

ANNUAL REPORTING REQUIREMENTS FOR ONEROUS USE CONCESSION AGREEMENTS

In the Onerous Use Concession Agreements (“CUO”) entered into with the Ministry of National Assets (“MNA”), there is an obligation to annually submit to the latter a “sworn statement of use”, as stated in the CUO proforma provided by the MNA in its Ministerial Order N°6 dated August 28, 2013, in its “SIXTEENTH CLAUSE: OTHER OBLIGATIONS OF THE CONCESSIONAIRE Sixteen.Three”.

Although according to the text of the proforma, the breach of said obligation may result in fines of up to 1,000 UF (39,100 USD approximately), the collection of the guarantees and even the early termination of the CUO, the generality of concessionaires currently do not comply with their annual obligation.

A lawyer in the Legal Division of the MNA, indicated that many concessionaires are currently in default of said obligation, and in order to remedy these violations, it is recommended that concessionaires submit a sworn statement of use for the current year along with a letter (i) explaining the reasons for the delay (e.g. the procurement of the relevant permits) and (ii) the reasons behind the non-compliance in past years, if applicable.

Therefore, if you as a concessionaire are not in compliance with the abovementioned requirements, we suggest that you proceed as indicated, taking into account that such violations have on several occasions been identified as a risk which must be mitigated in due diligence processes to acquire and/or finance energy projects.

We look forward to your comments and any further questions you may have in connection to this matter.

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