

An aerial photograph of a two-lane asphalt road winding through a dense, green forest. Two cars are visible on the road: a red car in the foreground and a blue car further ahead. The text is overlaid on the lower half of the image.

PUBLIC LAW BULLETIN: NEWS  
FROM THE SECTOR

GVM

GUIMARÃES  
VIEIRA DE MELLO  
ADVOGADOS

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# SUMMARY

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<b>Federal Government launches the "New PAC", with a forecast of R \$ 1.7 trillion in investments</b> .....	3
Main sectors .....	4
<b>Highways</b> .....	4
Concession of BR 381/MG scheduled for November .....	4
<b>World Bank study indicates serious shortage of infrastructure investments in the country</b> .....	5
<b>Fines applied by ANTT may be applied in works on federal highways</b> .....	6
<b>Concession of BR 040 will be divided by the Federal Government</b> .....	7
<b>Auction of highways in Paraná</b> .....	9
<b>Sanitation</b> .....	10
Legal article: new framework for basic sanitation .....	10
<b>The "face" of the population without access</b> .....	11
<b>Private sector participation in sanitation will be essential for the expansion of the sector</b> .....	12
<b>New Resolution and open public consultation of ANA</b> .....	13
<b>Lotteries and sports betting</b> .....	14
Legal article: MP sports betting.....	14
<b>Court of Auditors of the Union</b> .....	15
TCU authorizes withdrawal of rebids .....	15

## OVERVIEW

### FEDERAL GOVERNMENT LAUNCHES THE "NEW PAC", WITH A FORECAST OF R\$1.7 TRILLION IN INVESTMENTS

The Federal Government officially launched on August 11 the New PAC, marked by the prediction of intense partnerships between public and private sectors to enable the financial contribution in the following investment axes: (i) efficient and sustainable transport; (ii) inclusive social infrastructure; (iii) sustainable and resilient cities; (iv) water for all; (v) digital inclusion and connectivity; (vi) energy transition and security; (vii) innovation for the defense industry; (viii) education, science and technology; and (ix) health.

The Government's expectation is that the measures announced as priorities will bring a favorable environment to attract investments (national and international), both in sectors essential for the country is financial leverage (such as transport, science and technology, energy transition), and in sectors lacking in development and equal access (water, digital inclusion, education, science, technology and health). Detailed information is available at <https://www.gov.br/casacivil/novopac/>



DESENVOLVIMENTO E SUSTENTABILIDADE

## HIGHWAYS

### CONCESSION OF BR 381/MG SCHEDULED FOR NOVEMBER

The National Land Transport Agency (ANTT) published the notice No. 3/2023, intended for the concession of BR 381/MG, in the stretch between the junction with BR-116/451, in the municipality of Governador Valadares/MG and the junction with BR-262, in the municipality of Belo Horizonte/MG.

The auction will take place on 24.11.2023 at the headquarters of B3 S.A. - BRASIL, BOLSA, BALCÃO and will have as a criterion of choice of the concessionaire the lowest value of toll rate.

The initial term of the contract will be 30 years and, among the planned investments, it is worth mentioning the doubling of 100 km in certain stretches and interventions at critical points, such as the junction with MG-434, marked by a series of accidents. The concessionaire must make a large contribution of investments in the first 8 (eight) years of execution and may operate five toll plazas, with differentiated values for single and duplicate lanes.

The documents related to the event (public notice, contract and studies) can be accessed at the following link: <https://encurtador.com.br/ijyz6>



## WORLD BANK STUDY INDICATES SERIOUS SHORTAGE OF INFRASTRUCTURE INVESTMENTS IN THE COUNTRY

The World Bank has made public the Synthesis Report of the study "*Infrastructure Assessment in Brazil*", which assessed throughout 2022 the quality of the infrastructure available in the country.

The report highlighted that some of the causes for the sector's deficit over the last few years are budget constraints and the limitation of the government's ability to plan and implement successful contracting procedures, which consequently affects the attraction of private investments that will reduce the gap in this segment.

One of the urgent strategic investment agendas is the maintenance and expansion of highways to facilitate the commercial flow of goods. The report indicates the need for urgent injection of resources into the sector, especially in the adoption of preventive measures against the deterioration of existing assets, as well as improving the integration of the various modes of transport to optimize resources. The full study (in English) can be accessed at this link: <https://encurtador.com.br/ijvz6>



## FINES APPLIED BY ANTT MAY BE APPLIED IN WORKS ON FEDERAL HIGHWAYS

The National Land Transport Agency (ANTT) announced that it will direct more than R \$ 1 billion in fines applied on federal highways for the execution of new works or services on the roads. The fined companies must submit a request for a Term of Adjustment of Conduct (TAC) with the list of works that will be carried out with the amount of the fine, these interventions must be carried out within a period of up to 4 (four) years.

The measure announced by ANTT is commendable and goes against the duty of the Public Administration to always seek efficiency and legal certainty in the application of its rules. In this sense, allocating the value of penalties to investment in works that will more satisfactorily serve users is a more effective measure than mere tax collection.

Source: <https://www.encurtador.com.br/url-encurtada.php>



## CONCESSION OF BR 040 WILL BE DIVIDED BY THE FEDERAL GOVERNMENT

After months of discussions on the subject, the BR-040 in the stretch between Rio de Janeiro (RJ) and Belo Horizonte (MG) seems to have reached its final contour: it will be tendered in two separate lots instead of a single stretch.

Via 040 (Invepar Group) which, after requesting the rebidding of the stretch in 2013, operates the stretch until the conclusion of a new bidding process by decision of the Federal Court currently operates the stretch between Juiz de Fora (MG) and Belo Horizonte.

The company Concer (Grupo Triunfo), which currently operates the stretch by virtue of an injunction, in turn, operates the stretch between Rio de Janeiro and Juiz de Fora.

The Federal Court of Auditors had approved the joint bidding for the stretch between Belo Horizonte and Rio de Janeiro (Judgment no. 1547/2023-Plenary – in full available on [file:///D:/Downloads/documentos%20\(11\).pdf](file:///D:/Downloads/documentos%20(11).pdf)) but the Government's decision to separate the assets may make the concession more attractive to new entrants. The expectation is that the two concession notices will be launched later this year.

Folha editorial commenting on the saga of the BR040 concession: <https://www1.folha.uol.com.br/opiniaio/2023/08/privatiza-cao-mal-feita.shtml>



## MORE BR 040: DEFINED THE FORMAT OF THE CONCESSION OF THE ROUTE OF THE CRYSTALS

Foi publicada no Diário Oficial da União a portaria n.º 839, de 23 de agosto de 2023, aprovando o plano de outorga apresentado pela Agência Nacional de Transportes Terrestres para a concessão da BR-040/GO/MG, entre Cristalina/GO e Belo Horizonte/MG – a conhecida “Rota dos Cristais”.

O projeto, que poderá assegurar investimentos superiores a R\$ 11 bilhões, será enviado em breve para aprovação do Tribunal de Contas da União e a expectativa do Governo Federal é lançar o leilão para concessão do trecho ainda este ano.





## AUCTION OF HIGHWAYS IN PARANÁ

On 25.08 was held the public session of the first highway auction of the current Federal Government – first lot of Paraná, covering the BRs-277/373/376/476/PR and PRs-418/423/427. The winning company was Infraestrutura Brasil Holding XXI S/A, of the Pátria Investimentos group. The group presented a proposal of 18.25% on the base tariff and won the auction disputed with the Concessionaire Infraestrutura PR (Perfin Voyager Investment Fund and EPR Group), which presented a proposal for an 8.3% discount.

Despite the success in granting this important stretch to the private sector for the State, it is worth reflecting on the low competition in valuable assets in recent years – especially the concession of highways – and the possible causes for the low attractiveness. The decision for the modeling must take into account not only the state desires with the concession, but also its attractiveness to the market, which ultimately benefits the public interest – the greater the number of interested parties, the greater the dispute and, in turn, the better chances of investments with lower tariffs.



## SANITATION

### LEGAL ARTICLE: NEW FRAMEWORK FOR BASIC SANITATION

The publication of the Legal Framework for Basic Sanitation in 2020 brought as its objective the universalization of access to drinking water and sanitation services by the end of 2033.

The achievement of these goals will necessarily depend on a severe injection of private resources into the sector, with the opening of new concessions in Brazilian municipalities, whose exploitation is historically carried out by state-owned companies.

In an article published in Jota, our head of Administrative Law, Danielle Franco, commented on the recent publication of the decrees that regulate the regionalized provision of sanitation services and the proof of the economic and financial capacity of the current service providers.

Access in: <https://encurtador.com.br/gjDI9>



## THE "FACE" OF THE POPULATION WITHOUT ACCESS

Still on the lack of access to basic services by most of the country's population, data compiled by the Association of Private Water and Sewage Concessionaires (ABDCON SINDCON) indicate that the portion of the population without access to the water and sewage network has an income of less than five salaries, a lower level of education and is concentrated mostly (62%) in the North and Northeast regions of the country.

On this topic, it is worth mentioning the Bill No. 3154/2023, presented by Deputy Max Lemos in June of this year, proposing the inclusion of provisions in Law No. 14,026/2020 that guarantee priority access to sanitation services in favelas and occupied areas.

Having a more accurate knowledge of the concentration of inequality in access to basic services allows us to specify the challenges of universalization and, from this, to draw up the plan for the expansion of the service in the coming years. Part of the surveys presented by ABDCON can be checked in the article of Valor Econômico: <https://encurtador.com.br/bmtSY>



## Private sector participation in sanitation will be essential for the expansion of the sector

The Editorial "Overview of private participation in sanitation 2023: the decade of sanitation", published by the Association and National Union of Private Concessionaires of Public Water and Sewage Services (ABCON SINDCON) on 07.08.2023, indicates that, for Brazil to achieve the goal of universalization of access to water and sewage services by 2033, it will be necessary to make the investment of approximately R\$ 900 billion, of which approximately R\$ 237 billion will come from the private market through partnerships with the Government.

The survey also points out the advances in investments in the sector after the publication of the legal framework for sanitation in July 2020: 28 auctions were held in 17 states, which will represent a contribution of R \$ 98 billion in the coming years, with direct benefits to a population of 30 million inhabitants. The full editorial can be accessed at this link: <https://abconsindcon.com.br/panorama>



## NEW RESOLUTION AND OPEN PUBLIC CONSULTATION OF ANA

The National Water Agency (ANA) published on 04.08.2023 ANA Resolution No. 161, approving ANA Reference Standard No. 3, which establishes the criteria and methodology for indemnification of investments made by concessionaires and not yet amortized under contracts for the provision of water supply and sanitation services.

Access the standard at the following link: <https://encurtador.com.br/ICL35>

The deadline for public consultation no. 004/2023, aimed at obtaining contributions from society on the reference standard on tariff regulation models for water and sewage services, is still ongoing. The public consultation is open between August 18 and October 1, 2023 and the documents can be consulted at the following address: <https://participacao-social.ana.gov.br/Consulta/150>



## LOTTERIES AND SPORTS BETTING

### ARTIGO JURÍDICO: MP APOSTAS ESPORTIVAS

Although there was already since the year 2018 expectation for the regulation of Fixed Quota Betting (Sports Betting), only on July 24 of this year the Federal Government issued Provisional Measure No. 1,182/2023.

Despite this advance, effective regulation will still require some time for its implementation, as it still depends on specific regulation by the Ministry of Finance.

The head of Administrative Law of GVM, Danielle Franco, and the lawyer Anna Florença Anastasia contributed to the discussion through the article published in Estadão, which can be accessed from the link <https://ury1.com/sB4sG>.

At the moment, the analysis of the content of the MP by the Joint Committee in the Federal Congress is still pending, although the term of validity of the Provisional Measures cannot exceed 120 (one hundred and twenty) days.

Provisional Measure No. 1,182/2023 can be accessed in <https://acesse.ome/1LNqm>, and the proceedings in the Federal Congress can be followed on the website <https://encurtador.com.br/sxyIW>.



## COURT OF AUDITORS OF THE UNION

## TCU AUTORIZA DESISTÊNCIA DE RELICITAÇÕES

The Court of Auditors of the Union decided on 02.08.2023, unanimously, that the Federal Government might withdraw from the ongoing rebidding processes, if there is consensus with the concessionaire in this regard, and the 15 conditions listed in the vote of Minister Vital do Rêgo are met.

This decision signals the possibility of renegotiating contracts whose investments are currently stalled awaiting outcome, which will allow the resumption of works aimed at expanding the service provided and improving the quality of existing roads. (Judgment no. 1593/2023 – Plenary. Rapporteur: Mr Vital do Rêgo

[file:///D:/Downloads/documentos%20\(12\).pdf](file:///D:/Downloads/documentos%20(12).pdf)

Main highlights in the media on the topic:

<https://encurtador.com.br/fsEKL> (Valor Econômico)

<https://encurtador.com.br/kxLVZ> (O Globo)

<https://encurtador.com.br/ks279> (Estadão)



## ADMINISTRATIVE LAW GVM ADVOGADOS



MARCELLO VIEIRA DE MELLO  
[mmello@gvmadvogados.com.br](mailto:mmello@gvmadvogados.com.br)



DANIELLE FRANCO  
[dfranco@gvmadvogados.com.br](mailto:dfranco@gvmadvogados.com.br)



ANNA FLORENÇA ANASTASIA  
[aflorenca@gvmadvogados.com.br](mailto:aflorenca@gvmadvogados.com.br)