

THE LAW ON FOREIGN INVESTMENTS

("Official Gazette of FRY", Nos. 3/2002, January 18, 2002, 5/2003

I BASIC PROVISIONS

Scope of Application

Article 1

This Law regulates foreign investment in enterprises and other forms of establishments engaging in profit making activities (hereinafter referred to as: enterprises) in the Federal Republic of Yugoslavia.

Foreign investment in insurance companies, banks, other financial organisations, games of chance and free zones shall be made in conformity with federal law governing their founding, and/or their legal status.

Foreign Investor

Article 2

For the purpose of this Law a foreign investor is:

1. a legal entity based abroad;
2. a foreign natural person;
3. a Yugoslav citizen having a domicile and/or residence abroad of more than one year.

Foreign Investment

Article 3

A foreign investment in the Federal Republic of Yugoslavia, for the purpose of this Law, shall be:

1. investment in a Yugoslav enterprise by which a foreign investor acquires a business share or shares of capital stock of that enterprise;
2. acquiring any other property right by the foreign investor through which he/she realises business interests in the Federal Republic of Yugoslavia.

Basic Forms of Foreign Investment

Article 4

A foreign investor may independently or in association with other foreign or domestic investors:

1. found a new enterprise;
2. purchase stocks or business shares in an existing enterprise.

The basic forms of foreign investment shall be regulated by a founding agreement or investment agreement that shall be concluded in writing, and/or decision on founding drafted in written form.

Special Forms of Foreign Investment

Article 5

A foreign investor may be granted a license (concession) for the utilization of natural resources, property in public domain or for conducting activities of general interest, in accordance with law.

A foreign investor may be granted permission to build, operate and transfer (B.O.T.) a specific facility, installation or plant, as well as infrastructure and communications facilities, in accordance with law.

Foreign Investor's Share

Article 6

A foreign investor's share may be in foreign convertible currency, things (property), intellectual property rights, securities and other property rights.

A foreign investor's share may be in dinars that, according to foreign currency regulations, may be transferred abroad wherein profit reinvestment is included.

A foreign investor may convert his/her established claim into a business share or stock of the debtor company.

Non-pecuniary business shares shall have to be expressed in money.

II GUARANTEED RIGHTS OF FOREIGN INVESTORS

Freedom of Foreign Investment

Article 7

A foreign investor may found or invest into enterprises engaging in all kinds of profit making activities, unless otherwise provided in this Law.

National Treatment

Article 8

A foreign investor shall enjoy, in respect of his/her investment, the same status and rights, and shall have same duties, as domestic natural persons and legal entities, unless otherwise provided by this Law.

An enterprise with foreign business share shall enjoy the same legal status and shall conduct business under equal terms and in an equal manner as Yugoslav companies without a foreign business share.

Legal Certainty

Article 9

A foreign investor shall enjoy full legal certainty and legal protection in respect of rights acquired by virtue of investment.

Rights of a foreign investor acquired at the moment of registration of the foreign investment in the Court register shall not be subject to restriction by subsequent amendment of laws and other regulations.

The business share of a foreign investor and assets of an enterprise with a foreign business share may not be subject to expropriation or other acts of State of equal effect, unless where public interest be established by law or on the ground of law, and against payment of compensation.

Compensation specified in para. 3 of this Article shall correspond to the market value of the subject of expropriation or of another measure, on the day the act on such measure has been passed. The change in value of the subject of expropriation or of another measure that may occur due to public awareness of such measure, shall not affect the assessment of its market value made for the purpose of payment of compensation.

Compensation specified in para. 3 of this Article shall be paid without delay in convertible currency and the foreign investor may freely transfer it abroad. In case of delayed payment delinquency in respect of this compensation, the foreign investor shall be entitled to interest on arrears.

Currency Conversion and Freedom of Payments

Article 10

A foreign investor may, in respect of any payment related to the foreign investment, freely convert domestic currency into foreign convertible currency.

An enterprise with a foreign investment may freely effect payments in its international business dealings.

An enterprise with a foreign investment may keep foreign currency on a foreign currency account with an authorised bank and may freely dispose with such funds.

Right of Bookkeeping

Article 11

An enterprise with a foreign investment, in addition to the obligation of bookkeeping and making financial reports in accordance with domestic regulations, shall have the right of bookkeeping and making financial reports in conformity with the internationally recognised accounting and auditing standards.

Right to Transfer of Profits and Property

Article 12

A foreign investor may freely and without delay transfer abroad in a convertible currency all financial and other assets relating to the foreign investments, and particularly:

- 1) return realised on the ground of foreign investment (profits, dividends, etc.);
- 2) property belonging to him/her upon dissolution of the enterprise with foreign investment, and/or upon termination of the investment agreement;
- 3) amounts received from the sale of stocks or business share with a foreign investment;
- 4) amounts acquired on the ground of decrease of capital stock of an enterprise with foreign investment;
- 5) make-up payments;
- 6) compensations specified in Article 9 of this Law.

Transfer of financial and other assets specified in para. 1 of this Article may be effected after settling the duty of payment of tax on enterprise's return, tax on dividends, and other legal obligations on the ground of public revenues connected with the amount to be transferred.

The amounts specified in sub-paragraphs 1 through 4 may be transferred only upon the payment to the State of the customs duty debt relative to the portion of equipment imported duty free, which after the decrease of capital stock of the enterprise remains uncovered by the foreign investment.

Preferential Treatment

Article 13

Yugoslav law shall be applied to foreign investments made on the territory of the Federal Republic of Yugoslavia.

Should an international or bilateral treaty, whose signatories are both the country of a foreign investor and the Federal Republic of Yugoslavia, provide more favourable treatment for the foreign investor as compared to treatment provided by this Law, such preferential treatment shall be applied.

III FOREIGN INVESTORS' INCENTIVES

Unrestricted Imports

Article 14

Import of goods that represent the investment share of a foreign investor shall be unrestricted, providing such goods comply with environmental protection laws.

Tax and Customs Benefits

Article 15

A foreign investor and a company with a foreign investment shall enjoy tax and customs benefits in accordance with the law.

Customs Exemptions

Article 16

Import of equipment representing the share of a foreign investor, with the exception of motor vehicles, amusement and game of chance machines, shall be exempt from customs and other import duties.

The right specified in para. 1 of this Article may be used according to the determined investment dynamics up to the time of the completion of a facility under construction or commencement of an activity being the subject of investment, whilst if the investment is being made as reinvestment of profits - then for the entire duration of validity of the agreement, and/or decision.

Customs exemption specified in para. 1 of this Article may also be granted to an enterprise with foreign investment up to the amount of share of the foreign investor in the capital of the enterprise, as determined on the ground of Article 19 and 26 of the Law on Accountancy and Auditing, except for the pecuniary share of capital stock, during a period of two years from the date of registration of the foreign investment.

IV SETTLEMENT OF DISPUTES

Courts and Arbitration

Article 17

All disputes arising from foreign investments may be resolved before the competent Yugoslav courts or mutually agreed domestic or international arbitration.

V SPECIAL RULES

Environmental Protection

Article 18

In performing the activities, a foreign investor shall be obliged to comply all the time with the regulations governing environmental protection.

Right to Minority Shareholding in Special Fields and Areas

Article 19

A foreign investor may not, by himself or with another foreign investor, establish an enterprise in the Federal Republic of Yugoslavia in the field of manufacturing and sale of armaments, or in areas defined as restricted zones by law.

In these fields and areas a foreign investor may establish an enterprise jointly with a domestic legal entity or invest into an enterprise, but may not acquire a majority share in managing such an enterprise.

In the case specified in para. 2 of this Article, a foreign investor shall need the approval of the federal agency in charge of defense in order to establish an enterprise, or to invest into an enterprise.

In the approval procedure the agency specified in para. 3 of this Article shall particularly consider the quality, type and extent of the foreign investment.

The agency specified in para. 3 of this Article shall decide on the request within 30 days from the date of receipt of the request. If no decision in respect of the request is passed within this period, it shall be deemed that the approval is granted.

Should approval be denied, the agency specified in para. 3 of this Article shall pass a corresponding ruling with an assignment of reasons.

The ruling specified in para. 6 of this Article may be appealed with the Federal Government within 15 days from the date of serving of the ruling.

An administrative dispute shall not be allowed against the final ruling specified in para. 6 of this Article.

Acquiring Ownership of Immovables

Article 20

A foreign natural persons and a legal entity may, in the capacity of a foreign investor, acquire ownership of immovables in accordance with the law.

VI REGISTRATION AND FOREIGN INVESTMENT FILES

Registration of Foreign Investment

Article 21

Foreign investments in terms of Article 3 shall be registered in the court of competent jurisdiction in compliance with the law regulating the status of commercial companies. Registration of foreign investment into other organisational forms for conducting profit making activities shall be made in accordance with the laws regulating the status of such organisational forms.

A foreign investor in the fields and areas specified in Article 19 shall be obliged to obtain the approval in terms of paragraphs. 3 and 5 of that Article, for registration of the foreign investment in the court of competent jurisdiction.

Foreign Investment Files

Article 22

The court of registry shall, in line of duty, inform the federal agency in charge of foreign economic relations on the registration of foreign investment, for the purpose of filing. The agency specified in para. 1 of this Article shall deliver to the court of registry a list of countries with which reciprocity does not exist, in advance for each calendar year.

VII TRANSITIONAL AND CONCLUDING PROVISIONS

Application of this Law

Article 23

This Law shall apply to all foreign investments that have not been registered with a court of competent jurisdiction as of the day of coming into force of this Law.

Discontinuance of Validity of other Regulations

Article 24

As of the day of coming into force of this Law, the Law on Foreign Investment ("Official Gazette of the FRY", Nos. 79/94 and 29/96) shall cease to be valid.

Coming into Effect

Article 25

This Law shall come into effect on the eighth day from the date of its publishing in the "Official Gazette of the FRY".