

# FDI in Slovenia

## Foreign direct investment in Slovenia

Slovenia is focusing its efforts on building a strong **business-friendly environment** as a precondition to capturing growth-fuelling FDI investments. Foreign direct investment is equally important to Slovenia's economic growth as it is for global GDP and jobs worldwide.

Facts and figures, investor stories and experiences over the past decades can help potential investors to benchmark the qualities of the country and its people to land investment project in Slovenia.

### How to Invest

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Please find attached documents with specific information regarding:

- [Foreign Investment Regime](#)
  - residents and non-residents
  - real-estate investments
  - business initiatives
- [Investment in existing companies](#)
  - [mergers & acquisitions](#)
  - [takeover procedure](#)
- [Concessions and Public-Private Partnership \(PPP\)](#)

*Documents have been prepared by the Centre for International Cooperation and Development.*

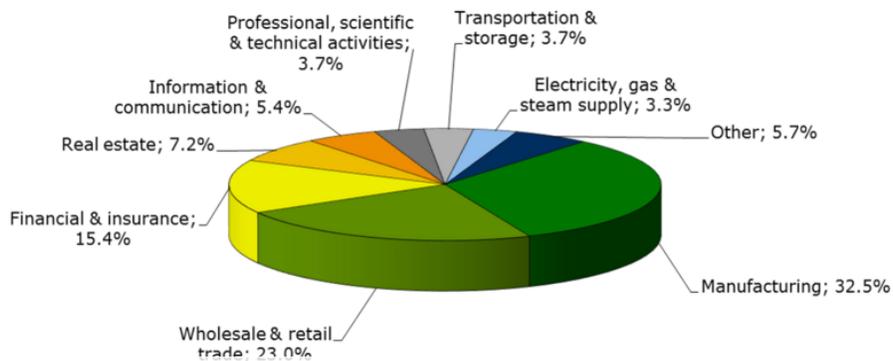
### Major Investors

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The first strategic partnerships among domestic and foreign companies can be traced back to the 1970s (Bayer, Semperit, Naue). The first substantial FDI inflows at the end of the 1980s and the beginning of the 1990s were linked to the decision of foreign partners to invest in the equity of their Slovenian partners working under a foreign licence or on the basis of a contract (Renault, Bosch, Siemens, Henkel, ÖMV). In addition, there were the sales of troubled local companies owned by the Development Fund: e.g. Količevo karton, which was first sold to the Saffa Group and later to Mayr-Melnhof; Papirnica Vevče, sold to Brigl & Bergmeister). Those acquisitions were an overture to mass privatisation. The first entries in the area of financial services (Bank Austria, Creditanstalt) also date back to that period.

The largest recent FDI inflows are the **post-privatisation takeovers**(Goodyear, Ljubljana Airoirt, Mahle) or classic **takeovers** (Lek-Novartis, Simobil-Mobilkom, SKB-Societe Generale, NLB-KBC etc).

### **Inward FDI into Slovenia by sector**



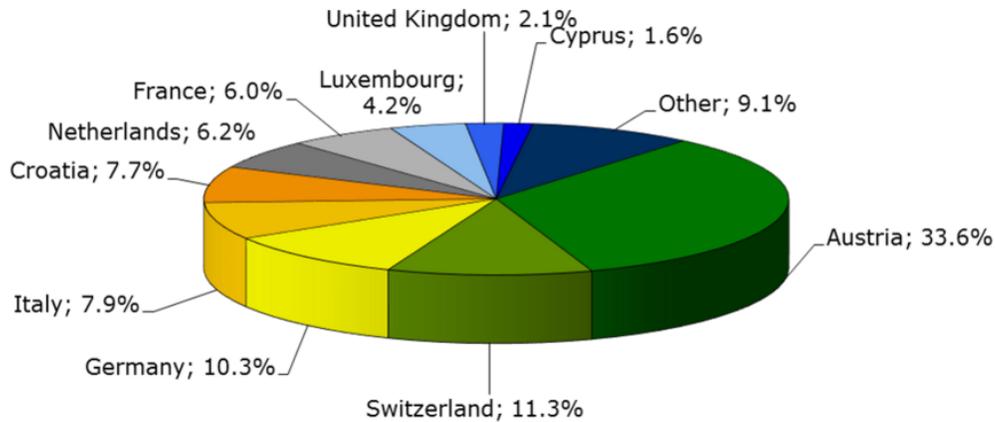
Source: Bank of Slovenia, 2015

(FDI stock as of year-end 2014 EUR 10,130 million)

### Major foreign investors in Slovenia

<b>Manufacturing</b>	Aviat Networks, Belimed, BSH Bosch und Siemens Hausgeräte, Brigl&Bergmeister, Carthago, Danfoss, E.G.O. Elektro Geräte, Ecolab, Geberit, GKN Italia, Goodyear Dunlop Tires Europe, Grammer Automotive, Gruppo Bonazzi, Hella, Henkel, Johnson Controls, Knauf Insulation, Lafarge Perlmooser, Meyr Melnhof, Odelo, Palfinger, Poclain Hydraulic, Renault, Safilo Group, Sandoz Group, Siemens, Sogefi, Solvay, Styria, Sun Roller, Unicut, Vogtronics, XAL, Wolford, Yaskawa
<b>Financial services</b>	Hypo-Alpe-Adria Bank, KBC, Raiffeisen Bank, Intesa SanPaolo, Société Générale, UniCredit Bank
<b>Retail</b>	Aldi Süd, E. Leclerc, Eurospin Italia, Harvey Norman, Lidl, MOL, ÖMV, Rutar, Spar
<b>Other services</b>	AC Nielsen, Debitel, Deloitte, DHL, Ernst & Young, GfK, Grieshaber Logistik, KPMG, IBM, ISS Servissystem, McDonald's, Microsoft, Mobilkom, Oracle, PricewaterhouseCoopers, SAP, Schenker, Sodexho Alliance, S&T

### Main investing countries into Slovenia

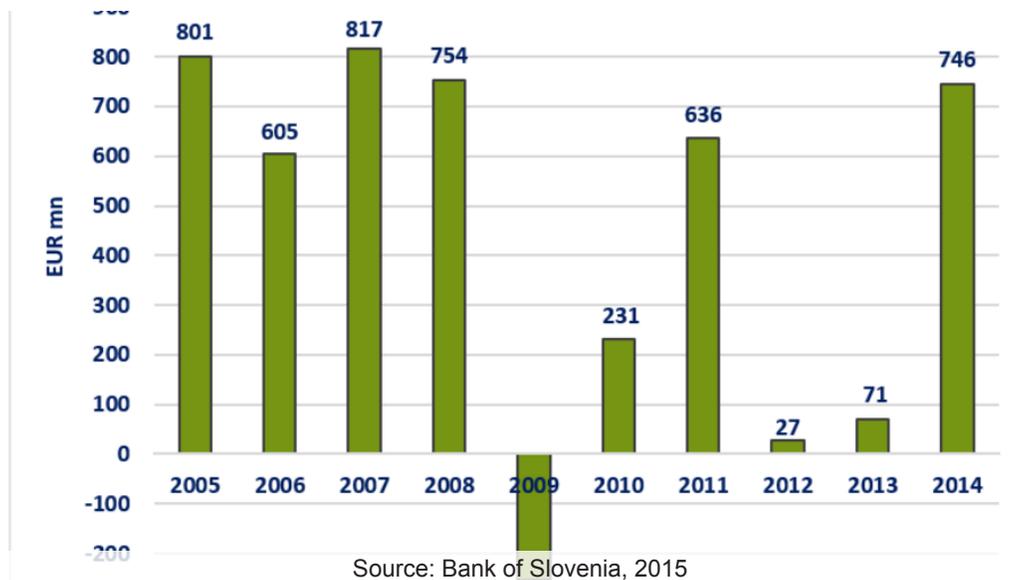


Source: Bank of Slovenia, 2015

(FDI stock as of year-end 2014 EUR 10,130 million)

## Inward Investment Flows & Stock

### FDI inflows in Slovenia, in EUR million, 2005-2014



Source: Bank of Slovenia, 2015

The **low levels of FDI flows** in the past indicate that Slovenia was not widely recognised as an attractive location for mobile investment. The main **reasons** are generally associated with the following:

- Slovenia was a young country starting the **transition** to a market economy; it had a small domestic market and bordered on an unstable region.
- The **privatisation model** (decentralised, voucher-based) in the first half of the 1990s left less room for foreign investors than in other countries in the region.
- The domestic services sector (financial services, trade, tourism, infrastructure) was ahead of other countries in the region. The fact that there were some **competitive domestic enterprises** with a firm foothold in the small domestic market was a clear signal that foreign companies had to make greater efforts than in other countries in the region to win the same market share.

# FOREIGN INVESTMENT REGIME

## Residents and non-residents

Slovenian legislation does not distinguish between foreign and domestic investors, but between residents and non-residents. The Foreign Exchange Act defines residents as:

- companies and other legal persons with their seats registered in Slovenia, with the exception of their branches in other countries that perform profitable business;
- branches of foreign companies registered in Slovenia if they are engaged in profitable business;
- individual entrepreneurs and natural persons who run their own business and have their seat or permanent residence in Slovenia;
- natural persons with a permanent residence in Slovenia;
- natural persons with a temporary residence in Slovenia based on a permit valid for a minimum of 6 months, with the exception of foreign nationals employed in diplomatic and consular missions in Slovenia and members of their families; and
- Slovenian diplomatic, consular and other representations abroad financed from the national budget, Slovenian nationals employed in such representations, and members of their families.

All other persons are considered to be non-residents.

## The principle of national treatment

The treatment of foreign companies and entrepreneurs in Slovenia is regulated by the Companies Act in a chapter on foreign undertakings.

A foreign undertaking is defined as a natural or legal person that performs a profitable activity in Slovenia and has their residence or place of business abroad.

Foreign undertakings must conduct their business activities through an entity registered in Slovenia.

The Companies Act stipulates that, as a principle, with regard to its rights, obligations and responsibilities, a foreign undertaking is equated with domestic undertakings or entrepreneurs with registered office in Slovenia in respect of business conduct in Slovenia, unless otherwise provided by applicable legislation.

## The protection of foreign investors

Slovenia accepts the principles of the OECD Draft Convention on the Protection of Foreign Property of 1967. The repatriation of capital and transfer of profits are free after the payment of tax duties and other obligations. Expropriation, nationalisation or any other measure with an equivalent effect is prohibited except for public purposes, on a non-discriminatory basis, under due process of law and in exchange for prompt, adequate and effective compensation.

## Sectoral limitations

Slovenia has a liberal foreign investment regime. The movement of capital is fully liberalised and in line with the EU rules. In the field of inward direct investment, all sectors are open to investors from the EEA, while restrictions on investments by non-EEA residents apply to the operation of games of chance, maritime transport (ship registration, cabotage, pilotage and towage) and air transport. Further, non-EEA institutions may not establish branches for the purpose of providing depositary services to resident collective investment funds.

In the field of cross-border trade in services there are restrictions on non-EEA service providers in insurance services (except reinsurance, retrocession and the transfer of social security and social insurance payments); and most banking and other financial services (except settlement, clearing and depositary services, and advisory and agency services). Reciprocity is required for non-EEA residents in areas such as cross-border transport and real-estate investments.

Branches of third-country credit institutions which are located within the EEA and want to provide payment services are according to Payment Services Directive (2007/64/EC) obliged to establish a company in the EEA and subsequently apply for an authorisation.

## Real-estate investment

Companies established or purchased by foreign nationals in Slovenia have the same property rights as companies established by domestic persons (the principle of national treatment). That is why they may own real estate without limitation. For non-residents, the following rules apply:

The EU and EEA: Since Slovenia's accession to the European Union, EU citizens and legal entities may freely and unconditionally invest in and acquire real estate in the territory of Slovenia. Pursuant to the Agreement on the European Economic Area the same regime applies to citizens and legal entities from Iceland, Liechtenstein, Norway and Switzerland.

OECD countries: Pursuant to the Convention on the Organisation for Economic Co-operation and Development along with Supplementary Protocols Nos. 1 and 2 to the Convention, since July 2010, when Slovenia became an OECD member, the same regime as for citizens and legal entities of EU countries applies to citizens and legal entities of non-EU OECD countries. The non-EU OECD countries are Australia, Canada, Chile, Iceland, Israel, Japan, Mexico, Norway, New Zealand, Switzerland, Turkey, South Korea and the USA.

EU candidate states: Pursuant to the Act governing the conditions for acquiring title to property by natural persons and legal entities of EU candidate countries, the citizens and legal entities of EU candidate states which are not OECD members (i.e. Montenegro, Macedonia and Serbia) may acquire real estate in Slovenia according to the principle of reciprocity.

Third countries: Citizens and legal entities from all other countries may only own real estate if they have both inherited it and if the reciprocity principle is observed under the conditions set out in the Inheritance Act.

Persons with the status of a Slovenian without Slovenian citizenship may acquire real estate on the same conditions as Slovenian citizens according to the conditions laid down in the Act Regulating Relations between the Republic of Slovenia and Slovenians Abroad.

There are no restrictions on the leasing of real estate by foreign nationals. Leasehold may be acquired for up to 99 years.

# **INVESTMENT IN EXISTING COMPANIES**

## **Foreign exchange regime**

The foreign exchange regime is fully liberalised. It is regulated by the Foreign Exchange Act and several other regulations enacted pursuant to the Act by the Bank of Slovenia or the Ministry of Finance, as well as by some other sectoral laws.

## **Investment in securities portfolios**

Non-residents are free to purchase all types of securities in Slovenia.

Residents are free to purchase all types of securities abroad.

## **Credit operations**

Residents, natural and legal persons are free to take credits abroad or extend credits to non-residents. This relates to all types of credit, including consumer and mortgage loans. The freedom to perform credit operations relates to collateral and the sale of claims, as well as factoring and leasing transactions between residents and non-residents.

## **Deposits and current accounts**

### ***Non-residents***

A non-resident may open foreign currency and euro accounts in banks and other payment institutions in Slovenia but the banks and other payment institutions must establish and verify the customer's identity, i.e. the non-resident's identity.

If a non-resident is a legal person, they may authorise those natural persons, residents or non-residents who are their resident employees or authorised agents to conduct operations involving their bank account.

### ***Residents***

Residents may open payment accounts abroad without restriction.

## **Payments and transfers**

There are no restrictions on current and capital transfers. The Payment Services Directive (Directive 2007/64/EC) obliges branches of third-country credit institutions located within the EEA and seeking to provide payment services to take one of the legal forms foreseen in Article 1(1) of the Directive in order to be allowed to provide payment services in the EEA (e.g. become a payment institution within the meaning of Article 1(d), i.e. establish a company in the EEA and subsequently apply for authorisation under Article 10 of the Directive once it has been implemented in national law).

## **Cash payments between residents and non-residents**

Cash payments between residents (legal persons only) and non-residents are unrestricted. The regulations aimed at preventing money laundering operations and those requiring the reporting of higher amounts of money (above EUR 30,000) must be observed.

In March 2014, the Act on Changes and Amendments to the Act on the Prevention of Money Laundering and Terrorist Financing was adopted. The threshold of the limit on cash transactions was reduced from the existing EUR 15,000 to EUR 5,000 and the prohibition was expanded from the activity of selling goods to also include the performing of services.

Residents (legal persons or self-employed entrepreneurs) may receive a cash payment from non-residents in line with the measures that apply to domestic cash transactions.

Persons pursuing the activity of selling goods in Slovenia shall not accept cash payments amounting to EUR 15,000 or more from their customers or third persons when selling individual goods (Prevention of Money Laundering and Terrorist Financing Act).

## **Cross-border cash transfers**

There are no restrictions. The regulations aimed at preventing money laundering must be observed.

When crossing the national border, both residents and non-residents must report to the Customs Service every transfer in and out of the country of cash or securities defined as such by this or any other law when the amount of foreign currency or securities is equal to or exceeds the amount specified in Regulation (EC) No. 1889/2005 of the European Parliament and of the Council of 26 October 2005 on controls of cash entering or leaving the Community (currently EUR 10,000).

## **Cross-border transfer of securities**

There are no restrictions.

## **Transfers of privately-owned capital**

There are no restrictions on the transfer of capital owned by residents or non-residents.

## **Foreign exchange transactions between residents**

On 1 January 2007 Slovenia introduced the euro as its own currency. After this date, there are no restrictions relating to foreign exchange transactions between residents. As of this date, residents are free to conduct transactions and payments between themselves in either euros or any other currency.

## **Foreign exchange market**

Residents (with the exception of banks) and non-residents may only purchase and sell foreign currency at authorised banks and at contractual currency exchange operators.

# TAKEOVERS

The Takeovers Act is based on the principle of the equal treatment of domestic and foreign legal and natural persons and does not contain any special provisions concerning foreign investors.

A takeover involves a situation in which the offeror, either alone or together with persons acting in concert with it, achieves the takeover threshold. The takeover threshold is 1/3 of the voting rights in the company. Provisions of the Takeovers Act apply if the offeree company is a public corporation whose voting shares are traded on the regular market; or a joint-stock company whose shares are not traded on the regulated market and has at least 250 shareholders or total equity capital of more than EUR 4 million.

## Takeover bid

A takeover bid gives minority shareholders the option to exit the ownership structure of the offeree company in which a shareholder (or several persons acting in concert) has reached the takeover threshold. A mandatory takeover bid shall be made by an offeror achieving the takeover threshold, which is 1/3 of the voting rights in the offeree company. If the takeover bid is successful, the offeror is obliged to make a renewed takeover bid after having acquired additional 10% share of the voting rights. The obligation to make a renewed bid ceases when the offeror acquires a 75% share of all the offeree company's voting rights.

The offeror may define a successful bid threshold in its takeover bid. The successful bid threshold is the lowest percentage of all shares the bidder is obliged to acquire, together with shares already in its possession, on the basis of a takeover bid in order to make the bid binding upon it. In case of mandatory takeover bid the offeror must define the successful bid threshold, which may not be less than 50% share of all of the target company's voting shares plus one share, unless the acquirer's share has already reached 50% of all of the target company's voting shares.

## Compensation and fair price

A takeover bid shall indicate the type of compensation involved. It can be made in cash or securities (cash, substitute, combined and alternative bids). The price in the takeover bid shall not be lower than the highest price at which the offeror acquired shares in the last 12 months prior to publication of the bid.

## Concerted action

Persons acting in concert are persons acting on the basis of an explicit or implicit oral or written agreement whose aim is to acquire or consolidate their control of the offeree company or to prevent the offeror from making a successful takeover bid. In case they together achieve the takeover threshold they must jointly announce a mandatory takeover bid (unless they agree that only one or some of them will announce it).

## Exemptions from the obligation to make a takeover bid

Takeover bid is not required if the threshold was achieved through the acquisition of shares, for example, by inheritance or by transferring shares from the offeror after making a takeover bid to persons who acted in concert in making such a bid, or to groups of companies etc.

## Suspension of voting rights of an unlawful offeror

An offeror which achieves the takeover threshold or additional takeover threshold and has not made a takeover bid in accordance with the law may not exercise the voting rights arising from the shares in its possession until it has either made a takeover bid or disposed of shares exceeding the takeover threshold.

## The takeover procedure

Step	Actor	Action required	Subject	Time
Takeover intention	The offeror	declares its intention to make a takeover bid	ATVP AVK offeree company	mandatory bid: within 3 days of achieving the takeover threshold voluntary bid: no time limit (unless an explicit statement of takeover intention has been requested)
Publishing notice of the takeover intention	The offeror	publishes notice of the takeover intention	a daily newspaper circulated throughout the territory of Slovenia	the same day as it declares the takeover intention
Notice regarding the negotiations	The offeree company's management	informs about the negotiations (or the absence of them)	ATVP	within two business days of publishing notice of the takeover intention
Cash deposit or bank guarantee	The offeror	cash deposit or a bank guarantee for the payment of all securities subject to the takeover bid	a special cash account with the KDD	prior to announcement of the takeover bid and before the ATVP grants its authorisation
Takeover bid and bid document – prospectus	The offeror	submits the takeover bid and prospectus	ATVP	as soon as possible after the takeover intention is announced
Authorisation to announce the takeover bid	ATVP	grants the authorisation to launch the takeover bid	offeror	prior to announcement of the takeover bid
Publishing the takeover bid	The offeror	publishes the takeover bid	a daily newspaper circulated throughout the territory of Slovenia	within 10 to 30 days of the publishing notice of the takeover intention and after the ATVP grants its authorisation
Opinion on the takeover bid	The offeree company's management	publishes its opinion and communicates it to the employees	usually in a newspaper	within 10 days of announcing the bid
Acceptance of the offer	Shareholders of the offeree company	make a written statement of acceptance of the takeover bid	brokerage company that maintains a book entry securities account	not less than 28 and not more than 60 days after publication of the offer
Publishing the takeover bid results	The offeror	publishes a notice on results of the takeover bid	a daily newspaper circulated throughout the territory of Slovenia	within three days of the expiry of the time allowed for acceptance of the takeover bid
Notification of the takeover bid results	The offeror	notifies the results of the takeover bid	ATVP AVK	within three days of the expiry of the time allowed for acceptance of the takeover bid
Decision on announcement of the takeover bid results	ATVP	issues a decision on the announcement of the takeover bid outcome	offeror, the offeree company, the KDD and the securities market regulator	within three business days of the day the ATVP received the notice
Publishing the decision on announcement of the takeover bid results	The offeree company	publishes the decision on announcement of the takeover bid results	a daily newspaper circulated throughout the territory of Slovenia	within three days of receiving it

## CONCESSIONS

Concessions are governed by the Law on Public-Private Partnership (PPP) and various other items of special legislation. The provisions of the Law on PPP are always subsidiarily applicable whenever special or exclusive rights to provide economic or other public services or other activities in the public interest are awarded through concession contracts with a public partner (government, municipality or other public entity), except where concessions are also specifically regulated by special laws governing certain areas (e.g., concessions on natural resources and other public goods, education, health and other social services, utilities).

### Law on Public-Private Partnership (PPP)

The aim of the Law on PPP is to help close the infrastructure gap and reduce public expenditure, to encourage private initiative and benefit from the involvement of the private sector – especially in the designing, building, financing, operating and maintenance of infrastructure projects (utilities). Unlike a so-called equity partnership the provisions of the Law govern contractual partnerships. Contractual partnerships are divided into public procurement partnerships and concessional partnerships.

A concessional partnership covers:

- private investment in projects of public interest; and
- the public co-financing of private projects in the form of so-called ‘building’ or service concessions; e.g., under BOT (Build-Operate-Transfer) and similar schemes (BTO, BOO, BOOT, DBFOT, DBF, BOR, BRT/BLT etc.)

### General principles

The applicable general principles for these procedures are the principles of transparency, competition, efficiency, protection of intellectual property rights, co-operation and non-discrimination (foreign partners enjoy national treatment), including the principle of continuity in the execution of PPP after a concession has been granted.

### Eligible private partners

A concession may be awarded to foreign investors – legal and natural persons – whether they are operating across borders or through a company (including a *Special Purpose Company/Vehicle* - SPC/V) or a branch office registered in Slovenia.

Private partners may also apply for a concession through consortiums or an unincorporated grouping (under applicable laws) such as a contractual joint-venture (JV) involving foreign and/or local partners that must be jointly and severally liable (the engagement of experienced local partners and consulting firms in these complex project procedures is strongly advised).

## Procedures and general principles

### *Preliminary procedure*

Within three months of the adoption of the yearly budget or development plan public partners shall, as a rule once a year, publicly invite potential promoters to submit their applications revealing an expressed interest in PPP projects, yet such promoters are free to apply even without an invitation. Within the legally prescribed preliminary procedure for a particular project a special 'PPP test' (i.e., feasibility study that answers whether for particular projects the economic, financial, technical, legal and environmental conditions for a PPP have been met or not) shall be made (this test is always required for all projects exceeding EUR 5.28 million), whereas the decision shall be adopted within four months.

### *Concession Act*

In the next step, the authorised organ of a public partner recognising a public interest in a PPP adopts an administrative *Act on PPP*, in the event of concessions also called a *Concession Act* (compulsory whenever special or exclusive rights for carrying out the concession activity are granted) that customarily defines the essential elements of PPP relations.

### *Tender*

Concessions are then awarded through a public tender for which the rules on economic public services/public procurement also apply, including the rules on an open tender procedure, a restricted (two-phase) procedure and for this kind of deals most probably the quite frequently used competitive dialogue with eligible and competitive private partners. Public partners publish a notice of tender on the web, in specialised magazines and in the Official Gazette of the RS/Official Journal of the EU.

The tender documentation is mainly available in the Slovenian language (in border areas also in the Italian or Hungarian languages), while the procedures, bids or at least some parts of the documentation may sometimes be allowed in a particular foreign language as well.

### *Selection procedure*

After the public opening of the bids (except in the case of official or military secrecy) special professional commissions check their compliance with the tender conditions, assess and rank the bids, while the final decision in the selection procedure on whether to award the concession and to sign a Concession Agreement with the most successful bidder or their project company lies with the authorised organ of the public partner (concession provider).

Against the decisions in these procedures there is in principle no right of appeal or other judicial protection before the courts, but at least a demand to the independent State Auditing Commission for auditing is always guaranteed.

Different incentives, financial and other subsidies are at least as a rule available for projects in PPP, including certain risk takings and guarantees of the public partners (esp. for non-commercial risks), but must follow the rules on state aid.

## ***Concession Agreement***

In compliance with the particular *Concession Act* and applying the provisions of the *Law on Economic Public Services* by analogy, a public partner can enter into a long-term and often quite complex *Concession Agreement* with the concessionaire.

## ***Settlement of disputes***

The governing law in any disputes between the concessionaire and its customers is always Slovenian law. The compulsory redemption of concessions, forceful buy-out or deprivation are possible according to the law in case of a public interest set out in the *Concession Act* and expropriation provisions may also be stipulated in the *Concession Agreement*. In addition to Slovenian laws, *Concession Agreements* with foreigners are subordinated to multilateral and bilateral *Investment Protection Agreements (IPA)*. The jurisdiction is Slovenia, but investment disputes can also be settled through a chosen arbitration procedure or, e.g., through the World Bank's *International Centre for the Settlement of Investment Disputes (ICSID)*.

## **Concessions on natural resources and public goods**

The private ownership of natural resources is prohibited but the legislation does not discriminate against foreign investors when it comes to obtaining a concession for the exploitation of renewable or non-renewable natural resources or public goods.

On the basis of a particular *Concession Act*, government, local authorities or other public partners (concession providers) may grant concessions regarding natural resources to the most successful applicant, namely the tenderer (concessionaire) with proven capacities and capabilities in relation to their management, exploitation or utilisation (priority in public tenders is given to owners of land on which the natural resources are located).

In principle, a concession is granted after the appropriate payment of royalties/concession fees. In demographically endangered areas concessions may be granted free-of-charge, while deferred payments may have to be properly guaranteed.

A concession shall be granted on the condition that the requirements of the Law on Environmental Protection are fulfilled. Moreover, *Concession Agreements* always follow the environmental guidelines that are more or less determined case-by-case in *Concession Acts* for the management, exploitation and use of natural resources and contain concessionaires' liabilities regarding protection of the environment.

Concessions on public goods and concessions for public services (e.g., supply of drinkable water and water cleaning, communal waste disposal, maintenance of municipal roads, graveyards, public transportation etc.) are granted to eligible legal or natural persons if the criteria set by special laws and/or government or local authorities for engaging in such activities are satisfied. Concession rights may only be transferred on the basis of and to the extent provided by the *Concession Agreement*, otherwise the prior approval of the concession provider is necessary.