

## Serbia

### Law on Investments (2015)

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# Law on Investments

Official Gazette of RS, No. 89/2015 and 95/2018

## I. INTRODUCTORY PROVISIONS

### Subject-matter

#### Article 1

This Law regulates the general legal framework for investments in the Republic of Serbia, entities supporting investments for efficient provision of services to investors, education and work of the Economic Development Council and the establishment and operation of the Serbian Development Agency.

### Objectives of the law

#### Article 2

The objectives of this law are to improve the investment environment in the Republic of Serbia and to encourage direct investment to strengthen economic and economic development and employment growth.

### Definitions

#### Article 3

Some terms used in this law have the following meaning:

1) The investment in the sense of this Law is:

- a) direct investment, ie investment in tangible and intangible assets of a company;
- b) Indirect investment, or acquisition of shares or shares in a company;

2) the investor is a domestic or foreign legal or natural person who has made the investment referred to in item 1 of this Article in the territory of the Republic of Serbia in accordance with the law;

3) the beneficiary of the incentive means is a company with a seat in the Republic of Serbia;

4) Incentives are the money that is allocated to the beneficiary of funds in support of investments for the financing of investment projects in the Republic of Serbia;

5) investment project is a project whose realization realizes direct investment, in accordance with this law;

6) the authority of the authorities, within the meaning of this Law, is:

(a) the body of the state administration, in the sense of a law regulating the state administration, the autonomous province body, the local self-government body, and the organization trusted to exercise public authority;

(b) a legal person who establishes or finances in whole or in the major part the state administration body or any of the bodies referred to in sub-paragraph (a) of this paragraph;

7) The Economic Development Council is defined in Article 25 of this Law;

8) The Serbian Development Agency is defined in Article 27 of this Law;

9) the unit for local economic development and investment support is an organizational unit of the local self-government unit or a legal person providing professional assistance and investment support to the investor;

10) The ministry in the sense of this Law is the Ministry responsible for business affairs;

11) the period of guaranteed investment and employment is a period of three or five years after the realization of the investment project, whereby the beneficiary of the incentive funds is obliged not to

reduce the value of the basic funds achieved by the realization of the investment project as well as the number of employees reached and during which it is obliged, in accordance with the grant agreement, to pay each employee an agreed earnings;

12) The scheme of state aid is a set of all regulations that constitute the basis for granting state aid, in the sense of a law governing the control and award of state aid.

By investing, within the meaning of this Law, the following shall not be considered:

- a) cash or other receivables directly attributable to a commercial contract;
- b) cash receipts arising from a loan in connection with a commercial contract.

## **II. THE RIGHTS OF THE PARTICIPANTS**

### **Freedom of investment**

#### **Article 4**

Investors enjoy freedom of investment, in accordance with the Constitution and the law.

The protection of investments made in accordance with law is avoided.

The information provided by the investor in the process of granting the incentives represents a business secret not later than the decision to grant the granting of incentives.

### **Protection of acquired rights**

#### **Article 5**

The investor enjoys full legal certainty and legal protection in terms of acquired investment rights.

### **Expropriation**

#### **Article 6**

Investments will not be the subject of expropriation either directly or indirectly with measures aiming at the effect that is equal to expropriation.

Exceptionally from paragraph 1 of this Article, property and other real rights of investors on immovable property may be confiscated or restricted only in the public interest, if such possibility is provided for by the law governing expropriation, in a non-discriminatory manner, in accordance with the procedure prescribed by that law, without delay.

In the case referred to in paragraph 2 of this Article, the appropriate remuneration to the investor shall include compensation for the expropriated immovable property and a reimbursement for the impairment of the business value attributable to such confiscation in accordance with the law. When determining the value of a consideration, the value of the expropriated property will be taken into account before the expropriation intention is announced.

The fees referred to in paragraph 3 of this Article shall be paid to the Investor without delay and shall include a statutory penalty interest on the deposit, calculated from the date on which the confiscation was effected by the date of payment in accordance with this Law.

In the case referred to in paragraph 2 of this Article, the investor shall have the right to legal remedies, the urgent resolution of the confiscation procedure and the valuation of the object of seizure by a judicial or other competent authority, in accordance with the law.

### **National treatment of foreign investment**

#### **Article 7**

Investors who are foreign legal or natural persons, in terms of their investment in all, enjoy equal status and have the same rights and obligations as domestic investors, unless otherwise provided for by this or other law.

An investor who is a foreign legal or natural person may acquire the right of ownership and other real rights on movable property and immovable property located in the territory of the Republic of Serbia, in accordance with the Constitution and the law.

### **Freedom of Payment Abroad**

#### **Article 8**

The investor, for the purposes of foreign payments permitted by the law regulating foreign exchange operations, may purchase foreign exchange on the foreign exchange market in the Republic of Serbia.

### **The right to a transfer of profits and property of an investor who is a foreign legal or natural person**

#### **Article 9**

An investor who is a foreign legal or natural person has the right, in accordance with the law, to pay financial and other funds in connection with the investment, following the payment of all tax and other public revenue obligations, such as:

- 1) revenues (dividends, fees for the use of intellectual property rights and other related rights, interest, etc.);
- 2) assets belonging to it after the expiration of a company, ie on termination of the investment contract;
- 3) amounts received from the sale of shares or shares in the capital of the company;
- 4) amounts received on the basis of the reduction of the basic capital of the company;
- 5) sums received from supplemental payments;
- 6) Expenses from Expropriation, or other measures of similar nature.

/) (brushed)

The cash funds referred to in paragraph 1 of this Article may be transferred abroad in the currency in which they can be traded on the domestic foreign exchange market, in accordance with the regulation regulating the types of foreign currency and effective foreign currency that are purchased and sold on the foreign exchange market.

#### **Article 10**

( Brisano )

### **III. INVESTMENTS FROM SPECIAL SIGNIFICANCE AND FORMS OF STATE AID**

#### **The investment of particular importance**

##### **Article 11**

Investments of particular importance to the Republic of Serbia (hereinafter: investment of particular importance) are investments whose implementation would have had an important impact on improving the competitiveness of the business sector or sector in the Republic of Serbia or its smooth regional development or by investing at least five million euros or opens more than 500 new jobs related to an investment project if the investment is realized in a local government unit that is classified into the first or second group according to the level of development or which invests more than two million euros in the fund assets of the user opens up more than 100 new workplaces associated with an investment project if the investment is realized in a unit of local self-government that is classified into the third or fourth group according to the level of development, or in a devastated area.

Investments of particular importance are investments made on the territory of one or more units of local self-government and encourage the realization of joint development priorities of one or more local self-government units in function of increasing their level of competitiveness as well as investments based on adopted bilateral agreements.

The Government, the autonomous province or the local self-government authorities adopt various schemes of state aid that define the criteria for granting the aid more closely.

##### **Article 12**

( Brisano )

#### **Forms of state aid**

##### **Article 13**

Investors may exercise the right to the following forms of state aid for investment, in accordance with the regulations governing them:

- 1) Assimilation;
- 2) tax incentives and relief and exemption from tax payment;
- 3) customs privileges;
- 4) compulsory social security system;
- 5) leasing and alienation of immovable property and land in public property;
- 6) other forms of state aid, in the sense of a law governing the control and award of state aid.

When granting state aid, special consideration will be given to the rule of cumulation of state aid in the sense of a law governing the control and award of state aid.

A public register is conducted on direct investments in the Republic of Serbia and on the state aid granted in connection with these investments.

The public register referred to in paragraph 3 of this Article shall be regulated by a special law.

#### **Customs duty relief**

##### **Article 14**

Imports of equipment representing the investor's stake that is a foreign or domestic legal or natural person within the meaning of this Law is free and exempt from the payment of customs duties and other import duties other than passenger motor vehicles and slot machines, provided that the equipment imported by the investor in accordance with the regulations governing the health and safety of citizens and the protection of the environment.

The Government shall regulate the procedure, the amount and the time limit for obtaining relief and exemption from customs and other duties on the import of equipment of a foreign investor referred to in paragraph 1 of this Article, as well as the restrictions on the right of disposal and the ban on the use of such imported equipment for other purposes.

### **IV. SUPPROTING ENTITIES**

#### **Determining Entities Supporting Investments**

##### **Article 15**

Investment support entities are:

- 1) Economic Development Council;
- 2) Ministry responsible for business affairs;
- 3) Development Agency of Serbia;

4) an autonomous province body or organization authorized by the autonomous province of public authority to invest in accordance with Article 11, paragraph 2 of this Law, by the autonomous province of the autonomous province;

5) local self-government unit through local economic development unit and investment support unit (hereinafter: unit for local economic development and investment support), in accordance with Article 20 of this Law.

### **The duty of the authorities and the urgency of the proceedings**

#### **Article 16**

Authorities are obliged to provide undisturbed investment within their competencies as well as to monitor and control the exercise of investors' rights and fulfillment of investors' obligations as well as the commitments undertaken by the Republic of Serbia in connection with the investment.

The authorities, in addition to the Commission for the Protection of Competition, shall act in connection with the realization and maintenance of the investment and the realization of investors' rights and obligations by an urgent procedure.

The authority other than the Commission for the Protection of Competition in Administrative Matters in relation to the realization and maintenance of the investment and the realization of the investor's rights and obligations shall make the investor's claim solved with the right of priority and issue the public document as soon as possible if the investor promptly submit neat and complete documentation.

### **Measures to Stimulate Competitiveness of Local Self-Government**

#### **Article 17**

The Local Authorities' Local Self-Governance Body, through local development policy instruments, encourages investment attractiveness, care for existing investments and their expansion, number and total investment value and investor quality, applies standards of a favorable business environment, and decides on measures to foster local self-government competitiveness in attracting investment.

The measures for the promotion of competitiveness referred to in paragraph 1 of this Article shall in particular include the following elements:

- 1) the allocation of organs, as investment support units under Article 15 of this Law;
- 2) strengthening the analytical basis for more precise and data-based development of development policies, instruments and measures in the field of local economic development;
- 3) establishment of transparent mechanisms of permanent communication and cooperation with the economy;
- 4) simplify local procedures for realizing investments;
- 5) balancing the local labor market;
- 6) development of communal and local economic infrastructure;
- 7) Use of information and communication technologies to achieve more efficient communication;
- 8) Prescribing local facilitations and incentives based on local strategic documents.

The standards of a favorable business environment are determined by the minister responsible for economic affairs (hereinafter: the Minister).

#### **Article 18**

( Brisano )

### **Handling units for local economic development and investment support**

#### **Article 19**

The Local Economic Development Unit and investment support unit provides expert assistance and support to the investor in the realization of the investment if requested by the investor in accordance with Article 16 of this law.

Contracts for granting incentives provided by the autonomous province budget with the investor are concluded by the autonomous province body.

#### **Article 20**

The local economic development units and the investment support units are performed by the local economic development office, or the administrative body or the public authority, or a legal entity established by the local self-government unit, or a physical person from the employees or appointed persons or chambers, associations or associations, which with knowledge and experience can provide professional assistance to the investor, which is determined by the act of the local self-government unit to perform these tasks.

Two or more units of local self-government may jointly designate a body in accordance with paragraph 1 of this Article for the purpose of performing local economic development unit work and supporting investment in the territory of these local self-government units.

The investor may, in accordance with Article 16 of this Law, submit the applications and take the documents through the unit for local economic development.

Communication between investor and local economic development unit and investment support is trustworthy, unless information is mandatory in accordance with law.

( Brisano )

### **Information of public interest**

#### **Article 24**

Access to information of public interest in the area of investment is realized in accordance with the law regulating free access to information of public interest.

## **V. ECONOMIC DEVELOPMENT COUNCIL**

#### **Article 25**

The Council for Economic Development (hereinafter referred to as: the Council) is hereby formalized. The Chairman and members of the Council shall be appointed by the Government in accordance with this Law.

The councils are made up of a minister, a minister responsible for finance affairs, a minister responsible for labor affairs and employment, a representative of the Serbian Chamber of Commerce and director of the Serbian Agency for Development.

The Chairman of the Council is the Minister.

At the suggestion of the President of the Council, at the suggestion of the President of the Council, at the suggestion of the President of the Council, the Council may also invite other ministers to the sessions if, in the opinion of the Council, they are in need of a specific question and depending on the subject matter considered by the Council. These ministers are not entitled to vote in the Council.

Administrative and expert-technical tasks of the Council are carried out by the Development Agency of Serbia.

### **The Council's Responsibilities**

#### **Article 26**

The Council has the following competencies:

- 1) monitor the situation in the area of investment and economic development, publicly promote the goals of the economic development of the Republic of Serbia and encourage their realization;
- 2) makes a decision on granting investment incentives, in accordance with this law and the law governing the control and award of state aid;
- 3) issues the Rules of Procedure on its work;
- 4) submit to the Government once a year a report on its work, which is published on the Government website;
- 5) perform other tasks in accordance with this Law.

### **Decisions of the Council**

#### **Article 26a**

The Development Agency of Serbia (hereinafter referred to as: the Agency) submits to the Council an application for allocation of incentives, information on the possible level of incentives, together with an expert analysis of the investment project, the proposal of the incentive level and the draft grant agreement, and in the case of investments of special significance under Article 11. paragraph 2 of this Law, the Agency shall also submit the decision of the Assembly, ie the larger units of local self-government.

The Council shall decide on the allocation of incentives based on the documentation referred to in paragraph 1 of this Article.

The incentive award decision contains information on the investment project and its essential elements, the investor and user of the funds and the amount of incentives granted.

The Council's decision to give incentives is submitted to the Ministry by the Agency, together with a draft grant agreement.

The Ministry shall submit the decision of the Council and the text of the draft grant agreement to the Government for prior approval.

Contracts on the allocation of incentives provided by the budget of the Republic of Serbia with the investor are concluded by the Ministry with the prior consent of the Government.

The Council also decides on the proposals for measures that achieve the objectives of investment and economic development in the most effective way, requiring changes in the implementation of the investment project on the basis of concluded contracts of granting, modification of the deadlines, reduction of the amount of the allocated funds in proportion to the recognition of the partial fulfillment of the contractual obligations, users of the funds, including any suggestions relating to the amendment, amendment or termination of the grant agreement.

The draft measure referred to in paragraph 7 of this Article shall be prepared by the Ministry and submitted to the Council through the Agency.

The Ministry, upon the decision of the Council referred to in paragraph 7 of this Article, prepares the text of an annex to the agreement on granting or terminating the contract.

During the period of guaranteed investment and employment, or after the expiry of that period, if the beneficiary of the funds fulfilled a larger part of the obligations arising from the grant agreement and if it

is in the interest of the Republic of Serbia and achieving the objectives of investment and economic development, the Council may, upon the reasoned proposal The Ministry decides to conclude with the fund user a contract on mutual regulation of rights and obligations, or settlement.

The annexes to the agreement on allocation of incentives, contractual termination of contracts and agreements on mutual regulation of rights and obligations, or settlements from the paragraphs 9 and 10 of this Article, concludes the Ministry with the prior consent of the Government.

## **VI. DEVELOPMENT AGENCY OF SERBIA**

### **Establishment of the Serbian Development Agency**

#### **Article 27**

The Development Agency of Serbia is established to carry out the development, professional and operational activities of encouraging and realizing direct investments, promotion and increase of export, development and improvement of competitiveness of economic entities, reputations and development of the Republic of Serbia in the field of economy and regional development.

The Ministry supervises the work of the Agency.

#### **Agency's Status**

#### **Article 28**

The Agency shall have the status of a legal person with the rights, obligations and responsibilities established by this Law and the Statute.

The Agency operates in accordance with the law regulating public agencies.

The agency has an account.

#### **Headquarters of the Agency**

#### **Article 29**

The seat of the Agency is in Belgrade.

The agency may have organizational units outside its seat.

Organizational units of the Agency have no legal personality.

#### **Statute of the Agency**

#### **Article 30**

By the Statute of the Agency, it is regulated more closely:

- 1) Organization and manner of performing the Agency's activities;
- 2) the agency organs of the Agency;
- 3) Representation and representation of the Agency;
- 4) data and documents which are defined as confidential and the manner in which these data and documents are treated;
- 5) other issues relevant to the work of the Agency.

The Statute of the Agency shall be published in the "Official Gazette of the Republic of Serbia".

#### **Bodies of the Agency**

#### **Article 31**

The Agency's bodies are the board of directors and the director.

The Steering Board has five members.

Members of the board of directors are appointed and dismissed by the Government by a proposal of the Minister, of which three members of the civil service or civil servants in the Ministry and two members of the business community.

#### **Board of Directors**

#### **Article 32**

Steering Board:

- 1) Adopts the Statute of the Agency;
- 2) Adopts annual work program, financial plan, financial report and report on the work of the Agency;
- 3) issues general acts of the Agency other than the ordinance governing the internal organization and systematization of the positions in the Agency;
- 4) direct the work of the Director of the Agency and issue his instructions for work;
- 5) supervise the operations of the Agency;
- 6) upon the proposal of the Director of the Agency, decides on requests that are submitted to the Agency in accordance with regulations for approval;
- 7) issues the Rules of Procedure of the Agency;
- 8) performs other tasks in accordance with the law.

The annual work program, financial plan, financial report and report on the work of the Agency referred to in paragraph 1 item 2) of this Article shall be approved by the Government.

#### **Director of the Agency**

#### **Article 33**

The Agency has a Director (hereinafter: Director) who represents and represents the Agency and manages its work.

The Director is elected by the Government, upon a proposal by the Minister, after a public tender has been conducted in accordance with the law regulating public agencies.

Public competition is conducted by the Ministry.

The Minister may set criteria and assessments regarding the professional qualifications and work experience to be filled by the candidates for the Director of the Agency.

The Director is appointed for a period of five years and may be reappointed.

### **The competences of the director**

#### **Article 34**

Agency Director:

- 1) represents and represents the Agency;
- 2) organizes and manages the work and operations of the Agency;
- 3) it is responsible for the legality of the work, as well as for the professional work and use of funds of the Agency;
- 4) concludes contracts from the scope of work of the Agency;
- 5) adopt an act on internal organization and systematization of work positions in the Agency;
- 6) is responsible for carrying out administrative and technical-technical tasks for the purposes of the Council;
- 7) decides on the rights and obligations of employees;
- 8) performs other tasks stipulated by law and statute.

### **Rights and obligations of directors and employees**

#### **Article 35**

The general labor regulations apply to the rights, obligations and responsibilities of the employees of the Agency and the Director, unless otherwise provided by this law.

### **Agency's Functions**

#### **Article 36**

Agency:

- 1) cooperates with state bodies and organizations and holders of public powers, territorial autonomy and local self-government bodies, in order to ensure the conditions for the application of this Law and other regulations regulating matters of importance for the promotion of economic development and investment;
- 2) monitors the application of this Law and proposes appropriate measures;
- 3) participates in the preparation of programs and projects of economic and regional development;
- 4) analyzes and provides data and information for the purposes of improving the policy of economic and regional development;
- 5) Accreditation and coordination of regional development agencies;
- 6) Perform professional and administrative-operational tasks related to projects for attracting direct investments and investments and monitoring their realization in accordance with law and regulations;
- 7) Implement programs and projects with the aim of improving the export activities of business entities;
- 8) Implement programs and projects with a view to improving the position, activity and competitiveness of small and medium-sized enterprises and entrepreneurs;
- 9) proposes, coordinates and implements the activities of strategic marketing of the economic potential and reputation of the Republic of Serbia;
- 10) Provide expert and advocacy support to companies and entrepreneurs;
- 11) executes and coordinates the implementation of programs and projects of economic and regional development to stimulate direct investment;
- 12) Provide conditions for access to and implementation of projects financed from international development assistance;
- 13) monitors and analyzes investment and economic conditions conditions in individual markets and individual sectors and provides suggestions for their improvement;
- 14) realizes cooperation in the area of investment and collects information on the state of investment in other countries;
- 15) proposes the allocation of incentives;
- 16) perform other tasks, in accordance with the law and the Statute of the Agency.

The tasks referred to in item 5) are performed by the Agency as a trustworthy business.

### **Funding for the establishment and operation of the Agency**

#### **Article 37**

The funds for establishing the Agency are provided from:

- 1) the budget of the Republic of Serbia;
- 2) other sources of funding in accordance with law.

Funds for the work of the Agency are provided from:

- 1) income earned by performing business within its competence;
- 2) the budget of the Republic of Serbia;



3) other sources of funding, in accordance with the law.

### **Conflict of interest and ban on competition**

#### **Article 38**

The Director of the Agency has the status of a functionary in the sense of a law regulating a conflict of interest in performing public functions.

The Director of the Agency and the employees of the Agency can not establish a working relationship or business cooperation with a legal person, an entrepreneur or an international organization performing activities in relation to the function performed by the director or employee in the Agency within two years of termination of employment Directors and employees of the Agency, except for the approval of the Employment Agency, or the consent of the Agency for Combating Corruption for the Director.

### **Prohibition of misuse of information**

#### **Article 39**

Officials in the Agency who have information that represent business secrets in terms of business confidentiality or legitimate information in terms of capital market regulations shall not be used for the purpose of acquiring property gain or other benefits for themselves and third parties, or in such a manner cause damage to the institutions or companies to which they relate and are obliged to keep them.

Persons referred to in paragraph 1 of this Article shall be considered persons who, in the performance of their duties or functions, have found out about the information they represent as business secrets.

#### **Art. 40 and 41**

( Brisano )

## **VII. SUPERVISION**

### **Supervision over Law Enforcement**

#### **Article 42**

The Ministry shall supervise the application of this Law.

Execution of the obligations of the Republic of Serbia to control the execution of the contracted obligations and the payment of funds under the contracts which have been granted incentives for or in connection with the direct investment are performed by the Ministry in accordance with the regulations.

## **VIII. CRIMINAL PROVISIONS**

#### **Article 43**

A fine of 50.000 to 150.000 dinars shall be imposed on the responsible person in the competent authority for a misdemeanor if:

- 1) in administrative matters does not resolve the requirements of investors in accordance with the right of priority (Article 16, paragraph 3);
- 2) does not issue a public document within the statutory deadline if the investor has submitted timely and complete documentation (Article 16, paragraph 3).

## **IX. TRANSITIONAL AND FINAL PROVISIONS**

### **Law enforcement**

#### **Article 44**

Investment projects in which, in accordance with international treaties and regulations regulating state aid and attracting direct investment, the incentive funds allocated for ongoing direct investments continue to be implemented in accordance with the regulations for which they are awarded.

### **Deadline for passing subordinate acts**

#### **Article 45**

By-laws based on the powers of this Law shall be made within 120 days from the day this Law enters into force.

### **Termination of validity of existing regulations**

#### **Article 46**

On the day of entry into force of this Law, the Law on Foreign Investments ("Official Gazette of the FRY", Nos. 3/02 and 5/03 and "RS Official Gazette" No. 107/14) shall cease to apply.

On the date of entry into force of this Law, Section VIII "Promotion of Exports and Foreign Investments" in the Law on Foreign Trade ("Official Gazette of RS", No. 36/09, 36/11 - Law and 88/11) shall cease to apply.

On the date of entry into force of this Law, it shall cease to apply Chapter V, Section 6, Art. 27 to 30 of the Regional Development Act ("RS Official Gazette", No. 51/09 and 30/10).

### **Termination of the work of public agencies**

#### **Article 47**

The Foreign Investments and Export Promotion Agency is established in accordance with the Law on Foreign Trade ("Official Gazette of RS", No. 36/09, 36/11 - Law and 88/11) and the National Agency for Regional Development established in accordance with The Law on Regional Development ("Official

Regional Development established in accordance with the Law on Regional Development ("Official Gazette of RS", No. 51/09 and 30/10) shall terminate at the latest within 120 days from the date of entry into force of this Law, ie on the day of the beginning of the Development Agency of Serbia.

The Development Agency of Serbia undertakes legal affairs, with the exception of the employment contract, articles, equipment, work resources, archives and registration materials of the Foreign Investments and Export Promotion Agency and the National Agency for Regional Development, at the latest within 120 days from the date of entry into force of this law.

The funds provided in 2015 by the Department of Foreign Investment and Export Promotion Agency and the National Agency for Regional Development are being reallocated to fund the work of the Serbian Agency for Development.

On the day of termination of the work of the Agency for Foreign Investments and Promotion of Exports and the National Agency for Regional Development, the employment relationship between the employees of the Agency for Foreign Investments and Export Promotion and the National Agency for Regional Development is terminated and the Development Agency of Serbia begins.

#### **Entry into force**

#### **Article 48**

This Law shall enter into force on the eighth day after its publication in the "Official Gazette of the Republic of Serbia".