

Based on the Article 19a, paragraph 3 of the Law on Regional Development ("Official Gazette of Montenegro", no. 20/11, 26/11 and 20/15), at its session on 28. December 2015, the Government of Montenegro passed the

DECREE

ON FOSTERING DIRECT INVESTMENTS

(Published in "Official Gazette of Montenegro", no. 80, dated 31 December 2015)

Subject

Article 1

This Decree shall regulate the conditions and manner of fostering development through attracting direct investments in a manufacturing sector or services sector, criteria for the awarding funds for fostering direct investments (hereinafter referred to as: funds for fostering investments) and dynamics of payment of the mentioned funds .

Direct Investment

Article 2

Direct investment, in the sense of this Decree, shall mean the investment in tangible and non-tangible assets of newly founded business entities, expansion of the capacities of the existing ones or diversification of the production of a business entity to new products and manufacturing processes.

Acquiring shares or stocks in a business entity shall not be considered as a direct investment in the sense of this Decree.

Meaning of Terms

Article 3

Terms that are used in this Decree have the following meanings:

- 1) Infrastructure is a public infrastructure necessary for the realization of an investment project that may be accessed by unlimited number of users and for whose construction and/or reconstruction, the reimbursement of funds may be realized, in accordance with this Decree, on the basis of an infrastructure project;
- 2) An investment project is a project, on the basis of which a direct investment is realized;
- 3) An investor is a domestic or foreign legal entity (hereinafter referred to as: a business entity), which submits an investment project and participates in the procedure of awarding funds for fostering investments;
- 4) Capital investments are investments in the value of minimum 10 million euros, which enable opening of positions for at least 50 newly employed persons within the period determined by a agreement on the use of funds for fostering investments (hereinafter referred to as: the agreement on the use of funds);
- 5) A beneficiary of funds is a business entity, which is an investor or which directly depends on the investor, i.e. which is under his majority ownership, and to which the funds for fostering investments were awarded in line with this Decree;
- 6) A period of realization of an investment project is a period of the project's realization defined by the agreement on the use of funds for fostering investments;

7) A small business entity is a company, which has less than 50 employees and annual turnover or total annual balance sheet not exceeding 10 million euros, in accordance with the regulation which governs the criteria, conditions and manner of allocation of the state aid;

8) A medium business entity is a company, which has from 50 to 250 employees and annual turnover not exceeding 50 million euros or total annual balance sheet not exceeding 43 million euros, in accordance with the regulation which governs the criteria, conditions and manner of allocation of the state aid;

9) A large business entity is a company, which has more than 250 employees and total annual balance sheet exceeding 43 million euros, in accordance with the regulation which governs the criteria, conditions and manner of allocation of the state aid.

Usage of Gender-Sensitive Language

Article 4

Terms that are used in this Decree for natural persons of a masculine gender shall imply the same terms in a feminine gender.

Sources and Purpose of Funds for Fostering Investments

Article 5

Funds for fostering investments shall be provided in the budget of Montenegro.

Funds for fostering investments may be used for financing investment projects, which enable opening of new jobs and contribute to the economic and regional development of Montenegro.

Funds for fostering investments may not be used for financing investment projects in the sectors of: primary agricultural production, manufacturing of synthetic fibers, transport including the transport of passengers in air, maritime, road or railroad traffic and via inland waterways or commercial transport of cargo services, games of chance, trade, primary production of coal and steel, production of electric power, oil and gas, tobacco and tobacco products, weapons and ammunition, production of genetically modified organisms and hazardous waste.

Conditions for Awarding Funds for Fostering Investments

Article 6

Funds for fostering investments may be awarded to a business entity:

1) that is registered in the Central registry of business entities (hereinafter referred to as: CRPS);

2) that submitted an investment project for which the funds for fostering investments are to be awarded in accordance with this Decree;

3) that was not subjected to the procedure of bankruptcy or liquidation, apart from reorganization in accordance with the law by means of which the bankruptcy of business entities is regulated;

4) that was not convicted for a criminal offence, which is prosecuted ex officio;

5) that settled all the obligations originating from taxes and contributions, until and including the month preceding the month in which the application is submitted;

6) that, in the course of the previous 12 months before submitting the application, did not decrease the number of employees in Montenegro by 10% or more;

7) that did not use the state aid funds for the same investment project for which the application is submitted;

- 8) that is not in difficulties in accordance with the regulations on state aid and
9) that is not obliged to return illegally received state aid .

As an exception to the paragraph 1, item 7 of this Article, the funds for fostering investments may be awarded to a business entity, which used the state aid funds for the investment project for which the application is submitted, on several grounds, at most 50% of the investment project's value for large business entities, 60% of the investment project's value for medium business entities or 70% of the investment project's value for small business entities.

Authority competent for development projects (hereinafter referred to as: the competent authority) shall gather the evidence on fulfilling the conditions stated in the paragraph 1, items 5, 6, 7 and 9 of this Article, ex officio in the procedure of awarding funds for fostering investments.

Evidence from the paragraph 1, item 8 of this Article shall be provided by a business entity by means of signing a statement under a criminal and material liability, to the effect that the entity is not in difficulties in accordance with the regulations on the state aid.

The competent authority shall define and publish the statement form from the paragraph 4 of this Article on its website.

If an investor intends to realize an investment project through the other business entity, s/he shall establish a business entity with the seat in Montenegro under their majority ownership, before submitting the application for participation in the procedure of awarding funds for fostering investments (hereinafter: the application), for the purpose of taking part in the procedure of awarding funds for fostering investments.

In the case defined by the paragraph 6 of this Article, the evidence on the fulfillment of the conditions from this Article for the investor and established business entity with the seat in Montenegro are to be submitted.

Awarding Funds for Fostering Investments

Article 7

Funds for fostering investments may be awarded for investments projects, with a minimum investment value of 500.000 euros and which enable the employment of at least 20 newly employed persons within the period of three years as of the day of concluding the agreement on the use of funds.

As regards to investment in the investment projects in the area of a local self-government unit from the northern or central region, apart from the Capital city of Podgorica, the funds for fostering investments may be awarded for investment projects, with a minimum investment value of 250.000 euros and which enable the employment of at least ten newly employed persons within the period of three years as of the day of concluding the agreement on use of funds.

Period of realization of investment project and employment of persons from paragraphs 1 and 2 of this Article may be extended if the beneficiary of the funds for fostering investments was not able to realize the investment project within the period defined by the agreement on the use of the funds, due to reasons that could not be predicted at the moment of the agreement's conclusion, up to five years at most as of the day of the conclusion of the agreement on the use of the mentioned funds.

Amount of funds for fostering investments shall be determined according to the criteria defined by this Decree, in relation to the number of newly employed persons who will be employed on the jobs created by the investment project.

Value of Investment in Investment Project

Article 8

Value of investment in the sense of this Decree shall mean the value of investment in tangible assets and value of intangible investments.

Investments in tangible assets encompass investment in land, buildings, manufacturing plants, machines and equipments, as well as the expenses of leasing office space where investment project is realized, as well as investment in leased land, buildings and manufacturing plants under condition that the period of lease is not shorter than ten years as of the day of concluding the agreement on use of funds.

Intangible investments are investments in patents and licenses in accordance with the regulations governing the state aid, for which amortization is calculated and which are used by the beneficiary of the funds and recorded in the balance sheets of the mentioned beneficiary of funds.

Value of investment shall not include the expenses of establishing distribution network related to export, in accordance with the regulations on the control of the state aid.

Newly Employed Persons

Article 9

Newly employed person, in the sense of this Decree, shall be a person employed for an indefinite period of time on the jobs on which investment project is realized, which increases the number of the employees with the beneficiary of funds in Montenegro.

Newly employed person from the paragraph 1 of this Article shall not be a person employed on the basis of reorganization of the beneficiary of funds, i.e. transfer from a parent or dependent business entity or other entities related to the beneficiary of the funds.

Parent business entity is a legal entity that has control over one or several legal entities (dependent business entities).

Beneficiary of the funds shall be obliged to keep the number of newly employed persons in continuity for at least three years after the completion of the realization of investment project for small and medium business entities, i.e. for at least five years for large business entities.

Agreement on use of funds particularly stipulates the obligation for the beneficiary of the funds that does not keep the number of newly employed persons in continuity for at least three years after the completion of the realization of investment project for small and medium business entities, i.e. for at least five years for large business entities, to return the funds received for fostering investments to the budget, along with default interest.

Amount of Funds for Fostering Investments That Can Be Awarded

Article 10

Amounts of funds for fostering investments that may be awarded on the basis of the criteria for 0 funds for fostering investments are as follows:

- 1) 3.000 euros per newly employed person, for the number of points from 76 to 85;
- 2) 4.000 euros per newly employed person, for the number of points from 86 to 95;
- 3) 5.000 euros per newly employed person, for the number of points from 96 to 105;
- 4) 6.000 euros per newly employed person, for the number of points from 106 to 115;
- 5) 7.000 euros per newly employed person, for the number of points from 116 to 125;
- 6) 8.000 euros per newly employed person, for the number of points from 126 to 135;
- 7) 9.000 euros per newly employed person, for the number of points from 136 to 145;
- 8) 10.000 euros per newly employed person, for the number of points from 146 to 150.

Amount of funds for fostering investments that may be awarded to large business entities may not be higher than 50% of the total value of investment in investment project, i.e. than 60% of

the total value of investment in investment project for medium business entities and up to 70% of the total value of investment in investment project for small business entities. As an exception from the paragraph 2 of this Article, the funds for fostering investments in the amount up to 17% of the total value of investment project may be awarded for capital investments, without conducting the procedure of scoring, in accordance with the conditions and manner of awarding funds.

Criteria for Awarding Funds for Fostering Investments

Article 11

Criteria for awarding funds for fostering investments are:

- 1) references of a business entity;
- 2) share of the other business entities from Montenegro during and after the realization of investment project;
- 3) value of the investment project;
- 4) effects of the investment project related to research and development;
- 5) effects of the investment project on human resources;
- 6) effects of the investment project's impact on the environment;
- 7) international trade volume;
- 8) economic effects of the investment project;
- 9) effects of the investment project on regional development and
- 10) letter of intent of a local self-government where a business entity intends to invest.

Total sum of points according to the criteria from the paragraph 1 of this Article may equal 150 points at most.

References of a Business Entity

Article 12

References of a business entity shall be evaluated if:

- 1) a business entity has international reputation (renown, image and respectability in the region and in the world) and experience in the realization of investment projects - 25 points shall be allocated;
- 2) a business entity has experience that includes two or more investment projects of a similar scope and type as the project for which the funds for fostering investments are to be awarded - 20 points shall be allocated; or
- 3) a business entity has successfully realized two or more investment projects - 10 points shall be allocated.

In the case from the Article 6, paragraph 6 of this Decree, the references of the investor shall be evaluated.

Share of Other Business Entities from Montenegro during and after Realization of Investment Project

Article 13

Share of the other business entities from Montenegro during and after the realization of investment project, shall be evaluated in the manner that for the share larger than:

- 1) 70% - the number of points equals 20;
- 2) 40% to 70% - the number of points equals 15;
- 3) 10% to 40% - the number of points equals 10; or
- 4) the share does not exceed 10% - the total number of points equals 5.

Value of Investment Project

Article 14

If the value of investment of the investment project from the Article 7, paragraph 1 of this Decree, is more than:

- 1) seven million euros ó 15 points shall be allocated;
- 2) three million euros ó 10 points shall be allocated; or
- 3) one million euros - 5 points shall be allocated.

Effects of Investment Project Related to Research and Development

Article 15

Effects of investment project related to research and development shall be evaluated according to the proportion of high technology in the investment project. If:

- 1) the investment project concerns the processes in which high technology is applied or the investment project implies the utilization of a new technology on the territory of Montenegro (telecommunications, micro-electronics, information technology, biotechnology, new materials, etc.) - 15 points shall be allocated;
- 2) the investment project includes the technology of the medium level of development ó 10 points shall be allocated.

If the investment project implying the construction of hospitality facility or tourism capacity is evaluated, the effects from the paragraph 1 of this Article shall be evaluated according to the category of the hospitality facility in the following manner:

- 1) for a hospitality facility of 5 stars category - 15 points shall be allocated;
- 2) for a hospitality facility of 4 stars category - 10 points shall be allocated; or
- 3) for a hospitality facility of 3 stars category - 5 points shall be allocated.

Effects of Investment Project on Human Resources

Article 16

Effects of investment project on human resources shall be evaluated in relation to the level of knowledge and skills, whose acquiring is enabled through the investment project's realization, as well as in relation to the possibility of using these skills and knowledge on other jobs in Montenegro. Therefore, if:

- 1) the trainings for acquiring specific knowledge and skills leading to a higher competitive strength of employees within a certain trade are planned - 10 points shall be allocated; or
- 2) acquiring general knowledge and skills is enabled, for which specific trainings are planned, either conducted by the employer or in cooperation with business entities or institutions, and which lead to the increase of competitive strength of employees at the labour market - 5 points shall be allocated.

Effects of Investment Project's Impact on the Environment

Article 17

Effect of the investment project's impact on the environment shall be evaluated according to the influence of investing on the utilization of natural resources. More precisely, if the investment project contains the activities which:

- 1) do not significantly affect natural resources - 10 points shall be allocated; or

- 2) affect natural resources, but do not jeopardize their sustainable development - 5 points shall be allocated.

International Trade Volume

Article 18

International trade volume shall be evaluated in accordance with the scope of products, and/or services that shall be delivered outside of the Montenegrin market. Hence, if:

- 1) a business entity places a product, and/or service at the markets outside of Montenegro in the percentage higher than 50% of the total production, and/or service - 15 points shall be allocated;
- 2) a business entity places a product, and/or service at the markets outside of Montenegro in the percentage lower than 50% of the total production, and/or service - 10 points shall be allocated; or
- 3) a product, and/or service is intended only for a domestic market - 5 points shall be allocated.

Economic Effects of Investment Project

Article 19

Economic effects of the investment project shall be evaluated in line with the data contained in the business plan and projected balance sheets and income statements, according to:

- 1) the indicator of cost-effectiveness which represents the ratio of total revenues and total expenses for the period of six years from the beginning of the investment project's realization, as follows:
 - a) over 1,5 ó the number of points equals 10,
 - b) over 1 to 1,5 - the number of points equals 5,
 - c) up to 1 ó no points;
- 2) net profit coefficient which represents the ratio of average net income in an investment cycle for the period of six years from the beginning of the investment project's realization and total investments, as follows:
 - a) over 20% - the number of points equals 10,
 - b) over 5% to 20% - the number of points equals 5,
 - c) up to 5% - no points; and
- 3) time period of investment return, which represents the ratio of total investments and average net profit in the period of an investment cycle, as follows:
 - a) up to five years - the number of points equals 10,
 - b) from five to ten years - the number of points equals 5,
 - c) over ten years - no points.

On the basis of the criteria from the paragraph 1, items 1, 2 and 3 of this Article, a business entity may be allocated up to 30 points at most.

Effects of Investment Project on Regional Development

Article 20

Effects of the investment project on regional development shall be evaluated according to the region where the investment project shall be realized, in the following manner:

- 1) for the northern region and central region, apart from the Capital city of Podgorica ó 10 points shall be allocated; and
- 2) for the coastal region and the Capital city of Podgorica - 5 points shall be allocated.

Letter of Intent of Local Self-Government

Article 21

If a business entity possesses a letter of intent of a local self-government on readiness to support the investment in line with the development plans of the local self-government - 5 points shall be allocated.

Public Announcement

Article 22

Awarding of funds for fostering investments shall be carried out on the basis of a public announcement for participation in the procedure of awarding funds for fostering investments (hereinafter: the public announcement), which shall be published in one printed media that is distributed in Montenegro and on the websites of the Government and the competent authority.

Competent authority may issue a notification on the public announcement in an international economic magazine.

Competent authority shall prepare the proposal of public announcement and perform other affairs related to the public announcement. The proposal of the public announcement of the competent authority shall be submitted to the Government for review and adoption.

Public announcement shall contain in particular:

- 1) the name and seat of the authority publishing a public announcement;
- 2) the subject of the public announcement;
- 3) conditions for awarding funds for fostering investments, defined by this Decree;
- 4) criteria for awarding funds for fostering investments;
- 5) deadline, manner and address for submitting applications;
- 6) a person in charge of providing information in relation to the participation in the procedure of awarding funds for fostering investments;
- 7) the date, place and manner of opening applications;
- 8) the amount, type and validity period of the bid bond;
- 9) the amount, type and validity period of the bank guarantee for a good performance of work (hereinafter: the performance bond).

Competent authority shall prepare the draft agreement on use of funds and instruction on the manner of submitting application for awarding funds for fostering investments, and publish them on its website.

Competent authority may engage experts (of financial, legal, technical and other vocation) for provision of expert assistance in the procedure following the public announcement.

Application

Article 23

Application shall be submitted to the competent authority within the deadline and in the language determined by the public announcement. The following shall be submitted along with the application:

- 1) an investment project for whose financing the funds for fostering investments are requested (textual and graphical overview with the data necessary for evaluation of the criteria stated in the Article 11 of this Decree), with a business plan that must contain the indicators of cost-effectiveness, net profit coefficient, time period of investment return and projected balance sheets and income statements, as well as cash flow for the following six years starting from the day of the commencement of the investment project's realization;

- 2) a balance sheet and income statement for the previous three years of business activity, i.e. for the period from the registration of a business entity until submission of the application in line with the public announcement, with the authorized auditor's report, in accordance with the law regulating the area of accounting and auditing;
 - 3) an excerpt from the Central registry of business entities (CRPS), i.e. an excerpt from the relevant registry of the state where a foreign business entity has a seat, which may not be older than 60 days as of the day of the application's submission;
 - 4) evidence on the settlement of obligations based on taxes and contributions;
 - 5) a certificate confirming that bankruptcy procedure was not initiated against the business entity;
 - 6) a certificate confirming that the business entity, i.e. a responsible person in the business entity did not receive a final valid verdict for a criminal offence that is prosecuted ex officio, and
 - 7) other evidences confirming the fulfillment of the conditions defined by this Decree.
- Documents submitted by a foreign business entity must be certified in line with the regulations of the state where the documents are issued and translated into Montenegrin language by an authorized translator.
- Competent authority shall define the application form and business plan form and publish them on its website.

Opening of Applications

Article 24

Competent authority shall open applications in the venue and at the time determined by the public announcement. Opening of the applications shall be public.

Applicants, their representatives or their attorneys may be present at the opening of the applications. The competent authority shall keep records on the opening of the applications.

As an exception from the paragraph 2 of this Article, the public announcement may stipulate that the procedure of the applications' opening shall not be public, for the purpose of protection of a business, military or state secret.

Review and Assessment of Applications' Validity

Article 25

Competent authority shall perform the assessment of applications' validity.

Validity of an application shall be assessed by inspecting whether the application meets the conditions determined by the public announcement and this Decree.

The competent authority shall compile a report on the assessment of the applications' validity.

Application that does not fulfill the conditions determined by the public announcement and this Decree shall be rejected by means of a decision as invalid.

The Decision on the rejecting of the invalid application shall be submitted to the applicant within three days as of the day of its adoption.

Analysis of Investment Projects

Article 26

Competent authority shall perform the analysis of investment projects submitted with valid applications, upon the obtained opinion of the public administration authority and local self-government authority on the alignment of the investment projects with the planning documents and development plans of Montenegro.

On the basis of the analysis from the paragraph 1 of this Article, the competent authority shall compile the report. The competent authority may also perform other analyses of the applications.

The competent authority shall submit the report on evaluation of the applications' validity and report from the paragraph 1 of this Article, along with valid applications and supporting documentation to the Commission for evaluating applications (hereinafter: the Commission).

Commission

Article 27

Commission shall perform the evaluation of investment projects and it shall compose evaluation report with a proposal of a decision on awarding funds for fostering investments, which shall be submitted to the Government by the Commission for review and adoption.

The Commission shall be established by the Government, upon a proposal by the Head of the public administration authority in charge of economic affairs, after the obtained opinion of the public administration authority relevant for the affairs of finances, sustainable development, agriculture, transport and of the Deputy Prime Minister for Economic Policy and Financial System.

The Commission shall have a president and at least six members, taking into account that the number of the Commission's members with the president must be odd.

The Commission shall decide by the majority vote of the total number of its members. The Commission shall have a Secretary.

President and Secretary of the Commission shall be appointed by the Government, upon the proposal of the Minister in charge of economic affairs.

Competent authority shall perform administrative-technical activities for the needs of the Commission. Representative of the competent authority shall be present at the Commission's sessions, without a right to vote.

Evaluation of Investment Projects

Article 28

Investment projects shall be evaluated according to the criteria established by this Decree.

In the procedure of evaluating investment projects, the competent authority may, at the Commission's request, engage experts (of a financial, legal and technical vocation) for the provision of expert assistance, or it may request an opinion or additional data from the public administration authorities and self-government authorities.

If the proposed investment project does not receive a sufficient number of points within the evaluation procedure, according to the Article 10 of this Decree, or if it is not in line with the planning documents and development plans, the competent authority shall reject the application by means of a decision, upon the proposal of the Commission.

Government shall pass the decision on awarding funds for fostering investments. The decisions from the paragraphs 3 and 4 of this Article are final.

Extension of Investment Project's Realization

Article 29

Government may extend the period of the investment project's realization, at the Commission's proposal, upon the obtained opinion of the competent authority.

In the case from the paragraph 1 of this Article, an investor, i.e. a beneficiary of the funds for fostering investments shall be obliged to submit a performance bond or other collateral, in proportion to the extension of the investment project's period of realization.

Agreement on Use of Funds

Article 30

Agreement on use of funds shall regulate mutual rights and obligations of the Government and the beneficiary of the funds for fostering investments, as well as the dynamics of the investment project's realization.

Termination of Agreement on Use of Funds

Article 31

Agreement on use of funds may be terminated at the competent authority's proposal, if the beneficiary of the funds fails to meet the obligations stipulated in the agreement.

Decision on the termination of the agreement from the paragraph 1 of this Article shall be passed by the Government.

In the case of the agreement's termination from the paragraph 1 of this Article, the repayment of funds by the beneficiary shall be performed in the amount of the disbursed funds for fostering investments and statutory default interest, from the submitted performance bond and promissory note.

Disbursement Schedule for Funds for Fostering Investments

Article 32

Awarded funds for fostering investments shall be disbursed to the beneficiary of the funds upon the conclusion of the agreement on use of funds, in installments amounting to one third of the overall amount of the awarded funds for fostering investments, as follows:

- 1) the first installment shall be paid after submitting a performance bond;
- 2) the second installment shall be paid after the beneficiary of funds submits a report of an independent auditor confirming that 50% of the value of investment in the investment project was realized;
- 3) the third installment shall be paid after the realization of a full employment planned by the investment project and realization of the investment project, in line with the agreement on use of funds.

Investor, i.e. the beneficiary of the funds shall be obliged to submit the performance bond from the paragraph 1, item 1 of this Article within three months as of the day of the conclusion of the agreement on use of funds.

Payment of awarded funds for fostering investments shall be performed on the basis of a regular request for the disbursement of funds for fostering investments, which shall be accompanied by the documentation proving the fulfillment of the conditions from the paragraph 1 of this Article, along with the performance bond issued in accordance with the Article 34 of this Decree.

The request from the paragraph 3 of this Article shall be submitted to the competent authority by the beneficiary of the funds.

Upon the receipt of the request from the paragraph 3 of this Article, the competent authority shall verify the fulfillment of conditions for the disbursement of funds for fostering investments from the paragraph 1 of this Article.

Public administration authority in charge of financial affairs shall perform the disbursement of funds for fostering investments, upon the competent authority's approval.

As an exception from the paragraph 1 of this Article, the agreement on use of funds shall define the dynamics of the disbursement schedule of funds for fostering investments and submitting of the performance bond for capital investments.

Bank Guarantee - Bid Bond

Article 33

Bid bond is a bank guarantee issued for the benefit of the Government in the amount of 5.000p, payable upon the first call, issued by a business bank, with the validity period of 180 days as of the day of the applications' opening.

Business entity shall be obliged to extend the validity period of the bank guarantee, at the request of the competent authority.

Expenses of obtaining and extending the bank guarantee shall be borne by the business entity, applying to the public announcement.

Bid bond shall be activated in case when the beneficiary of the funds:

- refuses to sign the agreement on use of funds or
- does not succeed or refuses to provide the performance bond in line with the conditions from the agreement on use of funds and this Decree, after s/he concluded the agreement on use of funds.

Performance Bond

Article 34

Beneficiary of the funds shall be obliged to submit to the competent authority, along with each request for the disbursement of funds from the Article 32, paragraph 3 of this Decree, an unconditional bank guarantee for the benefit of the Government, payable upon the first call, without the right to objection, issued by a business bank registered in Montenegro.

Performance bonds shall be submitted with the requests for disbursement of the first and second installment of funds for the amount of funds disbursed by the first and second installment, with the validity period of three years as of the day of issuing.

For the payment of the last installment, the beneficiary of the funds shall be obliged to submit the performance bond for the total amount of the awarded funds with the validity period of three years and six months as of the day of issuing, i.e. as of the date of realizing the conditions stipulated by the Article 32, paragraph 1, item 3 of this Decree.

After submitting the performance bond from the paragraph 3 of this Article, the competent authority shall return the performance bonds from the paragraph 2 of this Article to the beneficiary of the funds.

Together with the performance bond issued for the first installment of funds, the beneficiary of the funds shall be obliged to submit the signed blank promissory notes with the signed draft authorization for the purpose of the statutory default interest collection, in case of failing to meet the contractual obligations and activation of the performance bond, according to the agreement on use of funds.

Statutory default interest shall be calculated for the period starting from the date of the disbursement of funds, for each disbursed installment, until the date of the return of the total amount of the disbursed funds.

If the beneficiary of the funds does not submit a performance bond from the paragraph 1 of this Article, i.e. does not submit a blank promissory note with the signed draft authorization from the paragraph 5 of this Article, the agreement on use of funds shall be terminated.

The competent authority shall define a performance bond form and it shall publish it on its website.

Report on Investment Project Realization

Article 35

Beneficiary of the funds shall be obliged to inform the competent authority on the realization of the investment project, for which the funds for fostering investments were awarded.

In the course of the realization of the investment project, the beneficiary of the funds shall submit the report of an independent auditor to the competent authority annually, on the following:

- 1) business activity of the beneficiary of the funds;
- 2) value of investment in the investment project and
- 3) the number of employees.

After realization of the investment project, the beneficiary of the funds shall be obliged to submit the report by an independent auditor to the competent authority on the realization of the investment project and fulfillment of the obligations regarding investing and employment, in accordance with the agreement on use of funds and this Decree.

Upon the request of the competent authority, the beneficiary of the funds shall be obliged to submit other documentation and provide additional information on the investment project realization.

The competent authority shall submit the report on the investment project realization to the Government once a year.

Reimbursement of Funds for Infrastructure

Article 36

If it is necessary to invest additional funds for construction or reconstruction of infrastructure for the purpose of the investment project realization, the beneficiary of the funds may submit the request for reimbursement of part, and/or total amount of the mentioned funds to the competent authority.

Request for reimbursement of funds for infrastructure from the paragraph 1 of this Article shall contain: the value of the approved investment project, infrastructure project, appraisal of the value of works on the infrastructure project performed by an authorized appraiser, the number of newly employed persons at the moment of submitting the request, the number of planned newly employed persons according to the investment project, evidence that the proposed infrastructure project is necessary for the investment project realization and an agreement, i.e. other document signed between the beneficiary of the funds and a contractor.

Value of the infrastructure project, in the sense of this Decree, shall include the expenses of:

- 1) creating and obtaining planning and project documentation;
- 2) construction and
- 3) engaging of expert supervision.

Reimbursement of the funds from the paragraph 1 of this Article may not be awarded to the beneficiary of the funds, who intends to construct or reconstruct infrastructure for the purpose of profit earning.

Acting upon Request for Reimbursement of Funds for Infrastructure

Article 37

Competent authority shall perform the assessment of the compliance of the request for reimbursement of funds for infrastructure with the conditions stated in the Article 36 of this Decree.

The competent authority shall submit the request from the paragraph 1 of this Article, which fulfills the prescribed conditions, to the Commission for the purpose of evaluating the fulfillment of the conditions for reimbursement of funds.

Awarding Funds for Reimbursement

Article 38

Decision on the awarding and amount of funds for reimbursement of funds for construction or reconstruction of infrastructure, i.e. a decision on rejecting the request for reimbursement of funds for infrastructure shall be passed by the Government, upon the Commission's proposal.

Agreement on Reimbursement of Funds

Article 39

Mutual rights and obligations of the Government and beneficiary of the funds, as well as the dynamics of the infrastructure project's realization, shall be regulated by the agreement on the reimbursement of funds.

Funds intended for the reimbursement of the infrastructure construction shall be disbursed on the basis of the submitted paid invoices of the contractor.

Agreement on reimbursement of funds may be terminated in all phases of performance upon the proposal of the competent authority, if the beneficiary of the funds to whom the reimbursement of funds for infrastructure was awarded, does not perform the obligations defined by the agreement on use of funds or agreement on reimbursement of funds.

Supervision and Monitoring of Realization

Article 40

Supervisory authority for the performance of works on the infrastructure shall submit the report on the infrastructure project's realization with the current situations to the competent authority.

Ownership of Infrastructure

Article 41

Infrastructure constructed using funds in accordance with this Decree is in the state ownership, in accordance with the law.

Keeping of Documentation

Article 42

Competent authority shall keep the submitted applications, agreements, performance bonds and other documents from the procedure conducted upon the public announcement, in its archive for at least ten years from the day of concluding the agreement on use of funds.

Previously Commenced Procedures

Article 43

Procedures for awarding funds for fostering investments commenced up to the day of this Decree's entering into force, shall be finalized in line with the Decree on fostering direct investments ("Official Gazette of Montenegro", number 8/15).

Cessation of Validity

Article 44

Decree on fostering direct investments shall cease to exist on the day of this Decree's entering into force ("Official Gazette of Montenegro", number 8/15).

Entering into Force

Article 45

This Decree shall enter into force on the day of its publishing in the "Official Gazette of Montenegro". Number: 08-3213

Podgorica, 28 December 2015

Government of Montenegro

President, Milo ukanovi , in handwriting.