amount or any other options. (2) In the situation provided in par. (1) review clauses specify the purpose, scope and nature possible modifications or options as well as conditions in which to use them and not may provide for modifications or options that would affect the overall nature of the concession contract. Art. 102 (1) Concession contracts can be changed without a new award procedure, if met, the following conditions:</p> <p>a) it is necessary to purchase the original concession of services or works Further, not included in the concession contract initially but became strictly necessary to achieve it;</p> <p>b) change the concessionaire is impossible. (2) For the purposes of paragraph. (1) lit. b) change the concessionaire is impossible when They are met, the following conditions:</p> <p>a) changing the concessionaire cannot be made for economic or technical, and requirements for interchangeability and interoperability of equipment, services or existing installations purchased under the original concession contract; b) change the contracting entity concessionaire would cause significant difficulty or significant cost. (3) In the case of concessions awarded by contracting authorities in order carrying out an activity other than those listed in Annex. 2, any increase in value cannot exceed 10% of the concession works or concession of initial services. (4) Where the contracting authority carries out several successive changes, they do not exceed the aggregate, an increase of more than 10% of the works or concession. The initial services. Art. 103 Concession contracts can be changed without a new award procedure, if met, the following conditions: a) changes became necessary following circumstances an entity contracting act with due diligence could not foresee; b) amendment does not affect the overall nature of the concession works or concession services; c) Concession contracts awarded by contracting authorities to conduct other ones than those listed in Annex. 2,</p>

the change does not involve an increase in the More than 10% of the initial concession, applying properly the provisions art. 102 par. (4). Art. 104 Contracting entities modify a concession in the cases provided for in art. 102 and art. 103, are required to post a notice to that effect in the Official Journal of the European Union and national level, in compliance with the standard form set by the European Commission under provisions of art. 33 of Directive 2014/23 / EU of the European Parliament and Council. Art. 105 (1) Concession contracts can be changed without a new award procedure, When a new dealer replaces the contracting entity which initially awarded works concession or services concession in one of the following: a) following a review clauses or options set out by the contracting entity according to art. 101; b) the rights and obligations arising from the original concessionaire concession contract are taken following a universal or universal succession in a process reorganization, including the merger or division to another operator satisfying the qualification and selection initially established provided that this change would not involve other substantial modifications to the concession and are not carried out in order to circumvent the award procedures provided by this law; c) early termination of the concession contract and transfer contracts with subcontractors by the concessionaire of the contracting entity, as a result of clauses review or options set out by the contracting entity under Art. 101. (2) When the review clause or option set by the contracting par. (1) lit. a) provides for financial institutions granting the right to assign the contract concession to another operator, it must meet the qualification and selection established by the concession notice and tender documentation.

Art. 106 (1) Concession contracts can be changed without a new award procedure, when changes, regardless of their value, are not substantial under paragraph. (2). (2) An amendment to a concession contract validity period is considered substantial change when this amendment, the character gets concession substantially different from the one initially concluded concession. It is a substantial change any amendment that meets one of the following conditions: a) the modification introduces conditions which, if it were included in the initial assignment procedure would have allowed the selection of other candidates than those initially selected or accepting another offer than the originally agreed or would attract more participants to tender; b) the modification changes the economic balance of the concession contract for concession and / or allocation of risk between the parts in a way that has not been provided in the works concession or services concession of the original; c) the modification extends considerably the scope of the concession works or concession services; d) a new concessionaire replaces the original concessionaire, in cases other than those referred to in art. 105. Art. 107 (1) Concession contracts can be changed without a new award procedure, if met, the following conditions: a) the amount of change is less than the threshold provided in art. 11 para. (1); b) the amount of change is less than 10% of the original works concession or Initial service concession. (2) Change the concession contract according to para. (1) shall not prejudice generality of works concession or services concession. (3) In the situation provided in par. (1), where several successive modifications are carried out, the changes will be determined based on the net global value of such changes succession. (4) When calculating the amount referred to in paragraph. (1), Art. 102 par. (3) and Art. 103 lit. c) using present value, which is: a) the reference value when the concession includes an indexation; b) the value based on the average inflation rate published by the National Institute of Statistics, when the concession contract does not include an indexation clause. Art. 108 The rules for the implementation of this law shall be imputed contracting entity's obligation to notify the

	<p>institution responsible for the ex-ante intention to make changes to concession contracts, under this section. Art. 109 (1) Any amendment to a concession contract during its validity, or except in the cases and conditions provided for in this section shall be made by a new organization award procedure in accordance with this law. (2) In case of non-compliance with paragraph. (1) The contracting entity is entitled to terminate unilateral concession contract initially. (3) The contracting entity introduces the right of withdrawal provided for in paragraph. (2) contractual conditions contained in the tender documentation.</p>
A change in the duration of the contract.	<p>Yes</p>
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	<p>Articles 100 to 109 of the Concession Law which regulate modification (if PPP Award procedure was done as using the Concession Law): Concession contracts can be changed without a new award procedure, only in the cases provided for in this section. Art. 101 (1) Concession contracts can be changed without a new award procedure, when changes, whether or not monetised and regardless of the these were provided in the original documents or works concession concession services in the form of review clauses clear, precise and unequivocal, which may include clauses review of the amount or any other options. (2) In the situation provided in par. (1) review clauses specify the purpose, scope and nature possible modifications or options as well as conditions in which to use them and not may provide for modifications or options that would affect the overall nature of the concession contract. Art. 102 (1) Concession contracts can be changed without a new award procedure, if met, the following conditions: a) it is necessary to purchase the original concession of services or works Further, not included in the concession contract initially but became strictly necessary to achieve it; b) change the concessionaire is impossible. (2) For the purposes of paragraph. (1) lit. b) change the concessionaire is impossible when They are met, the following conditions: a) changing the concessionaire cannot be made for economic or technical, and requirements for interchangeability and interoperability of equipment, services or existing installations purchased under the original concession contract; b) change the contracting entity concessionaire would cause significant difficulty or significant cost. (3) In the case of concessions awarded by contracting authorities in order carrying out an activity other than those listed in Annex. 2, any increase in value cannot exceed 10% of the concession works or concession of initial services. (4) Where the contracting authority carries out several successive changes, they do not exceed the aggregate, an increase of more than 10% of the works or concession. The initial services. Art. 103 Concession contracts can be changed without a new award procedure, if met, the following conditions: a) changes became necessary following circumstances an entity contracting act with due diligence could not foresee; b) amendment does not affect the overall nature of the concession works or concession services; c) Concession contracts awarded by contracting authorities to conduct other ones than those listed in Annex. 2, the change does not involve an increase in the More than 10% of the initial concession, applying properly the provisions art. 102 par. (4). Art. 104 Contracting entities modify a concession in the cases provided for in art. 102 and art. 103, are required to post a notice to that effect in the Official Journal of the European Union and national level, in compliance with the standard form set by the European Commission under provisions of art. 33 of Directive 2014/23 / EU of the European Parliament and Council. Art. 105 (1) Concession contracts can be changed without a new award procedure, When a new dealer replaces the contracting entity which initially awarded works concession or</p>

services concession in one of the following: a) following a review clauses or options set out by the contracting entity according to art. 101; b) the rights and obligations arising from the original concessionaire concession contract are taken following a universal or universal succession in a process reorganization, including the merger or division to another operator satisfying the qualification and selection initially established provided that this change would not involve other substantial modifications to the concession and are not carried out in order to circumvent the award procedures provided by this law; c) early termination of the concession contract and transfer contracts with subcontractors by the concessionaire of the contracting entity, as a result of clauses review or options set out by the contracting entity under Art. 101. (2) When the review clause or option set by the contracting par. (1) lit. a) provides for financial institutions granting the right to assign the contract concession to another operator, it must meet the qualification and selection established by the concession notice and tender documentation.

Art. 106 (1) Concession contracts can be changed without a new award procedure, when changes, regardless of their value, are not substantial under paragraph. (2). (2) An amendment to a concession contract validity period is considered substantial change when this amendment, the character gets concession substantially different from the one initially concluded concession. It is a substantial change any amendment that meets one of the following conditions: a) the modification introduces conditions which, if it were included in the initial assignment procedure would have allowed the selection of other candidates than those initially selected or accepting another offer than the originally agreed or would attract more participants to tender; b) the modification changes the economic balance of the concession contract for concession and / or allocation of risk between the parts in a way that has not been provided in the works concession or services concession of the original; c) the modification extends considerably the scope of the concession works or concession services; d) a new concessionaire replaces the original concessionaire, in cases other than those referred to in art. 105. Art. 107 (1) Concession contracts can be changed without a new award procedure, if met, the following conditions: a) the amount of change is less than the threshold provided in art. 11 para. (1); b) the amount of change is less than 10% of the original works concession or Initial service concession. (2) Change the concession contract according to para. (1) shall not prejudice generality of works concession or services concession. (3) In the situation provided in par. (1), where several successive modifications are carried out, the changes will be determined based on the net global value of such changes succession. (4) When calculating the amount referred to in paragraph. (1), Art. 102 par. (3) and Art. 103 lit. c) using present value, which is: a) the reference value when the concession includes an indexation; b) the value based on the average inflation rate published by the National Institute of Statistics, when the concession contract does not include an indexation clause. Art. 108 The rules for the implementation of this law shall be imputed contracting entity's obligation to notify the institution responsible for the ex-ante intention to make changes to concession contracts, under this section. Art. 109 (1) Any amendment to a concession contract during its validity, or except in the cases and conditions provided for in this section shall be made by a new organization award procedure in accordance with this law. (2) In case of non-compliance with paragraph. (1) The contracting entity is entitled to terminate unilateral concession contract initially. (3) The contracting entity introduces the right of withdrawal provided for in paragraph. (2) contractual conditions contained in the tender documentation.

A change in the agreed price or tariff.	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Article 103 (3) of the Concession Law provides that the value of the agreement must not involve an increase of more than 10% of the value of the agreement.
46.3. Can the procuring authority unilaterally modify a PPP contract?	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	<p>Pursuant to Art. 35 (1) of the PPP Law in exceptional circumstances related to public interest, the public partner may unilaterally amend or terminate the contract of public-private partnership, under the following conditions:</p> <p>a) this possibility, including the categories of exceptional circumstances relating to the public interest, it was included in the tender documentation in a clear, precise and unequivocal way, and the public-private partnership contract;</p> <p>b) the amendment does not alter the generic nature of the original contract;</p> <p>c) prior notification of the private partner and the project company.</p> <p>According to Article 35 (2) of the PPP Law it may be considered exceptional reasons related to public interest issues such as public health, environmental protection, safety standards and quality, affordability tariff by service users need to ensure unrestricted access to a particular service public. Nevertheless, according to Article 35 (3) of the PPP Law if the modification or withdrawal brings injury, the private partner is entitled to fair compensation according to the rules/provisions for determining were laid down in the public-private partnership contract.</p>
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	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Pursuant to Article 105 (1) (e) of GD No 867/2016 the agreement shall specify circumstances under which it may be terminated, inter alia, in case of force majeure or unforeseeable circumstances, when the concessionaire is unable to continue the contract, opting without paying compensation.
Material Adverse government action .	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
Change in the Law.	No
If yes, please provide the relevant legal/regulatory/standard	n/a

contractual provisions (if any):	
Refinancing.	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
Subcontracting and replacement of the subcontractors.	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Pursuant to Article 34 (2) of the PPP Law, the private partner or the project company, as the case may be, will not be able to subcontract, in whole or in part, the goods, services or works conceded and will not be able to entrust the realization of the object of the contract to another person, except in the cases provided by this law.
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?	Yes
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	Pursuant to Article 43 (2) of the PPP Law, disputes arising out of the implementation of the PPP contract shall be settled in accordance with Law no. 101/2016 on the remedies in connection with the award of public procurement contracts, sectoral contracts and works and services concession contracts, as well as for the organization and functioning of the National Council for Solving Complaints.
48.1. If yes, please specify which of the following options are available (check all that apply): Local administrative review body	Yes
If yes, please specify:	National Council for Solving Complaints
Local courts	Yes
Domestic arbitration	Yes
International arbitration	Yes
Investor-State Dispute Settlement (ISDS)	Yes
Mediation	No
Please provide the relevant legal/ regulatory/standard contractual provisions (if any)	Article 2 of Law no 101/2016 provides for the possibility of any person, damaged by an act or omission of the procuring authority, to seek remedies before an administrative-judicial body or before the court, according to the provisions of Law 101/2016 ; Article 57 of Law no. 101/2016 provides for the possibility, upon parties agreement, to settle a dispute arising from a PPP contract by arbitration .
48.2. If applicable, are arbitration awards	Yes

enforceable by the local courts?: Domestic Arbitration	
If yes, please provide the relevant legal/ regulatory provisions/standard contractual provisions (if any):	Pursuant to Article 57 of Law No 101/2016 the parties may agree that disputes concerning the interpretation, conclusion, execution, amendment and termination shall be settled by arbitration.
International arbitration	Yes
If yes, please provide the relevant legal/ regulatory provisions/standard contractual provisions (if any):	Romania is a member of the New York Convention
Investor-State arbitration	Yes
If yes, please provide the relevant legal/ regulatory provisions/standard contractual provisions (if any):	Romania is a member of ICSID
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?	No
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
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?	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Pursuant to Article 39 of the PPP Law if the private partner or the project company fails to fulfill its obligations under the public-private partnership contract or the obligations towards the project sponsors, the public partner, on its own initiative or at the request of the project financiers, may replace the private partner if this clause was included in the awarding and contract documentation, in compliance with the conditions regarding the review clause, in conformity with the law governing the procedure of awarding the

	contract, according to the provisions of article 25.
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.	No
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
The regulatory framework prescribes that a direct agreement should be signed with the lenders.	No
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
The regulatory framework prescribes that the lender step-in rights should be regulated in the contract.	Yes
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	Pursuant to Article 32 (p) of the PPP Law, procedures for taking over the rights and obligations of the private partner by the project financiers and / or a new private partner should be agreed upon/set within the contract/agreement.
Other.	No
Please Specify:	n/a
51. Does the regulatory framework (including standard contractual clauses) expressly establish the grounds for termination of a PPP contract?	Yes
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	Pursuant to Article 32 (u) of the PPP Law, the PPP contract must include clauses regulating the grounds for its termination and the conditions for ensuring the continuity of the public services performed under the PPP.
51.1. If yes, does the regulatory framework (including standard contractual clauses) establish the consequences	Yes

for the termination of the PPP contract?	
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	<p>Pursuant to Article 38 of the PPP Law:</p> <p>(1) At the termination of any public-private partnership contract for any reason, the rights created by the public partner in favor of the private partner or the project company shall cease and the goods made or acquired by the project company and representing the object of the project, and those necessary for carrying out the public service to be transferred to the public partner must be free of duties, in good working order and exploitable according to the standards applicable to the public service and / or similar assets, under conditions established by the public-private partnership contract.</p> <p>(2) Upon the termination of the public-private partnership contract as a result of expiration of the term for which it was concluded, the goods made or acquired by the project company and representing the object of the project, as well as those necessary for the execution of the public service, shall be transferred to the public partner free of charge.</p> <p>(3) Upon the termination of the public-private partnership contract for any reason, except for the expiry of the term for which it was concluded, the goods made or acquired by the project company and representing the object of the project, as well as those necessary for the execution of the public service may be transferred to the public partner, under the conditions stipulated in the public-private partnership agreement, with the payment of a compensation determined in relation to the unamortised value of these goods. If the termination of the contract is due to the fault of the private partner, any amount due by the private partner as indemnities under the public-private partnership contract must be deducted from the amount of the compensation.</p> <p>Furthermore, Pursuant to Article 40 of the PPP Law:</p> <p>(1) Upon termination of the public-private partnership contract for any reason other than the expiration of the term of the contract, the public partner will be able to take over the shares or shares of the private partner in the project company in exchange for a price set in accordance with the provisions of the partnership contract public-private and enforcement rules. If the termination of the contract is due to the fault of the private partner, any sums owed by the private partner as indemnities under the public-private partnership contract must be deducted from the value of the said price.</p> <p>(2) In case of termination of the public-private partnership contract upon expiration of its term, the public partner may take over the shares or the private shares of the private partner in the project company, free of charge, in accordance with the provisions of the public-private partnership contract.</p>
Unsolicited Proposals	
34. Are unsolicited proposals in Romania: (choose only one): Explicitly prohibited by the legal framework? (If prohibited, skip to section F)	<p>No</p>
Explicitly allowed by the legal framework?	<p>No</p>

Not regulated by the legal framework, but do happen in practice?	No
Not regulated by the legal framework, and do not happen in practice? (if not done in practice, skip to section F)	Yes
If the legal framework explicitly prohibits or allows unsolicited proposals, please provide the relevant legal/regulatory provisions	Not specifically regulated. According to Article 18 (1) of the PPP Law, a PPP project may be initiated only by a Procuring Authorities and based on the pre-feasibility study prepared in this respect.
35. Does the procuring authority conduct an assessment to evaluate unsolicited proposals? (if not, skip to question 37)	n/a
If yes, please specify and provide the relevant legal/regulatory provisions (if any)	n/a
35.1. If yes, is there any vetting procedure and/or pre-feasibility analysis before fully assessing the unsolicited proposal?	n/a
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
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.	n/a
If yes, please specify and provide the relevant legal/regulatory provisions (if any):	n/a
The regulatory framework requires unsolicited proposals to be among the existing government	n/a

priorities without establishing specific procedures to achieve that goal.	
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
The procuring authority does not evaluate unsolicited proposals against existing government priorities.	n/a
Please elaborate and provide examples:	n/a
37. Does the procuring authority initiate a competitive PPP procurement procedure when proceeding with the unsolicited proposal?	n/a
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
38. Does the procuring authority grant a minimum period of time to additional prospective bidders (besides the proponent) to prepare their proposals?	n/a
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
and the time in calendar days:	n/a
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.	n/a
39.2 Developer's fee (reimbursing the original proponent for the project development cost).	n/a
39.3 Bid Bonus.	n/a
39.4 Swiss challenge (If unsuccessful, the original	n/a

proponent has the option to match the winning bid and win the contract).	
39.5 Other.	n/a
Please specify:	n/a
Please provide the relevant legal/regulatory provisions (if any):	n/a