

Information note on the draft law regarding the establishment, operation and exploitation of airports on water surfaces (water airports)

A draft law aims at setting up a new legislative framework to regulate the establishment, operation and exploitation of airports on water surfaces (water airports) in Greece has been posted recently for online public consultation by the Ministry of Infrastructure, Transport and Networks (YPOMEDI). The relevant consultation has been completed on 9 September 2016 and has gathered a significant number of comments, mainly in relation to the licensing model of the water airports as defined in the provisions of the draft law, and which reserves an enhanced role and involvement in the Greek State and the public entities and services.

New Regulatory Framework

The purpose of the draft law is to determine the conditions for the establishment and operation of water airports and to specify the procedure and conditions for issuing (or renewing, suspending and revoking) the establishment and operating licenses of the water airports. On this basis, the proposed new regulatory framework sets out a series of obligations and qualifications for the persons and bodies receiving the relevant licenses. In particular, the provisions of the draft law are summarized as follows:

- A special **water airport license** is established, being issued by a joint ministerial decision from the Minister of Infrastructure, Transport and Networks (YPOMEDI) and the Minister of Mercantile Marine and Island Policy, and is further divided into an **establishment license**, an **operating license** and a **(combined) establishment and operating water airport license**.
- The water airport establishment license is granted solely to the Greek State, to public legal entities, to first and second-tier local authorities and to private legal entities whose majority of shares belongs to the Greek State, while it may be exceptionally granted to a private company where this is a port concession holder or a tourist marina owner. In any case, the water airport establishment license shall not allow the operation of the water airport without the prior issuing of a water airport operating license.
- For the purpose of issuing one of the aforementioned licenses, the interested party shall submit a relevant request to the competent service of YPOMEDI accompanied by a technical information file containing the required supporting documents per license category (listed in article 8 of the draft law) and pay a fee of 2.500 (two thousand five hundred) euros to the Greek State. A number of supporting documents required therein is subject to the approval of the competent public bodies and services.

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- Pursuant to article 12 of the draft law, a complex procedure for considering applications is adopted in order to issue the relevant licenses, with the participation of the competent public services. Simultaneously, special provisions are established in relation to the environmental licensing of the water airports on a case-by-case basis (for the operation of a water airport within a port holding an environmental assessment approval or in the case of a port without an environmental assessment approval etc.).
- The water airport establishment/establishment and operating license duration is set to five (5) years, with the possibility of renewal. The duration of the water airport operating license shall not be less than three (3) years. The validity of the licenses is conditional upon the successful conducting of inspections by the Water Airports Committee pursuant to the conditions and procedures defined in article 14 of the draft law.
- The transfer of the establishment license or the establishment and operating license or the concession of the water airport operation is permissible on certain conditions. The water airport operating license is non-transferable and non-assignable for any reason whatsoever.
- The rates for the basic handling services rendered to seaplanes and passengers shall be defined by the water airport operator. The payment of a 5% fee to the Greek State on the net fare that corresponds to a particular route per passenger is provided for.
- The establishment of water airports may fall within the framework of L. 3894/2010 on strategic investments, provided that the conditions set out therein are met, or within the framework of L. 3389/2005 on partnerships between the public and private sectors.
- An online system monitoring the water airport licenses shall be established within the Ministry of Infrastructure, Transport and Networks (YPOMEDI), where the complete and up-to-date technical dossiers as well as all information pertaining to the water airport licenses shall be kept.
- The existing institutional framework on the establishment, operation and exploitation of water airports (L. 4146/2013) is repealed. The holders of water airport operating licenses pursuant to L. 4146/2013 must comply with the requirements of the new legislative framework within six months from its entry into force, otherwise it is provided that flights are sanctioned with suspension.

Comments

The existence of a clear, flexible and private initiative-friendly legislative framework for the water airports is a pre-condition for attracting investments on this particular market segment, with multiple anticipated benefits for tourism, economy and the local communities that these will serve. On this basis, it is doubtful whether the new law proposal is able to bring improvements to the existing regulatory framework on water airports (L. 4146/2013) which has been characterized as inadequate and extremely bureaucratic. The new draft law maintains and enhances the complex licensing procedures which require the issuing of favorable opinions by a series of public services that is expected to further increase bureaucracy and delays to the detriment of private investments.

Furthermore, the new law proposal seeks to establish the exclusive public nature of the water airport establishment license, the issuing of which is currently reserved solely for the Greek State, the local authorities and the public legal entities. In the context of the public consultation, interested parties have openly expressed their concerns regarding the feasibility of such a regulation that is expected to create legal uncertainty in relation to the existing licensing procedures, and to also actually lead to a declined or nonexistent investment interest both from private and public (e.g. port authorities) entities, which will have to deal with, on limited or non-existing resources, the financing requirements for the construction and equipment of the water airports.

All comments gathered within the framework of the online public consultation can be found at the following link: <http://www.opengov.gr/yne/?p=3335>



For further information, please contact us:



Dimitris Diakopoulos
Senior Partner

ddiakopoulos@fdmalaw.com



Christos Sakellariou
Senior Associate

csakellariou@fdmalaw.com