

THE PARLIAMENT OF ROMANIA

THE CHAMBER OF DEPUTIES

THE SENATE

LAW ON PROMOTING DIRECT INVESTMENT WITH A SIGNIFICANT IMPACT IN THE ECONOMY

The Parliament of Romania adopts this law.

Chapter I GENERAL PROVISIONS

Art. 1. (1) Direct investment with a significant impact in the economy shall mean investment worth more than the equivalent of one million US dollars, achieved in the forms and manners provided in this law, and which contributes to developing and modernizing Romania's economic infrastructure, determines a positive build-up effect in the economy and generates new jobs.

(2) This law shall apply only to new investments that comply with the provisions of paragraph (1) and are achieved after the coming into force of this law, by Romanian private-law natural or legal persons.

Art. 2. Participation in a direct investment with a significant impact in the economy can only be in the form of liquid capital in lei or freely convertible foreign currency.

Chapter II DEFINITIONS AND SCOPE

Art. 3. For the purposes of this law, the following definitions shall apply:

- a) **The commissioning date of the investment** is the date when the minutes regarding the final acceptance are concluded;
- b) **Accelerated amortization** resides in including in the operation expenditures, in the first year of functioning, an amortization of 50% of the entry value of the capital asset, in keeping with the provisions of the Law of amortization no. 15/1994 regarding the amortization of capital immobilized in corporeal and noncorporeal assets, republished with subsequent amendments.

Art. 4. New direct investments with a significant impact in the economy may be made in all fields, except the financial, banking, insurance-reinsurance sectors and the fields regulated by special laws, subject to the following conditions:

- a) they shall not violate environmental protection norms;
- b) they shall not prejudice the security and national defense interests of Romania;
- c) they shall not impair public order, health or morals.

Art. 5. New direct investments exceeding one million US dollars or the equivalent in lei or other convertible currencies and which are achieved effectively within at the most 30 months

of the date of statistical registration with the Ministry of Development and Prognosis, benefit by the facilities provided in Chapter IV.

Art. 6. New direct investments, documented as being of major interest to the national economy, shall be submitted to the Department for Liaison with Foreign Investors.

Art. 7. (1). Where an investment meets the conditions for benefiting by the facilities granted under several laws, the investor shall explicitly opt for only one package of facilities.

(2) The granting of the facilities provided in this law implies, de jure, the waiving of facilities provided by other laws.

Chapter III GUARANTEES

Art. 8. Investments achieved in Romania cannot be expropriated, except for public utility reasons. The taking of such a measure is nondiscriminatory and shall be effected only in keeping with the provisions of the law.

Art. 9. New direct investments made in keeping with the provisions of this law shall benefit by the legal conditions established by it, throughout the duration of their existence.

Art. 10. Foreign investors shall also benefit by the following rights:

- a) to wholly transfer abroad their due profits, in the conditions of the stipulations concerning foreign currency in Romania, after payment of taxes, duties and other obligations provided by the Romanian legislation;
- b) to transfer abroad, in the foreign currency in which the investment was made, the sums obtained by selling stock or share capital, as well as the sums resulting from the liquidation of investments, in the terms of the stipulations concerning foreign currency in Romania;
- c) to transfer abroad, in the foreign currency in which the investment was made, the sums obtained as damages, in the case provided for in art. 8.

Art. 11. Foreign investors shall also benefit by all rights provided in bilateral agreements on mutually promoting and guaranteeing investments, which Romania concluded with their states.

Chapter IV FACILITIES

Art.12. (1) Imported technological equipment, installations, machines, measurement and control appliances, automation elements and software that fulfill the conditions stipulated in paragraph (3) and are necessary for the investment to be achieved, shall be exempt from payment of custom duties in compliance with the list approved by joint order of the minister of Development and Prognosis and the minister of Public Finance.

(2) New goods provided in paragraph (1), imported or bought from Romania and necessary for the investment to be achieved shall benefit, over the period when the investment is being achieved, until its commissioning, from the postponement of the VAT payment,

according to regulations in force, until the 25th day of the month following the date when the investment is commissioned.

(3) For the purposes of this law, the goods referred to in paragraph (1) shall be considered new goods, if they were produced one year at the most before they entered the country and were never utilized.

(4) The conditions established in paragraph (3) shall apply also to the goods provided in paragraph (1) that are made in Romania.

Art. 13. (1) New investments, achieved under the terms of this law, shall benefit by the deduction of 20% of their value. The deduction shall be calculated in the month when the investment is achieved, only from the fiscal point of view, by entering it with the deductible sums provided in the tax statement.

(2) Where a fiscal loss obtains, it shall be recouped in the next 5 years from the taxable profits.

Art. 14. Investments achieved under this law shall benefit by utilization of accelerated amortization, defined according to Law. No 15/1994, with the notification of, but without the obligation to have a prior approval from, the territorial tax body where the taxpayer is held to submit the tax statement.

Chapter V

AUTHORIZED INSTITUTIONS, REGISTRATION AND PROCEDURES

Art. 15. (1) The Ministry of Development and Prognosis, working together with the Department for Liaison with Foreign Investors, shall coordinate the uniform application of the Government policy at central and local level in the area of stimulating and promoting direct investment.

(2) With a view to attaining this goal, the Ministry of Development and Prognosis, jointly with the Department for Liaison with Foreign Investors shall:

- a) collaborate directly with relevant governmental and nongovernmental institutions at the central and local level;
- b) coordinate the activity of promoting direct investment in Romania, internally and internationally, ensuring the attainment of the national strategy goals in this field;
- c) act, based also on consultations with Romanian and foreign investors, with professional organizations, the employers and the Chamber of Commerce and Industry of Romania and of Bucharest, to permanently maintain a business environment favoring direct investment, by ensuring legislative harmonization in this area, streamlining procedures and removing administrative barriers;
- d) promptly inform the Government and the Prime Minister of any notifications made by investors in connection with deviations from the legal procedures and regulations, from professional ethics, and on any other acts perpetrated knowingly or by mistake that affect the business environment, the initiation and running of investments in Romania;
- e) participate and represent Romania in the proceedings of international institutions and associations concerned with the promotion of direct investment.

Art. 16. The Ministry of Development and Prognosis, jointly with the Department for Liaison with Foreign Investors, shall provide, upon request, specialized technical assistance to investors qualifying under the provisions of this law.

Art. 17. The ministries, the other bodies of the central and local public administration, as well as all the institutions authorized to issue opinions, permits and licenses, shall be obliged to ensure prompt settlement of the requests of investors related to the beginning and carrying on of their activity.

Chapter VI

MONITORING OF THE INVESTMENT AND PENALTIES

Art. 18. (1) Where the companies that achieved investments defined according to art. 1 are voluntarily liquidated within less than 10 years, they shall be obliged to pay the taxes established under the law for the whole duration when the investment functioned, as well as the penalties on the delay in payment of taxes and dues that should have been paid if no facilities had existed, calculated according to the legislation in force.

(2) Outstanding sums under paragraph (1) shall be paid with priority out of the proceedings from the liquidation of the investments.

Art. 19. Alienation by an investor of the goods provided in art. 12 within less than 2 years after introduction into the country or the acquisition thereof, shall entail payment of the value of the facilities the investor benefited by, as well as penalties for delay in the payment of the taxes and dues that should have been paid if no facilities had existed, calculated according to the legislation in force.

Chapter VII

FINAL PROVISIONS

Art. 20. (1) Disputes between investors and the Romanian authorities, related to the rights and duties provided by this law, shall be solved by administrative courts, according to the procedure established by the Law of disputed claims no. 29/1990.

(2) The provisions of the Convention on the settlement of disputes concerning investments between states and the persons of other states, concluded in Washington on 18 March 1965 and ratified by Romania through State Council Decree no. 62/1975, published in *Buletinul Oficial*, Part I, no. 56 of 7 June, 1975, shall remain applicable, within the scope thereof.

The Chamber of Deputies and the Senate have adopted this law in their joint session of, in compliance with the provisions of art. 113 of the Constitution of Romania.

PRESIDENT OF THE CHAMBER OF DEPUTIES
VALER DORNEANU

PRESIDENT OF THE SENATE
NICOLAE VACAROIU