



**REPUBLIC OF ALBANIA
COUNCIL OF MINISTERS**

DECREE

NO. 1028, DATED 16.12. 2015

ON

**SPECIFICATION OF MARGINS, RULES AND DOCUMENTATION OF
FINANCIAL GUARANTEES FOR STRATEGIC INVESTMENTS**

Pursuant to Article 100 of the Constitution and point 5 of Article 8 of Law no. 55/2015, “On Strategic Investments in the Republic of Albania,” on the proposal of the Minister for Economic Development, Tourism, Trade and Enterprise, the Council of Ministers

D E C I D E D:

- 1.** Private legal persons, local or foreign, which in the quality of investor entities interested in the development and execution of a strategic investment, shall request the inclusion of their investment projects in the administrative procedures of strategic investments, in order to be granted the status of “Strategic investment/investor, assisted procedure”, or “Strategic investment/investor, special procedure”, in addition to the documentation required in relation to the project, shall submit to the Albanian Investment Development Agency, also the relevant documentation proving that they have the financial capacities to execute the investment project, as a form of guarantee for the execution and development of the project.
- 2.** The documentation attesting the financial capacity for the execution of the investment project needs to contain financial data, which shall prove the ability of the investor to realize the investment to the extent of not less than 10% of the total investment amount.

- 3.** The financial guarantees presented for granting the status of “Strategic investment/investor, assisted procedure”, or “Strategic investment/investor, special procedure”, shall be submitted at the moment of application for and/or signature of the contract, in cases when under the applicable law, such a contract is signed for a public-private partnership with the state.
- 4.** The minimal threshold of the financial guarantees shall not be less than 10% of the total investment value. The Strategic Investment Committee, depending on the features, size and complexity of the project, the experience, and capacities of the investor, and the public interest, may request higher percentages of required financial capacities, but not higher than 20% of the total investment amount.
- 5.** The amount of financial capacities required for the implementation of the project may be proven through;

 - (a) an investor’s own financial capacities, as proven and shown through its audited financial statements for the past three years;
 - (b) appropriate financing and borrowing from local or foreign banks or financial institutions of good reputation and high reliability; or
 - (c) financial guarantees issued by local or foreign banks or financial institutions of good reputation and high reliability.
- 6.** In the case when an investment is executed through a company specifically established by the investor, the documentation related to the financial capacities shall be submitted by the investor/company/companies owning the Special Purpose Vehicle (SPV).
- 7.** In the case when the investor proves that it has the capacity to execute an investment with its own resources, the Strategic Investments Committee may ask the investor to pledge to maintain and not reduce its capital and financial capacities below a minimal threshold of guarantee for the duration of the strategic project implementation, as well as to make it mandatory for the investor to ask for preliminary approval in any instance of transfer of quotas/shares of the company. Furthermore, the Strategic Investment Committee is entitled to require from the investor evidence of guarantees or further financial support from reliable partners or financial institutions that support the project, if from the submitted information and documentation it cannot be proven in a convincing manner that it has the financial capacity to cover with its assets the required 10% investment share.
- 8.** When the investor proves its capacity to implement the investment through the financing, crediting, or provision of guarantees by banking or financial institutions, the Strategic Investment Committee shall authorize the Agency to assess the adequacy of the documentation format and to periodically verify the validity of the facilities of funding and

guarantees. The Strategic Investments Committee shall be informed by the investor of any change in these documents, which needs to be approved by the Strategic Investment Committee in order to keep the status of “Strategic investment/investor, assisted procedure”, or “Strategic investment/investor, special procedure”.

9. In all cases, the Strategic Investments Committee is entitled to require information from the investor on its financial capacity and its ability to raise sufficient funds to finance the entire investment. Such information shall include, but shall not be limited to, documents on records of its financial situation, management structure, asset ownership, its market position, its previous experience, its financial support from external partners or from investors, and other necessary information in order to prove its investment capacity and potential to be a strategic investor in projects of strategic investments.

10. The form, nature, amount, and the essential conditions for the financial guarantees of the project shall be determined on a case by case basis by the Strategic Investment Committee. For the assessment of the elements of required financial guarantees, the Strategic Investment Committee shall take into account the public interest and the specific interests of every project.

11. The rights and obligations of the parties shall be specified in a special agreement, which will also lay down the terms and conditions for the execution of the investment and the provision of financial guarantees. The rights and obligations of the parties shall be specified in a special agreement, which will also lay down the terms and conditions for the execution of the investment and the provision of the financial guarantees. The special agreements may be entered into by the Strategic Investment Committee, another body authorized by it, or by the relevant responsible body, designated under the specific legislation on the relevant activity.

12. In the case of investments for which a contract has been signed prior to the effective day of the present law, which request to be granted the status of strategic investments, for which the investor has executed over 10% of the investment amount, the Strategic Investment Committee may deem it appropriate to waive the financial guarantee requirement, provided that a certificate of the investment executed is submitted, drafted by licensed evaluators under the legislation in force.

13. No financial guarantees and information are required for the purposes of strategic investments in the case of public projects that are considered as strategic investments and are initiated and funded by the Albanian Government through budget funds, grants or other financing. Such a provision does not exclude the submission of other guarantees required under the Albanian legislation in force.

14. The Ministry of Economic Development, Tourism, Trade and Energy and the Albanian Investment Development Agency are charged with the implementation of this Decree.

This decree shall be effective upon its publication in the “Official Gazette”.

P R I M E M I N I S T E R

ED I R A M A

**M I N I S T E R F O R E C O N O M I C D E V E L O P M E N T, T O U R I S M, T R A D E A N D
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