

## INDUSTRIAL PARKS ACT

The **Industrial Parks Act** (the 'Act') was promulgated on **March 12, 2021** in vol. 21 of the State Gazette, which establishes a regulation regarding the status of industrial parks and the conditions for their creation, construction, operation and development. Among the goals of the new normative act is to improve the economic efficiency of the enterprises, to attract and stimulate investments in high-tech productions and to provide support by the state for the establishment of industrial parks.

In the following summary some of the more important features of the new normative act will be briefly presented.

### I. KEY POINTS

#### 1. Industrial park

According to art. 4, para. 1 of the Act an '**industrial park**' is a separate territory located in one or more municipalities, for which structural, technical and organizational conditions for production activities are provided.

The Act provides for three categories of industrial parks considering the production activities that will be carried out in them:

- **Type A** - general, in which there is no specialization of production activities;
- **Type B** - specialized, in which only one type of production and related activities or similar production activities are performed;
- **Type C** - specialized, in which high-tech and related activities are performed.

The industrial parks, created under the terms and conditions of the Act, will be entered in a special electronic register, the creation and maintenance of which is assigned to the Minister of Economy. The rules of the new law and the measures taken in implementation of the state policy for the promotion of industrial parks will be applicable only to the parks entered in the electronic register.

#### 2. Owner of an industrial park

Industrial parks under the Act may be established and owned by the state and / or one or more municipalities, as well as by companies and their associations. In terms of ownership, industrial parks are:

- **state** - when the state is the owner;
- **municipal** - when the owner is one municipality;
- **joint** - when the owner is the state and one or more municipalities, as well as when the owner is two or more municipalities;
- **private** - when the owner is a legal entity registered as a trader or association.

The owner of the industrial park is assigned to provide the organizational, structural and technical conditions for the creation, construction, operation and development of the park.

### 3. Operator of the industrial park

An operator of an industrial park is the person, who performs the activities for operation of the industrial park. The method of determining the operator depends on the ownership of the park:

- when the owner of the park is the state and / or municipality, the operator may be a public enterprise or a concessionaire, determined by the order of the Concessions Act.
- when the owner of the park is a commercial company or an association of commercial companies, the operator can be either the owner himself or another legal entity.

The relations between the owner of the industrial park and the operator are regulated by a contract for operation of the industrial park, to the conclusion and contents of which the Act sets explicit requirements (Art. 28 of the Act).

### 4. Investor, partner, user

The Act regulates the status of three other categories of entities, which are assigned a role in the activities of industrial parks:

- **The investor** is a trader, who carries out production activities in the park on the basis of a business contract concluded with the operator;
- **The partner** is a person, who supports the functioning and development of the industrial park under a contract with the operator. Owners of units of technical infrastructure other than the internal technical infrastructure owned by the owner of the industrial park are not partners;
- **Users** are investors and partners, who operate in the park.

## II. STATE POLICY ON THE INDUSTRIAL PARKS

The implementation of the state policy for the industrial parks is assigned to the Council of Ministers, the Minister of Economy and the local self-government bodies.

Proposed by the Minister of Economy, the Council of Ministers will be able to adopt programs and decisions to stimulate the establishment and / or functioning and / or development of industrial parks.

The Minister of Economy will implement the measures assigned to him by the Council of Ministers to stimulate industrial parks and will provide information on the possibilities for the establishment of parks.

The local self-government which consists of the municipal councils is assigned to adopt measures for stimulation of the industrial parks on the territory of the respective municipality. These measures may take the form of:

- the definition of preferential amounts of local fees for technical and administrative services related to the activities carried out on the territory of the industrial park;
- exemption of owners and investors from local fees, when the fees refer to the sites of the internal technical infrastructure and to the public service sites on the territory of the industrial parks.

The owners of industrial parks will be able to use a **simplified regime** of administrative services during the construction and development of the park. In addition, owners and investors are provided with the opportunity to receive support under the terms and conditions of the Investment Promotion Act, as well as through national programs and the European Structural and Investment Funds.

### III. ESTABLISHMENT, CONSTRUCTION, FUNCTIONING AND DEVELOPMENT OF AN INDUSTRIAL PARK

#### 1. Proposal and decision for establishment

The method of establishment depends on the ownership of the industrial park:

- state and joint industrial parks with state and municipal participation are established by a Decision of the Council of Ministers after a proposal of the Minister of Economy;
- municipal industrial parks and joint industrial parks with municipal or with state and municipal participation are established by a Decision of the municipal council after the proposal of the mayor of the municipality;
- **private industrial parks are established in accordance with the constitutive act of the respective legal entity or association.**

Among the documents that must be attached to the proposal for the establishment of the park are:

- **concept for the industrial park**, which defines long-term perspectives and goals for the development of the park;
- **regulations for the overall organization of the park**, which regulate which activities are allowed on the territory of the park, what are the rights and obligations of the operator and consumers, as well as other important issues regarding the construction and operation of the park;
- **business plan of the operator**, which should at least contain analyzes of the environment, the market and the competitors, as well as operational, financial and marketing plan, management plan and information about the sources of financing of the park;
- **a draft of an exploration contract** (except when the owner will be an operator), which regulates the relationship between the owner and the operator, including the activities of the park, which are assigned to the operator, the conditions for operation and development of the industrial park, the rights and the obligations of the operator regarding the property of the owner and the financial relations between the parties.

It should be kept in mind that the Act provides a number of requirements that industrial parks must meet.

Restrictions have been set regarding the minimum area of industrial parks. As a general rule, the industrial park should have an area of **at least 300 decares**. Exceptions are allowed for parks specializing in high-tech activities within the meaning of the Investment Promotion Act.

**When establishing an industrial park, the owner must have the right of ownership over the properties included in its territory.** An exception is allowed for state, municipal or joint industrial parks, where the properties are allowed to be owned by the operator (the person, who will perform the activities for the operation of the industrial park), if he is a public enterprise. When registering an industrial park, it is not allowed to include in its territory land plots, which are subject to dispute resolution over property rights.

The territory of the industrial parks will be obligatorily differentiated and regulated with a specialized detailed development plan of the industrial park. The plan will determine the structure of the territory of the industrial park, the development zones and the territories with development regime and the purpose of the land properties in the sense of the Spatial Development Act. **As a general rule, the land plots that make up the industrial park should be with a designation for production activities.** Exceptions are allowed for land plots for ancillary and service activities, for public service activities, for green areas and for special sites. The total area of the properties, which are not intended for production activities, should be less than half of the area of the park.

The Act sets requirements for the technical infrastructure on the territory of the park, and it is mandatory to create a transport technical infrastructure, water supply and sewerage grid and electricity distribution grid. The technical infrastructure is allowed to include other elements related to the functioning of the park.

With the decision for the establishment of an industrial park the name, type and area of the park are defined, the concept and regulations for the overall organization of the industrial park are approved, consent for the conclusion of the contract for operation is given, etc. **The presence of a decision that meets the minimum legal requirements is a mandatory condition for the entry of the park in the electronic register.**

Once the decision to establish the park has been made, an **exploration contract** should be concluded between the owner and the operator. Such a contract is not necessary when the owner of the park will perform the functions of an operator as well.

## 2. Entry

The industrial park is subject to an entry at the electronic register, which is maintained by the Minister of Economy. The application for registration is submitted by the park operator electronically with a certified electronic signature. The application should be accompanied by the concept and regulations for the overall organization of the industrial park, which are published in the electronic register.

### **3. Construction, operation and development**

Activities for construction (development planning, investment design and construction for construction, development and maintenance) of an industrial park must be carried out after the entry of the park in the register of industrial parks.

As far as the construction of the industrial park presupposes the issuance and entry into force of a number of administrative acts, the Act provides a simplified procedure for the issuance of these acts, as all administrative bodies, persons performing public functions and organizations providing public services have an obligation to provide the conduct of the respective procedure entirely electronically by electronic means.

The Act contains explicit instructions regarding the range of eligible activities for operation and use of the industrial park. The production activity and the activities carried out by the partners should be in compliance with the conditions and the order, provided in the regulations for the overall organization in the industrial park.

The Act regulates special rules regarding the expansion of the park's territory, the restructuring of the park and the reconstruction of the constructions on its territory.

*\*This text does not constitute a legal advice and should not be taken into account in resolving legal disputes, but only to inform readers.*

**The team of Georgiev, Todorov & Co. Law Offices remains available for assistance and additional information related to the implementation of the Industrial Parks Act.**