

On the basis of of article 123, point 3 of the Consitution of the Republic of Serbia and article 7 of the Law of the Budget of the Republic of Serbia for 2010 (Official Gazette of the Republic of Serbia, number 107/09),

The government passes

DECREE

ON TERMS AND CONDITIONS FOR ATTRACTING DIRECT INVESTMENT

Decree contents

Article 1

This Decree governs the terms and conditions for attracting direct investment to the territory of the Republic of Serbia, the criteria for allocating the funds for attracting direct investment, the dynamics of disbursement of awarded funds, as well as other issues of importance for increasing the competitiveness of the Republic of Serbia through the inflow of direct investment that has a favourable impact on job creation, transfer of new knowledge and technologies, balancing the Republic's regional development, the revival of devastated regions and regions of special state interest, and particularly in attracting direct investment to the automotive, electronics, IT, and telecommunications industries.

Definitions

Article 2

The following terms shall have the following meanings for the purposes of this Decree:

- 1) *Direct Investments* are new investments which may be characterized as new investments or investments into the reconstruction and/or adaptation of existing structures in the manufacturing sector and in the sector of internationally marketable services;
- 2) *A Candidate* is a person who participates in a procedure related to the allocation of funds;
- 3) *A Beneficiary of Funds* is an investor to whom funds are allocated, and who is registered in line with Republic of Serbia regulations;
- 4) *Devastated Regions* are considered to be local administrative units whose level of development is 50% of the national average according to the official data of official bodies responsible for statistics. These regions include: Merošina,

Bojnik, Trgovište, Malo Crniće, Tutin, Bela Palanka, Svrlijig, Knić, Žabari, Bosilegrad, Golubac, Kuršumlija, Ražanj, Gadžin Han, Sjenica, Žagubica, Medveđa, Rekovac, Osečina, Blace, Crna Trava, Žitorađa, Vladičin Han, Mali Zvornik, Plandište, Žitište, Nova Crnja, Preševo, Bujanovac, Kučevo, Babušnica, Vlasotince, Lebane, Mionica, Prijepolje, Krupanj, Rača, Doljevac, Varvarin and Ljubovija;

5) *Regions of Special State Interest* are considered cities representing large industrial centers whose accelerated commercial development is of particular significance for the Republic of Serbia, in particular with the goal of achieving balanced regional development and lowering unemployment. These include: Niš, Zaječar, Kraljevo, and Novi Pazar;

6) *Internationally Marketable Services* are services which are, or may be subject to, export, as well as services provided by companies' regional headquarters, customer service centers, logistical and distribution centres, and project and design centres;

7) *An Investment of Special Importance* is investment to the value of a minimum of EUR 200 million that guarantees the creation of at least 1,000 new jobs, within a period of three years starting from the day of the beginning of the investment, and covers the automotive, electronic, IT and telecommunications industries, and whose development is necessary for tackling problems of unemployment, increasing export or substituting import, as well as the development of the Republic of Serbia's economy;

8) *An Investor Who Makes an Investment of Special Importance* is a renowned investor, as well as other investors, who prove that they meet high standards in specific industries in the sense of financial, business, technical and technological capacities;

9) *Joint company* is a company where the investor and the Republic of Serbia jointly participate in a Special Importance investment.

Sources and Purposes of Funds for Attracting Direct Investment

Article 3

The funds for attracting direct investment (hereinafter "funds") are provided by the budget of the Republic of Serbia.

The funds may be used for financing investment projects in the manufacturing sector and the internationally marketable services sector.

The funds may not be used financing investment projects in the agriculture, tourism, catering/hotel, and retail industries.

Level of Funds that May be Allocated

Article 4

The total funds that can be allocated are determined according to the number of employees hired in a three-year period, and depend on the type of investment, the location of the investment and the degree to which the investment meets the criteria laid forth in this decree, namely:

1) For investments in the manufacturing sector, for every new job created within the three-year period starting from the day of the signing of the agreement for the funds allocation:

a) Between EUR 4,000 and EUR 10,000 in devastated regions and regions of special state interest,

b) Between EUR 5,000 and EUR 10,000 in the automotive, electronics or information technology and telecommunications industries in regions of special state interest,

c) Between EUR 2,000 and EUR 5,000 in other regions of the Republic of Serbia;

2) Between EUR 2,000 and EUR 10,000 for every new job created within the three-year period for investments in the sector of services which are, or may be subject to, international trade.

Article 5

As an exception to article 4 of this Decree, for investments whose total value is greater than 50 million euros and which create at least 300 new jobs, funds totalling 20% of the total value of the investment are awarded.

For investments whose total value is greater than 200 million euros and which create at least 1000 new jobs, funds totalling 25% of the total investment are awarded.

Disbursement of funds will be carried out in accordance with article 18 of this Decree.

Infrastructure Investments

Article 5a

Investor, whose investment projects require infrastructure betterment necessary for business operations, has the right to receive a partial funds refund on the investment depending on criteria from article 10 of this Decree, opinion given by the ministry in charge of the National Investment Plan and availability of budget funds.

Nomination of Investment Projects

Article 5b

Investor submits a proposition for an infrastructure project to the ministry in charge of economy and regional development.

The proposition needs to contain the main project, estimated value of the infrastructure project, trade activity, level of investment, number of new job openings, proof that the activity is being conducted on premises intended for this use, written proof issued by a local government stating that needed infrastructure does not exist and that its construction is not planned, and pre contract/protocol signed by the investor and constructor.

The ministry in charge of economy and regional development submits a proposition and documentation, defined by paragraph 2 of this article, to the ministry in charge of The National Investment Plan for an opinion.

The ministry in charge of The National Investment Plan provides an opinion on the justification of the construction and assessed value of the infrastructure project to the ministry in charge of economy and regional development.

Article 5v

Mutual rights and obligations related to the implementation, level of the funds received and refund are regulated by the contract signed between the ministry in charge of economy and regional development and the investor.

The contract from the paragraph 1 of this article contains the terms for the payment of funds and the clause estimating the level of funds to be allocated depending on the profit gained and the fulfillment of the priority obligations pertaining to the budget of the Republic of Serbia.

Ministry in charge of economy and regional development may end the contract at any phase of its execution if it detects that investor does not fulfill its obligations set by this Decree and the contract, or does not abide by the necessary conditions in accordance with the regulations of the Republic of Serbia.

Monitoring and Tracking of the Realization

Article 5g

The investor is obliged to hire a person who will monitor the process of infrastructural construction.

The constructor is obliged to submit to the ministry in charge of economy and regional development construction phases (in advance, temporary and terminated) along with the report by the monitoring body.

Ministry in charge of economy and regional development submits documentation in accordance with paragraph 2 of this article to the Ministry in charge of the National Investment Plan for further implementation.

Property

Article 5d

The infrastructure built with the funds from this Decree is a public property, in accordance with the regulations by the Republic of Serbia.

Eligibility Criteria

Article 6

The right to receive funds belongs to any legal entity registered on the territory of the Republic of Serbia that has investment projects in the sectors to which funds are allocated, in accordance with this Decree.

Exceptions Regarding Eligibility Criteria

Article 7

The following legal entities shall be excluded from the right to receive funds:

- 1) Those with outstanding obligations towards any legal entities and individuals in the Republic of Serbia;
- 2) Those who have entered bankruptcy proceedings;
- 3) Those with outstanding obligations towards the Republic of Serbia;
- 4) Those who have already received co-financing for the same purpose from the budget of the Republic of Serbia. Član 8.

Conditions for Allocating Funds

Article 8

Funds are awarded on the basis of the sector and location of the investment:

- 1) Investments into the manufacturing sector whose minimum total investment value is EUR 1 million and which create at least 50 new jobs;
- 2) Investments into the manufacturing sector in devastated regions and regions of special interest whose value is at least EUR 500,000 and which also create at least 50 new jobs;
- 3) Investments into the internationally marketable services sector whose minimum total investment value is EUR 500,000 and which also create at least 10 new jobs.

Total Value of Investments

Article 9

The total value of investments for the purposes of this Decree consists of established tangible fixed assets and long term non-tangible fixed assets.

The long-term, non-tangible fixed assets from Paragraph 1 relate to assets properly marked in the beneficiary's final balance sheet in accordance with international accounting standards.

Criteria for the Allocation of Funds

Article 10

The criteria for funds allocation are the following:

- 1) Investor References;
- 2) Domestic suppliers' level of participation and the effect of the investment on the productivity of other domestic economic associations, enterprises and other legal entities that are active in the same sector;
- 3) Sustainability of a project's investment/longevity;
- 4) The presence of new technologies and transferability of knowledge and skill to domestic suppliers;
- 5) Investment impact on human resources;
- 6) Assessment of the environmental impact of the investment;
- 7) Export volume;
- 8) Import substitution;

9) Impact of the investment on the economic development of the municipality, city and region in which the investment is being made;

10) Recommendation letter, i.e. Letter of Intent by a municipality or city where incentives are given that are in line with positive regulations by the Republic of Serbia where investor has intention to invest.

Method and Procedure for Allocating Funds

1. Public Announcement

Article 11

Funds can be allocated in a procedure that is carried out in accordance with a public announcement and this Decree.

A public announcement is prepared and published by the Serbia Investment and Export Promotion Agency (hereinafter “the Agency”).

A public announcement is published in a daily newspaper that is distributed throughout the entire territory of the Republic of Serbia and on the Agency’s website.

A public announcement should contain the following:

- 1) Information on the funds allocated;
- 2) Conditions for fund allocation;
- 3) Criteria for the assessment of an investment project;
- 4) Deadline for application submission;
- 5) Address at which information regarding participation in the procedure of allocating funds and the contact person’s details can be obtained;
- 6) Address where the application should be submitted;
- 7) Scheduled date for opening of applications.

2. Application

Article 12

Applications for participation in the procedure of allocating funds (hereinafter “the Application”) are submitted to the Agency by the deadline stated in the public announcement.

The application has to be submitted in Serbian language.

The application must contain the following:

- 1) Basic information on the party submitting the application, i.e. the investor;
- 2) Details regarding the investment project;
- 3) General information on the investor (vision, objectives, information on products and services, data on sales and main export markets);
- 4) General information on a legal person registered in the Republic of Serbia if the party submitting the application is a foreign investor.

The following must be enclosed together with the application:

- 1) The investment project for which financing is being sought;
- 2) Balance sheets and income statements for the previous three years of operations with a report from an authorised auditor, while a foreign legal entity should submit both the original and a certified translated copy;
- 3) A projected balance sheet and income statement, as well as a report on expected cash flow for the next three years of the investment project's operations, starting from the date when the application was submitted;
- 4) A certificate from the Serbian Business Registers Agency submitted by an investor with their head office in the Republic of Serbia or a certificate from the respective registry of the state in which the investor has his head office, certified by the competent institution, as well as a certified translation of the certificate, all of which should be no more than three months old.

The Minister of Economy and Regional Development will define the content and form of the application in more detail.

3. Application Assessment Commission

Article 13

The Application Assessment Commission (hereinafter "the Commission") decides whether the conditions and criteria specified in this Decree have been met.

This Commission is formed based on the decision of the Minister of Economy and Regional Development.

The Commission has a president and a minimum of four members. In total, the number of members of the Commission including the president must be an odd number.

The president of the Commission and one member are nominated upon the proposal of the Minister of Economy and Regional Development.

Members of the Commission are nominated upon proposals by the Minister of Finance, the Minister for the National Investment Plan, and the Director of the Agency.

4. Opening of Applications

Article 14

The opening and assessment of applications is a public procedure.

The Agency may decide, in special cases and on the grounds of business, official, military or state secrets, not to make the procedure of opening applications public, which should be stated in the public announcement.

5. Assessment of Applications

Article 15

The Commission will not consider late and/or incomplete applications.

The Commission considers investment projects on the basis of the conditions, the location of the investment and official criteria.

The Commission shall make a decision on whom to assign the funds, stating information on the project investor, the investment project, and the amount of funds allocated to the project.

The Commission shall send out a detailed report on the results of the assessment procedure to all participants in the funds allocation procedure within a period that cannot exceed 30 days, starting from the date of the finalisation of the procedure or from the date when the decision on allocating the funds was taken.

6. Objections

Article 16

Participants in the procedure to whom funds have not been allocated are entitled to object.

Such objections are submitted to the Minister of Economy and Regional Development within a period of eight days starting from the date of receipt of the detailed report.

The Minister of Economy and Regional Development shall rule on the objection within 15 days, starting from the date of receipt of the objection.

Use of Funds

1. Request for Disbursement of Allocated Funds

Article 17

Disbursement of allocated funds is carried out on the basis of the request for disbursement submitted to the Agency by the funds' beneficiary, in accordance with the decision on the funds' allocation.

In the request from Paragraph 1 of this Article, the amount of funds for which the disbursement is requested should be quoted in Dinars.

2. Dynamics of Disbursement

Article 18

The allocated funds will be disbursed periodically in increments of 25% of the total amount of the allocated funds, namely:

- 1) Upon concluding a purchase contract for a structure or land, or a land lease agreement or excerpt from the cadastre or land records, or a lease agreement for a structure whose contractual period may be no less than six years,
- 2) Upon obtaining a construction permit or a permit for the reconstruction and/or adaptation of a structure which may not be older than three years from the day the request for payment is submitted;
- 3) Upon obtaining a usage permit;
- 4) Upon achieving full employment envisaged in the investment project.

Amounts that have not been paid out from the previous period are transferred for payment to the next disbursement period.

3. Contract on Use of Funds

Article 19

Mutual rights and obligations pertaining to the use of funds are governed in the contract signed by the Ministry of Economy and Regional Development (hereafter "the Ministry") and the beneficiary.

The Ministry may terminate the contract in each phase of its implementation if it is determined that the beneficiary does not fulfil the criteria established by the contract linked to the investment dynamics.

In the event of unfulfilled contractual obligations relating to the use of funds, the Ministry is entitled to, on the basis of the issued bank guarantee, charge the account for the amount of disbursed funds and statutory penalty interest.

Funds for investments from article 5 of this Decree shall be determined in the contract on the use of funds.

4. Bank Guarantee

Article 20

The beneficiary must provide a payable guarantee issued by a commercial bank for the benefit of the Republic of Serbia.

The bank guarantee from Paragraph 1 of this Article is a payable guarantee issued by a commercial bank that is active on the territory of the Republic of Serbia which is valid for three three years for the first three payment increments, and for three years and six months for the fourth payment increment.

Progress Report on Investment Project

Article 21

The beneficiary submits to the Agency semi-annual reports on the progress of the investment project for which the funds have been allocated.

At the end of each year, the beneficiary submits a report by an independent auditor pertaining to the business activities performed.

Investment of Special Importance

Article 22

Funds for encouraging investments of special importance are supplied by the budget of the Republic of Serbia. Each budget year, a maximum amount for investments of special importance is set aside in line with the priorities and fiscal capacities of the budget of the Republic of Serbia.

The funds from Paragraph 1 of this Article can be used to finance investment by the Republic of Serbia into the capital of common economic entities, as well as for the allocation of non-returnable funds to investors who make investments of special importance and common economic entities.

Non-returnable funds from Paragraph 2 of this Article can be allocated up to a maximum of 25% of the overall value of the investment, and the dynamic of its allocation will be made in accordance with article 18 of this Decree.

The funds from Paragraph 1 of this Article can be used for financing the needs of investors making investments of special importance and common economic entities, namely investment in infrastructure and other sectors essential for performing specific activities which particularly encompass the acquisition of land and other real estate, equipping land with infrastructure, and repairs to any damage wrought on the environment in the period preceding the investment of special importance in the location where the specific investment is being made.

Article 23

In a joint company, the Republic of Serbia may make investments in the form of financial resources, movable property and real estate, as well as other rights belonging to it, in a manner and under conditions prescribed by law.

Article 24

Contracts on investments of special importance are concluded between the Republic of Serbia and the investor who is making the investment of special importance.

The contract in Paragraph 1 of this Article particularly contains the subject, the level and dynamic of the investment, as well as the amount of non-returnable funds that could be given and securities of the Republic of Serbia.

In the case of the formation of a common economic entity, the contract in Paragraph 1 of this Article will be governed by the procedure, method and terms for the Republic of Serbia's possible withdrawal from such an economic entity.

Article 25

The Government has the final decision on each individual investment of special importance, bearing in mind the importance of the investment, the size of the investment and the period of the investment.

Transitional and Final Provisions

1. Termination of Validity of Other Regulations

Article 26

The Decree on the Terms and Conditions for Attracting Foreign Direct Investment (Official Gazette of the Republic of Serbia, no. 56/2006, 50/2007, 70/2008) is no longer valid from the the day this Decree comes into force.

2. Entry into Force

Article 27

This Decree comes into force on the eighth day following its announcement in the „Official Gazette of the Republic of Serbia” and is valid until December 31, 2012.

05 Number:
In Belgrade,

The Government

PRESIDENT