



**HELLENIC REPUBLIC
MINISTRY OF DEVELOPMENT**

**GENERAL SECRETARIAT FOR PRIVATE INVESTMENTS AND PUBLIC-
PRIVATE PARTNERSHIPS
GENERAL DIRECTORATE FOR STRATEGIC INVESTMENTS
DIRECTORATE FOR THE ORGANISATION AND MONITORING OF STRATEGIC
INVESTMENTS
DEPARTMENT A' PROGRAMMING AND INCENTIVES**

DECISION

Determination of the procedure for the inclusion of Flagship Investments of Exceptional Importance under the provisions of Law 4864/2021, the monitoring and control of their implementation, and the procedure of payment of subsidies.

**THE ALTERNATE MINISTERS OF
DEVELOPMENT AND INVESTMENTS
AND OF ECONOMIC AFFAIRS AND THE
DEPUTY MINISTER OF DEVELOPMENT AND INVESTMENTS**

Having regard to:

1. Law 4864/2021 "Strategic investments and improvement of the investment environment through the acceleration of procedures for private and strategic investments, creation of a framework for spin off companies and other urgent provisions for development" (Government Gazette A' 237) and in particular point(gb), paragraph(c) of Article 2.
2. Regulation (EU) 2021/241 of the European Parliament and of the Council of 12 February 2021 establishing the Recovery and Resilience Facility (L 57/17).
3. Law 4270/2014 "Principles of fiscal management and supervision (incorporating Directive 2011/85/EU) – public accounting and other provisions" (Government Gazette A' 143), as in force.
4. Law 4622/2019 "Executive State: organization, operation and transparency of the Government, government bodies and central public administration" (Government Gazette A' 133).
5. Article 90 of the "Code for the Government and Government Bodies" ratified by Article 1 of Presidential Decree 63/2005 (Government Gazette A' 98).
6. Presidential Decree 5/2022 "Organization of the Ministry of Development and Investment" (Government Gazette A'15).

7. Presidential Decree 81/2019 "Establishment, merger, renaming and abolition of Ministries and determination of their responsibilities - Transfer of services and responsibilities between Ministries" (Government Gazette A'119).
8. Presidential Decree 83/2019 "Appointment of the Vice-President of the Government, Ministers, Deputy Ministers and Deputy Ministers" (Government Gazette A'121).
9. Presidential Decree 84/2019 "Establishment and abolition of General Secretariats and Special Secretariats/Unified Administrative Sectors of Ministries" (Government Gazette A'123).
10. Presidential Decree 62/2020 "*Appointment of Deputy Ministers and Deputy Ministers*" (Government Gazette A' 155).
11. Prime Ministerial Decision ,no Y 35/22.9.2021 "Assignment of responsibilities to the Alternate Minister of Development and Investments, Nikolaos Papathanasis" (B' 4405/23-09-2021).
12. Prime Ministerial Decision ,no Y 70/30.10.2020, "Assignment of responsibilities to the Alternate Minister of Finance, Theodoros Skylakakis" (B' 4805/30.10.2020).
13. Prime Ministerial and Ministerial Decision, no. Y 48/18.7.2019, "Assignment of responsibilities to the Deputy Minister of Development and Investments, Christos Dimas (B' 3100/1.8.2019).
14. The joint decision No. 134453/23-12-2015 of the Ministers of Economy, Development and Tourism and Finance "Arrangements for the payment of expenses under the Public Investment Programme - PIP" (B' 2857/28-12-2015), as in force.
15. Joint Ministerial Decision no. 119126 EX 2021/28-09-2021 of the Alternate Minister of Finance "Management and control system for the Actions and Projects of the Recovery and Resilience Facility" (B' 4498/29-09-2021), as applicable.
16. Ministerial Decision No. 32787 EX 2022-11-03-2022 of the Alternate Minister of Finance "Inclusion of the Project entitled 'Subproject 1: Flagship Investments of Exceptional Importance' (OPS code TA 5165175) into the Recovery and Resilience Facility"
17. Regulation (EU) 2021/2106 of the European Parliament and of the European Council of 28 September 2021 supplementing the Regulation (EU) 2021/241 by establishing common indicators and detailed elements of the scoreboard for recovery and resilience .
18. Law 4915/2022 (Government Gazette A'63/24.03.2022) "National Strategic Anti-Corruption Plan , provisions on human resources and Local Government Organisations, legislative framework for the education of students of the National School of Public Administration and Local Government", as in force, and in particular Article 58.
19. Law 4122/2013 (Government Gazette A'42) "Energy performance of Buildings -

Harmonisation with Directive 2010/31/EU of the European Parliament and of the European Council and other provisions" (A' 42), as in force.

20. Decision No. YPEN/DEPA/85251/242 "Approval of the National Plan for Increasing the Number of Near Zero-Energy Buildings (Government Gazette B'5447/5.12.2018) in conjunction with the Energy Performance Regulation (KENAK) ((Government Gazette B' 2367/12.07.2017), as in force.
21. Commission Notice 2021/C 58/01 – Technical guidance on the application of the '*Do No Significant Harm*' principle under the Recovery and Resilience Facility Regulation.
22. Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources (L328/82).
23. The European Council's implementing decision of 13 July 2021 on the approval of the assessment of the recovery and resilience plan for Greece (ST 10152/21, ST 10152/21 ADD 1).
24. Law 4822/21 (Government Gazette 135/A/2-8-2021) "Ratification of the Financing Agreement between the European Commission and the Hellenic Republic, the Loan Agreement between the European Commission and the Hellenic Republic and their Annexes, and other provisions concerning the Recovery and Resilience Facility".
25. The fact that no expenditure is caused to the State Budget by the provisions of this Decision
26. Proposal No. GDOS 32006/28.3.2022 of the Head of the General Directorate of Financial Services of the Ministry of Development and Investments.

W e h e r e b y d e c i d e

Article 1

Procedure for inclusion under Law 4864/2021

1. The designation of investment projects as Flagship Investments of Exceptional Importance and their inclusion in Article 2, paragraph 1, case c, of Law 4864/2021 shall be effected by decision of the Interministerial Committee for Strategic Investments (I.C.S.I.) of Article 11 of the aforementioned Law.

2a. The application submitted by the investment project operator for its designation as a "Flagship Investment of Exceptional Importance" shall be submitted to Enterprise Greece S.A. and the procedure shall be followed with the supporting documents and evaluation criteria submitted in accordance with the provisions of Articles 12, 13, 14 and 15 of Law 4864/2021.

b. Upon request by Enterprise Greece, the Committee referred to in Article 2, paragraph 1, case c(ga) of Law 4864/2021 shall issue an opinion within seven (7) days on whether the investment is emblematic or not.

c. The Interministerial Committee for Strategic Investments (I.C.S.I.) shall decide, within thirty (30) calendar days of the submission of the explanatory file to the General Secretariat for Private Investments and Public-Private Partnerships of the Ministry of Development and Investment, by means of a specially reasoned decision published in the Government Gazette, whether the investment proposal shall be classified as a "Flagship Investment of Exceptional Importance" under Article 2, paragraph 1, case c, the estimated implementation cost, the number of jobs to be created and the incentives granted.

3. By decision of the competent authority of the Ministry of Development and Investments, incentives and State aid shall be granted to the investment project designated by the decision referred to in paragraph 1 as a "Flagship Investment of Exceptional Importance" in accordance with Law 4864/2021.

The individual administrative act shall specify the subject matter of the investment project, its total eligible cost, the type and cost of the eligible expenditures, the form and

intensity of the aid granted, the financing scheme of the investment, the sources of financing, the conditions and procedure of granting the approved aid, the implementation timetable of the physical object and the commencement of the productive operation of the investment, as well as the other terms and conditions for the implementation of the investment, and the obligations of the investment project promoter. These provisions shall comply with EU state aid rules along with the regulatory framework governing projects and actions financed under the Recovery and Resilience Facility.

4. The completion date for investment projects shall be 31 December 2025.

Article 2

Qualitative Eligibility Criteria

Investments classified as 'Flagship Investments of Exceptional Importance' shall comply with the following conditions:

1. a. For investments involving the construction of new buildings, the Primary Energy Demand (PED) - PED) shall be at least twenty per cent (20%) lower than the requirement for near- zero energy buildings (NZEB), within the meaning of Article 2(5) of Law 4122/2013 (Government Gazette A'42), in accordance with the "National Plan for increasing the number of near- zero energy buildings (NZEB), (Government Gazette B' 5447/5.12.2018), in conjunction with the Regulation on the Energy Performance of Buildings (KENAK) (Government Gazette B' 2367/12.07.2017), as in force.

b. Investment projects in this category shall comply with the technical guidance on the application of the principle of "No Significant Harm" under the Regulation establishing the Recovery and Resilience Facility (2021/C58/01). Accordingly, the following activities shall not be permitted: a) activities related to fossil fuels, including subsequent use, with the exception of projects under the present measure relating to the generation of electricity and/or heat, as well as related transmission and distribution infrastructure using natural gas, provided that they comply with the conditions set out in Annex III of the Technical Guidance on the application of the Do No Significant Harm principle (2021/C 58/01);b) activities under the EU Emissions Trading System (EU ETS) achieving projected greenhouse gas emissions that are not lower than the relevant benchmarks. Where the supported activity achieves projected greenhouse gas emissions that are not substantially

lower than the relevant benchmarks, an explanation shall be provided as to why this is not feasible. The relevant benchmarks for free allocation for activities falling within the scope of the EU ETS are established in Commission Implementing Regulation (EU) 2021/447; c) activities related to i) landfills and waste incineration plants. This exclusion shall not apply to actions under the present measure in installations exclusively dedicated to the treatment of non-recyclable hazardous waste, or in existing installations where the actions under the present measure aim to increase energy efficiency, enable flue gas capture for storage or use, or enable material recovery from incineration ash, provided that such actions do not result in an increase in the waste processing capacity of the installations or an extension of their operational lifetime; evidence shall be provided at installation level; ii) mechanical- biological treatment units. This exclusion shall not apply to actions under the present measure in existing mechanical-biological treatment plants where such actions aim to increase energy efficiency or convert the installations to recycling operations for separated waste, including composting of bio-waste and anaerobic digestion, provided that such actions do not result in an increase in the waste processing capacity of the installations or an extension of their operational lifetime; evidence shall be provided at installation level; d) activities where the long-term disposal of waste may cause harm to the environment. In accordance with the applicable terms of reference, only activities complying with the relevant European Union and national environmental legislation shall be selected.

c. Investments in electro mobility shall comply with Directive (EU) 2018/2001 and shall concern the use of alternative fuels for transport.

2. Investments classified as “Flagship Investments of Exceptional Importance” shall comply with the applicable State aid rules, ensure the avoidance of unlawful State aid, and prevent double funding from the Recovery and Resilience Facility and other Union programmes.

Article 3

Monitoring and Control of Investments

Investments included under Law 4864/2021 as “Flagship Investments of Exceptional Importance” shall be subject to control throughout their implementation period, upon completion, and during the period in which their long-term obligations are maintained.

1. The monitoring of investments shall consist of regular and ad hoc checks. Regular checks shall be divided into administrative checks and on-site checks.

a. Administrative control shall be carried out by the competent Service on the basis of the documents contained in the file whenever deemed necessary and during the period of compliance with the long-term obligations.

b. On-site control shall be carried out for the certification of the completion of the investment and the commencement of its productive operation. On-site control shall also be carried out for the certification of the implementation of 40% and 70% of the physical and financial object of the investment.

2. The beneficiary shall submit the relevant request to the General Directorate for Strategic Investments, including a concise report on the implementation, completion and commencement of the productive operation of the investment. By the same request, the beneficiary shall propose an independent financial auditor from the Public Register of Article 14 of Law 4449/2017.

3. By decision of the Minister of Development and Investments, a statutory auditor shall be appointed and an audit of the investment shall be conducted, which shall not exceed a period of three (3) months.

For the purposes of conducting the audit, the independent auditor may also cooperate with engineers or other specialist auditors, depending on the nature of the investment under review.

For investment projects including research and development (R&D) expenditure, in addition to the statutory auditor, an expert shall be appointed from the Register of Certified Evaluators, maintained by the General Secretariat for Research and Innovation of the Ministry of Development and Investments.

The remuneration of the control bodies under this Article shall be borne by the project promoter, with the exception of the experts of the General Secretariat for Research and Innovation, whose remuneration shall be charged to the account entitled "Returns of Capital under Law 2216/1994 of the Special Account of the GSRI".

4. The audit report submitted to the General Directorate for Strategic Investments shall include:

a. certification of the implementation of the physical object of the investment;

- b. verification of the financial object of the investment and, in particular, of the accounting entries, records and supporting documents relating to the implementation of the investment;
- c. information relating to the financing of the investment and, in particular, the supporting documents evidencing the payment of the investor's own funds, the bank loan agreements and the financial leasing agreements for the equipment;
- d. the operating licenses of the aided unit;
- e. invoices for the sale of goods and the provision of services arising from the operation of the aided unit.

5.

- a. Ad hoc checks shall be carried out whenever deemed necessary by decision of the Minister of Development and Investments, which shall specify the number of members of the control body, their capacity, their responsibilities, the subject matter of the check and any other necessary details.
- b. Audits may be carried out by national and European audit and control bodies in order to verify compliance with the obligations arising from Regulation (EU) 2021/241 and also from the regulatory framework governing the projects and actions of the Recovery and Resilience Facility (RRF). The implementing body shall make available all documents, supporting material and data relating to the investment and shall accept on-site checks and inspections, both at its registered office and at the locations where the investment is implemented.

Article 4

Forms of Aid and Granting of Aid

Undertakings whose investment projects are included under the provisions of Law 4864/2021 as "Flagship Investments of Exceptional Importance" shall benefit, alternatively or cumulatively, from the tax incentives of Article 8 and the incentives in the form of grants, financial leasing subsidies, and subsidies covering the cost of newly created employment under Article 10 of that Law.

For the payment of the incentives in the form of grants, financial leasing subsidies, and subsidies covering the cost of newly created employment, Joint Ministerial Decision No. 134453/23.12.2015 of the Ministers of Economy, Development and Tourism and Finance,

entitled "Arrangements for the payment of expenditure under the Public Investment Programme (PIP)", as in force, shall apply.

1. Grant, consisting in the free provision by the State of a sum of money to cover part of the eligible expenditure of the investment project, determined as a percentage thereof.

a. The approved grant shall be paid as follows:

i. an amount of up to forty per cent (40%) may be paid to the beneficiary upon request and after certification of the implementation of forty per cent (40%);

ii. an amount of up to seventy per cent (70%) of the approved grant may be paid upon request and after certification of the implementation of seventy per cent (70%) of the total cost of the investment project; and

iii. the total amount of the approved grant shall be paid to the project promoter upon request and after the issuance of the decision certifying the completion of the investment and the commencement of its productive operation. The interim controls referred to in points i) and ii) shall be carried out by the competent authority through an On-the-spot check, in accordance with Article 3(1)(b), and their certification shall be effected by the issuance of the relevant decision.

b. For the disbursement of the grant amount, the investment entity shall submit a payment request accompanied by:

i. the company's articles of association or codified articles of association, as applicable;

ii. the minutes of the Board of Directors (S.A.) or minutes of the General Assembly (Ltd.), or minutes of the Partners' Assembly (Private Company), or, in all other cases, a solemn declaration by the legal representative stating that the grant has not been assigned to a credit institution and indicating the IBAN of the undertaking – project promoter into which the grant shall be paid;

iii. a bank certificate indicating the IBAN of the corporate bank account of the project promoter, or a copy of the bank account statement of the corporate account, signed by the competent bank officer and stamped by the relevant branch.

c.

i. The competent Authority shall receive the payment request together with the accompanying supporting documents and shall create the expenditure clearance file,

including all decisions and other supporting documents from the investment file legitimising the payment of the aid, and shall transmit it electronically to the General Directorate of Financial Services – Directorate of Financial Management.

ii. The project promoter shall submit directly to the General Directorate of Financial Services the remaining supporting documents, namely the certificate of the General Commercial Registry (GEMI) concerning amendments to the articles of association, non-dissolution of the company and non-placement into liquidation, non-placement under compulsory administration or special liquidation, certificates from the Bankruptcy Registry of the Court of First Instance attesting that the company has not been declared bankrupt, that no application for bankruptcy has been filed, that it has not been placed or applied to be placed in conciliation or rehabilitation proceedings, etc., as well as the required tax and social security clearance certificates.

2. Leasing Aid, consisting in the coverage by the State of part of the leasing instalments paid under a financial leasing agreement concluded for the acquisition of machinery and other equipment, determined as a percentage of the acquisition value thereof.

a. Payment of the leasing Aid shall commence after publication in the Government Gazette of the decision certifying the completion of the investment and the commencement of its productive operation, provided that the competent control body has certified the installation in the unit of all leased equipment in accordance with the financial leasing agreement. Payment may also commence prior to the issuance of the decision certifying completion and commencement of productive operation, provided that the competent control body has certified the installation of all leased equipment in accordance with the financial leasing agreement (leasing). In that case, the amount paid before the issuance of the decision certifying completion and commencement of productive operation may not exceed sixty per cent (60%) of the approved amount.

b. The Aid shall be paid every six months, following each payment of the leasing instalments by the project promoter. The amount paid shall be calculated on the basis of the acquisition value of the equipment included in the instalments paid, in accordance with the approved aid rates.

c. Prepayment of the leasing instalments by the project promoter shall be permitted only in respect of the last twelve (12) months of the leasing agreement, as approved by the competent Service.

d. The amounts of the financial leasing aid shall not be deducted from the value of the investment expenditure for the purpose of determining taxable profits.

3. Aid for job creation costs, consisting in the coverage by the State of part of the wage costs of the new jobs created and linked to the investment project.

a. Payment of the Aid covering the cost of newly created employment shall commence after the issuance of the decision certifying the completion of the investment and the commencement of its productive operation, provided that the competent control body has certified the creation of the jobs linked to the investment project.

b. The Aid shall be paid every six months, following each payment of the wage costs by the project promoter.

4. The payment request shall mandatorily be accompanied by a solemn declaration of the legal representative of the implementing body stating that:

i. the funds were used for the purpose for which they were intended;

ii. the information submitted with the payment request is complete, accurate and reliable;
and

iii. the management of the funds was carried out in accordance with all applicable rules, in particular those concerning the avoidance of conflicts of interest, the prevention of fraud, corruption and double funding from the Facility and other Union programmes, in accordance with the principle of sound financial management.

5. Tax exemption, consisting in exemption from the payment of income tax on pre-tax profits generated, in accordance with tax legislation, from all activities of the undertaking, after deduction of the tax of the legal person or legal entity corresponding to the profits distributed or withdrawn. The amount of the tax exemption shall constitute an equal reserve, which, in the event of distribution or capitalisation, shall be taxed in accordance with Article 47 of Law 4172/2013. The project promoter may use the full amount of the tax exemption to which it is entitled within fifteen (15) tax years, and not in a period shorter than three (3) tax years from the year in which the right to use the incentive is established.

The right to start using the benefit of the tax exemption incentive shall be established upon publication in DIAVGEIA (Transparency Programme) of the decision certifying the intermediate implementation of the physical and financial object, or upon publication in

the Government Gazette of the decision certifying the completion of the investment and the commencement of its productive operation.

The aid to which the undertaking is entitled may not exceed, per year, one third (1/3) of the total approved amount of the tax exemption, except where it was not fully used in previous tax years due to insufficient profits. In that case, any remaining aid amount from previous tax years shall be added to the above-calculated maximum annual amount of aid to which the undertaking is entitled.

6. Stabilisation of the tax rate.

This incentive concerns the stabilisation of the corporate income tax rate applicable to legal persons and legal entities on the date on which the investment is classified as a Flagship Investment of Exceptional Importance by decision of the Interministerial Committee for Strategic Investments, for a period of twelve (12) years from the completion of the investment project. The project promoter may use the fixed income tax rate from the tax year in which the investment is completed and productive operation commences. If the tax rate is reduced, the lower rate in force at the relevant time shall apply. The use of the fixed income tax rate shall remain valid until the exhaustion of the aid to which the project promoter is entitled within the limits laid down in Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market, or the relevant decision of the European Commission.

7. Accelerated tax depreciation.

This incentive concerns the accelerated tax depreciation of the fixed assets included in the approved investment plan, by increasing the rates set out in the table in Article 24(4) of Law 4172/2013 by one hundred per cent (100%). Where the initial depreciation rate exceeds twenty per cent (20%), the final increased rate may not exceed forty per cent (40%). For manufacturing undertakings, depreciation of machinery and mechanical equipment shall be deductible from gross revenue at the time it is incurred, increased by thirty per cent (30%).

Article 5

Prevention of Conflicts of Interest

1. The certified auditor-accountant and/or the expert conducting the control may not participate in the conduct of verification/inspection/control or in the approval of

verification/inspection/control reports concerning a project of an entity with which he or she has or maintains a relationship that may be characterised as a conflict of interest, namely a relationship giving rise to any direct or indirect personal interest, primarily financial, dependent on the investment implementing body, which may improperly influence the impartial performance of his or her duties. Indicative, this shall apply where the auditor or expert participates, either personally or through a legal person in which he or she is a principal shareholder, in the corporate or share capital or in the management of the project promoter for the investment concerned, or has drawn up, or participated in any manner in drawing up, the investment project for submission or in its control/approval.

Nor may such person participate in verification/inspection/control of projects or approve the relevant reports where the project promoter's corporate or share capital or management includes the spouse, or an ascendant or descendant relative up to the fourth degree.

2. The certified auditor-accountant and/or the expert appointed for the control of the implementation of the investment shall submit a solemn declaration confirming the absence of conflict of interest. This declaration shall be submitted once to the General Directorate for Strategic Investments.

Article 6

Opening of Special Escrow Accounts

Investment entities whose investment projects are included under the provisions of Law 4864/2021 as 'Flagship Investments of Exceptional Importance' may, following the issuance of a financing approval decision by the competent body, proceed with the opening of special escrow accounts with commercial banks, in accordance with Article 58 of Law 4915/2022.

Article 7

Obligations of the Implementing Entities

The implementing entities of investment projects classified as "Flagship Investments of Exceptional Importance" under Law 4864/2021 shall assist the Ministry of Development and Investments as well as the implementing body of Project 16593, in the performance of their obligations, arising from Regulation (EU) 2021/241, as supplemented by

Regulation (EU) 2021/2106 of the European Parliament and of the Council of 28 September 2021 supplementing Regulation (EU) 2021/241 by establishing the common indicators and the detailed elements of the recovery and resilience scoreboard, and in particular from Article 34 and Article 22(2)(d) thereof, as well as from the Communication Guide of the National Recovery and Resilience Plan.

Article 8
Mutatis Mutandis Application

With regard to matters not regulated by this Decision, the provisions referred to in the ministerial decisions provided for in Article 28(7) and (8) of Law 4864/2021, as in force from time to time, shall apply mutatis mutandis.

Article 9
Entry into Force

1. This Decision shall enter into force on the date of its publication in the Government Gazette.
2. This Decision shall be published in the Government Gazette.

**THE ALTERNATE MINISTER
OF FINANCE**

THEODOROS SKYLAKAKIS

**THE ALTERNATE MINISTER
OF DEVELOPMENT AND INVESTMENTS**

NIKOLAOS PAPATHANASSIS

**THE DEPUTY MINISTER
OF DEVELOPMENT AND INVESTMENTS**

CHRISTOS DIMAS

LIST OF RECIPIENTS (SENT BY E-MAIL)

National Printing House

(For publication in the Government Gazette, vol. B)

Notification:

1. Ministry of Finance
2. Office of the Alternate Minister of Finance, Mr. Theodoros Skylakakis
3. Hellenic Investment and Foreign Trade Company S.A.

Internal Distribution:

1. Office of the Alternate Minister, Mr. Nikolaos Papathanasis
2. Office of the Secretary General for Private Investments and Public-Private Partnerships, Mr. Orestis Kavalakis
3. General Directorate for Strategic Investments
 - a. Directorate for the Organisation and Monitoring of Strategic Investments
 - b. Directorate for Licensing Strategic Investments