

CONCESSIONS

DEFINITION OF A CONCESSION

What is a concession?

It is a kind of **partnership** between the public sector and a (usually) private company that has shown its added value in a specific area, for example developing infrastructure.

Concessions are used in sectors that **affect EU citizens' quality of life**.

Examples: road and rail transport, port and airport services, motorway maintenance and management, waste management, energy and heating services, leisure facilities and car parks.

Concessions permit to **mobilise private capital and know-how to complement public resources** and enable new investment in public infrastructure and services without increasing public debt.

What is the difference between a concession and a public contract?

In a public contract, a company is paid a fixed amount for completing the required work or providing a service.

Example: a private company builds and manages a motorway for a fixed price.

In a concession, a company is remunerated mostly through being permitted to run and exploit the work or service and is exposed to a potential loss on its investment.

Example: a private company builds and manages a motorway and is remunerated through tolls, running the risk that the revenue generated will not cover its investment and other costs incurred.

What are the risks associated with a concession?



BUT NO relevance of risks inherent in every contract such as:

- bad management;
- contractual default;
- force majeure.

What is not a concession?

- **Licences and authorisations** — unilateral acts made by a public authority to establish the conditions under which companies may carry out a specific economic activity;
- **Grants or subventions** — financing that does not involve transferring ownership or the benefits of the work or service to the public authorities that granted it;
- **Public-domain and land-lease contracts** — when a public authority establishes only general conditions for using certain public resources such as land or other public property (e.g. maritime property, inland ports or airports) without procuring specific work or services;
- **Rights of way** — use of public immovable property to provide or operate fixed lines or networks that provide a service to the public (e.g. installation of electricity cables), without the public authorities imposing supply or acquisition obligations;
- **Free-choice systems** — all companies that fulfil certain conditions are entitled to perform a given activity (e.g. customer choice and service-voucher systems).