

## REGULATION

### ON RULES FOR STATE AID GRANTING

("Official Gazette of RS", no. 13/2010, 100/2011, 91/2012, 37/2013, 97/2013 and 119/14)

#### I BASIC PROVISIONS

##### Article 1

This Regulation shall govern in more detail rules for state aid granting, and for assessing whether notified or granted state aid is allowed. The legislation of the Republic of Serbia is harmonized with contents of instruments of interpretation that were adopted by institutions of European community with regard to state aid.

##### Article 1a

State aid grantor is obliged, when granting state aid to a predetermined user, to adhere to this regulation, as well as the rules on state aid granting contained in the confirmed international contracts that are not included in this regulation.

A document that is the basis for state aid granting to non-predetermined users has to be in accordance with this regulation when it comes to conditions for state aid granting.

##### Article 2

Some of the expressions used herein have the following meaning:

1) *enterprise* (state aid beneficiary) is taken to mean any legal or natural entity that, irrespective of its legal form or manner of financing, uses state aid in any form for performing production activities and for sales of goods and services in the market, except for an enterprise in the process of privatization;

Items 2) - 4) (*deleted*)

5) *enterprise in difficulties* is an enterprise incapable of preventing losses from own resources or resources it could obtain from its owners/shareholders, creditors or other sources and which, without state intervention, would jeopardize its survival short term or midterm.

An enterprise is deemed to be in difficulties:

- (1) in case of a limited liability enterprise, if the amount of subscribed capital was reduced by more than 50%, out of which in the past 12 months it lost over one quarter of share capital;

(2) in case of an enterprise where at least one person is fully liable for its debts, if the capital presented in financial statements was reduced by more than 50%, out of which in the past 12 months over one quarter of capital was lost;

(3) if it meets the criteria for initiating bankruptcy procedure.

If none of the conditions set out in paragraph 1, of this point are fulfilled, an enterprise can be deemed to be in difficulties if there are obvious indicators that the enterprise is in difficulties, such as loss growth, total revenue drop, stocks' increase, redundant capacities, reduced cash flow, debt rise, interest cost rise and reduction or zero net value of property. The enterprise is deemed to be in most serious difficulties if it is incapable of paying (insolvent) or if a bankruptcy procedure was initiated in it.

In any event, state aid can be granted to an enterprise in difficulties only if it proves that it cannot recover using its own funds, funds of its owners/shareholders, creditors or funds from other sources in the market.

A newly founded enterprise in operation for a period below three years shall not be deemed to be in difficulties in this period, unless it is a small or medium enterprise fulfilling conditions for initiating bankruptcy procedure;

6) *large investment project* is taken to mean investments into fixed assets with eligible costs exceeding EUR 50 million;

7) *reference rate* is interest rate used for calculating and discounting state aid, defined by the ministry in charge of finance operations and published by Commission for State Aid Control on its webpage;

8) *eligible costs* are costs for which state aid grant is allowed;

9) *state aid amount* (intensity) is the amount of state aid as a percentage of eligible costs;

10) *initial investment* is investment in tangible and intangible assets in the following cases:

- (1) starting new business activity,
- (2) expanding existing activity,
- (3) diversification of existing production program by new, additional products,
- (4) significant changes in overall production process of existing activity,
- (5) acquisition of assets directly related to the enterprise, provided that the enterprise is shut down or would have been shut down if it had not been acquired by independent investor under market conditions;

11) *tangible assets* are taken to mean assets relating to: land, buildings, constructions, plants, machines and equipment;

12) *intangible assets* are property created by transfer of technology, acquisition of patent rights, licenses, know-how or non-patented technical knowledge;

13) *cost of salary* is total amount that the state aid beneficiary actually pays for work of employees, including gross salary, i.e. salary with tax and contributions for compulsory social insurance paid from the salary, as well as contributions paid to the salary;

14) *operating state aid* is aid intended for covering a part of an enterprise's current expenditures (costs of salaries, transportation, lease, etc.);

15) *disadvantaged worker* is a person who:

- 1) has not been employed full-time in the past six months;
- 2) has not finished secondary education nor acquired professional qualification;
- 3) over 50 years of age;
- 4) lives as a single adult with one or more dependents;
- 5) works in a sector or profession in the Republic of Serbia where the gender imbalance is at least 25 % higher than the average gender imbalance across all economic sectors; or belongs to an ethnic minority in the Republic of Serbia and who requires development of his or her linguistic, vocational training or work experience profile to enhance prospects of gaining access to full-time employment;

16) *disabled worker* is every person whose disability has been recognized by laws of the Republic of Serbia;

16a) *sheltered employment* means employment in an enterprise where at least 50% of the employees are disabled workers;

17) *risk capital* is financing in the form of equity capital or in the form similar to equity capital in the early phases of creation and early development of an enterprise (phase of initiation, founding and development).

18) *services of general economic interest* are activities, i.e. jobs that secure rights of citizens, i.e. meeting citizens' and organizations' needs, as well as achieving other legally determined interests in certain areas.

***Small, medium and large enterprises (number of employees and financial boundaries as criteria for determining the type of enterprise)***

## **Article 2a**

Small enterprise is an enterprise for which it is determined based on article 2b-2g of this regulation that it employs less than 50 people, whose annual turnover and/or total annual balance is less than EUR 10 million in dinar equivalent.

Medium enterprise is an enterprise for which it is determined based on article 2b-2g of this regulation that it employs between 50 and 250 people, whose annual turnover is less than EUR 50 million and/or total annual balance is less than EUR 43 million in dinar equivalent.

Large enterprise is an enterprise that is not a small or medium enterprise.

### ***Independent, partner and affiliated enterprises as criteria for calculating the number of employees and financial boundaries***

## **Article 2b**

An independent enterprise is an enterprise that is not a partner enterprise or an affiliated enterprise.

Partner enterprises are enterprises that are not affiliated enterprise and that have the following relationship: one enterprise (enterprise higher in the ownership rank), alone or together with one or more affiliated enterprises, has assets or voting rights of 25% or more in another enterprise (enterprise lower in the ownership rank).

An enterprise is deemed independent, thus without a partner enterprise, if 25% of its assets or voting rights are owned by investors who individually or together are not affiliated with the enterprise, and these would include:

- 1) public investment companies, companies with venture capital, individual or groups of individuals whose regular activity is investing venture capital, and who invest equity in businesses not included in the stock exchange (so-called business angels), if their joint investments in the enterprise are under 1,250,000 euros in dinar equivalent;
- 2) universities or non-profit research centers;
- 3) institutional investors, including regional development funds;
- 4) independent body of a local self-government that has less than 10 million euros in dinar equivalent in its annual budget and less than 5,000 residents.

Affiliated enterprises are enterprises between which there are some of the following relationships:

- 1) one enterprise has a majority of voting rights of shareholders or members in another enterprise;
- 2) one enterprise has the right to appoint or dismiss most members of management or supervision board in another enterprise;
- 3) one enterprise has a dominant influence in another enterprise based on a contract concluded with that other enterprise or a provision in the statute of that other enterprise;
- 4) one enterprise, which is a shareholder or a member in another enterprise, independently controls, based on an agreement with other shareholders or members in that other enterprise, majority of voting rights of shareholders or members in that other enterprise.

A dominant influence in another enterprise does not exist if investors from paragraph 3 of this article are not indirectly or directly included in management of that other enterprise, regardless of their rights as equity owners.

Affiliated enterprises are also those enterprises between which, via one of more enterprises, there are some of the relationships mentioned in paragraph 4 of this article, as well as the enterprises that have one of more investors from paragraph 3 of this article.

Affiliated enterprises are also those enterprises between which, via one natural entity or a group of natural entities that operate together, there are some of the relationships mentioned in paragraph 4 of this article, if the enterprises are conducting their activity or a part of the activity in the same relevant market or neighboring markets.

'Neighboring market' is the market of products or services that is vertically directly above or below the relevant market.

An enterprise is not a small or medium enterprise if one public body, or several public bodies together, indirectly or directly, control 25% or more of equity or voting rights in the enterprise.

An enterprise can make a statement about its status of an independent enterprise, partner enterprise or affiliated enterprise, as well as a statement on data from article 2a of this regulation. An enterprise can make such a statement even when the equity is distributed in such a way that it cannot be precisely determined who owns it. In that case, the enterprise can declare in good faith that it can be reasonably assumed that one or more mutually affiliated enterprises do not own 25% or more of equity. Making such statements does not affect the possibility to examine their validity.

***Data that serve for determining the number of employees and financial boundaries,  
and the reference period***

## **Article 2v**

Data on the number of employees and financial boundaries are data that refer to the last approved accounting period and are calculated on the annual basis. The data is taken into account starting from the day business records were closed. Amount of turnover is calculated without value added tax (VAT) and other indirect taxes.

If an enterprise determines on the day of closing business records that on the annual level it surpassed the number of employees or financial boundaries from article 2a of this regulation, or that it dropped below that number, i.e. boundary, it gains or loses the status of a small or medium enterprise only if that occurs during two consecutive accounting periods.

For newly-founded enterprises whose regular annual financial reports have not yet been approved, data are obtained through assessment in good faith during the fiscal year.

### ***Number of employees***

#### **Article 2g**

The number of employees corresponds to the number of annual work units (hereinafter: AWU), i.e. the number of employees with full working hours who worked in the enterprise or on its behalf during the whole year in question. The work of persons who did not work the whole year in question, who did not work full working hours, regardless of how long their working hours were, and the work of seasonal workers (based on the employment contract or the contract on temporary and occasional work) is considered a part of AWU.

Staff of an enterprise includes:

- 1) employees;
- 2) persons working for a subordinate enterprise if they are considered employed;
- 3) owners - managers;
- 4) partners who are regularly included in activities of the enterprise and who benefit from financial benefits of the enterprise.

Interns or students who are on vocational training and have an employment contract as interns or a contract on vocational training are not considered staff.

### ***Determining data on an enterprise***

#### **Article 2d**

Data on an independent enterprise, including the number of employees, are determined solely based on its regular annual financial reports.

Data on an enterprise that has partner enterprises or affiliated enterprises, including the number of employees, are determined based on its regular annual financial reports and other enterprise data, or based on consolidated financial reports of the enterprise, or consolidated financial reports in which the enterprise is included via consolidation.

Data on each partner enterprise of the enterprise in question, which are on the next higher or lower level in ownership rank from the enterprise in question, will be added to the data from paragraph 2 of this article. Adding is proportional to the percentage of share in equity or voting rights, whichever is larger. Larger percentage is valid in enterprises with reciprocal shareholding.

100% of data on each enterprise that is indirectly or directly affiliated with the enterprise in question are added to data from paragraphs 2 and 3 of this article, unless these data are already included in the consolidated financial report.

Due to implementation of paragraphs 2, 3 and 4 of this article, data on partner enterprises of the enterprise in question are taken out of their regular annual financial reports or from other consolidated data, and are added to 100% of data on all the enterprises affiliated with them, unless those data are already included in the consolidated financial report.

Due to implementation of paragraphs 2, 3 and 4 of this article, data on the enterprise affiliated with the enterprise in question are taken out of their regular annual financial reports or from other consolidated data, and data on every other possible enterprise that is a partner of this affiliated enterprise, and that is on the next higher or lower level of ownership rank than the enterprise in question, are proportionally added to them, unless they are included in the consolidated financial report in the percentage least proportional to the percentage determined based on paragraph 3 of this article.

If consolidated financial reports have no data on employees in a company, the number of employees is calculated by proportionally adding data from its partner enterprises and by adding data from its affiliated enterprises.

### **Article 3**

Categories of state aid that can be granted under this Regulation include:

1. Regional state aid,
2. Horizontal state aid,
3. Sectoral state aid,
4. State aid of low value (De minimis state aid),
- 4a. State aid for providing services of general economic interest.

1.1. Types of regional state aid are defined by primary grant objectives, namely:

- 1) regional investment state aid,
- 2) regional state aid for founding small enterprises,
- 3) regional operating state aid.

2.1. Horizontal state aid is defined by primary grant objectives, namely:

- 1) for small and medium enterprises,
- 2) for rescuing and restructuring enterprise in difficulties,
- 3) for employment,
- 4) for environmental protection,
- 5) for research, development and innovation,
- 6) for training,
- 7) in the form of risk capital,
- 8) to the cultural sector

3.1. Specific types of sectoral state aid for which special grant rules are defined in this Regulation include:

- 1) steel sector,
- 2) coal sector,
- 3) transport sector.

For state aid grant in all other sectors and/or activities, classified under the law governing classification of activities, the same rules apply as prescribed for regional and horizontal state aid grant herein, unless otherwise prescribed by this Regulation.

4.1. De minimis state aid can be granted only when it is not possible to grant aid based on the rules for regional, horizontal or sectoral state aid.

#### **Article 4**

State aid for export is prohibited. State aid grant prohibition shall apply to volume of export, goods' distribution network management and current costs of enterprise directly related to export activities.

#### ***State Aid Cumulation Rule***

#### **Article 5**

For the same eligible costs, the most favorable state aid amount defined herein shall be applied, which represents the upper limit for total state aid grant amount, regardless of:

- 1) whether state aid is granted based on one or in combination of more schemes and/or individual state aids, and
- 2) whether state aid is granted by the Republic of Serbia, Autonomous Province or a local government unit.

Before granting state aid to beneficiary, state aid grantor shall ensure that beneficiary has provided a statement specifying whether and on what grounds from paragraph 1, points 1 and 2 of this article the beneficiary had received state aid arising from the same eligible costs.

#### ***Conversion***

#### **Article 6**

State aid amount denominated in EUR herein shall be converted to RSD by official median exchange rate of the National Bank of Serbia as of the date of granting the state aid.

State aid is considered granted on the day it is made available to state aid beneficiary.

#### ***Reference and Discount Rates***

Reference rate is an interest rate used for calculating aid amount and for discounting state. The ministry in charge of finance shall prescribe the manner of setting, calculating and updating the base reference rate and calculating reference and discount rate used for calculating aid amount and discounting state aid and calculating the amount of granted state aid, and the Commission for State Aid shall publish it on its website.

## **II REGIONAL STATE AID**

#### **Article 7**

Regional state aid can be granted for:

- 1) initial investments and creation of new jobs related to initial investments – regional investment state aid,
- 2) founding small enterprises,
- 3) operating costs.

Regional state aid cannot be granted to enterprises operating in steel, synthetic fiber and coal sectors, or to enterprises in difficulties.

### ***1. Regional Investment State Aid***

#### **Article 8**

The amount of regional investment state aid granted to large enterprises is set up to 50% of eligible costs for initial investments.

The amount of regional investment state aid from paragraph 1 of this article can be increased by up to 20 percentage points for small enterprises and by up to 10 percentage points for medium enterprises. The increase does not apply to enterprises in the transport sector and to major investment projects in any sector.

#### **Article 9**

Eligible costs for regional investment state aid grant comprise investment costs concerning:

- 1) initial investments (tangible and intangible assets),
- 2) new jobs related to initial investment.

In case of small and medium enterprises, eligible costs are costs of study preparation and consulting services related to initial investment if state aid amount is up to 50% of actual costs incurred.

In case of acquiring an enterprise which is shut down or would have been shut down if it had not been acquired, eligible costs are costs of purchasing the property of that enterprise under market conditions from a third party.

Property acquired through acquisition must be new, except when state aid is granted to small and medium enterprises. In case of taking over, the amount of funds for acquisition of which state aid had been granted prior to the purchase shall be deducted from total amount.

Costs relating to acquisition of property under lease, except land and buildings, are eligible only if lease is in the form of financial leasing and contains an obligation to buy

the property upon expiration of the lease period. In case of leasing land or buildings, the lease must continue for a minimum of five years after the planned end date of investment project, i.e. three years for small and medium enterprises.

From the aspect of regional investment state aid, the costs relating to purchase of transportation means and equipment in the transport sector are not deemed eligible costs.

### **Article 10**

Regional investment state aid for investments into intangible assets can be granted under the following conditions:

- 1) funds must be used exclusively inside the enterprise – regional state aid beneficiary,
- 2) depreciation is calculated in accordance with the valid regulations,
- 3) the assets are and remain property of that enterprise and are presented in its balance sheet for a minimum of five years (i.e. three years for small and medium enterprises),
- 4) the assets are acquired from a third party under market conditions.

Eligible investment costs for acquisition of intangible assets for large enterprises amount to up to 50% of total eligible investment costs, and for small and medium enterprises up to 100%.

### **Article 11**

In case that the amount of regional investment state aid is calculated based on estimated costs of salaries for new jobs, the following conditions must be fulfilled:

- 1) work position must be directly related to initial investment and opened within three years from completion of investment;
- 2) investment must result in a net increase of the number of employees in the enterprise compared to the average number of employees in the past 12 months, and in case that a job position is terminated in this period, it must be deducted from the number of new jobs;
- 3) new jobs must be retained for a minimum of five years in case of large enterprises, i.e. three years for small and medium enterprises from the date when the jobs were created for the first time.

The amount of regional investment state aid must not exceed a certain percentage of employee's cost of salary in the two year period and the percentage equals the allowed amount of investment state aid from Article 8 herein.

## **Article 12**

Total amount of regional investment state aid is calculated based on:

- 1) eligible costs for initial investments,
- 2) estimated costs of gross salaries for new jobs related to investments in a two year period,
- 3) combination of methods from paragraph 1, points 1 and 2 herein, provided that the aid does not exceed the most favorable amount arising from application of one or another manner of calculation.

## **Article 13**

Amount of regional investment state aid for major initial investments is defined in the following manner:

- 1) for eligible costs up to EUR 50 million in RSD equivalent – up to 50% of these costs,
- 2) for portion of eligible costs of EUR 50-100 million in RSD equivalent – 25% of these costs,
- 3) for portion of eligible costs exceeding EUR 100 million in RSD equivalent – 17% of these costs.

## **Article 14**

Regional investment state aid beneficiary must provide a minimum of 25% cost coverage from own resources or from other sources not related to state aid.

Initial investments and related new jobs must remain in the same area and/or region for a minimum of five years (i.e. three years for small and medium enterprises) after project end.

Regional investment state aid for small and medium enterprises cannot be granted to an enterprise that had not applied as potential state aid beneficiary before project implementation in the manner and under conditions determined by state aid grantor.

Regional investment state aid cannot be granted to a large enterprise before, in addition to conditions set out in paragraph 3 herein, state aid grantor has established through review of documentation submitted by beneficiary that this state aid grant would result in:

- 1) significant increase in project size, or
- 2) significant increase of total amount of funds the beneficiary invests in the project, or

- 3) significant increase of project implementation speed, or
- 4) project implementation which could not be accomplished without state aid.

## ***2. Regional State Aid to New Small and Medium Enterprises***

### **Article 15**

Regional state aid can be successively granted to new small enterprises in the amount of up to EUR 2 million in RSD equivalent provided that the eligible costs were actually incurred within five year period from the date of founding the enterprise.

State aid amount must not exceed 40% of eligible costs incurred in the first three years of operation and 30% in the following two years.

Annual amount of state aid granted to new small enterprises must not exceed 33% of the total amount of determined in paragraph 1 of this article.

### **Article 16**

Eligible costs for state aid grant from Article 15, paragraph 1 of this Regulation are:

- 1) costs of legal, advisory, consulting and administrative services directly related to enterprise founding,
- 2) interest on funds provided from external sources and dividends on own employed capital not exceeding the reference rate,
- 3) rent for production plants/equipment,
- 4) fixed costs – electricity, water, heating, taxes (except VAT and profit tax) and administrative taxes,
- 5) amortization, expenses of renting and leasing of production plants/equipment with the right of use to expiration of contract, as well as costs of salaries and compulsory social insurance provided that the main investments or measures for opening new job positions and employment do not contain other forms of state aid.

## ***3. Regional State Aid for Operations***

### **Article 17**

Regional state aid can also be granted for covering operating expenditures, but only if the following conditions are cumulatively fulfilled:

- 1) state aid contributes to equal regional development,

- 2) state aid is proportionate to the difficulties that need to be removed,
- 3) state aid is time limited and digressive.

### III HORIZONTAL STATE AID

#### *1. State Aid for Small and Medium Enterprises*

##### **Article 18**

State aid for small and medium enterprises cannot be granted to enterprises in coal extraction sector or enterprises in difficulties.

##### **Article 19**

State aid for small and medium enterprises can be granted for advisory services and cannot exceed 50% of eligible costs.

Eligible costs for advisory services are costs of hiring external consultants.

Advisory services from paragraph 2 herein do not apply to regular and normal tax advisory services, regular legal services or advertising services.

##### **Article 20**

State aid to small and medium enterprises can be granted for participation in trade shows and exhibitions. The amount of state aid cannot exceed 50% of eligible costs.

Eligible costs for participation in trade shows and exhibitions are costs incurred by renting, mounting, and running the booth for the first-ever appearance of an enterprise in a trade show or exhibition.

State aid from paragraph 1 herein can be granted for appearances in various trade shows, but not for multiple appearances in the same trade show.

#### *2. State Aid for Rescuing and Restructuring Enterprise in Difficulties*

##### **Article 21**

State aid for rescuing and restructuring cannot be granted to an enterprise in the sectors of steel and coal production.

State aid from paragraph 1 herein cannot be granted to a newly-founded enterprise and if its initial financial position is insecure, or to an enterprise in the coal and steel production sectors.

State aid for rescuing and restructuring can be granted to an enterprise in which the bankruptcy procedure was initiated, due to its survival and continuation of operations.

If an enterprise belongs to a large business group and fulfills the conditions for receiving state aid for rescuing and restructuring, state aid can be granted to it if it proves that the difficulties are only its own, that they are too large for the business group to handle on its own, and that they did not occur as a consequence of arbitrary distribution of expenses within the business group.

## **Article 22**

State aid for rescuing can be granted if the following conditions have been fulfilled:

- 1) it is intended to maintain liquidity and is granted in the form of loan guarantees or loans;
- 2) each loan must be paid with normal commercial interest rate (at least comparable to the reference rate from Article 2 herein) and all commitments arising from guarantees settled within six months after the first installment has been paid to enterprise;
- 3) state aid is one-off and must be justified by serious social and economic difficulties;
- 4) state aid is limited to an amount necessary for the enterprise to continue operating in the period for which the aid was granted (covering costs of salaries, usual procurements, implementation of organizational changes, fast abandonment of the operations that are creating losses, etc.);
- 5) it is approved only for a period required to prepare the restructuring plan, which cannot exceed six months.

State aid grantor shall ensure that beneficiary of state aid for rescuing submits the following documents within six months at the latest following the date of state aid grant:

- a) restructuring plan, or
- b) liquidation plan, or
- c) evidence that loan has been paid in its entirety or that guarantee has expired.

## **Article 23**

State aid for restructuring can be granted only if the following conditions have been cumulatively fulfilled:

- 1) enterprise has prepared the restructuring plan, including:

(a) resumption of enterprise's long-term competitiveness within reasonable time based on realistic assumptions concerning future business conditions, which includes abandonment of the operations that are creating losses;

(b) termination of organizational parts of the enterprise that caused losses, which includes social measures for the benefit of redundant workers whose expenses are not paid by the state aid beneficiary,

(c) description of circumstances that produced the difficulties in order to estimate if the suggested measures are appropriate;

(d) envisaging such form of organizing as would enable the enterprise to cover all its costs, including amortization and financial commitments, after restructuring without additional aid;

(e) start date and end date of the restructuring process are defined;

2) enterprise is taking compensation measures to avoid significant market disruptions: transfer or sale of property, capacity or market share reduction. Compensation measures do not apply to small enterprises,

3) state aid amount is limited to a minimum required for implementing the restructuring plan measures.

State aid beneficiary shall finance a portion of costs pertaining to the restructuring process from own resources or from external sources of financing under market conditions, as follows:

a) small enterprises in the amount of at least 25%,

b) medium enterprises in the amount of at least 40%,

c) large enterprises in the amount of at least 50%.

#### **Article 24**

State aid for rescuing and restructuring can be granted only once, and exceptionally again after expiration of a ten year period.

If an enterprise has already been granted state aid once for rescuing or restructuring, and fewer than 10 years has passed since state aid for rescuing or restructuring was granted or since the process of restructuring was finished or implementation of the plan of restructuring was stopped (what happened the latest is what is taken into consideration), new state aid for rescuing or restructuring is allowed in the following cases:

1) is state aid for restructuring is granted after aid for rescuing, as a part of a unique process of restructuring;

2) is state aid for rescuing was granted, and restructuring with state aid did not follow:

(a) if it can be reasonably presumed that the enterprise will become sustainable on a long term after state aid for rescuing is granted, and

(b) if new state aid for rescuing or restructuring became necessary no sooner than after 5 years, due to circumstances that could not have been foreseen and for which the enterprise is not responsible;

3) if there are exceptional and unpredictable circumstances for which the enterprise is not responsible.

State aid provider is obliged, right after getting a notification from the state aid beneficiary that the restructuring process has been finished, to inform the Commission for State Aid Control about that in writing.

The scheme for state aid granting for rescuing and/or restructuring of small and medium enterprises in difficulties is allowed:

1) if an enterprise fits the definition of small and medium enterprises from this regulation,

2) if conditions have been met for granting state aid for rescuing, especially if the condition of the 6 month limit has been met,

3) if conditions have been met for granting state aid for restructuring, especially if the condition regarding the restructuring plan was fulfilled,

4) if state aid amount is not bigger than 10 million euros in dinar equivalent, including aid from other sources or schemes.

#### **Article 24a**

State aid provider is obliged, right after getting a notification from the state aid beneficiary that the restructuring process has been finished, to inform the Commission for State Aid Control about that in writing.

State aid provider is obliged to submit to the Commission for State Aid Control regular annual reports on the progress of the restructuring plan, until the restructuring plan is finished.

### ***3. State Aid for Employment***

#### **Article 25**

State aid for employment can be granted to enterprises operating in all sectors, except to enterprises operating in the coal sector and enterprises in difficulties.

State aid for employment can be granted for employing disadvantaged workers and disabled workers in the form of earnings' subsidies and as compensation for additional costs of employing disabled workers.

State aid for employing disadvantaged workers and disabled workers can be granted if it results in a net increase of the number of disadvantaged and disabled workers within a certain enterprise or for additional costs of instruments or equipment for disabled workers.

### **3.1. State Aid for Employing Disadvantaged Workers**

#### **Article 26**

State aid for employing disadvantaged workers can be granted in the form of earnings' subsidies under the following conditions:

- 1) employment results in net increase of the number of employees,
- 2) a disadvantaged worker, save in the event of legal termination of employment due to violation of work obligation, has the right to permanent employment in the minimum period prescribed by the law or by collective employment agreement.

The amount of state aid cannot exceed 50% of eligible costs.

If a period of employment of disadvantaged workers is less than 12 months, state aid is proportionally reduced.

Eligible costs for state aid grant for employing disadvantaged workers are costs of salaries of disadvantaged workers for a period of 12 months maximum after employment date, or for a period of 24 months if the disadvantaged worker had been unemployed for a period of 24 months or more.

### **3.2. State Aid for Employing Disabled Workers**

#### **Article 27**

State aid for employing disabled workers can be granted in the form of earnings' subsidies under conditions set out in Article 26, paragraph 1 herein.

The amount of state aid cannot exceed 75% of eligible costs.

If a period of employment of disabled workers is less than 12 months, state aid is proportionally reduced.

Eligible costs for state aid grant for employing disabled workers are costs of salaries in any time period in which a disabled worker is employed.

### **3.3. State Aid for Compensating Additional Costs of Employing Disabled Workers**

#### **Article 28**

Eligible costs for state aid grant for compensating additional costs of employing disabled workers are costs which, apart from costs of salaries set out in Article 27 herein, are additional to those cost that enterprise would bear if it had employed persons without disability for a period in which a disabled worker is employed.

Eligible additional costs for state aid grant for compensating additional costs of employing disabled workers are as follows:

- 1) cost of adapting business premises,
- 2) cost of employing personnel for a period of time in which they assist disabled workers only,
- 3) cost of adapting or purchasing equipment and/or purchase and testing of software used by disabled workers, including adapted or auxiliary technical equipment,
- 4) cost of building, installing or broadening enterprise and installation of equipment, including all costs of administration and transportation directly related to employing disabled workers, if the state aid beneficiary is conducting sheltered employment,

Amount of state aid grant for compensating additional costs of employing disabled workers cannot exceed 100% of eligible costs.

### **3.3.a Deviation from the rules on state aid cumulation**

#### **Article 28a**

State aid for disabled persons from Articles 27 and 28 of this regulation can be cumulated, when it comes to the same eligible costs, with another state aid envisaged in this regulation even above the upper limit determined in Article 5, paragraph 1 of this regulation, if the cumulation does not exceed 100% of eligible costs at any period the persons in question were employed.

### ***4. State Aid for Environmental Protection***

#### **Article 29**

State aid for environmental protection can be granted for removing or preventing harm to environment or natural resources created by beneficiary's activities, for removing risks of

such harms or for higher efficiency in exploiting natural resources, including energy efficiency measures and use of renewable energy sources.

State aid for environmental protection can be granted to enterprises in all sectors, save transport sector in the area of infrastructure relating to aerial, road and railway traffic, as well as inland navigation.

State aid for environmental protection cannot be granted to small and medium enterprises that had not applied as potential state aid beneficiaries before project implementation in the manner and under conditions determined by state aid grantor.

State aid for environmental protection cannot be granted to a large enterprise before, in addition to conditions set out in paragraph 3 herein, state aid grantor has established through review of documentation submitted by beneficiary that without state aid grant the beneficiary would not be able to ensure the planned level of environmental protection.

#### **4.1. State Aid for Achieving Higher Standards than Applicable in the Republic of Serbia or for Increasing Environmental Protection Level in Absence Thereof**

##### **Article 30**

State aid for achieving higher standards than applicable in the Republic of Serbia or for increasing environmental protection level in absence thereof can be granted for an investment that:

- 1) enables the beneficiary to increase environmental protection level as a result of its activities above applicable environmental protection standards in the Republic of Serbia, or
- 2) enables the beneficiary to increase environmental protection level as a result of its activities in absence of environmental protection standards in the Republic of Serbia.

State aid cannot be granted in the event when such aid is intended for achieving the standards in the Republic of Serbia which have been adopted, became effective, but are not applied yet.

As an exception to paragraph 2 of this Article, state aid for purchase of new vehicles for road, railway or air transportation, as well as inland navigation can be granted if such vehicles meet the new standards that became effective in the Republic of Serbia, but are not yet applied.

##### **Article 31**

Eligible costs for granting state aid for achieving higher standards than applicable in the Republic of Serbia or for increasing environmental protection level in absence thereof are costs of investment into tangible and intangible assets.

Eligible costs from paragraph 1 herein must be limited to additional investment costs required for achieving higher environmental protection level than required by standards of the Republic of Serbia, or those that the beneficiary would have achieved in absence of standards and without state aid grant.

Eligible costs from paragraph 1 herein are calculated as net difference between benefit and cost of operations related to additional investment into environmental protection that exist during the first five years of investment.

### **Article 32**

The amount of state aid shall be as follows:

- 1) for large enterprises – up to 50% of eligible costs,
- 2) for medium enterprises – up to 60% of eligible costs,
- 3) for small enterprises – up to 70% of eligible costs.

When investing includes procurement of property for environmental innovations or starting a project of environmental innovations, the amount of state aid can be increased by as much as 10 percentage points:

- 1) if property or project of environmental innovations are new, or at least substantially better than state of the art technology in the same sector of industry in the Republic of Serbia, which is proven through a precise description of innovation and market conditions in which it was introduced or expanded. The innovation is compared to processes or organizational techniques used by other enterprises in the same industry sector through application of state of the art technology,
- 2) if the expected benefit to the environment is substantially higher than the improvement resulting from the general development of state of the art technology in comparable activities. When quantitative parameters can be used for comparing environmentally-innovative activities with standard environmentally non-innovative activities, the 'substantially higher' means that the border improvement expected from environmentally-innovative activities regarding reduced risk to the environment, pollution or improved efficiency of consumption of energy or resources – has to be at least twice as high as the border improvement expected from the general development of non-innovative comparable activities. In case when that approach is not appropriate or when quantitative comparison is not possible, the request for granting state aid has to contain a thorough description of the method used for meeting the 'substantially higher' criteria and for providing the standard comparable to this method's standard,
- 3) the innovative nature of property or project contains a clear level of risk in the technological, market or financial sense, which is higher than the risk usually connected to non-innovative property or project in comparable activities. That risk can be presented

as expenses related to income of the enterprise, time needed for development, expected gain from the environmental innovation compared with expenses, likelihood of failure, etc.

#### **4.2. State Aid for Early Compliance with New Standards**

##### **Article 33**

State aid for early compliance with new standards in the Republic of Serbia that increase environmental protection level, but are not in application yet, can be granted only for investments made and completed at least one year before the start of application thereof.

##### **Article 34**

Eligible costs for granting state aid for early compliance with new standards must be limited to additional investment costs required to achieve environmental protection level required by new standards in the Republic of Serbia compared to the environmental protection level before application thereof.

Eligible costs from paragraph 1 herein are calculated as net difference between benefit and cost of operations related to additional investment into early compliance with new standards that exist during the first five years of investment.

##### **Article 35**

In case that project completion and its application occur in the period between one and three years before entering into force of a standard, state aid amount cannot exceed:

- 1) for small enterprises – 20% of eligible costs,
- 2) for medium enterprises – 15% of eligible costs,
- 3) for large enterprises – 10% of eligible costs.

In case that project completion and its application occur in the period over three years before entering into force of a standard, state aid amount cannot exceed:

- 1) for small enterprises – 25% of eligible costs,
- 2) for medium enterprises – 20% of eligible costs,
- 3) for large enterprises – 15% of eligible costs.

#### **4.3. State Aid for Energy Saving**

##### **Article 36**

State aid for energy savings can be granted to enterprises as investment and as operating aid.

#### **Article 37**

Eligible costs for granting state aid for energy savings must be limited to additional investment costs required to achieve energy savings above the level required by the standards in the Republic of Serbia.

Eligible costs from paragraph 1 herein are calculated as net difference between benefit and cost of operations related to additional investment for achieving energy savings that exist during the first five years of investment for large enterprises, and during the first three years for small and medium enterprises.

#### **Article 38**

Investment state aid amount is defined as follows:

- 1) for small enterprises – up to 80% of eligible costs,
- 2) for medium enterprises – up to 70% of eligible costs,
- 3) for large enterprises – up to 60% of eligible costs.

#### **Article 39**

Operating state aid can be granted if the following conditions are fulfilled:

- 1) state aid is limited to compensating additional production costs arising from investment, bearing in mind the benefits resulting from energy savings. When defining the operating aid amount, each investment aid granted to enterprise for new plant shall be deducted from production costs,
- 2) state aid is limited to five years,
- 3) in the event of state aid grant which gradually reduces over time, aid amount shall not exceed 100% of additional costs in the first year, but it must be linearly reduced to zero at the end of year five. In the event of state aid grant which does not reduce gradually over time, state aid amount shall not exceed 50% of additional costs.

### **4.4. State Aid for Production of Energy from Renewable Sources**

#### **Article 40**

State aid for production of energy from renewable sources can be granted as investment and as operating state aid if there is no mandatory standard in the Republic of Serbia regarding a share of energy from renewable sources for individual enterprises.

Investment and operating state aid for production of bio-fuels is permitted only in case of sustainable bio-fuels.

#### **Article 41**

Eligible costs for granting state aid for production of energy from renewable sources comprise additional investment costs borne by enterprise compared to a traditional power plant or traditional heating plant with the same capacity in terms of energy production performance.

Eligible costs from paragraph 1 herein are calculated as net difference between benefit and cost of operations related to additional investment into production of energy from renewable sources that exist during the first five years of investment.

#### **Article 42**

The amount of investment state aid that can be granted is as follows:

- 1) small enterprises – up to 80% of eligible costs,
- 2) medium enterprises – up to 70% of eligible costs,
- 3) large enterprises – up to 60% of eligible costs.

#### **Article 43**

Operating state aid can be granted for covering the difference between costs of energy production from renewable sources and market price of that form of energy and it is related to energy production from renewable sources with a view to selling it in the market or for own use by enterprise.

Operating state aid can be granted only until the completion of the subject investment amortization process and cannot exceed the investment costs. When defining the operating state aid amount, each aid granted to enterprise for investing into new plant shall be deducted from production costs.

In addition to conditions stated in paragraph 2 herein, operating state aid can also be granted under conditions set out in Article 39 of this Regulation.

### **4.5. State Aid for Plants for Combined Production of Electricity and Heat (Cogeneration)**

#### **Article 44**

State aid for cogeneration can be granted as investment and as operating state aid.

Investment state aid for cogeneration can be granted under condition that the new cogeneration unit generates total savings of primary energy compared to separate generation or that it improves existing cogeneration units or that transformation of existing energy plant into cogeneration unit generates savings of primary energy compared to the original situation.

#### **Article 45**

Eligible costs for granting state aid for cogeneration must be limited to additional investment costs required for establishing a highly efficient cogeneration plant compared to investment.

Eligible costs from paragraph 1 herein are calculated as net difference between benefit and cost of operations related to additional investment into cogeneration that exist during the first five years of investment.

#### **Article 46**

The amount of investment state aid that can be granted is as follows:

- 1) small enterprises – up to 80% of eligible costs,
- 2) medium enterprises – up to 70% of eligible costs,
- 3) large enterprises – up to 60% of eligible costs.

#### **Article 47**

Operating state aid can be granted under conditions set out in Article 43 herein to enterprises that supply the market with electricity and heat via the distribution network in cases when costs of producing such energy exceed their market price, as well as for industrial usage of combined electricity and heat production if production price of one energy unit by using this technology exceeds market price of one unit of traditional energy.

### **4.6. State Aid for Energy Efficient District Heating**

#### **Article 48**

Investment state aid for energy efficient district heating can be granted under condition that the combined production and distribution of heat result in primary energy savings

and that the investments are intended for usage and distribution of waste heat for the purpose of district heating.

#### **Article 49**

Eligible costs for granting state aid for energy efficient district heating must be limited to additional investment costs required for establishing energy efficient district heating compared to investment.

Eligible costs from paragraph 1 herein are calculated as net difference between benefit and cost of operations related to additional investment that exist during the first five years of investment.

#### **Article 50**

The amount of investment state aid that can be granted is as follows:

- 1) small enterprises – up to 70% of eligible costs,
- 2) medium enterprises – up to 60% of eligible costs,
- 3) large enterprises – up to 50% of eligible costs.

### **4.7. State Aid for Waste Management**

#### **Article 51**

State aid for managing waste of other enterprises, including re-use, recycling, and processing can be granted only if the following conditions are cumulatively fulfilled:

- 1) investment is intended to reduce pollution produced by other enterprises – polluters, and does not cover pollution produced by aid beneficiary,
- 2) aid does not exempt polluters from paying the fees under regulations governing environmental protection and waste management or fees that are considered normal cost of enterprise – polluter,
- 3) investment improves the process in which the use of waste for production of finished products is economically profitable or results in the use of traditional technologies in an innovative manner,
- 4) processed waste would have otherwise been deposited or processed in a manner less acceptable for the environment,
- 5) investment does not only increase demand for the objects to be recycled, but increases collection of that waste as well.

## **Article 52**

Eligible costs for granting state aid for waste management are additional investment costs required for investment into waste management compared to traditional production of equal capacity that does not include waste management.

Eligible costs from paragraph 1 herein are calculated as net difference between benefit and cost of operations related to additional investment into waste management that exist during the first five years of investment.

## **Article 53**

The amount of investment state aid that can be granted is as follows:

- 1) small enterprises – up to 70% of eligible costs,
- 2) medium enterprises – up to 60% of eligible costs,
- 3) large enterprises – up to 50% of eligible costs.

### **4.8. State Aid for Remediation of Contaminated Sites**

## **Article 54**

Investment state aid to enterprises engaged in removing harms to environment by remediating contaminated sites can be granted only if it results in improvement of natural environment.

Harms to environment from paragraph 1 herein are related to degradation of soil, surface or underground water quality.

State aid cannot be granted if polluter can be identified, in which case the principle of “polluter pays” shall be applied. If polluter is not identified or cannot be ordered to bear the cost of remediation, state aid can be granted to the entity that is performing remediation operations.

## **Article 55**

Eligible costs for granting state aid for remediating contaminated sites are all costs related to contaminated site remediation operations, reduced by the amount of land value increase in that area.

## **Article 56**

State aid for contaminated site remediation can be granted in the amount of up to 100% of eligible costs. Total amount of aid cannot exceed actual costs borne by enterprise.

## **4.9. State Aid for Relocation of Enterprises**

### **Article 57**

Investment state aid for relocation of enterprises on new locations for environmental protection purposes can be granted under the following conditions:

- 1) change of location must be performed for environmental protection purposes or prevention of harm to environment and the change must be backed up by decision of authorities or court decision or it must be a result of agreement between enterprise and authorities,
- 2) enterprise meets the highest environmental protection standards applied in the new location after relocation.

State aid can be granted only to those enterprises operating in urban zones or in special areas in the Republic of Serbia protected under law as natural habitats of flora and fauna and performing their activities in accordance with the law, but due to higher degree of pollution of environment caused by these activities must be moved to another location.

### **Article 58**

Eligible costs for granting state aid for relocation of enterprises are:

- 1) costs related to purchase of land, construction, or purchase of new plants, provided that they have the same capacity as the ones that have been abandoned,
- 2) costs of penalties borne by enterprise due to termination of land or building lease agreements if early termination of contract occurred due to a decision of authorities or court decision regarding the change of location.

In determining the amount of eligible costs, the following shall be deducted:

- 1) gains from sale or renting the abandoned plant or land,
- 2) compensation received for expropriation (deprivation of ownership),
- 3) any other gains relating to plant relocation, especially gains arising from improvement of technology used at the moment of relocation,
- 4) investments into capacity increase.

### **Article 59**

The amount of investment state aid that can be granted is as follows:

- 1) small enterprises – up to 70% of eligible costs,
- 2) medium enterprises – up to 60% of eligible costs,
- 3) large enterprises – up to 50% of eligible costs.

#### **4.10. State Aid for Environmental Studies**

##### **Article 60**

State aid can be granted to enterprise for environmental studies directly related to investments into:

- achieving standards under conditions set out in Articles 30 to 32 herein,
- achieving energy savings under conditions set out in Articles 36 to 39 herein, and
- production of renewable energy under conditions set out in Articles 40 to 43 herein.

State aid can be granted even in cases when, after findings of a preparatory research, investment which is the subject of research is not made.

##### **Article 61**

Eligible costs for granting state aid for environmental studies are costs of preparing the study.

The amount of investment state aid that can be granted is as follows:

- 1) small enterprises – up to 70% of eligible costs,
- 2) medium enterprises – up to 60% of eligible costs,
- 3) large enterprises – up to 50% of eligible costs.

#### ***5. State Aid for Research, Development and Innovation***

##### **Article 62**

State aid for research, development and innovation can be granted to enterprises in all sectors, but it cannot be granted to enterprises in difficulties.

In case of granting state aid to large enterprises, such enterprise shall prove stimulating effects in line with the following criteria: increase of project volume, broadening the area of activity, quicker project implementation, and increase of the total amount for research, development and innovation.

## **5.1. State Aid for Research and Development**

### **Article 63**

State aid for research and development can be granted for:

- 1) basic research that represents experimental or theoretical work for acquiring new knowledge on fundamental principles of appearances and observed facts, without direct application in practice,
- 2) industrial research that represents planned research or examination with the aim of acquiring new knowledge and skills for development of new products, processes or services and/or for significant improvement of existing products, processes or services,
- 3) experimental development including: acquisition, combining, shaping, and using existing scientific, technological, business and other relevant knowledge and skills for preparing plans or designs for new, changed or improved products, processes or services, as well as other activities for the purpose of concept defining, planning and documenting of new products, processes or services.

Activities referred to in paragraph 1, point 3 herein are specifically taken to mean:

- a) production drafts, drawings, plans, and other documentation provided that they are not intended for commercial use,
- b) development of commercially usable prototypes and pilot projects if the prototype is a final commercial product and if costs of production for presentation purposes and for validity testing only would be unacceptably high,
- c) experimental production and product, process or service testing, provided that they cannot be used as such or so adjusted to have industrial or commercial application.

State aid for experimental development cannot be granted for routine or periodical changes of products, production lines, production processes, services or other existing operations, and in the event that such changes represent improvements.

### **Article 64**

Eligible costs for research and development are:

- 1) cost of personnel (researchers, technicians, and other supporting staff) to the degree in which they are involved in the research project,
- 2) costs of instruments and equipment to the degree in which they are used for the research project. If the instruments and equipment are not used throughout the entire

duration of the research project, eligible costs are only depreciation costs in the period of project duration calculated based on good accounting practice,

3) costs of buildings and land to the degree in which they are used for the research project, where for buildings the cost of amortization throughout the research project period shall be applied, and for land the cost of purchase or lease or actual capital expenses incurred,

4) costs of contractual research, technical knowledge and patents that were bought or licensed from third parties at market prices, if the transaction was made under competitive conditions, and costs of advisory and similar services if they are used for research activities only,

5) additional overhead costs incurred directly as a result of research activities,

6) other operating costs of operation, including cost of materials, consumables and products incurred directly as a result of research activities.

In case of experimental development, all income generated from using the developed prototypes and experimental drawings for commercial purposes shall be deducted from eligible costs, if applicable.

### **Article 65**

The amount of state aid is determined as follows:

- 1) for basic research – up to 100% of eligible costs,
- 2) for industrial research – up to 50% of eligible costs,
- 3) for experimental development – up to 25% of eligible costs.

The amount of state aid for industrial research and experimental development can be additionally increased:

- 1) up to 10 percentage points for medium enterprises and up to 20 percentage points for small enterprises,
- 2) up to additional 15 percentage points, but not exceeding 80 percentage points of eligible costs if:
  - a) project involves cooperation with at least one small or medium enterprise or is conducted in at least two different countries, and if neither enterprise alone bears more than 70% of eligible costs relating to the cooperation project, or

b) project involves cooperation between enterprise and a research organization, where research organization bears a minimum of 10% of eligible project costs and is entitled to publishing the results of its research project, or

c) in case of industrial research, project results are announced in conferences of scientific or technical nature, in scientific or technical journals available to all.

## **5.2. State Aid for Technical Feasibility Studies**

### **Article 66**

State aid for preparation of technical feasibility studies can be granted for industrial research and experimental development.

Eligible costs for granting state aid for preparation of technical feasibility studies are actual costs of preparing technical feasibility studies.

The amount of state aid shall be determined as follows:

1) small and medium enterprises – up to 75% of eligible costs for studies that are a preparation for industrial research and up to 50% of eligible costs for studies that are a preparation for experimental development,

2) large enterprises – up to 65% of eligible costs for studies that are a preparation for industrial research and up to 40% of eligible costs for studies that are a preparation for experimental development.

## **5.3. State Aid for Acquiring Industrial Property Rights for Small and Medium Enterprises**

### **Article 67**

State aid for small and medium enterprises for acquiring industrial property rights can be granted for acquiring and confirming patents and other industrial property rights.

Eligible costs for granting state aid to small and medium enterprises for acquiring industrial property rights are:

1) all costs prior to granting the rights, including the costs for preparation, registration and testing the application, as well as costs incurred in renewing application the right was granted,

2) costs of translation and other costs incurred in receiving or confirming the right in other legal systems,

3) costs incurred in defending validity of the right during official application examination and possible renunciation procedure, and when these costs are incurred after the right has been granted.

The amount of state aid cannot exceed the amount of aid for research and development projects set out in Article 65 herein relating to research activities that first resulted in the subject industrial property rights.

#### **5.4. State Aid for Newly-Founded Innovative Enterprises**

##### **Article 68**

State aid for newly-founded innovative enterprises can be granted if the following conditions have been fulfilled:

- 1) at the moment of aid granting, the enterprise has been in operation for a period less than six years,
- 2) research and development costs of the newly-founded enterprise represent a minimum of 15% of its overall operative expenses in at least one of the three years before state aid grant or, in the event of a start-up without previous financial records, in the audit of its current business period certified by independent auditor,
- 3) total amount of granted state aid can amount up to EUR 1.5 million in RSD equivalent as of the date of passing state aid decision,
- 4) state aid can be granted only once.

In addition to research, development and innovation, state aid to a newly-founded innovative enterprise can also be granted for investments into risk capital under other rules contained herein, but only after expiration of a three year period from granting state aid to a newly-founded innovative enterprise.

#### **5.5. State Aid for Process Innovation and Organization of Operations**

##### **Article 69**

State aid for process innovation and organization of operations in the services sector cannot be granted for routine or regular changes of products, production lines, production processes, existing services or other existing operations and if such changes may represent improvements.

State aid from paragraph 1 herein can be granted if the following conditions have been fulfilled:

- 1) process innovation and organization of operations is obvious or significantly improved compared to existing situation in a branch of industry, which is proved by precise

description of innovation, its comparison with existing techniques in business process and organization used by other enterprises in the same sector,

2) process innovation and organization of operations is related to use of information and communication technologies with a view to changing organization of operations,

3) business innovation is in the form of a project for which a project manager is assigned and project costs listed,

4) project should result in development of a standard, commercial operations model, procedure methodology that can be systematically reproduced, certified or patented,

5) project that contains process innovation or organization of operations should have a clear level of risk, which is proved by comparing project costs with enterprise revenue, time required for new process development, expected gains from process innovation compared to project costs and probability of project failure.

#### **Article 70**

Eligible costs for process innovation and organization of operations in the service sector are identical to eligible costs from Article 64 herein. In case of innovations concerning organization of operations, only costs of information and communication technologies can be included into costs of instruments and equipment.

The amount of state aid is determined as follows:

1) up to 15% for large enterprises,

2) up to 25% for medium enterprises,

3) up to 35% for small enterprises.

Large enterprises can be granted state aid only if they cooperate with small and medium enterprises that participate with at least 30% in total eligible costs.

### **5.6. State Aid to Small and Medium Enterprises for Advisory Services and Innovation Stimulating**

#### **Article 71**

State aid to small and medium enterprises for advisory services intended for innovation and services for stimulating innovation can be granted if the following conditions are cumulatively fulfilled:

1) aid cannot exceed EUR 200,000 in RSD equivalent per beneficiary over any three-year period,

2) service provider has a national or European certificate, in which case the amount of aid is up to 100% of eligible costs, and if it does not have a national or European certificate, the aid amount cannot exceed 75% of eligible costs,

3) beneficiary uses the aid to obtain services at market prices or, if service provider is a non-profit enterprise, at a price that represents full cost of services increased by a reasonable margin.

### **Article 72**

Eligible costs for granting state aid to small and medium enterprises for advisory services and innovation stimulation are:

1) for advisory services intended for innovation - costs regarding management counseling, technological assistance, technology transfer services, professional development, advising during takeovers, protection and trade in intellectual property rights and license agreements, advising on application of standards,

2) for innovation stimulation services – costs regarding office space, database, technical booklets, market research, lab use, quality designation, testing and certification.

### **5.7. State Aid for Hiring Highly Qualified Personnel**

#### **Article 73**

State aid for hiring highly qualified personnel seconded from a research organization or large enterprise to a small or medium enterprise can be granted if the following conditions are fulfilled:

1) temporarily moved highly qualified personnel is employed in newly created research, development and innovative positions within enterprise and is not a replacement for existing personnel,

2) highly qualified personnel have been employed with the research organization or large enterprise that sends it for secondment in the previous two years as a minimum.

#### **Article 74**

Eligible costs for granting state aid for hiring highly qualified personnel are all costs of hiring and employing highly qualified personnel, including the cost of using the services of National Employment Service, and costs of relocating the personnel.

State aid amount cannot exceed 50% of eligible costs for a period of three years maximum per enterprise and per hired person.

Highly qualified personnel can be hired on a temporary basis, and upon expiration of the engagement period the personnel shall return to their previous employer.

Highly qualified personnel in terms of this Regulation includes: researchers, engineers, project designers and marketing managers with university education and a minimum of five years of professional experience in a certain area. Doctoral studies shall be considered adequate professional experience.

## **5.8. State Aid for Innovation Clusters**

### **Article 75**

State aid for innovation clusters can be granted as investment or operating aid.

### **Article 76**

Investment state aid for innovation clusters can be granted for the purposes of setting-up, expanding and animating innovation clusters exclusively to legal entities managing these clusters and responsible for managing business premises, facilities and activities of innovation clusters in terms of their use and access. The access to business premises and activities must be free. Fees for the use of premises and involvement in activities shall be determined in accordance with their actual costs.

### **Article 77**

Investment state aid for innovation clusters animation can be granted for:

- 1) refurbishing development and research centers,
- 2) infrastructure intended for research: laboratories, test sites,
- 3) wide network infrastructure.

### **Article 78**

Eligible costs for the grant of state aid for innovation clusters animation are the costs relating to investment in tangible property: land, buildings, machines and equipment.

The amount of state aid is calculated as follows:

- 1) up to 50% of eligible costs for large enterprises,
- 2) up to 60% of eligible costs for medium enterprises,
- 3) up to 70% of eligible costs for small enterprises.

## **Article 79**

Operating aid for covering current expenditure of innovation clusters with a view to their animation can be granted to a legal entity managing business activities of the innovation cluster and must be restricted to a five-year period with the possibility of extension to a ten-year period if the state aid beneficiary proves it necessary.

Eligible costs for the grant of operating aid are the costs of employees' work and administrative costs referring to the following activities:

- 1) the cluster's advertising activities to attract new members – enterprises,
- 2) management of the cluster's open-access facilities,
- 3) organization of development programs, workshops and conferences which encourage exchange of knowledge and connecting among cluster members.

## **Article 80**

The amount of state aid shall be calculated as follows:

- 1) up to 100% of eligible costs for the first year of operation of the innovation cluster with the aim of linear digression, i.e. complete reduction in year five, or
- 2) up to 50% of eligible costs without linear digression.

## ***6. State Aid for Training***

### **Article 81**

State aid for training can be granted to enterprises in all sectors barring enterprises in difficulties.

State aid for training can be granted for:

- 1) specific training involving training which is directly and exclusively applicable to the present and future position of the employees within the enterprise which is a direct beneficiary of aid and which through this training provides qualifications that are not transferrable or are only partly transferrable to other enterprises or business sectors,
- 2) general training involving training which is not exclusively and mainly applicable to the present and future position of the employees within the enterprise which is a direct beneficiary of aid and which through this training provides qualifications that are greatly transferrable to other enterprises or business sectors and thereby significantly increase worker employability.

Training shall be deemed general if it is jointly organized by various independent enterprises or if it can be attended by employees of different enterprises, or if it is recognized, certified and acclaimed by competent state bodies or other state institutions onto which the Republic of Serbia has transferred adequate competences.

### **Article 82**

Eligible costs for the grant of state aid for training are as follows:

- 1) trainers' remuneration costs,
- 2) trainers' and trainees' travel expenses, including accommodation,
- 3) other current expenditure, such as materials and supplies in direct relation to the training project;
- 4) depreciation costs for tools and equipment in the scope of their being used only for training purposes;
- 5) costs of guidance and counseling services in relation to the training project;
- 6) trainees' remuneration costs and general indirect costs (administrative costs, lease, utility bills, etc.) up to the amount of other eligible costs stated in paragraph 1, points 1 through 5 herein. As for trainees' remuneration costs, only the hours really spent on training, upon subtracting all production hours, shall be taken into account.

### **Article 83**

The amount of state aid shall be calculated as follows:

- 1) for specific training – up to 25% of eligible costs,
- 2) for general training – up to 60% of eligible costs.

The amount of state aid from paragraph 1 herein may be increased, but not more than 80% of eligible costs, as follows:

- 1) up to 10 percentage points if training is conducted for disabled or disadvantaged workers,
- 2) up to 10 percentage points if state aid is granted to a medium enterprise,
- 3) up to 20 percentage points if state aid is granted to a small enterprise.

When a training project involves components of both specific and general training, which cannot be separated with the aim of calculating the amount of state aid, and when it

cannot be determined whether it is specific or general training, the amount of state aid for specific training shall apply.

## ***7. State Aid in the Form of Risk Capital***

### **Article 84**

State aid in the form of risk capital can be granted only to small and medium enterprises on grounds of state aid schemes aimed at removing market deficiencies in the risk capital market.

State aid in the form of risk capital cannot be granted to enterprises in difficulties or enterprises in the coal and steel production sectors.

State aid from paragraph 1 herein can be granted in the form which encourages market investors to provide risk capital for certain enterprises, namely for:

- 1) constitution of investment funds in which the state acts as partner or investor, including even less favorable conditions compared to other investors,
- 2) guarantees for investors in risk capital or investment funds for a portion of investment losses or guarantees for loans intended for investing in risk capital provided that the public resources covering possible losses do not exceed 50% of the nominal amount of investment for which a guarantee is issued,
- 3) other financial instruments to the benefit of the investor in risk capital or investment funds for the provision of guarantees for additional investment capital,
- 4) fiscal incentives for investment funds or investors so that they would invest in risk capital.

### **Article 85**

State aid in the form of risk capital can be granted on condition that:

- 1) state aid is part of private capital investment fund which is directed towards making profit and which is managed on a commercial basis,
- 2) state aid allows for financing in tranches, which are entirely or partly financed from the resources of state aid grant, and which do not exceed EUR 1.5 million in RSD equivalent per targeted small and medium enterprises during one year period,
- 3) state aid is restricted to the provision of finances until the development phase of small and medium enterprises,

4) the investment fund provides a guarantee for at least 70% of its total budget invested in targeted small and medium enterprises in the form of shares or share-like instruments,

5) private investors provide guarantee for at least 30% of the resources of investment funds,

6) state aid ensures that decisions on investing in targeted enterprises are driven by profit making.

If an enterprise has been granted state aid in the form of risk capital and if, afterwards, i.e. in the period of up to three years from the date of the first risk capital investment, it applies for any other category, i.e. kind of state aid under this Regulation, the maximum eligible amount of the new state aid prescribed by this Regulation shall be decreased by 20%. This decrease shall not apply to the amounts of state aid for research, development and innovations stated in Articles 62 through 80 of the present Regulation.

## ***8. State Aid to the Cultural Sector***

### **Article 86**

State aid to the cultural sector can be granted for the protection of natural cultural heritage and for cinematographic and other audio-visual activities.

State aid for the protection of natural cultural heritage can be granted for conservation, restructuring and other construction works performed on monuments in need of refurbishing, and which are enlisted as monuments of significant historical, artistic, scientific or archaeological value and entered in the Central Register of Protected Cultural Monuments of the Republic of Serbia.

State aid can be granted amounting at up to 100% of eligible costs, which are directed only towards reaching historical and cultural goals.

### **Article 87**

State aid can be granted for the production of a film and TV program, if the following conditions have been met:

1) state aid is directly aimed at creating a product of cultural significance provided that prior testing is conducted, satisfying the following minimum criteria:

a) state aid is directed towards the provision of support to Serbian culture (content, topic (motif), film setting, main characters, plot/work of art of the Republic of Serbia or Serbian culture or language region, etc.),

b) state aid is directed towards advertising general cultural heritage (adaptation of literary works, films on artists, renowned people, historical achievements, religious or

philosophical issues, programs of social and cultural significance, etc.) of the Republic of Serbia or the European economic region,

c) state aid is directed towards attracting talented people (managers, script writers, directors, composers, etc.) from the Republic of Serbia or the European economic area,

2) the director is allowed to spend 20% of the film or TV program production budget outside the Republic of Serbia,

3) the amount of state aid does not exceed 50% of the production budget, except in complex films with cumbersome content and low-budget films for which the amount may be increased up to 90% of the production budget. The budget of a low-budget film must not exceed the amount of EUR 900,000 in RSD equivalent. The grantor of state aid must always justify the allocation of an amount of state aid bigger than the allowed maximum for films of cumbersome content and low-budget films.

State aid refers to costs related to performing film and TV program activities, i.e. development and production, whereas special activities, such as post-production, do not qualify for state aid.

#### IV SECTORAL STATE AID

##### *1. State Aid in the Steel Production Sector*

##### **Article 88**

State aid can be granted to a steel producing enterprise for the following main objectives prescribed by this Regulation:

1) for environmental protection within the meaning of Articles 29 through 61 of the Regulation,

2) for small and medium enterprises within the meaning of Articles 18 through 20 of the Regulation,

3) for research, development and innovation within the meaning of Articles 62 through 80 of the Regulation,

4) for risk capital within the meaning of Articles 84 and 85 of the Regulation,

5) for employment within the meaning of Articles 25 through 28 of the Regulation,

6) for training within the meaning of Articles 81 through 83 of the Regulation.

State aid can also be granted for restructuring of a steel producing enterprise in difficulties on condition that:

- 1) state aid, under normal market conditions, leads to a long-term sustainability of the enterprise at the end of the restructuring period,
- 2) the amount and intensity of state aid are strictly limited to what is necessary for recovering sustainability, with the aid's progressive decrease if possible,
- 3) the enterprise, prior to being granted state aid, has made a restructuring plan involving rationalization and closure of inefficient capacities.

## ***2. State Aid in the Coal Extraction Sector***

### **Article 89**

State aid can be granted to a coal extracting enterprise for the following main objectives prescribed by this Regulation:

- 1) for environmental protection within the meaning of Articles 29 through 61 of the Regulation,
- 2) for research, development and innovation within the meaning of Articles 62 through 80 of the Regulation,
- 3) for training within the meaning of Articles 81 through 83 of the Regulation.

State aid can also be granted for rational use of coal reserves and special costs incurred by rationalization or restructuring in the coal sector.

## ***3. State Aid in the Transport Sector***

### **Article 90**

State aid can be granted to an enterprise performing transport operations for all main objectives of regional and horizontal state aid prescribed by this Regulation.

State aid can be granted for combined freight transport, transport in inland navigation and air transport.

### **3.1. State Aid for Combined Freight Transport**

#### **Article 91**

State aid in transport can be granted with a view to replacing road freight transport with rail transport, as well as to improving this combined transport, and shall be granted exclusively as investment state aid.

Eligible costs for the granting of state aid for combined freight transport of are total investment costs of:

- 1) constructing and adapting terminals of combined transport, including equipment for shipment,
- 2) projected bigger costs of equipment for combined transport which refer to: road transport containers, special vehicles and containers for combined transport, use of semi-carriers for easier loading, use of initial and subsequent road transport equipment and use of road navigation equipment,
- 3) innovative costs of shipment and logistical systems, in particular intermodal information and communication systems for the improvement of combined transport's offer,
- 4) purchase of fast train engines for the provision of new services and services of better quality in combined transport, at the same time diverting freight transport from road to rail.

### **Article 92**

The amount of state aid shall be calculated as follows:

- 1) up to 50% of eligible costs from Article 91, paragraph 2, point 1) of the Regulation,
- 2) up to 100% of eligible costs from Article 91, paragraph 2, point 2) of the Regulation,
- 3) up to 30% of eligible costs from Article 91, paragraph 2, point 3) of the Regulation,
- 4) up to 30 % of eligible costs from Article 91, paragraph 2, point 4) of the Regulation during the one-year pilot project.

### **3.2. State Aid for Transport in Inland Navigation**

#### **Article 93**

State aid can be granted to transport in inland navigation, namely for:

- 1) investing in the infrastructure of terminals in ports and at docks,
- 2) investing in stationary and portable equipment necessary for loading and unloading in ports and at docks.

Eligible costs for the grant of state aid for transport in inland navigation are the costs of developing new or additional transport capacities of inland navigation.

The amount of state aid from paragraph 1 herein shall be calculated up to 50% of eligible costs.

### **3.3. State Aid for Air Transport**

#### **Article 94**

State aid can be granted to air companies for introducing new flights between a regional and national airport or a regional airport and airports in other countries provided that the following conditions are met:

- 1) the air company possesses a valid document stating its qualifications for performing public air transport activities,
- 2) the new flight and the new flight schedule are sustainable in the long run, with the state aid being degressive and time-bound,
- 3) the introduction of a new flight is preceded by the creation of a business plan which will confirm the effectiveness of the new flight even upon receiving state aid,
- 4) state aid is granted no longer than five years, while the amount of state aid in any one year cannot exceed 50% of eligible costs in that year, nor can it exceed 40% of overall eligible costs over the entire period,
- 5) eligible costs encompass overall costs of introducing a new flight, and they refer to initial commercial marketing costs, as well as accommodation costs of the flight crew at the airport,
- 6) the provision of state aid is suspended once the goals in terms of numbers of passengers and cost-effectiveness of the new flight are reached, and if they are reached before the expiry of the envisaged deadline,
- 7) the provision of state aid is related only to the net increase in the number of passengers transported,
- 8) the procedure for acquiring state aid for the introduction of new flights is public and all interested air companies can, on equal terms, offer their services,
- 9) the grantor of state aid is obliged to publish an annual list of flights for which state aid has been granted for each airport, stating sources of state aid, the beneficiary and the number of passengers.

#### **V STATE AID OF SMALL VALUE (DE MINIMIS STATE AID) *DE MINIMIS CEILING***

#### **Article 95**

*De minimis* state aid can be granted to a single enterprise amounting at RSD 23,000,000.00 at any time during three consecutive fiscal years.

As an exception from paragraph 1 of this Article, in the road transport sector, *de minimis* aid shall be granted to a single undertaking performing road freight transport for hire or reward, in the amount of RSD 11,500,000.00 over any period of three consecutive fiscal years. This *de minimis* aid shall not be used for the acquisition of road freight transport vehicles.

If the undertaking as referred to in paragraph 2 of this Article, besides performing road freight transport for hire or reward also carries out other activities to which the ceiling of RSD 23,000,000.00 applies, that undertaking shall be granted *de minimis* aid in the amount of RSD 23,000,000.00 for those other activities over any period of three consecutive fiscal years, provided that the concerned aid grantor ensures, by separating activities or distinction of costs, ensures that the amount granted for the road transport activity shall not exceed RSD 11,500,000.00 over any period of three consecutive fiscal years and that no *de minimis* state aid is used for the acquisition of road freight transport vehicles.

*De minimis* state aid shall be deemed granted at the moment the legal right to receive the aid is conferred on *de minimis* aid beneficiary.

#### **Article 95a**

*De minimis* aid ceiling laid down in Article 95 of this Regulation shall apply irrespective of the State aid instrument or the objective pursued and regardless of whether the *de minimis* State aid grantor is the Republic of Serbia, autonomous province of a self-governmental unit.

*De minimis* aid granted as a cash grant shall be expressed in its gross amount, that is the amount before any deduction of tax or other charge. Where *de minimis* aid is granted in a form other than a cash grant, the aid amount shall be expressed as a cash grant, that is, as the gross grant equivalent of the aid.

*De minimis* aid payable in several instalments (in several parts) shall be discounted to its value at the moment it is granted and the interest rate to be used for discounting purposes shall be the discount/reference rate as determined by the ministry responsible for finance and published by the Commission for State Aid Control on its website.

In the case of mergers or acquisitions, all prior *de minimis* aid granted to any of the merging undertakings shall be taken into account in determining whether any new *de minimis* aid to the new undertaking or the entrepreneur exceeds the ceiling laid down in Article 95 of this Regulation.

If one undertaking splits into two or more separate undertakings, *de minimis* aid granted prior to the split shall be considered to be granted to the undertaking that benefited from it, which is in principle the undertaking taking over the activities for which the *de minimis* aid was used. If this is impossible to determine, the *de minimis* aid shall be allocated proportionately on the basis of the book value of the equity capital of the new undertakings at the effective date of the split.

*De minimis* aid beneficiary shall inform *de minimis* grantor about the status change referred to in paragraphs 4 and 5 of this Article.

## **CALCULATION OF GROSS GRANT EQUIVALENT OF AID AND TRANSPARENT *DE MINIMIS* AID**

### **Article 95b**

*De minimis* aid shall be granted only in cases when it is possible to calculate precisely the gross grant equivalent of the aid ex ante without any need to undertake a risk assessment, which is referred to as the transparent *de minimis* aid. Aid comprised in grants or interest rate subsidies shall be considered as transparent *de minimis* aid.

Aid comprised in capital injections shall only be considered as transparent *de minimis* aid if the total amount of the public injection does not exceed the *de minimis* ceiling laid down in Article 95 of this Regulation.

Aid comprised in risk finance measures taking the form of equity or quasi-equity investments shall only be considered as transparent *de minimis* aid if the capital provided to a single undertaking does not exceed the *de minimis* ceiling from Article 95 of this Regulation.

Aid comprised in other instruments, besides loans and guarantees, shall be considered as transparent *de minimis* aid if the instrument provides for a cap ensuring that the relevant ceiling is not exceeded, as laid down in Article 95 of this Regulation.

## **CALCULATION OF GROSS GRANT EQUIVALENT OF AID COMPRISED IN LOANS AND GUARANTEES**

### **Article 95c**

Aid comprised in loans shall be considered as transparent *de minimis* aid if gross grant equivalent is calculated in the following way:

- 1) as a proportionate part of *de minimis* ceiling determined in Article 95 of this Regulation, wherein the following conditions have to be fulfilled:
  - a) *de minimis* beneficiary is not subject to collective insolvency proceedings nor fulfils the criteria for being placed in collective insolvency proceedings at the request of its creditors. In case of large undertakings, the beneficiary shall be in a situation comparable to a credit rating of at least B- , and if
  - b) if the loan is secured by collateral covering at least 50% of the loan and its amount is
    - 115,000,000.00 RSD (or RSD 57,500,000.00 for undertakings performing road freight transport) over five years or

- RSD 57,500,000.00 (or RSD 28,750,000.00 for undertakings performing road freight transport) if the loan is granted for a period of 10 years

or

- 2) on the basis of reference rate being in force at the moment when *de minimis* aid was granted,

In cases referred to in paragraph 1 item 1 of this Article, *de minimis* aid amount is equal to *de minimis* ceiling determined in Article 95 of this Regulation, and if the amount of the loan is less than the referred amounts and/or the loan is granted for a period of less than five or 10 years respectively, the gross grant equivalent of that loan shall be calculated as a corresponding proportion of the relevant ceiling laid down in Article 95 of this Regulation.

The decision on the manner of calculating gross grant equivalent shall be made by *de minimis* aid grantor.

Aid comprised in guarantees shall be treated as transparent *de minimis* aid if:

- a) *de minimis* beneficiary is not subject to collective insolvency proceedings nor fulfils the criteria for being placed in collective insolvency proceedings at the request of its creditors. In case of large undertakings, the beneficiary shall be in a situation comparable to a credit rating of at least B-,

and if

- b) the guarantee does not exceed 80% of the underlying loan and the amount guaranteed is
  - RSD 172,500,000.00 (or RSD 86,250,000.00 for undertakings performing road freight transport) and the duration of the guarantee is five years or
  - RSD 86,250,000.00 (or RSD 43,125,000.00 for undertakings performing road freight transport) and the duration of the guarantee is 10 years.

In cases referred to in paragraph 4 of this Article, *de minimis* aid amount is equal to *de minimis* ceiling determined in Article 95 of this Regulation, and if the amount guaranteed is lower than these amounts and/or the guarantee is for a period of less than five or 10 years respectively, the gross grant equivalent of the aid shall be calculated as a corresponding proportion of the relevant ceiling laid down in Article 95 of this Regulation.

## CUMULATION

### Article 95d

*De minimis* aid granted in accordance with this Regulation may be cumulated with other *de minimis* aids, granted in the current fiscal year and in the last two fiscal years, up to the ceiling determined in Article 95 of this Regulation.

*De minimis* aid granted in accordance with this Regulation shall be cumulated with *de minimis* aid granted as a compensation for the provision of services of general economic interest up to the amount of RSD 57,500,000.00 over any period of three consecutive fiscal years.

*De minimis* aid shall be cumulated with other state aid types granted for the same eligible costs or with state aid for the same risk finance measure, up to the amount (intensity) of state aid representing ceiling up to which total state aid amount can be granted. *De minimis* aid which is not granted for or attributable to specific eligible costs may be cumulated with other state aid categories in accordance with relevant rules on state aid.

## **OBLIGATIONS OF *DE MINIMIS* AID GRANTORS**

### **Article 95e**

*De minimis* state aid granted in accordance with this Regulation shall not be notified to the Commission for State Aid Control. The decision on justifiability as to the granting of *de minimis* aid shall be passed by state aid grantor.

*De minimis* aid grantor shall inform a beneficiary in writing of granting *de minimis* aid and of the prospective amount of the aid expressed as a gross grant equivalent.

Where *de minimis* aid is granted to different undertakings on the basis of a state aid scheme and different amounts of individual aid are granted to those undertakings under that scheme, the state aid grantor shall inform each individual *de minimis* aid beneficiary under that scheme of a fixed sum corresponding to the maximum aid amount to be granted under that scheme.

*De minimis* aid grantor shall grant new *de minimis* aid in accordance with this Regulation only after having checked that this will not raise the total amount of *de minimis* aid granted to the undertaking concerned (a beneficiary) up to the amount laid down in Article 95 of this Regulation and that all the conditions laid down in this Regulation are complied with.

*De minimis* aid grantor is obliged to submit to the Commission for State Aid Control and the ministry in charge of finance, 15 days from the day of granting, the complete Table of granted *de minimis* aid. The Table of granted *de minimis* aid and the instructions for completing the Table of granted *de minimis* aid makes the integral part of this Regulation (Annex I) and it can be downloaded from the website of the ministry in charge of finance.

*De minimis* aid grantor is obliged to:

- keep records on granted *de minimis* aid per individual *de minimis* aid beneficiary;
- keep data and documents on granted *de minimis* aid for 10 years from the date on which the aid was granted;

- on written request of the Commission for State Aid Control, provide all data and documents;
- submit the total amount of granted *de minimis* aid to the ministry in charge of finance for drafting the annual report on granted state aid comprised in the Table of granted *de minimis* aid. The Table of granted *de minimis* aid and the instructions for completing the Table makes the integral part of this Regulation (Annex II) and it can be downloaded from the website of the ministry in charge of finance

## **OBLIGATIONS OF *DE MINIMIS* AID BENEFICIARY**

### **Article 95f**

Prior to granting new *de minimis* aid, *de minimis* aid grantor is obliged to request from *de minimis* aid beneficiary to inform them, in written form, about all other *de minimis* aids which have been granted in the current fiscal year and two previous fiscal years, in accordance with this Regulation or other provisions governing *de minimis* aid granting.

### ***De minimis central register***

### **Article 96**

*De minimis* central register shall be established in the ministry in charge of finance. The Minister in charge of finance shall prescribe the manner and conditions for keeping this register, and determine the deadline as well as data and information that *de minimis* aid grantors are obliged to submit.

Until this central register is established, *de minimis* aid grantor shall keep records and submit data on this aid in accordance with Article 95e of this Regulation regardless of the fact whether *de minimis* aid grantor is the Republic of Serbia, autonomous province or a local self-governmental unit.

### **Article 97**

## **UNALLOWED *DE MINIMIS* AID**

*De minimis* aid shall not be granted to:

- 1) promote export, i.e. for activities directly influencing the quantities exported, implementation and operation of a distribution network or for other current expenditure (operating costs) of an undertaking linked to the export activity and
- 2) give precedence to national products over imported ones.

State aid granted for covering costs of attendance at trade fairs and for compensation of costs for conducting a study or for provision of consultancy services needed for introducing a new or an existing product on a new market in another state shall not be

considered State aid for promoting export as referred to in paragraph 1 item 1) of this Article.

## Va SERVICES OF GENERAL ECONOMIC INTEREST

### **Article 97a**

An enterprise can be granted compensation for providing services of general economic interest if the following conditions have been met cumulatively:

- 1) the enterprise that provides conditions of general economic interest has a clearly defined obligation of providing services of general economic interest, determined by the law or a document of the compensation provider,
- 2) the parameters for calculating the compensation amount have been objectively and clearly predetermined,
- 3) the amount of compensation cannot exceed the amount that the enterprise uses to cover the expenses needed for covering its expenses for providing services of general economic interest, taking into account the income and reasonable profit, so it is not excessive and it does not jeopardize the market balance; 'reasonable profit' is the rate of income on capital of an enterprise that takes into account risk or the lack of risk that occurs in the enterprise due to state's mediation. In most cases, that rate must not exceed the average rate from the previous years for the sector to which the enterprise belongs. If there are no enterprises for comparison in the sector, the comparison is made with enterprises from another sector, taking into account specificities of each sector. When determining the 'reasonable profit', the state can introduce incentive criteria, which primarily refer to the quality of the offered service and increased efficiency of offering services.

If the enterprise with the obligation of providing services of general economic interest has not been selected to provide services in public procurement processes, the fee to it is determined based on an analysis of operating expenses of the same or similar enterprise, which performs the same or similar activity in the same or similar conditions.

The fee for providing services of general economic interest, which is allocated in accordance with this article, is not considered state aid and is not reported to the Committee for State Aid Control.

### **Article 97b**

State aid to an enterprise that provides services of general economic interest by meeting the criteria from Article 97a, paragraph 1 of this regulation, but was not selected to provide services in public procurement processes, and its compensation was not determined based on an analysis of operating expenses of the same or similar enterprise,

which performs the same or similar activity in the same or similar conditions, is the always allowed state aid and is not reported to the Committee for State Aid Control.

- 1) if the annual fee for providing services of general economic interest is up to EUR 15M in RSD equivalent, in all the sectors except for the sector of transport and transport infrastructure,
- 2) if the fee for providing services of general economic interest is granted to health institutions and enterprises providing services of general economic interest in the sector of social housing,
- 3) if the fee for providing services of general economic interest is granted to airports whose average annual turnover during two financial years that precede the year in which it was ordered to provide services of general economic is not over 200,000 passengers,
- 4) if the authorization for providing services of general economic interest is no longer than 10 years, unless the service provider has to invest in infrastructure that is a condition for providing services of general economic interest, which depreciates over a long period, in accordance with generally accepted accounting standards.

In case of paragraph 1 of this Article, state aid provider is obliged to keep records on data from Article 97a, paragraph 1 of this regulation for 10 years from aid granting, and to submit information from the records to the Committee for State Aid Granting, upon its request.

#### **Article 97c**

Compensation for providing services of general economic interest that is not encompassed by cases from Articles 97a and 97b of this regulation is considered state aid and must be reported to the Committee for State Aid Granting, due to high risk of jeopardizing market competition.

#### **Article 97d**

The enterprise to whom compensation was allocated and that performs other activities besides the services of general economic interest, is obliged to keep separate records for each activity individually, in accordance with regulations on accounting and revision, so it could be checked whether it was given an excessive compensation and whether it is using the compensation solely for providing services of general economic interest.

### **VI SPECIFIC INSTRUMENTS FOR GRANTING STATE AID**

#### ***1. Short-term Insurance of Export Loans***

#### **Article 98**

State guarantees for short-term export credit insurance against market risks shall be prohibited, and they shall be allowed only for export credit insurance against non-market risks.

## ***2. Guarantees***

### **Article 99**

An individual state guarantee shall not constitute an instrument for granting state aid if it cumulatively meets the following conditions:

- a) the enterprise is not in difficulties,
- b) the guarantee is connected to a specific financial transaction, to a fixed amount and a fixed time period,
- c) the guarantee does not cover more than 80% of unsettled loan or other financial obligations of the beneficiary. This restriction does not apply to guarantees covering borrower's bonds,
- d) the guarantee premium is calculated by use of commercial principles.

The state guarantee scheme shall not constitute an instrument for granting state aid if it cumulatively meets the following conditions:

- a) it does not provide support to enterprises in difficulties,
- b) the guarantee is linked to a specific financial transaction, fixed amount, fixed time period, and does not cover more than 80% of unsettled loan or other financial obligation of the beneficiary. This restriction does not apply to guarantees covering borrower's bonds,
- c) terms of the state guarantee scheme are based on realistic risk assessment and premiums paid by the beneficiary are provided for from their own sources,
- d) premiums cover normal risks covered by the guarantee granted and the administrative costs of the scheme, including annual income from capital, provided by the state,
- e) premiums are reviewed at least once a year,
- f) the state aid scheme allows for the conditions under which future guarantees will be granted (eligible enterprise, sector, size, maximum amount and duration of the guarantee).

## ***3. Sale of Publicly Owned Immovable Property***

### **Article 100**

Sale of publicly owned immovable property shall not constitute state aid if the sales procedure is determined in accordance with one of the following methods:

1) by way of public, open and unconditioned auctioning, accepting the best or the only bid, ensuring the fulfillment of the following conditions:

a) the offer has been announced in national or local press many (consecutive) times over the period of at least two months,

b) each potential buyer can acquire land and buildings and use them for their personal needs,

c) the condition from sub-point b) herein does not influence the restriction of environmental protection, protection of public interests and exclusion of suspicious auctions and offers,

2) based on the appraisal of an independent expert who owns the appropriate document which authorizes them to make appraisals of actual property and who has adequate experience.

If publicly owned immovable property cannot be sold at the price set by the independent expert, the price shall be decreased by 5%.

If, after some time, it becomes obvious that property from paragraph 3 herein cannot be sold at a lowered price, a new appraisal shall be made based on the previous experience.

## VII FINAL PROVISIONS

### **Article 101**

This Regulation is effective as of the eighth day from the date of its publication in the Official Gazette of the Republic of Serbia.

### ***Independent article of the Regulation on amendments and supplements to the Regulation on rules for granting state aid***

*("Official Gazette of RS", no. 100/2011)*

### **Article 33**

This regulation is effective as of January 1, 2012.

***Independent article of the Regulation on supplement to the Regulation on rules for granting state aid***

*("Official Gazette of RS", no. 91/2012)*

**Article 2**

This Regulation is effective as of the eighth day from the date of its publication in the Official Gazette of the Republic of Serbia.