

What changes have been implemented in the process of allocating incentive funds?

Serbia has been now for several years steadily improving its ranking in the World Bank Doing Business list, progressing 4 ranks in 2018 in comparison to the previous year and is currently ranked 43rd place in the global list. Given the announced reforms in the economy and e-commerce, it is expected that the trend of growth on the said list will continue.

In that sense, on 19th May 2018 the new Decree on the conditions and method of attracting direct investments ("Official Gazette of the Republic of Serbia", No. 37/2018, hereinafter: Regulation) entered into force and it contains several novelties in relation to the previous regulation. It can be said that in the essential and material aspects the new Decree relies on last year's regulation, but it also introduces certain clarifications and precisions, as well as novelties that we shall highlight down below.

The most important novelty is in the allocation of investment projects and criteria for the analysis of investment projects, depending on the number of persons that will be employed, or whether there will be up to 100 or more than 100 new jobs.

Also, it is a novelty that the rule was abolished that funds can be allocated for projects in the fisheries sector, which was possible under the previous regulation. Furthermore, according to the new regulation, funds can be allocated to the software development sector, if it serves the purpose to promote products, production processes or to provide services in international trade. They can also be allocated for hotel accommodation services projects in the territory of the local self-government unit, in which a spa territory was established (which list is defined by the Decree), with a minimum value of EUR 2,000,000 and which provides employment for at least 70 new employees for an indefinite period of time (Article 9, paragraph 1, item 4).

The institute of "Investment of Special Importance for the Republic of Serbia" has been retained, according to which investments of special importance are also the ones implemented in the territory of local self-government units and which encourage the realization of development priorities in the function of increasing competitiveness. The decision determining the development priority is passed by the



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assembly of the local self-government (Article 27 of the Regulation).

The amount of assets that can be allocated is determined in relation to the justified investment costs, which are defined as investments in tangible and intangible assets, starting from the day of filing the application, or the costs of gross salaries for new jobs in a two-year period after reaching full employment.

The minimum investment conditions, for which the funds are allocated are determined according to the level of development of local self-government units, have not changed, and are prescribed in the following amounts:

For devastated areas, the required investment is at least EUR 100,000 and the creation of 10 new jobs, for which incentives can be granted up to 30% of the eligible costs of investment in fixed assets, or up to 40% of the eligible costs of gross salaries in a two-year period, and a maximum of EUR 7,000 per workplace;

For the fourth development group, the required investment is at least EUR 200,000 and the creation of 20 new jobs, for which incentives can be granted up to 25% of the eligible costs of investment in fixed assets, or up to 35% of the eligible costs of gross salaries in a two-year period, and not more than EUR 6,000 per workplace;

For the third development group, the required investment is at least EUR 300,000 and the creation of 30 new jobs, for which incentive funds can be allocated up to 20% of the eligible costs of investment in fixed assets or up to 30% of the eligible costs of gross salaries in a two-year period, and not more than EUR 5,000 per workplace;

For the second development group, the required investment is at least EUR 400,000 and the creation of 40 new jobs, for which incentive funds can be allocated up to 15% of the eligible costs of investment in fixed assets or up to 25% of the eligible costs of gross salaries in a two-year period, and not more than 4,000 EUR per workplace;

For the first group of development, the required investment is at least EUR 500,000 and the opening of 50 new jobs, for which incentive funds can be allocated up to 10% of the eligible costs of investment in fixed assets or up to 20% of the eligible costs of gross salaries in a two-year period, and a maximum of EUR 3,000 per workplace.

The deadline for the implementation of the investment project and the opening of new jobs is 3 years, commencing from the date of filing the application, which can be possibly extended up to a maximum of 5 years from the date of filing, subject to approval of the Council.

The beneficiary of the funds is obliged to provide at least 25% of the eligible costs of investments from own funds.

The investor is obliged to pay the basic salary at least in the amount of the minimum salary determined in accordance with the law, whereby the contracted total salary of the employee and other earnings, which have the character of salary, must amount to at least 120% of the stated minimum salary.

The rules of this Decree apply to investments in all sectors except for investments in the sector: traffic, software development (unless they are in the function of product improvement, production process improvement or the provision of services in international trade), catering, gambling, trade, production of synthetic fibre of coal and steel, tobacco and tobacco products, weapons and ammunition, shipbuilding of maritime self-propelled merchant vessels over 100 gross registered tons, airports, logistics centres, utility sector, energy sector, broadband networks, fisheries and aqua culture.

The next novelty is related to the procedure that is being implemented depending on the number of new jobs. Investment projects, which employ up to 100 new employees, are implemented through a public call for allocation of funds that the Ministry in charge of economic affairs prepares and publishes on the Ministry's website <http://www.privreda.gov.rs/>.

The decision on the award of funds for investments of special importance and projects employing more than 100 new employees is brought without a public call. Investors who employ more than 100 persons can at any time submit a Letter of Intent to RAS, the content of which is prescribed by the Regulation, and thus commence the procedure. The Decree provides that the funds are paid to the investor in 3 instalments in percentages as follows: (i) in proportion to the amount of investment in fixed assets in each year of the implementation of the investment project, or (ii) in the amount that is proportional to the number of newly employed persons in each year of implementation of the investment project.

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TOMIĆ SINDJELIĆ GROZA

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Br. 103/18 – Maj | Mai | May | Май 2018

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With the request for the payment of funds of each individual instalment, a report of the chartered auditor with professional liability insurance and a bank guarantee for the repayment of the paid out instalment, accompanied by 2 registered blank bills of exchange with the bill of exchange authorisation for the collection of statutory default interest, shall be submitted. The bills of exchange can be substituted by a bank guarantee covering the amount of possible legal default interest. It should be noted that the auditor's report on the implementation of the investment project, to be submitted within 60 days from the date of payment of the last instalment and from the expiration of the guaranteed investment and employment period, must include a report on the audit of the project and a check of compliance with all provisions of the contract and a conclusion, including a positive or negative opinion. This was a novelty in the last year's Decree that is carried on in the Decree for the year 2018.

Finally, it should be pointed out that the Control of the execution of contractual obligations under the concluded contracts on the allocation of incentive funds, as well as the decision on the performed controls, shall be carried out in accordance with the provisions of the new Decree for year 2018.

For any possible questions regarding incentive funds and concrete investment projects, please feel free to contact our law firm.

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