

BEACH CONCESSIONS: GREEN LIGHT FOR EXTENSION UNTIL 2027



At the Council of Ministers' meeting of 4 September, the new regulation on beach concessions has been approved, amending the regulatory provisions contained in Law 5 August 2022 no. 118 (Annual Law for the Market and Competition 2021).

It represents the achievement of a point of equilibrium between the Italian Government and the European Commission, as a further addition to the long-standing and complex issue triggered by the Plenary Assembly of the Council of State in its ruling 9 November 2021 no. 17.

Specifically, the new legislation provides for the extension of the effectiveness of the concessions to 30 September 2027, with the obligation to start the tender procedures by 30 June 2027, unless there are objective legal difficulties in carrying out the procedure itself that could justify a postponement of the deadline to 31 March 2028.

For the purpose of tender evaluation, it is up to the granting body to favour the economic operators who will present improvement projects in terms of accessibility to disabled persons, social and environmental policies, as well as services that enhance the cultural, folkloristic and enogastronomic specificities of the territory and, likewise, those who will undertake to hire personnel under the age of thirty-six.

Moreover, in order to ensure maximum participation, the number of concessions of which each bidder is, directly or indirectly, the holder in the relevant territorial area will have to be taken into account in the bid evaluation phase.

The aim is – at least on paper – to avoid the concentration of state property exclu-

sively to large companies, which certainly have more money than the small family businesses that have managed Italy's sandy shores so far.

The new concessions will have a duration of between five and twenty years and in any case equal to the time needed to guarantee the amortisation and fair remuneration of the investments envisaged in the economic-financial plan of the winning bidder.

In favour of the outgoing concessionaires, an indemnity is guaranteed, to be paid by the successor, for an amount equal to the value of the investments made and not yet amortised at the end of the concession.

It also provides for the hiring of workers already employed by the outgoing concessionaire, if the activity represents the main source of income for himself and his family.

The effects of the new provisions do not affect the validity of the selection procedures and the starting date of the concessionary relationship decided over the past months, in accordance with the procedures and criteria originally set out in Law no. 118/2022.

If, on the one hand, the aforementioned extension allows for the orderly scheduling of tenders by the local authorities, which now have the necessary time to organise such procedures and ensure compliance with European Union law, at the same time it remains to be seen how the new provisions will be implemented by the administrative courts.

Indeed, there is a risk that, as already happened with the previous extensions to 2020 and 2033, the provisions will be disapplied by the courts, in the wake of the principles that were affirmed by the Plenary Assembly and recently reaffirmed by the Council of State itself in its judgment 30 April 2024 no. 3940 (on this point, see *Client Alert 9/2024*).

The Firm will closely follow the next steps, remaining at your disposal for any need.

DISCLAIMER

The sole purpose of this *Client Alert* is to provide general information. Consequently, it does not represent a legal opinion nor can it in any way be considered as a substitute for specific legal advice.

2

Laura Sommaruga, Partner
Email: laura.sommaruga@grplex.com

Enrico Cassaro, Associate
Email: enrico.cassaro@grplex.com

Abdurrahman Gad Elrab, Junior Associate
Email: abdurrahman.gadelrab@grplex.com