

THE SARAJEVO CANTON

The Sarajevo Canton Assembly

Pursuant to Article 12, paragraph 1, item g), and Article 18, paragraph 1, item b) of the Sarajevo Canton Constitution ("Official Gazette of the Sarajevo Canton", No. 1/96, 2/96 - Correction, 3/96 - Correction, 16/97, 14/100, 4/01, 28/04 and 6/13), The Sarajevo Canton Assembly, at the session held on July 21st, 2015, passed the following

LAW ON INCENTIVE FOR SMALL BUSINESS DEVELOPMENT IN THE SARAJEVO CANTON

I. GENERAL PROVISIONS

Article 1

(Subject-matter of the Law)

This Law regulates the basics of planning and securing funds and implementing measures for small business development in the Sarajevo Canton (hereinafter: Canton), activities and measures of the Sarajevo Canton Government (hereinafter: Government) related to incentives on small business development, monitoring the implementation of this Law, felony issues and other issues with regard to the small business incentive in the Canton.

Article 2

(Purpose of the Law)

The purpose of this Law is to prescribe systemic planning, secure financial means and implement measures and activities for the small business development, as well as to prescribe a transparent, nondiscriminatory and a clear legal framework for small business incentive, with a goal of achieving economic growth of the small business sector in the Canton.

II. SMALL BUSINESS ENTITIES

Article 3

(Definition of small business entities)

Small business sector consists of small business entities, natural and legal persons, that perform profit gaining legal activities on a permanent basis, including self-employment and family business related to craft and other activities, registered at a competent institution, regardless of the form of organization and which:

- a) are independent in doing business,
- b) employ less than 250 employees annually,
- c) profit less than 97,500,000.00 convertible mark annually or whose balance sheet amounts to less than 84,000,000.00 convertible marks.

Article 4

(Independence in doing business)

Independence in doing business exists in the following cases:

- a) if other natural or legal persons that do not fulfill the conditions from Article 3 of this Law, individually or collectively, are not owners of capital or if they don't participate with the power of decision more than 25% in the small business entity,
- b) if the share of 25% is exceeded, if an investment fund or a public sector has ownership share or the power of decision in the small business entity, under the condition that their capital share or share in power of decision, individually or collectively, does not exceed 50%, and
- c) in the case it is not possible to determine the majority stake of the small business entity, and if it can be justifiably assumed, based on a special statement of the entity, that other natural and legal persons from the item b) of this Article do not exceed the limits determined in the conditions for independence in doing business for small business entities from that can be found in the item b) of this Article.

Article 5

(Small business entities division)

(1) According to size, in terms of this Law, there are micro, small and medium business entities, whereat:

- a) micro business entities are natural and legal persons who, on average, employ less than 9 natural persons annually and whose total annual revenue or annual balance sheet does not exceed 3,900,000.00 convertible marks,

- b) small business entities are natural and legal persons who, on average, employ 10 to 49 employees annually and whose annual revenue or annual balance sheet does not exceed 19,500,000.00 convertible marks, and
 - c) medium business entities are natural and legal persons who, on average, employ between 50 and 250 employees annually and whose annual revenue does not exceed 97,500,000.00 convertible marks and whose annual balance sheet does not exceed the amount of 84,000,000.00 convertible marks.
- (2) In case where even with a consistent application of employees number and financial indicators criteria, from paragraph 1 of this Article, is still not clear to which category belongs a business entity, the determining criteria shall be the number of employees.

Article 6

(The criteria for small business entities classification)

- (1) Data on the annual average number of employees and financial indicators are based on the last annual accounting period. The value of financial indicators is determined by excluding indirect taxes.
- (2) In the case of newly founded small business entities that do not have an approved period-end closing or balance sheet, the data necessary for the classification in groups shall be determined based on the evaluation of an adequate previous period of the current year.
- (3) Change of a classification group to which, according to size, a small business entity belongs shall follow after an overflow or reduction in data values of small business entities, collected on two consecutive accounting periods with regard to limitations from Article 5 of this Law for a specific group.

Article 7

(Determining the number of employees)

- (1) The annual average number of employees shall be determined by annual number of working hours of the staff working full and part time, excluding the time spent on a maternity leave and time spent under the status of apprentice.
- (2) The staff is composed of employees, temporarily engaged workers of other business entities for the time spent doing regular activities of the small business entity, for financial gain.
- (3) The staff does not include pupils, students and volunteers that are engaged in professional training with signed equivalent contract.

Article 8

(Statistical classification of small business entities)

(1) In order to secure statistical data necessary for monitoring small business development, small business entities are classified according to the number of employees as follows:

- a) with one employee,
- b) two to nine employees,
- c) 10 to 49 employees,
- d) 50 to 249 employees.

(2) Small business development is monitored through observation of changes of the following indicators:

- a) number of employees in the small business sector,
- b) production volume of the small business sector,
- c) number of small business entities, total number and number in specific categories from paragraph 1 of this Article,
- d) export value of small business entities,
- e) research and development investment, investment in use of the state-of-the-art technology and innovations,
- f) small business entities participation in using EU funds, by number of entities and by project values and
- g) number of traditional and old crafts and traditional and old crafts production value.

III. GOALS AND PROGRAM FOR SMALL BUSINESS DEVELOPMENT

Article 9

(Goals of small business development)

The goals of small business development are:

- a) increase in the number of employees,
- b) increase in production, quality and competitiveness of the small business sector,
- c) increase in the number of small business entities,
- d) increase in export value and compliance with the global market standards,
- e) research, development and use of the state-of-the-art technology and innovations,
- f) incitement of small business entities to use the European Union funds (IPA and Horizon 2020 programs) and
- g) incitement of traditional and old crafts continued existence and practice.

Article 10

(Small business development program)

- (1) Upon the proposal of the Ministry of Economy of the Sarajevo Canton (hereinafter: Ministry) the Government shall make a Small business development program (hereinafter: Program), for the period covering four years.
- (2) The Program shall determine: development guidelines, incentive measures, the parties carrying out the incentive measures, activities for carrying out incentive measures, sources of financing, the methodology of carrying out and monitoring of carrying out specific measures.
- (3) Based on the Program from paragraph 1 of this Article, under the Programs carrier proposal from Article 16 of this Law, the Ministry shall create an Annual plan for carrying out the Program (hereinafter: Annual plan).
- (4) The Government adopts the Annual plan.
- (5) The Annual plan shall contain the following: plan on individual incentive measures and activities, necessary financial means, sources of financing, criteria, conditions and methods of funds usage.
- (6) Report on conducting the Annual plan from paragraph 4 of this Article shall be submitted to the Sarajevo Canton Assembly.

Article 11

(Funds for carrying out the Program)

- (1) Funds for carrying out the Program from Article 10 of this Law shall be provided from the Budget of the Sarajevo Canton for every calendar year.
- (2) The financial means amount to 0.5% to 2% of total Sarajevo Canton Budget value in the previous year.
- (3) Upon the proposal of the Ministry, the Government shall issue a decision on the selection of beneficiaries of incentive funds.

IV. INCENTIVE MEASURES

Article 12

(Incentive measures)

Incentive measures and activities for achieving the goals of small business development that are being determined by the Program shall include:

- a) crediting of the small business entities under favorable conditions,
- b) giving subsidies on interest of activated loans,
- c) providing expert help and consultation for small business entities,

- d) providing support for the development of centers for entrepreneurship, business incubators, clusters, technology parks and small business zones,
- e) providing incitement in using European Union funds (IPA and Horizon 2020 funds),
- f) providing support for increase in employment,
- g) providing support for participating in fairs and educational programs,
- h) providing support to entrepreneurship development in target groups (female entrepreneurship, youth entrepreneurship, disabled persons entrepreneurship),
- i) providing support for research, development and use of innovations, for implementation of state-of-the-art technology and also, providing support for education and retraining,
- j) providing support for the implementation of certificates and international quality standards and
- k) providing support for protection and revitalization of traditional and old crafts.

Article 13

(Subordinate regulation – Rule Book)

(1) The Ministry shall issue a Subordinate regulation – Rule Book (hereinafter: Rule Book) by which actions in the carrying out of the Program from Article 10 of this Law are being regulated in more detail.

(2) The Rule Book shall regulate the following:

- a) work methodology by which the publicity of work is secured,
- b) criteria for the selection of participants in the carrying out of the Program,
- c) criteria for the selection of fund beneficiaries and development projects which foster the competitiveness of small business entities,
- d) definition and regulation of contractual relations between the carriers of development programming and other participants in the carrying out of the Program.
- e) legal remedy for parties who think that their rights have been violated or damaged in any other way, during the activities in conducting the Program.
- f) methodology of reporting and monitoring of the Program conduction, harmonized with the procedure of the Government Work Program monitoring.

Article 14

(Contract between the donor and the beneficiary of funds)

(1) The donor of funds along with the beneficiary of incentive funds makes a Contract on mutual rights and obligations (hereinafter: Contract).

(2) The Contract shall contain the following: purpose, amount of allocated funds and the conditions for fund allocation, deadlines for use of funds, the method and deadlines of reporting and sanctions for Contract breaches.

Article 15
(Obligations for fund beneficiaries)

- (1) The fund beneficiaries shall be obliged in line with the Contract:
- a) to purposely use the allocated funds, in line with the approved project – program,
 - b) to comply with all the plans and deadlines established by the project-program during the implementation phase of the project.
 - c) to deliver a fully completed form “Report on implementation of approved funds”, which should be attached with the Contract, immediately and at the latest six months after the day of payment of approved funds,
 - d) to deliver evidence about proper use of funds along with the completed form “Report on implementation of approved funds”, and
 - e) to allow monitoring to the authorized person-inspector and to give all the necessary reports and important data for conducting this monitoring process to the authorized person.
- (2) The incentive fund beneficiary, who in the meantime is sentenced by a final decision of the court for not complying with the regulations from paragraph 1, items a),b),c) and d) of this Article, shall be obliged to return the allocated funds within 15 days, from the day of the finality of the court decision.

V. CARRIERS OF DEVELOPMENT PROGRAM

Article 16
(Carriers of the Program)

The carriers of the Program, according to this Law, shall be:

- a) The Government,
- b) The Ministry,
- c) Local self-government units,
- d) The Chamber of Economy of the Canton,
- e) The Chamber of Trades & Crafts of the Canton,
- f) Regional development agency.

Article 17
(Obligations for the carriers of the Program)

- (1) The Ministry shall monitor and observe the conduction of the Program and the Annual Plan, analyze results and make reports.
- (2) Local self-government units shall make their own programs and plans, shall provide an informational and documentation background for preparation of the Program,

propose development projects, shall observe, analyze and report about the conduction of projects and incentive measures within their field.

(3) Other Program carriers from Article 16 of this Law, propose incentive measures and development projects within their competence, they shall directly conduct measures that they are responsible for according to the Program, and shall observe and report on achieved results.

VI. SUPERVISION

Article 18

(Administrative supervision)

Administrative supervision on the application of this Law and regulations adopted according to this Law, shall be conducted, within their competencies and in a way established by administrative supervision regulations, by:

- a) The Ministry,
- b) The Ministry of Finance of the Sarajevo Canton and
- c) competent authorities of the city and municipalities.

Article 19

(Inspection)

(1) Inspection on implementation of incentive means is conducted by the cantonal market inspector.

(2) The inspectors assignment in the process of supervision from paragraph 1 of this Article, shall be to continuously monitor the beneficiary's use of financial means and the fulfillment of other undertaken obligations, with the goal of proper implementation of this Law, the Rule Book from Article 13 of this Law, the Contract and other acts concerning the implementation of incentive means.

(3) The subject of supervision is required to enable the execution of supervising activities to the inspector, the subject is also required to allow access to documentation, and to give him all the necessary reports and data concerning the implementation of incentive funds.

(4) If the inspector finds that the subject has violated the provisions of this Law, regulations for its implementation and provisions of the Contract, the inspector shall order the following (with a decision) to the beneficiary:

- a) removal of imperfections found during the inspection process and determining the deadline for the removal of imperfections from paragraph 1, items b), c) and d) and
- b) return of the allocated funds, if imperfections from Article 15, paragraph 1, item a) have been found.

Article 20

(Appeal against the decision of the inspector)

- (1) An appeal against the decision of the inspector can be filed within 15 days after the day of decisions reception.
- (2) Decision on the appeal from paragraph 1 of this Article is made by the Ministry.
- (3) The Ministry shall issue a decision on the appeal within 30 days from the day of receiving the appeal, which is a final administrative act. An administrative dispute may be initiated on this Law, at the Cantonal Court in Sarajevo.

VII. PENALTIES

Article 21

(Fines for violations)

- (1) Legal entity – funds beneficiary shall pay the fine between 2,000.00 and 10,000.00 BAM in the following cases:
 - a) if it inappropriately uses the received funds (Article 15, paragraph 1, item a),
 - b) if it, during the implementation of the investment project – does not comply with the plan and deadlines of the Program (Article 15, paragraph 1, item b),
 - c) if it fails to deliver a completed form “Report on the implementation of approved funds” within the prescribed period (Article 15, paragraph 1, item c),
 - d) if it fails to deliver evidence about appropriate use of funds (Article 15, paragraph 1, item d).
- (2) A person with responsibility within a legal entity will pay the fine between 500.00 and 1,000.00 BAM for a violation from paragraph 1 of this Article.
- (3) A natural person - funds beneficiary, shall pay the fine between 500.00 and 1,500.00 BAM for a violation from paragraph 1 of this Article.
- (4) Legal entity – funds beneficiary shall pay the fine between 1,000.00 and 2,500.00 BAM in the following cases:
 - a) if it fails to correct the imperfections found in the process of funds usage supervision and stated in the decision of the inspector (Article 19, paragraph 4, item a),
 - b) if it does not return the funds after the decision of the inspector has been issued (Article 4, paragraph 1, item b),
 - c) if it gives false data in the Statement from Article 4, paragraph 1, item c),
 - d) if it does not allow the conduction of inspection for the inspector.
- (5) A person with responsibility within a legal entity shall pay the fine between 300.00 and 500.00 BAM for a violation from paragraph 4 of this Article.
- (6) A natural person-funds beneficiary shall pay the fine between 500.00 and 1,000.00 for a violation from paragraph 4 of this Article.
- (7) A legal entity-beneficiary of funds shall pay the fine between 5,000.00 and 15,000.00 BAM for not returning funds within 15 days after the decision with final force and effect has been issued (Article 15, paragraph 2).

(8) A person with responsibility within a legal entity shall pay the fine between 500.00 and 1,500.00 BAM for a violation from paragraph 7 of this Article.

(9) A natural person-funds beneficiary shall pay the fine between 1,000.00 and 1,500.00 for a violation from paragraph 7 of this Article.

Article 22

(Initiating a misdemeanor case)

All authorized persons from the Ministry, Ministry of Finance of the Sarajevo Canton, and the inspector from Article 19, paragraph 1 of this Law can file a complaint for a misdemeanor case.

Article 23

(Incentive measures ban)

Incentive funds beneficiary which has been fined with a decision with final force and effect for a violation from Article 15, paragraph 1, items a), b), c) and d) of this Law, can no longer exercise its right on incentive measures from this Law within a period of five years from the day that the misdemeanor decision with final force and effect has been issued, and by which the beneficiary of funds has been found guilty.

VIII. TRANSITIONAL AND FINAL PROVISIONS

Article 24

(Discrimination and abuse prohibition)

In procedures prescribed by this Law and regulations with compliance of this Law, every form of discrimination and abuse based on gender, language, nationality, denomination, social heritage, wealth, political or other belief, is forbidden.

Article 25

(Grammatical terms)

Grammatical terms used in this Law for describing male or female gender imply both genders, except when the purpose of this Law is different.

Article 26

(Deadline for making of the Program)

The Government will make the Program from Article 10 of this Law within six months from the day of entry into force of this Law.

Article 27

(Deadline for issuing the Rule Book)

The Ministry must issue the Rule Book from Article 13 of this Law within three months from the day of entry into force of this Law.

Article 28

(Entry into force of the Law)

This Law enters into force on the eight day from the day of its publication in the "Official Gazette of the Sarajevo Canton", and it will be applied from January 1st 2016.

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July 21st 2015
Sarajevo

Chairman of the
Sarajevo Canton
Assembly
Sejo Bukva

