

INDUSTRIAL PARKS

The presentation hereby has in view the legal provisions in force on the 31st of March 2004

Applicable legislation in this field

- Government Ordinance no. 65/2001 on forming and operation of industrial parks, published in the Official Gazette no. 536/1st of September 2001
- Law. No. 490/2002 for the approval of the Government Ordinance no. 65/2002 on forming and operation of industrial parks, published in the Official Gazette no. 533/22nd of July 2002
- Instructions from the 4th of September 2002 for the granting and canceling of the title of industrial park, published in the Official Gazette no. 684/17th of September 2002

I. Concept of industrial park

An industrial park represents a delimited area in which economic activities, of industrial production and services, of valorization of scientific research and/or technological development take place, in a regime of specific facilities, in view of valorization of human and material potential of the area. Thus, as against the development opportunities specific to each location of industrial park different fields of specialization may be promoted, based on the industries producing commodities and industries performing of services.

The main **fields of specialization** of industrial parks are the following:

- processing industry, in which the activities of processing and/or reestablishing of the values of use for goods are predominant, with the possibility of concentration of different top industries;
- business in which financial-banking, of consultancy, designing, research-development, as well as business management activities are predominant;
- distribution, in which activities of depositing of commodities and logistic, taking place close to the terminal containers, of the

infrastructure for transportation (highways, railways, airways, waterways) and of customs;

- services in which predominant are performing of services industries, as defined by the Classification of activities from the National Economy.

In the industrial park, besides the predominant activities, giving the field of specialization of the industrial park, for the supporting of the development of those activities, a series of related services may take place: supplying of utilities, cleaning and security, commercial services and of public food supply, hotelier activities, accounting services, business assistance, insurance services and other similar services or in direct connection with them.

II. Forming of industrial park

Forming of industrial park is based on joint venture between Romanian or/and foreign legal or/and natural persons that conclude for this purpose a **contract of association**.

The association is proved with the contract of association or with the constitutive document of the company managing the industrial park and that has as a property or for use, for at least 30 years, the land and the buildings afferent to the industrial park, situation in which the managing-company files the application and gets the title of industrial park.

For the forming of an industrial park, Government Ordinance no. 65/2001 as amended by the Law no. 490/2002 stipulated that the land afferent to the industrial park, together with the buildings and infrastructure regarding the existing utilities at the moment of the formation, has to comply cumulatively with all the following conditions:

- a) the land has access to a national or European road and is connected to the infrastructure of the public utilities;
- b) the land has an area of at least 10 hectares;
- c) the field is in the property or in the use, for at least 30 years, of the association requesting the title of industrial park;
- d) they lack any encumbrances;
- e) they are not the object of certain pending litigations at the courts in respect of its legal status;
- f) they fulfill the technical conditions regarding environment protection.

Specifications:

- i) The fact that the land afferent to an industrial park has access to a national or European road is demonstrated by the presentation of the optimum access way to such a road, which is made as follows:
 - a) the detailed description of the optimum access way;
 - b) the number and the category of the roads composing the access way;
 - c) the present condition of these roads and the existence of certain works or projects for their improvement, with internal and / or international financing;
 - d) distances in kilometers for each part of the road;
 - e) a map in which the optimum access way to the roads to be highlighted and to comprise highlights of the railways, harbor or airports infrastructure, in the situation in which this access way presents an interest for the industrial park.

- ii) With a view of constructing an industrial park on a piece of land smaller than the stipulated one, the presentation of the activities that are to be performed in the industrial park is necessary, the area of land afferent to the industrial park and the motivation of the reduction of the area of land in relation to the activities planned to be performed.

Government Ordinance no. 65/2001 stipulates that the land may have a surface smaller than 10 hectares in the case of the industrial parks in which only activities of scientific research, technological development and/or information technology are performed.

After at least one year from the granting of the title of industrial park, the Ministry of Internals and Administration shall verify if in the respective industrial the activities that have justified the construction of an industrial park on an area smaller than 10 hectares are performed.

III. Title of Industrial Park

The title of industrial park **is granted through an order of the minister of administration and internals.**

For the obtaining of the title of industrial park, the representative of the association or, as the case may be, of the managing-company, files with the Ministry of Administration and Internals an application accompanied by

the documents stipulated under Art.4 of the Instructions for granting and canceling of the title of industrial park from the 4th of September 2002.

The Ministry of Administration and Internals makes and publishes on its Internet page the model of the application for the issuing of the title of industrial park.

1. Granting the title of industrial park

The application for the granting of the title of industrial park and the accompanying documents are filed with the Ministry of Administration and Internals headquarter, for analysis and evaluation.

For the granting of the title of industrial park a commission of analysis and evaluation is formed, made up from 3 members, two of them being representatives of the Ministry of Administration and Internals and one representative of the Ministry of Public Finances. The Ministry of Administration and Internals shall secure the secretariat of the commission.

If the documentation is not complete, the commission may request to the deponent its completion, postponing the analysis and the evaluation of the documentation regarding the granting of title of industrial park. Within 3 days from the receiving of the request, the managing-company is obliged to forward the documents to the commission and the declarations for the completion of the documentation.

Within 20 days from the receiving of the application and complete documentation, the commission presents to the minister of administration and internals a report on the results of the performed analysis; the report is at the basis of the order that grants the title of industrial park.

Law provides for the possibility for, within 10 days from the receiving of the first report, the minister of administration and internals to request the commission to reanalyze the application and the filed documentation by the managing-company; the commission shall present to the minister of administration and internals a new report within 10 days from this request.

The minister of administration and internals may accept or reject the application for the granting of the title of industrial park, within 30 days from its filing.

The stipulated term is suspended according to the period between the request of the Ministry of Administration and Internals for the completion of the application and the received answer, accompanied by the requested documents and declarations.

The stipulated term cannot be suspended for more than 20 days.

1.1 Acceptance of the application

The acceptance of the application is the ground for the granting of the title of industrial park, through an order of the minister of administration and internals, within 45 days from the filing of the application and complete documentation.

The title of industrial park may be obtained by a trade company, Romania legal person, having as an exclusive object of activity the management of industrial parks (managing-company).

The title of industrial park is granted to the association or to the managing-company, if it proves that it has in property or use, for at least 30 years, the land and the buildings afferent to the industrial park.

In the situation of acceptance of the application, the Ministry of Administration and Internals notifies the Competition Council the authorization of the industrial park, from the point of view of its effects on the competition. Subsequent to its authorization by the Competition Council, the title of industrial park is granted through an order of the minister of administration and internals, published in the Romanian Official Gazette, 1st part.

1.2 Rejection of the application

If the application is rejected, the Ministry of Administration and Internals shall notify the managing-company requesting the title of industrial park, within 45 days from the filing of the application and complete documentation, about the reasons that have determined its rejection.

The managing-company to whom the application for granting of the title of industrial park was rejected may file a new application after at least 3 months from the filling of the first application.

1.3 Canceling of the title of industrial park

The Ministry of Administration and Internals may cancel through an order the title of industrial park in the situation in which the industrial park does not perform the activities stipulated at or the conditions of the granting of the title are no longer fulfilled.

Cancellation of the title is made if the association was notified in writing, three months before, by the Ministry of Administration and Internals.

In the situation of the cancellation of the title of industrial park the association pays the counter value of the fee in force for the modification of

the destination or for the withdrawal from the agricultural circuit of the land afferent to the industrial park, for which the exemption stipulated under point IV, letter a) has been granted.

IV. Incentives for the forming and development of industrial parks stipulated by the Government Ordinance no. 65/2001 as amended by law no. 490/2002

For the forming and development of an industrial park, the following facilities are granted:

- a) exemption from the payment of the fees levied for the modification of the destination or for the withdrawal from the agricultural circuit of the land afferent to the industrial park, for the association owning the title of industrial park;
- b) deduction from the taxable profit of a quota of 20% from the value of the investments made in the industrial park, after the date of the coming into force of the Law no. 490/2002, for the association that makes such investments in constructions or rehabilitations of constructions and in the internal infrastructure or of connection to the public network regarding the utilities, taking into account the legal provisions in force on the classification and the standardized durations of functioning of the fixtures. Deduction is calculated in the month in which is performed the putting in operation of the investment, according to the provisions of Law no. 15/1994 on the depreciation of the capital fixed in tangible or intangible assets, republished with further amendments, only from the fiscal point of view, through its subscription at the deductible amounts stipulated in the tax return. If a fiscal loss is made, it is recovered from the taxable profits obtained during the following 5 years.
- c) postponement of the period of making of the respective investment, until the putting into operation of the industrial park, according to the regulations in force, respectively until the 25th of the month following the date of the putting into operations of the industrial park, of the payment of the value added tax for the materials and equipments necessary for the making of the system of utilities from inside the park, as well as of the connections of the park at the main lines or at the existing networks of public utilities, at their suppliers and the postponement of the right to deduct the respective value added tax until the same date at the economic entities that make the investment;

- d) the reduction of taxes given by the local public administration on the basis of decision of the local or district councils in the administrative-territorial jurisdiction of which is the respective industrial park, for real estates and lands transmitted for the use of the industrial park.
- e) other facilities that may be granted, according to the law, by the local public administration.

If an investment does not fulfill the conditions in order to benefit from the same facilities granted by many laws, the economic entity will have to explicitly choose for one regime of facilities stipulated in one law.

V. Operation of the industrial park

The management of the industrial park is made on the basis of a management contract concluded between the members of the associations and a trade company, termed managing-company. The scope, conditions, rights and obligations of the parties of the contract of management of the industrial park are established by mutual agreement of the parties. The contract for the management of the industrial park may comprise clauses regarding parties' obligations regarding the representation, subcontracting, designing, financing, construction, exploitation, maintenance, renting and sub renting.

The managing-company is a trade company incorporated according to the provisions of Law no. 31/1990 on trade companies, republished, as amended. No shareholder economic entity using the utilities and/or the infrastructure of the industrial park may have the control upon managing-company, directly or indirectly. For the exploitation of the industrial park, the managing-company may alienate or transmit for use to the economic entities from the industrial park, strips of land and/or constructions from them.

The managing-company has the following **obligations**:

- to secure the utilities and the services necessary for the activities from the industrial park;
- to secure and guarantee non-discriminately the right of use upon the infrastructure and utilities, according to the contracts concluded with their beneficiaries;

- to repair, maintain, modernize and to develop, as the case may be, the infrastructure and utilities from the interior of the industrial park;
- to secure the access at the use of the spaces from the industrial park destined to common use;
- to secure the management of the spaces and buildings of the industrial park;
- to manage their own financial sources and the attracted ones, according to the strategy of operation and development of the industrial park;
- to secure the selection of the requests for admission of new economic entities in the industrial park; the list comprising the selected economic entities is filed with the Ministry of Administration and Internals;
- to attract investors for the development of productive activities and services;
- to elaborate the strategy of operation and development of the industrial park;
- to secure support for the development of the internal and international partnerships, business consultancy, technological consultancy;
- to ensure the cooperation relations with the governmental authorities of the local and central public administration.

Other specific obligations of the managing-company and of the economic entities are stipulated in the contracts concluded between them.

For the recovering of the investment, the covering of the maintenance costs and the making of a profit, tariffs for use and exploitation of the park by the managing-company are levied. The value of the tariffs of use and exploitation of the park is established by the managing-company by mutual agreement with the members of the association.