

## REGULATIONS

### for Application of the Investment Promotion Act

*Adopted by Council of Ministers Decree No. 221 dated 13.09.2007, promulgated, State Gazette No. 76/21.09.2007 (effective 21.09.2007), amended and supplemented, SG No. 20/17.03.2009 (effective 17.03.2009)*

### Chapter One

(Effective by 31.12.2013, see § 38 of the Transitional and Final Provisions to Council of Ministers Decree 55 of 6 March 2009 amending and supplementing the Regulations for Application of the Investment Promotion Act – SG, No. 20 of 2009)

### GENERAL DISPOSITIONS

**Article 1.** (1) Previous Article 1, SG No. 20 of 2009, effective 17.03.2009) These Regulations prescribe the terms and procedure for implementation of the Investment Promotion Act (IPA) regarding the promotion of investments in the country, the activities of state bodies in the field of investment promotion, as well as the protection of investments.

(2) (New, SG No. 20 of 2009, effective 17.03.2009) The provisions of the Regulations regarding investment promotion shall be implemented in pursuance of Commission Regulation (EC) No 800/2008 of 6 August 2008 declaring certain categories of aid compatible with the common market in application of Articles 87 and 88 of the Treaty (General block exemption Regulation) (OJ, L 214 of 8 August 2008) hereinafter referred to as “Regulation 800/2008.

**Article 2.** (Amended, SG, No. 20/2009, effective 17.03.2009) (1) The procedure established by these Regulations shall apply to the promotion of investments implemented in the economic activities covered under Item 2 of Article 12 (2) of the IPA, such as multi-sectoral regional development scheme and training aid in accordance with the objectives set and the national and regional priorities.

(2) The economic activities referred to in Paragraph (1), identified according to the Statistical Classification of Economic Activities in the European Community (NACE Rev. 2), in line with its direct application in the Republic of Bulgaria through the Classification of Economic Activities, hereinafter referred to as “CEA 2008”, by the corresponding codes, shall be:

1. of the industrial sector:

(a) manufacturing industry (Code C 10-33.2);

(b) production of electricity from renewable energy sources (Code D 35), satisfying the definitions in Chapter II, Section 4, Article 17, Paragraphs (4) – (9) of Regulation 800/2008;

2. of the services sector:

(a) activities in the sphere of computer technologies (Codes J 62 and 63);

(b) scientific research and development (Code M 72);

(c) education (Code P 85);

(d) human health activities (Codes Q 86 and 87);

(3) The classification of activities under Paragraph (2), in which the investment is implemented, shall be determined on the basis of the products (goods and services) planned to be produced, which must be at least 80 per cent of the future total revenue resulting from implementation of the investment in the said economic activities.

(4) The products referred to in Paragraph (3) shall be identified according to the effective European Classification of Products by Activity (CPA) (with nomenclature PRODCOM/ NACE or nomenclature CPA for projects in the services sector), respectively according to its direct application

in the Republic of Bulgaria through the Classification of Products by Economic Activity, hereinafter referred to as "CPEA 2008".

(5) Promotion shall not be extended to any investments in the production of products covered under Item 3 of Article 13a of the IPA and under Chapter I, Articles 1 and 3 of Regulation 800/2008 in pursuance of the regional development scheme in aid of the following activities:

1. in the fishery and aquaculture sectors, as covered by Council Regulation (EC) No 104/2000 (OJ, L 17 of 21 January 2000);
2. primary production of agricultural products;
3. in the coal sector;
4. in the steel sector;
5. the shipbuilding sector;
6. in the production of synthetic fibres.

(6) No aid shall be granted for promotion of investments in economic activities and production of products, which pursuant to Chapter I, Article 1, Paragraph (3), Littera (c) of Regulation 800/2008 is aid favouring activities in the processing and marketing of agricultural products, in the following cases

1. when the amount of the aid is fixed on the basis of the price or quantity of such products purchased from primary producers or put on the market by the undertakings concerned; or
2. when the aid is conditional on being partly or entirely passed on to primary producers.

(7) The classifications of the economic activities and products covered under Paragraphs (2), (4) and (5) shall be published on the Internet site of the InvestBulgaria Agency, hereinafter referred to as "the Agency."

**Article 3.** (Amended, SG, No. 20 of 2009, effective 17.03.2009) (1) The threshold amount of investments within a single establishment, referred to in Item 5 of Article 12 (2) of the IPA, shall be:

1. for Class A: BGN 32 million;
2. for Class B: BGN 16 million.

(2) The threshold amount of investments within a single establishment in the cases referred to in Item 5 (a) of Article 12 (2) and in Item 10 (a) of § 1 of the Supplementary Provisions of the IPA, where the investment is entirely implemented within the administrative boundaries of municipalities where the rate of unemployment for the year last preceding the current year is equal to or higher than the national average, shall be:

- (a) for Class A: BGN 16 million;
- (b) for Class B: BGN 8 million;

(3) The threshold amount of investments within a single establishment in the high technology activities of the industrial sector of the economy, referred to in Item 5 (b) of Article 12 (2) of the IPA, shall be:

1. for Class A: BGN 16 million;
2. for Class B: BGN 8 million.

(4) The threshold amount of investments within a single establishment in the high technology activities of the services sector, referred to in Item 5 (b) of Article 12 (2) of the IPA, shall be:

1. for Class A: BGN 11 million;

2. for Class B: BGN 5.5 million.

(5) The high technology activities covered under Paragraph (3), defined according to Item 11 of § 1 of the Supplementary Provisions of the IPA, according to the Statistical Classification of Economic Activities in the European Community (NACE Rev. 1.1, to which NCEA 2003 corresponds), and using a code table for translation, defined with the designations of the items and codes under CEA 2008, shall be:

1. manufacture of chemical products (Code C 20), except for manufacture of artificial and synthetic fibres (code C 20.6), in connection with Article 2, Paragraph (5);
2. production of medicinal substances and products (Code C 21);
3. production of computer and communication equipment, electronic and optical products (Code C 26) and the installation, repairs and maintenance related to them (Codes 33.13 and 33.20);
4. production and repairs of electrical facilities (Code C 27) and the installation, repairs and maintenance related to them (Codes 33.14 and 33.20);
5. production of machinery and equipment for general and special use (Code C 28) and the installation, repairs and maintenance related to them (Codes 33.12 and 33.20);
6. production of cars, trailers and semi-trailers and other vehicles (Codes 29 and 30) and the installation, repairs and maintenance related to them (Codes 33.11-17 and 33.20), with the exception of construction and repair of vessels (Codes 30.1 and 33.15) including in connection with Article 2, Paragraph (5);
7. production, repair and maintenance of motor vehicles other than cars (Codes C 30, C 33.11-17 and 33.20), with the exception of construction and repair of vessels (Codes C 30.1 and C 33.15)
8. production of medical and dental instruments and devices (Code C 32.5) and the installation, repairs and maintenance related to them (Codes 33.12-14 and 33.20);

(6) The high technology activities covered under Paragraph (4), defined according to Item 11 of § 1 of the Supplementary Provisions of the IPA, according to the Statistical Classification of Economic Activities in the European Community (NACE Rev. 1.1, to which NCEA 2003 corresponds), and using the code table for translation, defined with the designations of the items and codes under CEA 2008, shall be those listed in Article 2, Paragraph (2), sub-paragraph 2.

(7) Where an investment falls simultaneously under the cases referred to in Paragraphs (2) and (4), the investor shall have the right to choose an option of a threshold amount of the investment which is more favourable for the said investor.

(8) The list of the municipalities referred to in Paragraph (2) shall be proposed annually by the Minister of Labour and Social Affairs and shall be endorsed by an order of the Minister of Economy and Energy. The said order shall be promulgated in the *State Gazette* and shall be made available on the internet site of the Ministry of Economy and Energy and the internet site of the InvestBulgaria Agency.

## **Chapter Two**

### **INVESTMENT CLASS CERTIFICATE. INVESTMENT PROJECT**

#### **Section I**

##### **Application and Documents Attached Thereto**

**Article 4.** (1) (Supplemented, SG, No. 20 of 2009, effective 17.03.2009) Any investor wishing to obtain an investment class certificate shall submit an application to the Executive Director of the InvestBulgaria Agency prior to commencing any work related to the investment project.

(2) The application referred to in Paragraph (1) shall contain the following essential elements:

1. summary presentation of the information as per Article 9 herein;

2. title of the investment project and summary presentation of the information as per Article 10 herein, which must state, as a minimum:

(a) (Amended, SG, No. 20 of 2009, effective 17.03.2009) purpose and amount of the investment: aggregate for the period of implementation of the investment and disaggregated by year;

(b) performance schedule by year and period of maintenance of the investment;

(c) location of the investment: full address, if determined, or subject to determination: administrative region, municipality, nucleated settlement;

(d) production and marketing programme, including, as a minimum, the information referred to in Item 7 (a) and (d) of Article 10 herein;

(e) personnel, expected number of newly created jobs related to the investment during the period of the implementation thereof; size of personnel after the date of implementation of the investment; requirements to the professional qualification and planned costs of training, if any;

(f) (Repealed, SG, No. 20 of 2009, effective 17.03.2009)

(g) (Amended, SG, No. 20 of 2009, effective 17.03.2009) economic stability and profitability of the investment project, certified in accordance with Article 10, sub-paragraph 9, Littera (d);

(h) brief description of the environmental impact of the investment;

(i) other specific characteristics of the project;

3. purpose, content and key parameters of the investor's intention to enjoy an investment promotion measure or measures, as follows:

(a) shorter waiting time for administrative services in the cases covered under Article 21 of the IPA;

(b) individualised administrative services in the cases covered under Paragraph (1) of Article 22 of the IPA, including the authorisation of persons of the Agency or the local executive authorities;

(c) location, size and requirements to the corporeal immovables for enjoyment of the measure in the cases referred to in Article 22a of the IPA;

(d) the infrastructure elements in the cases referred to in Article 22b of the IPA, with an approximate amount of the resources required, if such information is available;

(e) the envisaged size of personnel for training, in aggregate and disaggregated by principal group of occupations and positions, the envisaged costs for a programme for attainment of qualification, including the financial aid sought in the cases referred to in Article 22c of the IPA;

(f) the persons who are eligible to benefit from the measures referred to in Article 17 of the IPA, if any;

(g) (New, SG, No. 20 of 2009, effective 17.03.2009) the investor's intention to enjoy investment promotion measures under other Acts in accordance with Article 15, Paragraph (2) of the IPA;

4. (Amended, SG, No. 20 of 2009, effective 17.03.2009) brief information on the incentive effect of the measure under sub-paragraph 3, Littera (c), (d) and (e) in the meaning of Article 8, Paragraphs (2) and (3) of Regulation 800/2008;

5. a list of the documents attached to the application, covered under Article 5 or 6 herein;

6. mailing address and contact persons;

7. investor's signature and seal.

**Article 5.** (1) (Amended, SG, No. 20 of 2009, effective 17.03.2009) In case the application referred to in Article 4 (1) herein is submitted by a legal person, a sole trader or a subsidiary wholly owned by a non-resident person, the following documents shall be attached to any such application:

1. an investment project;

2. documents proving the current status of the applicant, such as

a) in the event of registration under the Commercial Register Act the current status shall be officially checked in accordance with Article 23, Paragraph 4 of the Commercial Register Act on the basis of a specified UIC, or

b) certificate of current status – original of notarised copy, issued by the corresponding court not more than 3 months before the submission of the application, if Littera (a) is not applicable;

3. declaration in a standard form, that the person/entity has not entered into any out-of-court agreements with its creditors in the meaning of Article 740 of the Commerce Act, is not an undertaking which is subject to an outstanding recovery order following a previous Commission Decision declaring an aid illegal and incompatible with the common market, and is not an undertaking in difficulty in the meaning of Chapter I, Article 1, Paragraphs 6 and 7 of Regulation № 800/2008;

4. declaration in a standard form about the category of the undertaking – defined as a “small and medium-sized enterprise” or a “large enterprise” based on the information about the financial year preceding the year of filing the application, pursuant to the provisions of Annex I of Regulation 800/2008; in the event of newly established undertakings the financial statement of which has still not been approved, the information is determined according to the value of the indicators for the current financial year;

5. documents certifying the financial position of the person:

(a) an analysis of the financial position, confirmed by a registered auditor or a specialising auditing entity within the meaning given by the Independent Financial Audit Act, for the current year and for the previous financial year;

(b) the full financial statement or, respectively, an interim financial statement, where the person has carried out activity for less than a year, shall be attached to the analysis referred to in Littera (a);

6. (Repealed, SG, No. 20 of 2009)

6. (Previous sub-paragraph 7 – SG, No. 20 of 2009) documents certifying the capacities to finance the investment project and the sources of financing of the said project:

(a) own resources;

(b) loan contracts;

(c) bank guarantees and other guarantees;

(d) financial leasing contract in the meaning of Regulation 800/2008, containing an obligation for purchase of the asset after the expiry of the lease, taking into account the funds for the asset only during the 3-year period of implementation of the investment project;

(e) declaration of financing commitment whereby the owners of the capital undertake to finance the project, where applicable;

(f) other documents on financing or on furnishing security;

7. a declaration in a standard form of the origin of the financial resources;

8. a document certifying the non-incurrence of any pecuniary obligations to the State or to a municipality within the meaning given by Article 162 (2) of the Tax and Social-Insurance Procedure Code, issued not more than 3 months before the deadline for its submission – original or notarised copy;

9. a conviction status certificate, issued not more than 3 months before the deadline for its submission – original or notarised copy;

10. a declaration in a standard form whereby the person undertakes to notify the Minister of Economy and Energy and the Executive Director of the Agency forthwith of the occurrence of any of

the circumstances covered under Article 13 or 13a of the IPA and of any change in the circumstances covered under Article 12 of the IPA;

11. a document certifying the rights of the investor in respect of a built-up or vacant land tract wherein the investment is to be implemented, if there are any such land tracts.

(2) The requirement referred to in Item 10 of Paragraph (1) shall apply to the sole owners of the capital, to the managing directors or to the members of the management bodies of the applicant, and in case such members are legal persons, to the representatives of the said legal persons in the relevant management body.

(3) Where the applicant is a non-resident person, a subsidiary wholly owned by a non-resident person or a joint company whereof a non-resident person is a part, the said applicant shall present the documents covered under Paragraph (1) issued by the relevant competent authority, or equivalent documents as issued by a judicial or administrative authority according to the legislation of the State in which the said applicant is established.

(4) Where the applicant is a joint company of any of the persons referred to in Paragraph (1) or (3), the documents covered under Paragraph (1) shall be presented for each of the participants in the said combination.

(5) Where any documents covered under Paragraph (1) are not issued in the relevant foreign State, or where any such documents do not cover all cases, or a declaration is required, the applicant shall present a declaration if such a declaration has legal relevance according to the law of the State in which the said applicant is established.

(6) Where the declaration has no legal relevance according to the respective national law, the applicant shall present a declaration made before a judicial or administrative authority, a notary, or a competent professional or commercial body in the State in which the said applicant is established.

**Article 6.** (1) In case the application referred to in Article 4 (1) herein is submitted by a natural person, the following documents shall be attached to the said application:

1. investment project;

2. a copy of the identity document;

3. (Repealed, SG, No. 20 of 2009, effective 17.03.2009)

4. documents certifying the capacities to finance the investment project and the sources of financing of the said project:

(a) own resources;

(b) loan contracts;

(c) bank guarantees and other guarantees;

(d) (Supplemented, SG, No. 20 of 2009, effective 17.03.2009) financial leasing contracts in the meaning of Regulation No 800/2008, containing an obligation for purchase of the asset after the expiry of the lease, taking into account the funds for the asset only during the 3-year period of implementation of the investment project;

(e) letters of commitment whereby the owners of the capital undertake to finance the project;

(f) other documents on financing or on furnishing security;

5. (Amended, SG, No. 20 of 2009, effective 17.03.2009) a declaration in a standard form of the origin of the financial resources;

6. a document certifying the non-incurrence of any pecuniary obligations to the State or to a municipality within the meaning given by Article 162 (2) of the Tax and Social-Insurance Procedure Code, established by an effective act of a competent authority, or of any pecuniary obligations related

to payment of social insurance contributions or of taxes according to the legal standards of the State in which the applicant is established;

7. a conviction status certificate;

8. a declaration whereby the person undertakes to notify the Minister of Economy and Energy and the Executive Director of the Agency forthwith of the occurrence of any of the circumstances covered under Article 13 or 13a of the IPA and of any change in the circumstances covered under Article 12 of the IPA;

9. a document certifying the rights of the investor in respect of a built-up or vacant land tract wherein the investment is to be implemented, if there as any such land tract.

(2) Where the applicant is a non-resident natural person, the said applicant shall present the documents covered under Paragraph (1) as issued by the relevant competent authority, or equivalent documents issued by a judicial or administrative authority according to the legislation of the State in which the said applicant is established.

(3) Where any documents covered under Paragraph (1) are not issued in the relevant foreign State, or where any such documents do not cover all cases, or a declaration is required, the applicant shall present a declaration according to the requirements established by Article 5 (5) or (6) herein.

**Article 6a.** (New, SG, No. 20 of 2009) (1) The application and the documents referred to in Articles 5 and 6 shall also be an application for aid with incentive effect for the implementation of the investment project, where the conditions in the meaning of Article 8, Paragraphs (2) and (3) of Regulation No 800/2008 are fulfilled.

(2) In the event that the applicant referred to in Article 4, Paragraph (1) is a natural person or an association of natural persons and/or legal entities, the documents referred to in Articles 5 and 6 shall be accompanied by a declaration that the applicant is obliged to incorporate a legal entity within the meaning given by Article 17 of the IPA, with the newly incorporated legal entity being bound by the application and the investment project as submitted by the natural person or by the association.

(3) The declarations under Paragraph (2) and Articles 5 and shall be filled in by the applicant using a specific template approved by the Executive Director of the InvestBulgaria Agency. The templates of the declarations shall be made public on the internet site of the Agency and the internet site of the Ministry of Economy and Energy.

**Article 7.** (1) The application and the documents covered under Articles 5 and 6 herein shall be provided to the Executive Director of the Agency in one of the following manners:

1. on a paper-based medium and on a machine-readable data medium, including a magnetic, optical or another medium making the information retrievable without use of an electronic signature;
2. on a paper-based medium and via electronic mail without use of an electronic signature;
3. by electronic means, using a universal electronic signature;
4. on a machine-readable data medium, including a magnetic, optical or another medium making the information retrievable, using a universal electronic signature.

(2) Any documents covered under Articles 5 and 6 herein, which are written in any language other than Bulgarian, shall be presented accompanied by a translation into the Bulgarian language.

## **Section II**

### **Investment Project**

**Article 8.** An investment project shall contain the following essential elements:

1. title of the project and designation of the applicant;

2. presentation of the investor as a legal entity and economic operator;
3. detailed characteristics and plan for implementation of the investment project.

**Article 9.** (1) The presentation of the investor as a legal entity, referred to in Item 2 of Article 8 herein, shall contain the following essential elements:

1. legal status of the investor:

(a) business name, registered office, identification numbers and particulars identifying the investor and the representative authority of the person who represents the said investor, where the investor is a resident legal person or sole trader;

(b) particulars identifying the investor under the national legislation thereof, where the investor is a non-resident legal person, and identification numbers of the subsidiary and of the non-resident person, where the investor is a subsidiary wholly owned by a non-resident person;

(c) personal data, where the applicant is a natural person;

2. presentation of the persons holding more than 10 per cent of the registered capital of the investor company;

3. (Amended, SG, No. 20 of 2009, effective 17.03.2009) legal entity for implementation of the investment project and enjoyment of the measures for investment promotion, including the persons referred to in Article 17 of the IPA;

4. in the event that the applicant is a natural person or an association of natural persons and/or legal entities, the investment project shall mandatorily provide for incorporation of a legal entity within the meaning given by Article 17 of the IPA, with the newly incorporated legal entity being bound by the application and the investment project as submitted by the natural person or by the association.

(2) The presentation of the investor as an economic operator, referred to in Item 2 of Article 8 herein, shall contain:

1. brief information on the economic activity of the applicant;

2. revenues from sales for the last three years: aggregate and disaggregated by principal market: separately for the internal market of the Republic of Bulgaria, the Member States of the European Union, the countries of Central and Eastern Europe, and the rest of the country;

3. revenues from sales disaggregated by principal group of products and markets referred to in Item 2;

4. number of employees for the last three years;

5. (Repealed, SG, No. 20 of 2009, effective 17.03.2009)

6. consolidated data on an economic or another combination: in case the investor is part of any such combination;

7. detailed information on implementation of investment projects commensurate to the project presented, if any;

8. other information, accompanied by copies of documents: quality certificates, innovation of products and technologies, competitive advantages and other such.

**Article 10.** The characteristics and plan for implementation of the investment project, referred to in Item 3 of Article 8 herein, shall contain the following information:

1. (Amended, SG, No. 20 of 2009, effective 17.03.2009) type and designation of the investment in tangible and/or intangible assets:

(a) setting-up of a new undertaking, and/or

(b) extension of an existing undertaking/activity, and/or

(c) diversification of the output of an existing undertaking/activity by adding new products, and/or

(d) fundamental change in the overall production process of an existing undertaking/activity;

2. (Amended, SG, No. 20 of 2009, effective 17.03.2009) amount of the investment, expressed as a total value of the costs of material and immaterial fixed assets: aggregate for the period of implementation of the investment and disaggregated by year;

3. schedule for performance and maintenance of the investment:

(a) time limit for implementation of the investment within a three-year period, with expected start and end date (month) for completion of the project;

(b) time limit for maintenance of the investment in the relevant region by location, reckoned from the date of implementation of the said investment under Littera (a), in conformity with the requirements of Article 12, Paragraph (2), sub-paragraph 8 of the IPA;

4. location of the investment: determination of the site where the enterprise is to be constructed or the equipment positioned:

(a) reference to cadastral data on the locating of the enterprise, as well as the place of performance of the construction or of positioning of the equipment, which must contain an identifier and boundaries of the lots or, respectively, an identifier and outline of the building, if any such data are available;

(b) surface area in square meters and individualisation of the land tract where the construction is to be performed and the equipment positioned;

(c) (Supplemented, SG, No. 20 of 2009, effective 17.03.2009) ownership of the built-up or vacant site, attaching a document and/or enjoyment of the promotion measure referred to in Article 22a of the IPA and/or Article 22b;

(d) implementation of the project in a municipality referred to in Article 3 (2) herein;

e) (New, SG, No. 20 of 2009) in the event that an intention to enjoy the measure under Article 22a and/or 22b of the IPA has been declared by a large enterprise, the incentive effect shall be justified in accordance with one or more of the criteria specified in Article 8, Paragraphs (2) and (3) of the IPA, such as a material increase in the size, scope, total amount of the investment or the speed of completion of the project/activity concerned as a result of the aid, or that the project would not have been carried out as such in the region concerned (in the territory of the Republic of Bulgaria for non-resident investments and/or the corresponding municipality for Bulgarian investments) in the absence of the aid.

5. costs of acquisition of the fixed assets and resources disaggregated by source of financing: aggregate and for each year of the period of implementation of the investment project, in reference to Item 6 of Article 12 (6) of the IPA, with:

(a) the costs of acquisition of the fixed assets being presented disaggregated by principal type as a detailed itemisation of the costs referred to in Item 2, including the eligible costs under Chapter Seven herein;

(b) the costs being presented disaggregated by year and type of the material or immaterial asset (land, buildings, machinery, plant etc.);

(c) the aggregate costs of acquisition of the fixed assets being compared, in a tabulated form, to the amount of resources from the sources of financing, as presented under Item 6, for the entire period of implementation of the investment and disaggregated by year;

(d) share of the eligible costs of the immaterial assets in the aggregate amount of the eligible costs of investments under the project;

6. planned amount of resources disaggregated by source of financing of the investment and by year for a five-year period in accordance with the documents presented under Item 7 of Article 5 (1) or Item 4 of Article 6 (1) herein, as follows:

- (a) own financial resources;
- (b) participating interests in the capital;
- (c) loans;
- (d) State aid (from sources inside and outside the country, national or regional, with description);
- (e) (Amended, SG, No. 20 of 2009, effective 17.03.2009) financial leasing, taking into account the funds within the triennial deadline for project implementation;
- (f) other;

7. production and marketing programme for a five-year period:

- (a) economic activity and products produced under Article 2 (3) herein, stating a full code according to the classifications referred to in Article 2 (2) and (4) herein;
- (b) other activity not included in the activity stated under Littera (a);
- (c) planned volumes of production, disaggregated by type, product and year;
- (d) sale of the products on the internal and external market, disaggregated by regional market;
- (e) production and technology for implementation of the investment;
- (f) description of the planned construction of new manufacturing buildings, warehouses, office buildings and other such, with presentation of the state of design completion and/or intention to purchase or lease existing buildings;
- (g) description of the principal types of machinery, plant and equipment for implementation of the investment, with information on the new and previously used plant, including the date of manufacture, procured in the Republic of Bulgaria or abroad;
- (h) description and attachment of documents on patent rights, licences, know-how, unpatented technical knowledge and other immaterial assets for implementation of the investment;
- (i) stages of construction of the buildings and supply of the equipment disaggregated by year, with planned start and end date (month);

8. plan for employment and training of the personnel linked to the investment project:

- (a) size of the personnel hired for the newly created jobs for the period of implementation of the investment and the maintenance of the said investment in the relevant region where the investment is located in accordance with Item 7 of Article 12 (2) of the IPA, converted to full time, disaggregated by year and by principal group of occupations;
- (b) key parameters of the personnel training project referred to in Littera (a) for a three-year period reckoned from the date of implementation of the investment, if any such training is envisaged: number of employees to be trained: aggregate and disaggregated by principal group of occupations and positions; training organisation or independent training; type of training, including estimated start and end dates (month, year) for the training, as well as other characteristics;
- (c) eligible costs of the project for training for upgrading of the personnel qualification according to Chapter Six herein, including the financial aid sought, if the measure under Article 22c of the IPA is applied for;
- (d) planned amount of the average annual wage per person hired in the relevant economic activity wherein the investment is implemented, and disaggregated by principal group of occupations, if the measure under Article 22c of the IPA is applied for;

e) (New, SG, No. 20 of 2009, effective 17.03.2009) in the event of a declared intention to enjoy the measure under Article 22c of the IPA by a large enterprise, the incentive effect of the aid shall be justified using one or more of the criteria specified in Article 8, Paragraphs (2) and (3) of Regulation No 800/2008.

9. a financial and economic plan for a five-year period:

(a) an estimate of the expected revenues, disaggregated by principal product under Item 7, as well as revenues from other products/services;

(b) an estimate of the expected operating costs and disaggregated by type of costs: personnel, financial and other costs under Litterra (a);

(c) an estimate of the expected net cash flows under Litterrae (a) and (b);

(d) key conclusions regarding the economic stability and profitability of the investment project;

10. description of the environmental impact of the investment;

11. other specific characteristics of the project, such as organisational, management and production structure and other such.

### **Section III**

#### **Procedure for Assessment of Documents. Award of Certificate. Refusal to Award**

**Article 11.** (1) Upon receipt of the application and documents covered under Article 5 or 6 herein, the said application and documents shall be filed at the records office of the Agency, noting the date of submission of the application, the sequential number, the particulars of the applicant (business name/names, registered office and address of the place of management/permanent address).

(2) The Executive Director or an official empowered by him shall designate officers of the Agency to assess the application and the documents for conformity with the requirements of the IPA and of these Regulations.

(3) The assessment referred to in Paragraph (2) shall furthermore include a verification for conformity of the costs of the investment projects to the financial capacities of the investor and sources of financing, certified according to the procedure established by Articles 5 and 6 herein, as well as to the terms established under Article 12 and Items 2 and 3 of Article 13a of the IPA.

(4) In case the officers referred to in Paragraph (2) ascertain any non-conformities and/or deficiencies in the application and the documents covered under Article 5 or 6 herein, the investor shall be notified in writing of the said non-conformities and/or deficiencies and shall be allowed up to six months from submission of the application to cure the said non-conformities and/or deficiencies.

(5) The investor shall be notified by the Executive Director of the Agency or by an official empowered thereby, with the notice being dispatched on a paper-based medium or by electronic means in one or several of the following manners:

1. registered letter with an addressee's acknowledgement of receipt;

2. on a paper-based medium according to the procedure established by Item 1 and via electronic mail without use of an electronic signature;

3. by electronic means with use of an electronic signature.

(6) If the notice is not accepted by the person at the address named thereby, the notification shall be considered effected by posting the said notice in a place expressly designated for this purpose at the building of the Agency.

**Article 12.** (1) Where, upon assessment of the application and the investment project, it is incumbent to perform an evaluation within the competence of another state body, the Executive Director of the Agency shall forward the investment project and shall request presentation of an opinion in the cases where:

1. a specific economic activity or products produced for implementation of the investment project have to be evaluated;
2. the possibilities for application of the investment promotion measures by the competent authorities under Article 22 or 22a of the IPA have to be evaluated in advance;
3. the procedures under Chapter Three of the State Aids Act must be applied.

(2) The competent authorities shall present their opinions within fourteen days after receipt of the request, with the exception of the cases where a special law provides otherwise.

**Article 13.** (1) After performance of an assessment of the application and the documents covered under Articles 5 and 6 herein, the officers referred to in Article 11 (2) herein shall prepare an opinion on award of an investment class certificate according to Article 3 (1) to (4) herein.

(2) On the basis of the opinion so prepared, the Executive Director or the official empowered thereby shall provide the Minister of Economy and Energy with a reasoned proposal to award or to refuse to award a certificate within thirty days after receipt of the application.

(3) The proposal referred to in Paragraph (2) shall contain:

1. a full and accurate reasoned evaluation for the award of an investment class certificate in accordance with the requirements of the IPA and of these Regulations, or
  2. grounds for a refusal to award an investment class certificate under Article 19a of the IPA.
- (4) The documents covered under Article 5 or Article 6 herein shall be attached to the application.

(5) Where any non-conformities and/or deficiencies are ascertained according to the procedure established by Article 11 (4) herein, the time limit referred to in Paragraph (2) shall begin to run as from the date of the curing of the said non-conformities and/or deficiencies.

(6) In the case of any non-conformities and/or deficiencies ascertained according to the procedure established by Article 11 (4) herein, which are not cured within six months reckoned from the date of submission of the application, the Executive Director shall notify the Minister of Economy and Energy of the expiry of the time limit according to the procedure established by Paragraph (2).

**Article 14.** (1) (Supplemented, SG, No. 20 of 2009, effective 17.03.2009) The Minister of Economy and Energy or an official empowered thereby shall examine the proposal referred to in Article 13 (2) herein within 14 days of its receipt and:

1. shall award or shall refuse to award a certificate, or
2. shall return the proposal and the documents attached thereto for re-assessment in the cases of non-conformity with any of the requirements of the IPA and these Regulations.

(2) The Minister of Economy and Energy or an official empowered thereby shall refuse to award a certificate according to the procedure established by the Administrative Procedure Code in the cases covered under Article 19a of the IPA.

**Article 15.** (1) The officers of the Ministry of Economy and Energy, of the Agency, as well as other officials of the central and local executive authorities, performing administrative functions in connection with the application of investment promotion measures, shall be obligated not to disclose the information which has come to their knowledge in connection with the performance of the official duties thereof related to the investment project and the documents attached to the application.

(2) The restriction referred to in Paragraph (1) shall not extend to any information regarding:

1. the general presentation of the investor and of the investment project, containing information on the amount and type of the investment;
2. the products and services produced, intended for the internal market or for external markets;
3. the location and time limits for performance of the project;

4. the number of jobs and the training project;
5. the purposes, content and specific parameters of the investment promotion measures under the IPA in connection with the requirements for publicity and transparency of the aid granted for implementation of the investment project, arising from Community law and from the law of the Republic of Bulgaria in the State aid field;
6. the data referred to in Article 17 (3) herein.

#### **Section IV**

##### **Investment Class Certificate**

**Article 16.** (1) In respect of Class A and Class B investments, a certificate shall be issued in a standard form proposed by the Executive Director of the Agency and endorsed by the Minister of Economy and Energy or by an official empowered thereby.

(2) The certificate shall contain the following essential elements:

1. sequential number;
2. title and location of the investment project and the economic activity in which the said project is implemented;
3. the information referred to in Item 1 (a) and (b) of Article 9 (1) herein;
4. investment class;
5. the investor's rights to enjoy the promotion investment measures covered under Articles 21 to 22a of the IPA in the cases where the said investors [*sic*] have declared the intention thereof to enjoy such measures under Item 3 of Article 4 (2) herein;
6. date of award and period of validity;
7. grounds for award;
8. signature of the Minister of Economy and Energy or of the official empowered thereby and seal.

(3) The validity of the certificate may not exceed three years reckoned from the date of award, with the exception of the cases provided for in Article 22e of the IPA.

(4) (Amended and supplemented, SG, No. 20 of 2009, effective 17.03.2009) The certificate shall be issued in two copies in the Bulgarian language: one copy shall be kept at the Ministry of Economy and Energy, and the other copy shall be provided to the investor. If the investor is a non-resident person or the Bulgarian investor requests this, the certificate shall be issued in the English language as well.

**Article 17.** (1) The certificates as awarded shall be entered into an electronic database.

(2) The electronic database referred to in Paragraph (1) shall contain the following information:

1. number and date of the application for the award of a certificate;
2. number, date of award and period of validity of the certificate;
3. the information referred to in Item 1 (a) and (b) of Article 9 (1) herein;
4. amount of investment and investment class;
5. economic activities in which the investment is implemented, and principal products;
6. location of the investment;
7. investment promotion measures applied in conformity with the requirements for monitoring and transparency in the State aid field;
8. other information covered under Article 9 or 10 herein.

(3) (Amended and supplemented, SG, No. 20 of 2009, effective 17.03.2009) The public part of the electronic database referred to in Paragraph (1) shall be accessible to the general public on the Internet site of the Ministry of Economy and Energy and of the Agency and shall contain the information covered under Article 16 (2) herein, including information on the measures applied under the IPA.

(4) The certificate as issued, the application, the documents covered under Articles 5 and 6 herein, and the reasoned proposal referred to in Article 13 (2) herein shall be stored at the Ministry of Economy and Energy according to the requirements of the State Aids Act and the State Archival Collections Act.

(5) Certified copies of the documents covered under Paragraph (4) herein shall be stored at the Agency.

**Article 18.** (Amended, SG, No. 20 of 2009, effective 17.03.2009) The electronic database referred to in Article 17 (1) herein shall be maintained by officials designated by the Minister of Economy and Energy and by the Executive Director of the Agency.

**Article 19.** (1) Upon any change in the circumstances entered into the electronic database, investors shall be obligated to submit an application to the Ministry of Economy and Energy and to the Agency within fourteen days after occurrence of any such change.

(2) The documents certifying the change shall be attached to the application referred to in Paragraph (1).

(3) Upon occurrence of a succession in respect of the enterprise or production which is subject to the investment, the successor shall present the documents referred to in Paragraph (2), as well as:

1. (Amended, SG, No. 20 of 2009, effective 17.03.2009) the documents referred to in Items 2 to 11 of Article 5 (1) herein or in Items 2 to 9 of Article 6 (1) herein, as the case may be;

2. a declaration with a report and an analysis of the initially applied investment project.

(4) The change shall be entered after an evaluation of the documents presented within fourteen days after receipt of the application.

(5) Entry shall be effected subject to conformity with the requirements of Articles 13 and 13a of the IPA.

(6) Where the change in the circumstances entered into the electronic database entails a change in the particulars entered in the certificate, a certificate shall be issued showing the circumstances changed. The new certificate shall be provided after return of the previously issued certificate.

(7) In case the initially issued certificate is lost or destroyed, the Minister of Economy and Energy shall issue a replacement of the certificate after the investor submits an application attaching a written declaration of the circumstances whereunder the certificate was lost or destroyed.

**Article 19a.** (New, SG, No. 20 of 2009, effective 17.03.2009) At the end of each year covered by the validity of the certificate the certified investors shall submit to the Executive Director of InvestBulgaria Agency information about the progress of their investment projects, including information about the amount of the invested funds, according to their investment plans, the observance of the time-schedule, the jobs created, the promotion measures under the IPA enjoyed and the state aid granted.

### **Chapter Three**

#### **PROCEDURE FOR INDIVIDUALIZED ADMINISTRATIVE SERVICES**

**Article 20.** (1) Individualised administrative services shall be provided by officers of the Agency in dealings with the central government authorities at the request of an investor who has received a Class A investment certificate.

(2) A request shall be submitted to the Agency by the investor or by a person authorised thereby.

(3) Any such request shall be filed in an incoming register, noting the date of receipt thereof.

**Article 21.** (1) Individualised administrative services shall be performed by officers designated according to a list endorsed by the Executive Director of the Agency.

(2) In respect of each request filed, the Executive Director of the Agency shall designate the officers who will provide the individualised administrative services as may be necessary for the implementation of the relevant investment project.

**Article 22.** (1) Upon implementation of individualised administrative services, the officers referred to in Article 21 (1) herein shall be obligated:

1. to provide clear, accurate, reliable and comprehensive information on the procedures required for implementation of the project, which shall include:

(a) accurate designation of the administration;

(b) seat and address, as well as the addresses of the territorial units, if any;

(c) contact details: telephone, electronic mail address and Internet site;

(d) business hours of the administrative services unit at the administration;

(e) regulatory framework relevant to the provision of the administrative service;

2. to answer queries in connection with the required procedures and to refer the questions to the administrative authorities competent to address the relevant question;

3. to clarify the requirements which an application or a request for implementation of the administrative service, the complaint, protest, alert or proposal must satisfy under the relevant procedure;

4. to provide the investor with:

(a) comprehensive and accurate information on the required documents, the time limits and the fees under the special laws;

(b) standard forms of documents which must be completed for the provision of the administrative service;

(c) information on the period of validity of the individual administrative act whereof the issuing is applied for;

5. to contact the relevant competent authorities and to assist the issuing and receipt therefrom of all documents as may be necessary for implementation of the relevant investment and for carrying out the economic activity related to the said investment.

(2) The investor may authorise the officers referred to in Article 21 (1) herein:

1. to submit to the relevant competent authorities and to receive therefrom all requisite documents for implementation of the investment project, or

2. to participate, together with representatives of the investor, in all activities related to the submission to the relevant competent administrative authorities and to the receipt therefrom of all requisite documents for implementation of the investment project.

(3) The investor shall co-operate with the officers of the Agency by providing the necessary documents, including documentary proof of payment of fees.

(4) Individualised administrative services shall be provided by the Agency free of charge. Any fees established by a statutory instrument for the issuing of documents and/or for the performance of administrative services shall be for the account of the investor.

**Article 23.** Except for the cases referred to in Article 20 (1) herein, individualised administrative services shall be provided by officials of the local executive authorities in dealings with the relevant competent authorities at the request of an investor who has received a Class A investment certificate.

**Article 24.** (1) The Executive Director of the Agency shall notify the relevant local executive authority exercising competence over the location of the investment of the intention of the investor to use individualised administrative services specified in the application referred to in Article 4 herein.

(2) The notification referred to in Paragraph (1) shall furthermore include a request to the relevant local executive authority to designate the officers who will implement the individualised administrative services to the investor.

(3) The officers referred to in Paragraph (2) shall implement individualised administrative services in dealings with the competent local executive authorities according to the procedure established by Article 22 herein.

**Article 25.** All executive authorities shall be obligated to co-operate with the officers referred to in Article 21 (1) and Article 24 (2) herein in connection with the discharge of the duties thereof under Article 22 herein.

**Article 26.** Individualised administrative services shall be provided for the period of implementation of the Class A investment and the economic activity related to the said investment, but the period of the said services may not exceed the period of validity of the certificate.

**Article 27.** Administrative services under this Section shall be implemented in compliance with the principles and procedure established by the Administration Act, the Administrative Procedure Code and the statutory instruments on the application thereof.

#### **Chapter Four**

### **SALE AND ONEROUS CREATION OF LIMITED RIGHT *IN REM* TO CORPOREAL IMMOVABLE CONSTITUTING PRIVATE STATE OR PRIVATE IMMOVABLE PROPERTY**

**Article 28.** (1) A sale or an onerous creation of a limited right *in rem* to a corporeal immovable constituting private state property under Article 22a of the IPA may be effected if the following conditions apply:

1. the investor has presented a written request to the relevant competent authority referred to in Article 22a (1) of the IPA, and

2. the investor has been awarded a Class A or Class B investment certificate.

(2) The written request referred to in Item 1 of Paragraph (1) must contain the business name of the investor, the number and date of the investment class certificate, and reference to the corporeal immovable.

(3) (Amended and supplemented, No. 20 of 2009, effective 17.03.2009) The investment project referred to in Article 8 herein, the documents referred to in Item 4 of Article 16 of the IPA and the corresponding documents specified in Article 5, Paragraph (1) regarding the legal entity incorporated in accordance with Article 17 of the IPA, if it has been registered, shall be attached to the written request referred to in Item 1 of Paragraph (1).

(4) Buildings and other establishments, which have been financed by resources of the European Union, may not be subject to the request referred to in Item 1 of Paragraph (1) and to the contract referred to in Article 31 herein, save in the cases where the request is submitted ten years after completion of the construction work.

**Article 29.** (1) After obtaining a written consent from the authorities referred to in Article 22a (1) of the IPA, the relevant competent authority shall empower officials to conduct negotiations with the

investor on conclusion of a contract with the investor for sale or onerous creation of a limited right *in rem* to a corporeal immovable.

(2) Upon conduct of the negotiations, the relevant competent authority may require in writing from the investor additional information in connection with the application of the measure under Article 22a of the IPA, allowing a suitable time limit for provision of the said additional information.

**Article 30.** The appraisal of the corporeal immovable or of the limited right *in rem* shall be conducted in conformity with the following requirements:

1. prior to commencement of the negotiations referred to in Article 29 (1) herein, the procedure referred to in Article 22a (2) of the IPA shall be applied for the purpose of arriving at a market price based on generally accepted market benchmarks and standards for the appraisals, which shall be considered a minimum purchase price;

2. the procedure referred to in Article 22a (2) of the IPA shall be applied by independent licensed appraisers within the meaning given by Item 2 of § 1 of the Supplementary Provisions of the IPA having at least three years of professional experience in valuation of corporeal immovables in the region where the subject of the appraisal is located.

**Article 31.** (1) A contract for the sale of the onerous creation of a limited right *in rem* to a corporeal immovable under Article 22a of the IPA and the implementation of the investment project shall be concluded between:

1. the investor and/or the persons referred to in Article 17 (1) of the IPA, of the one part, and
2. the relevant competent authority referred to in Article 22a (1) of the IPA, and
3. (Repealed, SG, No. 20 of 2009, effective 17.03.2009).

(2) The contract referred to in Paragraph (1) shall mandatorily contain:

1. subject matter of the contract;
2. contracting parties;
3. title of the investment project;
4. principal rights and obligations;;
5. type and amount of the investment;
6. time limit for performance of the investment project and period for maintenance of the investment;
7. description of the immovable subject to the sale or to the creation of a limited right *in rem*, according to the requirements of the Cadastre and Property Register Act;
8. price of the immovable or of the limited right *in rem*;
9. time limit and conditions for transfer of the immovable or for creation of the right *in rem*;
10. prohibition to dispose of and to encumber the immovable with charges, as well as to transfer the limited right *in rem* to the corporeal immovable to another person;
11. creation of a mortgage or another security interest;
12. conditions for exercise of the rights to the mortgage;
13. manner of reporting the performance of the investment project;
14. type and amount of the liability incurrable for non-fulfilment of the obligations under the contract;
15. control over the fulfilment of the obligations by the parties;
16. methods of settlement of disputes between the parties;

17. grounds for early termination of the contract and rights of the party not at fault;
  18. other elements on which the parties have reached agreement.
- (3) The investment project shall constitute an integral part of the contract referred to in Paragraph (1).
  - (4) The contract referred to in Paragraph (1) shall be concluded in writing and shall be recorded by command of the recording magistrate exercising jurisdiction over the location of the immovable.
  - (5) The costs of the sale of the corporeal immovable or of the creation of the limited right *in rem* shall be for the account of the investor.
  - (6) The performance of the contract referred to in Paragraph (1) shall be secured by the creation of a mortgage, where applicable, and another form of security shall be applied in the rest of the cases.

**Article 32.** (1) Upon the sale or creation of a limited right *in rem* to a corporeal immovable by the contract referred to in Article 31 (1) herein, special obligations in the public interest may be stipulated in connection with the land and the buildings but not in connection with the buyer or with the commercial activity thereof, provided that each potential buyer is required to be in a position to fulfil the special obligations, regardless of whether the said buyer carries out any activity or regardless of the nature of the said activity.

(2) The resources necessary for fulfilment of the obligations of the owner of the corporeal immovable arising from a law shall not be deducted from the selling price (such as: care of the land and the buildings and maintenance of the said land and buildings as part of the customary social obligations of the owners, payment of taxes and other such expenditures).

**Article 33.** (1) Where the competent local executive authorities have not complied with the conditions established by this Chapter, the said authorities shall notify the European Commission of the intention thereof to transfer the right of ownership or to create the limited right *in rem*.

(2) The notification referred to in Paragraph (1) shall be effected according to the procedure established by the State Aids Act.

## **Chapter Five**

(Effective by 31.12.2013, see § 38 of the Transitional and Final Provisions to Council of Ministers Decree 55 of 6 March 2009 amending and supplementing the Regulations for Application of the Investment Promotion Act – SG, No. 20 of 2009)

### **FINANCIAL SUPPORT FOR CONSTRUCTION OF PHYSICAL-INFRASTRUCTURE ELEMENTS**

**Article 34.** The Minister of Economy and Energy shall lay before the Council of Ministers a motion for promotion of one or more investment projects by the measure referred to in Article 22b of the IPA if the following conditions apply:

1. a written request has been received at the Ministry of Economy and Energy from:
  - (a) an investor who has been awarded a Class A investment certificate, or
  - (b) two or more investors who have been awarded an investment class certificate, with an investment located within an industrial zone, hereinafter referred to as “the investor”;
2. an approved design (conceptual, schematic or working) has been presented with a bill of quantities for construction of the physical-infrastructure elements which, according to the requirements of Article 142 of the Spatial Development Act, may serve for the issuing of a building permit and for the award of a construction work under the Public Procurement Act;
3. (Supplemented, SG, No. 20 of 2009, effective 17.03.2009) the documents referred to in Item 4 of Article 16 of the IPA, the corresponding documents referred to in Article 5, Paragraph (1) regarding the incorporated legal entity under Article 17 of the IPA, if such an entity has been registered, and a declaration in a special form, approved by the Executive Director of the Agency, about the state aid

received during the last 3 years, including the current aid for the investor or the persons under Article 17 of the IPA, have been presented;

4. (Supplemented, SG, No. 20 of 2009, effective 17.03.2009) an investment project has been approved for promotion after conduct of a competitive procedure under Article 35 herein, where applicable;

5. the conditions covered under Articles 36 to 38 herein have been verified.

**Article 35.** (1) The competitive procedure shall be held for assessment and selection of investment projects for promotion on the basis of the documents covered under Items 1 to 3 of Article 34 herein.

(2) The assessment referred to in Paragraph (1) shall be performed in two sessions during a calendar year:

1. in January of the current year: in respect of any requests received by the 31st day of December of the preceding year;

2. in July of the current year: in respect of any requests received by the 30th day of June of the current year.

(3) Approximately 50 per cent of the resources planned under Article 15 (3) of the IPA shall be projected for each session of the assessment after deduction of the resources according to contracts approved by the Council of Ministers which are to be financed during the current year.

(4) The competitive procedure shall be held on the basis of a methodology for performance of the assessment, endorsed by the Minister of Economy and Energy and published on the Internet site of the Ministry of Economy and Energy.

(5) The assessment shall be performed on the basis of the following criteria and priorities:

1. amount of investments under the investment project to be implemented during a three-year period;

2. (Amended, SG, No. 20 of 2009, effective 17.03.2009) amount of State resources for construction of the physical infrastructure according to the design referred to in sub-paragraph 2 of Article 34 herein;

3. implementation of investments in high technology production and services covered under Article 3 (5) and (6) herein;

4. implementation of investments in municipalities referred to in Article 3 (2) herein.

(6) The requests for promotion shall be ranked on the basis of the criteria and priorities covered under Paragraph (5).

(7) The Minister of Economy and Energy shall lay before the Council of Ministers a motion according to the procedure established by Article 34 herein observing the order of the ranking, and the total amount of the requests must be within the limits of the resources provided for under Paragraph (3).

(8) The motions which have dropped out of the ranking under Paragraph (7) shall be included in the next succeeding evaluation session, but may not be included in more than four such sessions.

(9) The motion shall be laid before the Council of Ministers according to the procedure established by Article 34 herein, without applying the procedure for selection and ranking solely in the cases where the total amount of all requests received is up to the amount of the resources under Paragraph (3).

(10) The evaluation and ranking of the requests shall be performed by officials empowered by the Minister of Economy and Energy.

**Article 36.** (Amended, SG, No. 20 of 2009, effective 17.03.2009)

(1) Financial support is not state aid for enterprises in the meaning of § 1, sub-paragraph 1 of the Additional Provision of the State Aid Act, provided that the following conditions are cumulatively fulfilled:

1. the financial support is intended for construction of elements of the public (state or municipal) technical infrastructure to the boundaries of the property in which the investment is made;
2. the funds are granted to a state or local authority, public undertaking or trader in its capacity of owner of the infrastructure referred to in sub-paragraph 1, who is a client, according to the procedure of Article 7 of the Public Procurement Act, of the design and construction of the infrastructure;
3. the public procurement is done by carrying out an open procedure under the Public Procurement Act or open competition under the Ordinance on the Award of Small Public Procurements, adopted with Council of Ministers Decree 249 of 2004 (promulgated, SG, No. 84 of 2004; corrected, No. 93 of 2004; amended and supplemented, No. 59 of 2005, No. 53 of 2006, No. 83 of 2007 and No. 3 of 2009);
4. the infrastructure is used not only by the person referred to in Article 34, sub-paragraph 1, but also by all existing and potential consumers at equal and non-discriminative conditions.

**Article 37.** (1) (Amended and supplemented, No. 20 of 2009, effective 17.03.2009) The Minister of Economy and Energy or an official empowered thereby shall assess the conformity of each ranked project for financial support for the construction of infrastructure with the requirements of Commission Regulation (EC) No 1998/2006 of 15 December 2006 on the application of Articles 87 and 88 of the Treaty to *de minimis* aid (OJ, L 379 of 28.12.2006).

(2) (Amended, No. 20 of 2009, effective 17.03.2009) In case the value of the financial support for each undertaking does not exceed the lev equivalent of EUR 200,000, EUR 100,000 respectively for undertakings operating in the "road sector" branch, for each triennial period, and the support fulfils all conditions of the Regulation referred to in Paragraph (1), the Minister of Economy and Energy shall lay the motion under Article 34 herein before the Council of Ministers.

**Article 38.** (Amended, No. 20 of 2009, effective 17.03.2009) Where the conditions under Articles 36 and 37 herein do not apply, the Minister of Economy and Energy or an official empowered thereby shall assess the conformity of each ranked project for construction of infrastructure with the requirements of Regulation No 800/2008 and with the terms established by Chapter Seven herein.

**Article 39.** (1) Where the conditions under Articles 36 to 38 herein do not apply, the Minister of Economy and Energy or an official empowered thereby shall prepare the information necessary for notification to the European Commission of the intention to allocate financial support for construction of physical-infrastructure elements according to the procedure established by Article 7 of the State Aids Act.

(2) Until a positive decision of the European Commission, the resources for financial support for construction of physical-infrastructure elements shall not be provided.

**Article 40.** (1) The Council of Ministers shall adopt a decree on allocation of resources under the project for construction of physical-infrastructure elements.

(2) In case the circumstances under Article 39 herein apply, the said decree shall be adopted after a positive decision of the European Commission on the provision of the financial support.

**Article 41.** (1) The Council of Ministers shall adopt a decision authorising the Minister of Economy and Energy to conclude contracts:

1. with the investor and/or with the persons referred to in Article 17 (1) of the IPA, as well as
2. with the person who awards the designing and construction of the physical-infrastructure elements, related to the implementation of the investment design, up to the property line according to the procedure established by the Public Procurement Act and the Ordinance on the Award of Small Public Procurements.

(2) By the contract referred to in Item 1 of Paragraph (1), the investor shall undertake to perform the investment project, and the State shall undertake to provide resources for construction of physical-infrastructure elements from the nearest constructed elements to the property border line according to the design referred to in Item 2 of Article 34 herein.

(3) The contract referred to in Item 1 of Paragraph (1) shall mandatorily contain:

1. subject matter of the contract;
2. contracting parties;
3. title of the investment project;
4. principal rights and obligations;
5. type and amount of the investment;
6. time limit for performance of the investment project and period for maintenance of the investment;
7. description of the infrastructure elements with characteristics and parameters;
8. time limit for construction of the infrastructure, disaggregated by stage, and provision of the resources;
9. type and amount of the security to be furnished for fulfilment of the obligations under the contract;
10. manner of reporting the performance of the investment project;
11. type and amount of the liability incurrable for non-fulfilment of the obligations under the contract;
12. control over the fulfilment of the obligations by the parties;
13. methods of settlement of disputes between the parties;
14. grounds for early termination of the contract and rights of the party not at fault;
15. other elements on which the parties have reached agreement.

(4) The investment project shall constitute an integral part of the contract referred to in Item 1 of Paragraph (1).

(5) By the contract referred to in Item 2 of Paragraph (1), the relevant person shall undertake to ensure the designing and construction of the physical-infrastructure elements, as specified between the parties in the contract referred to in Item 1 of Paragraph (1), through conduct of procedures according to the procedure established by the Public Procurement Act and the Ordinance on the Award of Small Public Procurements.

(6) The contract referred to in Item 2 of Paragraph (1) shall mandatorily contain:

1. subject matter of the contract;
2. time limit for execution of the infrastructure facility;
3. stages of construction of the facility and pecuniary resources projected for each stage;
4. principal rights and obligations;
5. type and amount of the security to be furnished for fulfilment of the obligations under the contract;
6. type and amount of the liability incurrable for non-fulfilment of the obligations under the contract;
7. control over the fulfilment of the obligations by the parties;
8. methods of settlement of disputes between the parties;
9. grounds for early termination of the contract and rights of the party not at fault;
10. other elements on which the parties have reached agreement.

(7) The design referred to in Item 2 of Article 34 herein shall constitute an integral part of the contract referred to in Item 2 of Paragraph (1).

(8) The contracts covered under Paragraph (1) shall enter into force after a positive decision of the European Commission on provision of the financial support, if the circumstances under Article 39 herein apply.

## **Chapter Six**

(Effective by 31.12.2013, see § 38 of the Transitional and Final Provisions to Council of Ministers Decree 55 of 6 March 2009 amending and supplementing the Regulations for Application of the Investment Promotion Act – SG, No. 20 of 2009)

### **FINANCIAL SUPPORT FOR TRAINING FOR ATTAINMENT OF PROFESSIONAL QUALIFICATION**

#### **Section I**

##### **Motion to Allocate Resources for Training**

**Article 42.** (1) The Minister of Economy and Energy shall lay before the Council of Ministers a motion to promote an investment project by the measure referred to in Article 22c of the IPA if the following conditions apply:

1. a written request has been received at the Ministry of Economy and Energy from an investor who has been awarded a Class A or Class B investment certificate;

2. there is an investment project which:

(a) is performed in the high technology activities covered under Article 3 (5) or (6) herein, or

(b) is implemented in the municipalities referred to in Article 3 (2) herein, and

(c) satisfies the rest of the requirements under Article 22c (1) of the IPA;

3. (Supplemented, SG, No. 20 of 2009, effective 17.03.2009) a training project, including brief information about the incentive effect of the measure in the meaning of Article 8, paragraphs (2) and (3) of Regulation No 800/2008, has been presented;

4. (Supplemented, SG, No. 20 of 2009, effective 17.03.2009) the documents referred to in Item 4 of Article 16 of the IPA, the corresponding documents referred to in Article 5, Paragraph (1) regarding the incorporated legal entity under Article 17 of the IPA, if such an entity has been registered, and a declaration in a special form, approved by the Executive Director of the Agency, about the state aid received during the last 3 years, including the current aid for the investor or the persons under Article 17 of the IPA, have been presented;

5. (Supplemented, SG, No. 20 of 2009, effective 17.03.2009) an investment project has been approved for promotion after conduct of a competitive procedure according to the procedure established by Article 43 herein, where applicable.

6. (New, SG, No. 20 of 2009, effective 17.03.2009) the conditions covered under Sections II and III of this Chapter have been verified.

(2) The training project referred to in Item 3 of Paragraph (1) must satisfy the following requirements:

1. under Article 22c (1) of the IPA for attainment of professional qualification of persons who have not attained the age of 29 years, including trainees from the higher schools;

2. under Article 22c (4) of the IPA;

3. under Article 44 herein.

**Article 43.** (1) The competitive procedure for assessment and selection of investment projects for promotion by the measure referred to in Article 22c of the IPA shall be held on the basis of the documents covered under Items 1 to 4 of Article 42 (1) herein.

(2) The assessment shall be performed according to the procedure established by Article 35 herein.

(3) The assessment shall be performed on the basis of the following criteria:

1. amount of investments under the investment project to be implemented within a three-year period;
2. amount of State resources for implementation of the training project referred to in Item 3 of Article 42 (1) herein;
3. quality of the training project according to an opinion of the Minister of Education and Science in the cases where the professional qualification attained will be recognised only for performance of the investment project.

(4) The Minister of Economy and Energy shall lay a motion before the Council of Ministers according to the procedure established by Article 42 herein observing the order of the ranking, and the total amount of the requests must be within the limits of the resources provided for under Article 35 (3) herein.

**Article 44.** The training project referred to in Item 3 of Article 42 (1) herein, applying for financial support, shall contain information on:

1. the purpose and time limit of training, including expected start and end dates (month, year) for the training;
2. form of organisation and place of delivery of the training;
3. detailed curriculum, including subjects and number of periods;
4. number of factory/office workers: total and disaggregated by principal group of occupations and positions;
5. training organisation or independent training by the investor;
6. estimate of planned costs of the project: total and disaggregated by year;
7. a document of professional qualification, issued according to the Vocational Education and Training Act, if the training is delivered not only for performance of the investment project.

**Article 45.** (Amended, SG, No. 20 of 2009, effective 17.03.2009) The Minister of Economy and Energy or an official empowered thereby shall assess, in coordination with the Employment Agency, the conformity of each project ranked according to the procedure established by Article 43 herein with the requirements of Regulation No 800/2008.

## **Section II**

### **Conditions for Exemption from Prior Notification to the European Commission**

(Heading amended, SG, No. 20 of 2009, effective 17.03.2009)

**Article 45a.** (New, SG, No. 20 of 2009, effective 17.03.2009) (1) The individual aid granted under an aid scheme for training, which fulfils all conditions of Chapter I and Chapter II, Section VIII of Regulation No 800/2008, shall be compatible with the common market in the meaning of Article 87, Paragraph (3) of the Treaty establishing the European Community and shall be exempted from the obligation for providing information under Article 88, Paragraph (3) of the Treaty.

(2) Each measure for individual aid, granted under Regulation No 800/2008, shall explicitly contain a reference to the specific provisions of Chapter II of Regulation No 800/2008 and to the national legislation on which the individual aid is based and shall be reflected in the corresponding act for granting the aid under Article 49 and in the contract with the beneficiary of the aid under Article 50, Paragraph (2).

(3) No aid shall be provided for promotion of investments which, pursuant to Chapter I, Article 1, sub-paragraph 2 of Regulation No 800/2008 are:

1. aid to export-related activities, namely aid directly linked to the quantities exported, to the establishment and operation of a distribution network or to other current costs linked to the export activity;

2. aid contingent upon the use of domestic over imported goods.

**Article 46.** (1) The resources for financial support are allocated to cover the following eligible costs of the training project:

1. trainers' personnel costs;

2. (Amended, SG, No. 20 of 2009, effective 17.03.2009) travel and subsistence expenses of the trainees and trainers;

3. (Amended, SG, No. 20 of 2009, effective 17.03.2009) other current expenses, such as materials and consumables directly related to the project;

4. depreciation of assets to the extent that they are used exclusively for the training project;

5. cost of management and consulting services with regard to the training project;

6. (Amended, SG, No. 20 of 2009, effective 17.03.2009) costs related to trained personnel and general indirect costs (administrative expenses, rents, overhead expenses) up to the amount of the total of the eligible costs referred to in Items 1 to 5; with regard to the costs related to trained personnel may be taken into account only in respect of the hours during which the trainees actually participate in the training, after deduction of any productive hours.

(2) (Supplemented, SG, No. 20 of 2009, effective 17.03.2009) The costs covered under Paragraph (1) shall be taken before any deduction for taxation and fees.

(3) (Amended, SG, No. 20 of 2009, effective 17.03.2009) The amount of resources for financial support under this Section may not exceed:

1. twenty five percent of the eligible costs for specific training;

2. sixty percent of the eligible costs for general training.

(4) (Amended, SG, No. 20 of 2009, effective 17.03.2009) The intensity of the support under Paragraph (3), sub-paragraphs 1 and 2 can be increased:

1. by 10 percentage points if the aid is intended for training of workers with disabilities or disadvantaged workers;

2. by 10 percentage points if the aid is granted to medium-sized enterprises and by 20 percentage points if the aid is granted to small enterprises.

(5) (New, SG, No. 20 of 2009, effective 17.03.2009) In order to calculate the aid payable in several instalments, it shall be discounted to its value at the moment of granting of the said aid, using the reference interest rate used for state aid.

**Article 47.** The total amount of resources for financial support, received according to the procedure established by this Section and from financing by other State resources or Community resources in connection with the same eligible costs, may not exceed the amount covered under Article 46 (3) herein.

### **Section III**

#### **Financial Support Subject to Prior Notification to the European Commission**

**Article 48.** (1) (Amended, SG, No. 20 of 2009, effective 17.03.2009) In case the resources for financial support for a training project exceed the lev equivalent of EUR 2 million, or the training project does not conform to the conditions under Section II, the Minister of Economy and Energy

shall prepare a notification of the intention to allocate financial support according to the procedure established by Article 7 of the State Aids Act.

(2) The resources for financial support shall be provided only after a positive decision on the part of the European Commission.

## **Section IV**

### **Procedure for Allocation of Resources**

**Article 49.** (1) The Council of Ministers shall adopt a decree on allocation of resources under the training project.

(2) In case the circumstances under Article 48 herein apply, the said decree shall be adopted after a positive decision of the European Commission on the provision of the financial support.

**Article 50.** (1) The Council of Ministers shall adopt a decision authorising the Minister of Economy and Energy to conclude a contract/contracts:

1. with the investor and/or with the persons referred to in Article 17 (1) of the IPA, and/or
2. with a training organisation referred to in Article 22c (2) of the IPA, where the employer investor does not perform the training project independently.

(2) By the contract referred to in Item 1 of Paragraph (1), the employer investor shall undertake to perform the investment project and the training project, and the State shall undertake to provide resources for the eligible costs of the training project under the terms established by this Chapter.

(3) The contract referred to in Item 1 of Paragraph (1) shall mandatorily contain:

1. subject matter of the contract;
2. contracting parties;
3. title of the investment project;
4. principal rights and obligations;
5. type and amount of the investment;
6. time limit for performance of the investment project and period for maintenance of the investment;
7. number of employees who are to be trained;
8. content of training and envisaged means to be used;
9. start date for training or retraining of the relevant number of employees;
10. amount of the costs of training;
11. type of costs and means provided;
12. amount and period for which financial aid is to be provided;
13. manner and time limit for spending of the resources for training;
14. obligation to restore the resources provided or part thereof if the said resources are not spent fully within the agreed period or if more resources than necessary are provided, as well as the period and conditions for restoration of the financial aid;
15. manner of reporting the performance of the training project;
16. type and amount of the security to be furnished for fulfilment of the obligations under the contract;
17. type and amount of the liability incurable for non-fulfilment of the obligations under the contract;
18. control over the fulfilment of the obligations by the parties;

19. methods of settlement of disputes between the parties;
  20. grounds for early termination of the contract and rights of the party not at fault;
  21. other elements on which the parties have reached agreement.
- (4) The investment project and the training project shall constitute an integral part of the contract referred to in Item 1 of Paragraph (1).
- (5) By the contract referred to in Item 2 of Paragraph (1), the training organisation, selected on a competitive basis, shall undertake to perform the training project or part thereof.
- (6) The contract referred to in Item 2 of Paragraph (1) shall mandatorily contain:
1. subject matter of the contract;
  2. contracting parties;
  3. title of the training project;
  4. principal rights and obligations;
  5. number of employees who are to be trained or retrained;
  6. content of training and envisaged means to be used;
  7. start date for training or retraining of the relevant number of employees;
  8. amount of the eligible costs of the training project;
  9. type of costs and means provided;
  10. amount and period for which financial aid is to be provided;
  11. manner and time limit for spending of the resources for training;
  12. obligation to return the resources provided or part thereof if the said resources are not spent fully within the agreed period or if more resources than necessary are provided, as well as the period and conditions for return of the financial aid;
  13. manner of reporting the performance of the training project;
  14. type and amount of the security to be furnished for fulfilment of the obligations under the contract;
  15. type and amount of the liability incurrable for non-fulfilment of the obligations under the contract;
  16. control over the fulfilment of the obligations by the parties;
  17. methods of settlement of disputes between the parties;
  18. grounds for early termination of the contract and rights of the party not at fault;
  19. other elements on which the parties have reached agreement.
- (7) The training project shall constitute an integral part of the contract referred to in Item 2 of Paragraph (1).
- (8) The contracts covered under Paragraph (1) shall enter into force after a positive decision of the European Commission on provision of the financial support, if the circumstances under Article 48 herein apply.

## **Section V**

### **Transparency and Monitoring**

**Article 51.** The investor shall certify the eligible costs of the training project incurred by means of supporting documents within three months after implementation of the training project.

**Article 52.** The Minister of Economy and Energy, jointly with the Executive Director of the National Employment Agency, shall exercise control over the performance of the contracts and shall maintain the register referred to in Article 12 (2) of the State Aids Act in respect of the resources for financial support provided according to the procedure established by this Chapter and the archives of the entire information under this Chapter for a period of ten years reckoned from the date of provision of the financing.

## **Chapter Seven**

(Effective by 31.12.2013, see § 38 of the Transitional and Final Provisions to Council of Ministers Decree 55 of 6 March 2009 amending and supplementing the Regulations for Application of the Investment Promotion Act – SG, No. 20 of 2009)

### **CONDITIONS FOR PROMOTION OF INVESTMENTS IN THE EVENT OF REGIONAL AID**

(Heading amended, SG, No. 20 of 2009, effective 17.03.2009)

#### **Section I**

##### **Conditions for Exemption from Prior Notification to the European Commission**

(Heading amended, SG, No. 20 of 2009, effective 17.03.2009)

**Article 52a.** (New, SG, No. 20 of 2009, effective 17.03.2009) (1) The regional investment aid scheme and the regional employment aid scheme, which fulfils all conditions of Chapter I, Article 12 and Chapter II, Section I of Regulation No 800/2008, shall be compatible with the common market in the meaning of Article 87, Paragraph (3) of the Treaty establishing the European Community and shall be exempt from the obligation for providing information under Article 88, Paragraph (3) of the Treaty.

(2) Individual lump sum aid, which is used only to complement aid granted under the schemes referred to in Paragraph (1) and which does not exceed 50 percent of the total aid for the investment and fulfils the conditions of Regulation 800/2008, shall be compatible with the common market in the meaning of Article 87, Paragraph (3) of the Treaty establishing the European Community and shall be exempt from the obligation for providing information under Article 88, Paragraph (3) of the Treaty.

(3) Each measure for regional aid shall explicitly contain a reference to the specific provisions of Chapter II of Regulation 800/2008 and to the national legislation on which the individual aid is based and shall be reflected in the corresponding act for granting the aid and in the contract with the beneficiary of the aid.

**Article 53.** (Amended, SG, No. 20 of 2009, effective 17.03.2009) (1) The regional aid intensity, expressed in present gross grant equivalent, shall not exceed the regional aid ceiling in force as at the time of granting the aid to the corresponding region under Article 13, sub-paragraph 3 of Regulation No 800/2008, in accordance with the approved regional map for the period 2007 – 2013, to the amount of 50 per cent, where:

1. pursuant to Article 13, sub-paragraph 4 of Regulation No 800/2008 the base 50 percent intensity shall be increased by 20 percentage points for aid for investments awarded to small enterprises and by 10 percentage points for aid awarded to medium-sized enterprises, with the exception of the aid granted in favour of large investment projects and regional aid for the transport sector.

2. for the purpose of calculating the intensity of the aid all data used shall be taken into account before the deductions for taxes and other fees; where the aid is in the form other than a grant, the amount of this aid shall be the grant equivalent of the aid.

(2) The total amount of the gross equivalent of the regional aid from all sources, received in accordance with the procedure of this Section, may not exceed the individual threshold set in Chapter I, Article 6, sub-paragraph 1, Lettera (a), and sub-paragraph 2:

1. for SME – EUR 7.5 million per undertaking per investment project;
2. seventy five percent of the maximum aid amount, which an investment with eligible costs of EUR 1 million can receive by applying the standard aid threshold valid for large enterprises in the approved regional aid map as at the date on which the aid has been provided, under Paragraph (1).

**Article 54.** (1) The eligible material assets shall be limited to assets relating to land, buildings, machinery and plant, and the eligible immaterial assets shall be limited to assets entailed by the transfer of technology through the acquisition of patent rights, licences, know-how or unpatented technical knowledge.

(2) To be eligible, the costs of acquisition of immaterial assets must:

1. be used exclusively in the enterprise receiving the aid;
2. be regarded as amortizable assets;
3. (Supplemented, SG, No. 20 of 2009, effective 17.03.2009) be purchased from third parties under market conditions, where the buyer is not in a position allowing him to exercise control over the seller in the meaning of Article 3 of Council Regulation (EC) No. 139/2004 on the control of concentrations between undertakings (OJ, L 24 of 29.01.2004), or vice-versa;
4. (Supplemented, SG, No. 20 of 2009, effective 17.03.2009) be included in the assets of the enterprise and remain in the enterprise receiving regional aid for at least five years or in the event of SMEs – for at least three years;
5. be new, with the exception of small and medium-sized enterprises and upon mergers of companies by the formation of a new company.

(3) For small and medium-sized enterprises, the full costs of investments in immaterial assets shall be taken into consideration.

(4) For large enterprises, the costs referred to in Paragraph (3) shall be eligible up to a limit of 50 per cent of the total eligible expenditure for the project.

**Article 55.** (1) The ceilings fixed under Article 53 (1) herein shall apply to the aid intensities calculated either as a percentage of the eligible costs of material and immaterial assets covered under Article 54 herein or as a percentage of the estimated labour remuneration costs of the persons hired, calculated over a period of two years, for jobs directly created by the investment project.

(2) The two methods of calculation referred to in Paragraph (1) may be combined, provided the aid does not exceed the most favourable amount resulting from the separate application of either method.

(3) Aid payable in several instalments shall be discounted to its value at the moment of granting of the said aid, using for discounting purposes a reference interest rate set by the European Commission at the time of grant of the aid.

**Article 56.** (1) The costs related to the acquisition of assets under lease, other than land and buildings, shall only be taken into consideration if the lease takes the form of financial leasing and contains an obligation to purchase the assets at the expiry of the term of the lease.

(2) The lease of land and buildings must continue for at least five years, or three years in the case of small and medium-sized enterprises, after the anticipated date of the completion of the investment project.

**Article 57.** (Amended, SG, No. 20 of 2009, effective 17.03.2009) (1) In the cases where the aid is calculated on the basis of labour remuneration costs, the employment shall comply cumulatively with the conditions of Chapter I, Article 12, Paragraph (3) of Regulation No 800/2008:

1. it shall be directly linked to the implementation of the investment project;

2. the investment project shall lead to a net increase in the number of employees in the undertaking/organisation concerned, compared with the average number of employees over the previous 12 months;
3. the employment created shall be maintained during a minimum period of five years in the case of large enterprise and a minimum period of three years in case of SMEs.

**Article 58.** This Section shall not apply in respect of the aid contingent upon the use of domestic in preference to imported goods, as well as to investments in export-related activities towards third countries or towards other Member States of the European Union which are directly linked to the quantities exported, to the establishment and operation of distribution networks or to other current expenditures linked to the export activity.

## **Section II**

### **Cumulation**

**Article 59.** (1) The ceilings of aid fixed under Article 53 (1) herein shall apply to the total amount of public support for the aided project, regardless of whether the said support is financed from municipal, regional, national or Community sources.

(2) Regional investment aid, which satisfies the conditions under this Chapter, shall not be cumulated with any other State aid within the meaning given by Article 87 (1) of the Treaty or with other Community or national funding, nor with any *de minimis* aid within the meaning given by Item 3 of § 1 of the Supplementary Provision of the State Aids Act in respect of the same eligible costs, if such cumulation would result in an aid intensity exceeding that fixed under Article 53 (1) herein.

## **Section III**

### **Aids Subject to Prior Notification to the European Commission**

**Article 60.** (1) The aid granted in favour of large investment projects under this Chapter shall be subject to prior notification if the total amount of the aid from all sources exceeds 75 per cent of the maximum amount of aid which an investment project with eligible expenditure of the lev equivalent of EUR 100 million could receive, applying the standard aid ceiling in force at the amount of 50 per cent.

(2) (Repealed, SG, No. 20 of 2009, effective 17.03.2009).

(3) Individual notification to the Commission under Paragraphs (1) and (2) shall be effected by the Minister of Economy and Energy or by an official empowered thereby according to the procedure established by Article 7 of the State Aids Act.

## **Section IV**

### **Transparency and Monitoring**

**Article 61.** (1) In the cases where regional investment aid is granted in favour of large investment projects and the said aid is below the threshold for individual notification under Article 60 (1) herein, information laid down according to the Annex hereto shall be prepared within three days after the date on which the competent authority: the Minister of Economy and Energy or the Executive Director of the Agency, granted the aid.

(2) The information referred to in Paragraph (1) shall be transmitted to the Commission according to the procedure established by the State Aids Act and the Regulations for Application of the said Act.

(3) The Minister of Economy and Energy or an official empowered thereby shall maintain the register referred to in Article 12 (2) of the State Aids Act in respect of the aids granted according to the procedure established by this Chapter, including information on the status of the enterprise.

(4) The information referred to in Paragraph (3) shall be stored in the course of ten years from the date on which the individual aid was awarded under such scheme.

(5) The Minister of Economy and Energy or an official empowered thereby shall prepare a report regarding the application and implementation of the conditions under this Chapter for each complete calendar year or part thereof, publishing the full text of the aid scheme and communicating to the Commission the Internet address of the publication.

(6) The said report shall be transmitted to the Commission according to the procedure established by the State Aids Act.

## **SUPPLEMENTARY PROVISIONS**

§ 1. Within the meaning given by these Regulations:

1. "Identification number" shall be:

(a) the Standard Identification Code under the Commercial Register: applicable to any persons recorded in the Commercial Register;

(b) the Standard Identification Code under BULSTAT: applicable to any persons recorded in the BULSTAT Register;

(c) the Standard Public Registry Personal Number or the Foreigner Personal Number: applicable to any natural persons who are not recorded in the Commercial Register or in the BULSTAT Register, as the case may be;

(d) the service number referred to in Article 84 (3) of the Tax and Social-Insurance Procedure Code: applicable to any persons other than the persons referred to in Litterae (a) to (c) and such who are obligated persons under the Tax and Social-Insurance Procedure Code.

2. "Security" shall be any suretyship, bond, pledge, mortgage or declaration of will which secures the fulfilment of an obligation under the contracts governed by these Regulations.

3. (Amended and supplemented, SG, No. 20 of 2009, effective 17.03.2009) "Large investment project" shall be an investment in capital assets with an eligible expenditure above the lev equivalent of EUR 50 million, calculated at prices and exchange rates on the date when the aid is granted; a large investment project shall be considered to be a single investment project when the investment is undertaken within a period of three years by the same enterprise or enterprises and consists of fixed assets combined in an economically indivisible way. In order to define an investment as economically indivisible, the technical, functional and strategic relations, as well as the immediate geographic proximity shall be taken into consideration.

4. "Aid intensity in present gross grant equivalent" shall be the discounted value of the aid expressed as a percentage of the discounted value of the eligible costs, using for discounting purposes a reference interest rate set by the European Commission at the time of grant of the aid.

5. "Market price" shall be the price at which the corporeal immovable should have been sold or the limited right *in rem* should have been created by virtue of a private contract between the seller and the potential buyer on the day of the appraisal, provided that the property was offered publicly, that the market conditions allow a normal transfer, and a normal period of time is available for conduct of the negotiations on sale consistent with the nature of the property.

6. "Specific training" shall be training involving tuition directly and principally applicable to the present or future position of the factory or office worker in the assisted enterprise and providing qualifications which are not or only to a limited extent transferable to other firms or fields of work.

7. "General training" shall be training:

(a) involving tuition which is not applicable only or principally to the present or future position of the factory or office worker in the assisted enterprise, but which provides qualifications that are largely

transferable to other firms or fields of work and thereby substantially improve the employability of the factory or office worker;

(b) which is jointly organised by different independent enterprises, or if factory of office workers of different enterprises may avail themselves of the training;

(c) which is recognised, certified or validated by public authorities or bodies or by other bodies or institutions on which the Republic of Bulgaria has conferred the necessary powers.

8. (Amended, SG, No. 20 of 2009, effective 17.03.2009) "Small and medium-sized enterprises" shall be the enterprises which satisfy the criteria defined in Annex I of Regulation No 800/2008.

9. (New, SG, No. 20 of 2009, effective 17.03.2009) "Large enterprises" shall be the enterprises which do not satisfy the criteria defined in Annex I of Regulation No 800/2008.

10. (New, SG, No. 20 of 2009, effective 17.03.2009) "Undertaking in difficulty" shall be the undertaking in the meaning of Chapter I, Article 1, paragraph 7 of Regulation No 800/2008.

11. (New, SG, No. 20 of 2009, effective 17.03.2009) "Aid intensity" shall mean the aid amount expressed as a percentage of the eligible costs.

**§ 2.** (Amended, SG, No. 20 of 2009, effective 17.03.2009) The economic activities identified according to the Statistical Classification of Economic Activities in the European Community (NACE Rev. 1.1), to which the National Classification of Economic Activities (NKID-2003) corresponds until the 1st day of January 2008 under § 7 herein, shall be:

1. manufacturing industry:

(a) (Supplemented, SG, No. 20 of 2009, effective 17.03.2009) manufacturing industry Section D (Divisions DA to DN inclusive), high-technology activities under Article 3, Paragraph (5);

(b) manufacture of chemical products D 24;

(c) (Repealed, SG, No. 20 of 2009, effective 17.03.2009);

(d) manufacture of machinery, equipment and household appliances D 29;

(e) manufacture of office machinery and computers D 30;

(f) manufacture of electrical machinery and apparatus, not elsewhere classified;

(g) manufacture of radio, television and communication equipment D 32;

(h) manufacture of medical, precision and optical instruments, watches and clocks D 33;

(i) manufacture of motor vehicles, trailers and semi-trailers D 34;

(j) manufacture of transport equipment other than motor vehicles D 35, with the exception of building and repairing of ships and boats 35.1;

(k) (Repealed, SG, No. 20 of 2009, effective 17.03.2009);

(l) (Repealed, SG, No. 20 of 2009, effective 17.03.2009);

2. production of electricity from renewable energy sources, identified by Code E 40;

3. (Supplemented, SG, No. 20 of 2009, effective 17.03.2009) of the services sector – high technology activities under Article 3, Paragraph (6):

(a) computer and related activities K 72;

(b) research and development K 73;

(c) education M 80;

(d) human health activities N 85.1.

§ 2a. (New, SG, No. 20 of 2009, effective 17.03.2009) Economic activities and products under Article 2, Paragraphs (5) and (6) according to Regulation 800/2008 shall be:

1. "processing of agricultural products" - any operation on an agricultural product resulting in a product which is also an agricultural product, except on-farm activities necessary for preparing an animal or plant product for the first sale;

2. "marketing of agricultural products" - holding or display with a view to sale, offering for sale, delivery or any other manner of placing on the market, except the first sale by a primary producer to resellers or processors and any activity preparing a product for such first sale; a sale by a primary producer to final consumers shall be considered to be marketing if it takes place in separate premises reserved for that purpose, where "agricultural product" shall mean:

a) the products listed in Annex I to the Treaty establishing the EC (Annex J to the Guidelines) except fishery and aquaculture products covered by Regulation (EC) No 104/2000;

b) products falling under CN codes 4502, 4503 and 4504 (cork products);

c) products intended to imitate or substitute milk and milk products, as referred to in Council Regulation (EC) No 1234/2007;

3. "activities in the steel sector" shall mean all activities related to the production of one or more of the following products:

a) pig iron and ferro-alloys: pig iron for steelmaking, foundry and other pig iron, spiegeleisen (ferro-manganese alloys) and high-carbon ferro-manganese, not including other ferro-alloys;

b) crude and semi finished products of iron, ordinary steel or special steel: liquid steel cast or not cast into ingots, including ingots for forging semi finished products: blooms, billets and slabs; sheet bars and tinplate bars; hot-rolled wide coils, with the exception of production of liquid steel for castings from small and medium-sized foundries;

c) hot finished products of iron, ordinary steel or special steel: rails, sleepers, fishplates, soleplates, joists, heavy sections 80 mm and over, sheet piling, bars and sections of less than 80 mm and flats of less than 150 mm, wire rod, tube rounds and squares, hot-rolled hoop and strip (including tube strip), hot-rolled products and sheets of 3 mm thickness and over, hot-rolled products for universal use of 150 mm and over, with the exception of wire and wire products, bright bars and iron castings;

d) cold finished products: tinplate, terneplate, blackplate, galvanized sheets, other coated sheets, colled-rolled sheets, electrical sheets and strip for tinplate, cold-rolled plate, in coil and in strip;

e) tubes: all seamless steel tubes, welded steel tubes with a diameter of over 406.4 mm;

4. "production of synthetic fibres" shall mean:

a) extrusion/texturisation of all generic types of fibre and yarn based on polyester, polyamide, acrylic or polypropylene, irrespective of their end-uses; or

b) polymerisation (including polycondensation) where it is integrated with extrusion in terms of the machinery used; or

c) any ancillary process linked to the contemporaneous installation of extrusion/texturisation capacity by the prospective beneficiary or by another company in the group to which it belongs and which, in the specific business activity concerned, is normally integrated with such capacity in terms of the machinery used.

### **TRANSITIONAL AND FINAL PROVISIONS**

§ 3. (1) Any investment projects, which have been awarded an investment class certificate according to the procedure established by the repealed Regulations for Application of the Investment Promotion Act, shall be promoted for the shorter of the time remaining until implementation of the investment and three years reckoned from the date of award of the certificate.

(2) Any investment projects referred to in Paragraph (1), which have been awarded a First Class investment certificate, may be promoted by financial support for construction of physical-infrastructure elements according to the hitherto effective procedure if the said projects simultaneously satisfy the following conditions:

1. the request referred to in Item 1 of Article 34 herein has been submitted within three months after the entry into force of the Act to Amend and Supplement the Investment Promotion Act (*State Gazette* No. 42 or 2007);
2. the project must fulfil the requirements of Commission Regulation (EC) No 1628/2006 on the application of Articles 87 and 88 of the Treaty to national regional investment aid and the terms established by Chapter Seven herein;
3. an approval regarding the compatibility of the planned State aid must have been obtained from the European Commission according to the procedure established by the State Aids Act in the cases under Chapter Seven herein.

(3) Any investment projects referred to in Paragraph (1), which have been awarded a First Class investment certificate, shall be promoted by transfer of a right of ownership or by creation of a limited right *in rem* according to the hitherto effective procedure in compliance with the effective legislation in the State aid field.

**§ 4.** Any applications for the award of an investment class certificate, received prior to the entry into force of the Act to Amend and Supplement the Investment Promotion Act (*State Gazette* No. 42 or 2007), shall be examined according to the hitherto effective procedure.

**§ 5.** All aids granted in violation of the State Aids Act and non-conforming to the conditions of the [EU] Regulations specified in these Regulations, shall be subject to recovery according to the procedure established by the Tax and Social-Insurance Procedure Code in accordance with Council Regulation (EC) No 659/1999 of March 22<sup>nd</sup> 1999 laying down detailed rules for the application of Article 88 of the EC Treaty.

**§ 6.** (Amended, SG, No. 20 of 2009, effective 17.03.2009) The regional aid scheme pursuant to the provisions of Commission Regulation (EC) No 1628/2006 on the application of Articles 87 and 88 of the Treaty to national regional investment aid (OJ L 302 of 1.11.2006) shall be applied before the entering of the Decree into force, and Commission Regulation (EC) No 68/2001 on the application of Articles 87 and 88 of the EC Treaty to training Aid (OJ L 10, 13.1.2001) shall be effective until 31 December 2008.

**§ 7.** Until the entry into force on the 1st day of January 2008 of Regulation (EC) No 1893/2006 of the European Parliament and of the Council of 20 December 2006 establishing the statistical classification of economic activities NACE Revision 2 and amending Council Regulation (EEC) No 3037/90 as well as certain EC Regulations on specific statistical domains (OJ L 393, 30.12.2006), the codes of section, division and group stated in Articles 2 and 3 herein, shall be those of the Statistical Classification of Economic Activities in the European Community (NACE Rev. 1.1), to which the National Classification of Economic Activities (NKID-2003) corresponds, according to § 2 herein.

**§ 8.** Within three working days after the entry into force of these Regulations, the Minister of Economy and Energy shall prepare information regarding the training scheme under Chapter Six herein in the form according to Annex 1 to Article 3 (2) of the Regulations for Application of the State Aids Act.

**§ 9.** Within three working days after the entry into force of these Regulations, the Minister of Economy and Energy or an official empowered thereby shall prepare summary information regarding the investment promotion scheme in the form according to Annex 4 to Article 6 (2) of the Regulations for Application of the State Aids Act.

**§ 10.** Within three months after the entry into force of these Regulations, the Minister of Economy and Energy shall endorse the methodology referred to in Article 35 (4) herein.

§ 11. These Regulations are adopted in pursuance of § 28 of the Act to Amend and Supplement the Investment Promotion Act [*sic, must be Foreign Investments Act*] (State Gazette No. 37/2004).

#### TRANSITIONAL AND FINAL PROVISIONS

to Council of Ministers Decree 55 of 6 March 2009 amending and supplementing the Regulations for Application of the Investment Promotion Act

(SG, No. 20 of 2009, effective 17.03.2009)

§ 38. The provisions of Chapters Five, Six and Seven herein shall be in force until the 31st day of December 2013, unless Commission Regulation (EC) No 800/2008 of 6 August 2008 declaring certain categories of aid compatible with the common market in application of Articles 87 and 88 of the Treaty (General block exemption Regulation) (OJ, L 214 of 8 August 2008) is amended by a new Regulation prior to that date.

*Annex  
to Article 6 (1)*

#### **Form for the Provision of Summary Information Regarding Aids for Large Investments Projects, where the Aid Does Not Exceed the Thresholds Referred to in Article 60 (1)**

1. Aid in favour of (name of the enterprise or enterprises receiving the aid).
2. Aid scheme reference number (state the reference number of the existing scheme or schemes, assigned by the Commission, under which the aid is awarded).
3. Public entity/entities providing the assistance (name and address of the granting public authority or authorities).
4. Member State where the investment takes place.
5. Region (NUTS 3 level) where the investment takes place.
6. Municipality (previously NUTS 5 level, now LAU 2) where the investment takes place.
7. Type of project (setting-up of a new establishment, extension of existing establishment, diversification of the output of an establishment into new additional products or a fundamental change in the overall production process of an existing establishment).
8. Products manufactured or services provided on the basis of the investment project according to PRODCOM (European System of Production Statistics for Mining and Manufacturing), or the Statistical Classification of Economic Activities in the European Community (NACE), or the European Classification of Products by Activity (CPA).
9. Short description of investment project.
10. Discounted eligible cost of investment project (in EUR).
11. Discounted aid amount (gross) in EUR.
12. Aid intensity (% in gross grant equivalent).
13. Conditions on which payment of the proposed assistance (if any) depends.
14. Planned start and end date of the project.
15. Date of award of the aid.