

## CHAPTER 34. INDUSTRIAL PARK AS INSTRUMENT OF LOCAL ECONOMIC DEVELOPMENT<sup>1</sup>

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### **Abstract:**

*This chapter is focused on numerous issues with respect to establishment, operation and sustainable development of an industrial park. The reason for choosing this topic lies within a realistic assumption that light industrial development may be a generator of economic development in Serbia. On the other hand, decentralization is, undoubtedly, one of significant processes which have affected the state and therefore it is inevitable to focus on local government as an entity which is more than ever responsible for its development. Given local government's legal position and financial capacity, the cooperation between local government and private capital in the form of public-private partnerships has been examined as a particularly interesting form with potential. The chapter is built on the fact that industrial parks are of multidisciplinary character (involving economy, technical-urban planning, demography, sociology, politics, etc.), and in that sense it analyses in detail numerous factors of impact in the quest for an optimal solution with positive economic and financial outcomes for founders and positive impact on the population and environment. Relevant legislation is rather complex and immature. It covers several areas: laws which regulate the use of land, planning and construction as well as those which regulate business establishment and operations and investment climate and policies for attracting domestic and foreign direct investments (strategies, tax and other incentives, competitiveness, environmental protection, etc.).*

**Key words:** *Industrial parks, local investments, regional development, public private partnerships.*

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## INTRODUCTION

The fact that the development of industry may be a significant local economic development engine in Serbia points to the need to examine the potential of industrial parks as places of concentrated industrial activities organized in a particular way while on the lookout for the most optimal model. To establish and manage an industrial park, in line with the principle of sustainable development, is a complex task for a local community or prospects, which involves numerous challenges of legal, financial and organizational character. An industrial park creates opportunities for development of the local community as a representative of the public sector, but also for private capital to achieve its lucrative goals through a public-private partnership. The importance and the amount of investments involved in this type of project, but also budget problems that most governments are facing, point to the necessity of this kind of cooperation.

An industrial park implies that a specific area of land in a city or municipality (local government) is developed in such a way so as to become attractive with its infrastructure and accompanying contents to companies to come and set up their production lines and other facilities. An industrial park is composed of land and accompanying property which are organized (or as such presented in the plan) in the manner which best suits industrial needs.

A good aspect of an industrial park is that it creates several positive outcomes. In addition to achieving the local government's primary goal – concentrating investors in one location (whether domestic or foreign) and collecting from them a land development fee as the basic instrument of local government's fiscal goal, other outcomes are created like promoting production (Innovation is the possibility for manufacturers to be competitive and enter new markets<sup>4</sup>), increasing local employment, etc. Another positive outcome is moving industry away from the urban centre which can positively affect the population. Therefore, a project of this kind can preserve people's health and improve the quality of the environment if all environmental standards are observed together with standards for industrial and commercial waste management.

This chapter examines several important elements pertinent to establishing and operating industrial parks. It reviews the most important factors of success for industrial parks, analyses a relevant legislative-institutional framework and financial aspects of establishing and operating an industrial park. Due attention has been paid to the potential of public-private partnerships and the system in which resources are

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<sup>4</sup> Tai Ming Ben, Kvan Fei Wang (2011) Interaction Analysis Among Industrial parks, Innovation Input and Urban Production Efficiency, Asian Social science, Vol. No 5, May 2011, p.4

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managed in line with the principles of cost-effectiveness, efficiency and transparency with attempts to balance numerous divergent interests.

### **THE INDUSTRIAL PARK – THE MOST IMPORTANT ISSUES OF ESTABLISHMENT AND OPERATION**

An industrial park, due to its complexity, implies a detailed review of numerous legal sources and the impact of societal, economic and financial parameters in order to set up this complex endeavour in a way to achieve success and avoid an outcome of numerous failed investments.

Before a local government parliament adopts a decision to establish an industrial park it needs to obtain a feasibility study thereof. It should include an assessment of the societal, economic and legal and institutional framework and technical and technological aspects (spatial-urban planning conditions, technical-infrastructure-related aspects, environmental impact, etc.), and a market analysis (demand analysis, investment intent, potential contents of the industrial park, market development assessment).

A fact that should not be neglected is that the supply of such parks is good and that the investment dynamics is relatively slow, therefore success depends on the ability to offer special quality on top of infrastructure and land.

Industry is one of the most important factors of development of states, regions and cities which is why special attention is paid to the criteria for its location. Industry is one of the major activities in cities and in many cities even dominant. This is a typical urban activity and is particularly noted for its share in the economy and the number of people it engages in cities. In the past couple of decades, industrial, duty-free, business/commercial and economic parks have been set up in larger cities.

It is never easy to choose a site for an industry. When making a decision about location numerous factors need to be taken into account such as: what will be produced, which current and planned production technologies will be used, which market will be targeted, what action companies will need to take in order to supply the targeted market, which competitors may offer the same and where they are located, what is the production capacity, what material will be used, what kind of labour force, and which capital will be used and where it can be found, and the like.

Industries are typically located in urban areas. Cities between 10 and 200 thousand people, that is, groups of larger, middle sized and small cities are the best for industry. Large agglomerations should not accumulate industry which does not

develop research or it doesn't need it on a daily basis. Industry, like business activities, occupies a small area in the city but often it employs a large share of the employed.

In addition to this, industry is the most typical city activity. In cities the number of industries is changing, therefore we can talk about specialization in industrial production (referring to one or several industries) and about diversification (larger number of industries). In general, the larger the city - the more diverse is the industrial production.

Industrial parks may come to being spontaneously, but mostly that are the product of planned measures. Previously planned and set up industrial park is attractive for companies because they do not have to worry about the site and where does the urban plan anticipated an industrial area. This is particularly clear from ever growing number of companies which are forced to move due to different government's measures.

Industrial parks are one of the most powerful tools for attracting industries in the hands of the local government. For the state and local government this means simplification of the procedure and guaranteed zoning and planned development and protection of the environment. It is important to point out that there are many who consider waste as a resource ("industrial ecologists")<sup>5</sup> as well.

There are no classification standards for the size of industrial parks. Some consider parks up to 100 ha to be small ones, from 100 to 500 ha middle sized and above 500 ha to be large. Others imply that small parks are those up to 50 ha, middle sized between 50-100 ha, and large above 100 ha. Criteria differ to a significant extent but the latter classification is most frequently accepted.

Many authors have debated about the optimal size of an industrial park, and experience differs from one country to another. According to some authors, the size of a park is defined based on the number of employed, which can go up to 5 thousand after which it is the best to set up a new park. In Great Britain industrial parks are between 12 and 100 ha. In the USA optimal ones are those between 40-80 ha (1.6 ha per 1.000 inhabitants). In France, most parks are between 20 and 100 ha. Along with that, in France, and in Belgium, employment density in industrial parks accounts for, on average, 60-70 employees/ha, with 20% lot coverage. As regards countries in the region, Croatia has a similar density in its industrial parks.

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<sup>5</sup> Desrochers P. (2000), ECO Industrial Parks: The case for private planning. Property & Environment Research Center. [http://www.perc.org/pdf/rs00\\_1.pdf](http://www.perc.org/pdf/rs00_1.pdf), p. 2

It makes no sense to build oversized industrial parks. In developed countries, industries which require large sites develop the land themselves. Those are industries whose sites are regulated by special plans or agreements. In the USA it would be really difficult to come across an industrial company which covers more than 10 ha. The definition of a park mentions that it is an area with several similar users. This is the reason why in less developed areas an industrial park has special importance, while in more developed ones it is more of an instrument of a total investment orientation.

When choosing the strategy for an industrial park it is important to consider the following facts which have resulted from best practice in this area:

- Industrial parks represent a modern form of concentrated industry in cities, Industrial facilities often share the same infrastructure (rail road, roads, gas line, electrical grid, water line, sewer, telecommunications);
- The main purpose of setting up an industrial park is the quick recruitment of direct investments and the increase of employment;
- An industrial park is one of the most powerful tools that local governments can use to attract individual industries which will secure new technologies transfer and employ large numbers of people;
- Worldwide examples show that duty-free zones allow quick recruitment of direct investments and increase the level of employment. Duty-free zones have contributed to a significant increase of employment of less educated people and in this way addressed the problem of unemployment in many developing countries;
- Until it joins the EU, Serbia can continue offering tax exemptions and direct financial incentives in its duty-free zones and industrial parks which is also used in our immediate surroundings (Croatia, Macedonia, Turkey);
- By exempting new companies in industrial parks and duty-free zones from paying the wage tax Serbia can efficiently attract direct investments (domestic and foreign);
- In addition to a duty-free and VAT-free business regime, it is advisable to offer prospects a whole set of other attractive benefits and incentives:
  - *Fiscal benefits* – exemption from paying taxes and fees that burden labour and capital, such as the wage tax (12%) and corporate profit tax (10%); existing tax incentives; accelerated depreciation of fixed assets;
  - *Existing financial benefits* – direct financial support of the Serbia Investment and Export Promotion Agency (SIEPA) to small and medium-sized investors; subsidies provided by the National Employment Agency to employers;
  - *Special benefits* for tenants in duty-free and industrial parks – competitive prices of operators' services; consolidated services of logistics centres (customs procedures, transport, reloading, storage); competitive lease fees for the space and land;

- *Local community offered benefits* – municipal land and infrastructure offered at prices lower than that in the market; exemptions from paying municipal fees and taxes for construction and exploitation of buildings; offering buildings for brownfield investments free of charge, etc.;
- The land lease procedure should be flexible, in terms of maximum compliance with the requirements of prospects in terms of the size and micro location of a lot. However, every arrangement has to be in line with the detailed regulation plan of the industrial park;
- In terms of the profile of future investors maximum flexibility has to be exercised, but still observing the requirement that planned production programs of interested stakeholders must belong to particular industry sectors and to meet high technological and environmental standards.

Those requirements that investors need to comply with must be defined in the detailed regulation plan of the industrial park. For instance, the Detailed Regulation Plan for the Smederevo Park includes the following requirements for a prospect to comply with<sup>6</sup>:

- An investor may not lease a lot below smaller than 0.8 ha;
- Only investors dealing with production in light industry sectors or providing relevant services (mostly transport and customs) are acceptable;
- The planned production must be in compliance with high technological and environmental standards;
- If investors opt for leasing a space which is part of the Smederevo Duty-Free Park must export everything produced in the Park
- etc.

## **REGULATORY FRAMEWORK AND CONFLICT OF INTEREST**

Legal sources relevant for industrial parks are numerous and include laws regulating different areas (property, construction land regime, planning and construction, state administration and local government, budget system, environment, etc.)<sup>7</sup>. Still, legislation should only be the unavoidable basis while the substance could be

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<sup>6</sup> USAID-MEGA, Feasibility Study for Industrial Park in Smederevo, Belgrade, 2010.

<sup>7</sup> The Law on Planning and Construction (Official Gazette of the RoS No. 72/2009, 81/2009); the Environmental Protection Law (OG No.135/04); the Law on Local Self-Government (OG No 129/2007); the Law on Local Government Finance (OG No 2006); the Budget System Law; the Law on Utility Services (OG No 16/97, 42/98); The Regional Development Law (OG No.51/2009); The Law on Public Enterprises and Services of Public Interest (OG No 25/2000, 25/2002, 107/2005 and 108/2005-corrections.); the Public Procurement Act (OG No 116/2008); the Law on Foreign Investments (OG No 3/02 and 5/03; The Free Zones Law (OG No 62/2006), etc.

created by bylaws showing the way how industrial parks are to be formed which would significantly help local communities and investors.

Developing an industrial park as a specific instrument of local economic development includes several segments of society and economy and many stakeholders. It is recommendable to, in addition to public sector entities; include representatives of private capital in the process. The recently adopted Public-Private Partnership and Concession Laws represent the legal grounds for safer cooperation and balance between public and private interests.<sup>8</sup> Another important law which sets the grounds in Serbia for the efficient establishment of industrial parks is the Public Property Law<sup>9</sup> which finally allowed for devolution of property to local government.

These investment endeavours unavoidably imply risk of conflict between the interests of the central and local authorities, as well as internally within each of them. A particularly grave one can be a conflict between their political (addressing political problems) and ownership function (financial management in line with the principle of efficiency). For these reasons, setting up appropriate institutional and management structures and a system which will balance those interests is a very important segment of the efforts invested in establishing and operating industrial parks.

The development of the Republic of Serbia has been grounded on and projected against a large number of strategic documents, both of the central and local authorities, and it points to more than an obvious trend of local governments' strengthening and more extensive interests in guiding their own economic development. Simultaneously, it is clear from practice that the development of industrial parks is making progress but that their number in no way confirms the efficiency of this process. More precisely, it seems that this development model remains an underutilized potential for attracting direct investments.

Such a condition creates a dilemma, and the first question is whether the decision to set up an industrial park was made after a comprehensive consideration of whether the park would be needed and the second is whether the park has been operated efficiently<sup>10</sup>. In addition to this we can raise another important issue (which will not be discussed in this chapter) – is it reasonable to set up an industrial park on top of agricultural land (conversion of purpose) at the expense of agriculture development.

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<sup>8</sup> The Law on Public-Private Partnerships (OG No 88/2011)

<sup>9</sup> The Public Property Law (OG No 72/2011)

<sup>10</sup> It has already been mentioned that in order to attract direct investment it is no longer sufficient to offer just land and infrastructure.

However, the examination of these issues needs to go beyond the local level and include the complete investment climate<sup>11</sup>.

### **THE FACTOR OF CHANGE OF THE CENTRAL AUTHORITIES' CAPACITY**

We are witnessing significant changes to national states in the European space. Processes with special gravity and direct influence on the economy like: the stabilization and accession process which takes away (voluntarily surrenders) a significant part of the sovereignty of national states and transfers it to a supranational creation (the European Union), decentralization which strengthens local government's competences compared to the central authorities, and finally privatization by means of which state property is turned into private<sup>12</sup>. All these changes aim at building a more efficient and less costly state and stronger economic development.

History talks about different forms of interference of the state into economic life. Theory and practice range from complete negation of the need and purpose of the state's participation in market events, to affirmation of its maximum domination and control of participants in the market. The Liberal Capitalism and Socialist Economy represent two antipodes and equally wrongly perceive the state's role in the economy.

The modern state, therefore, is going through significant changes both internally and externally. Externally, through accession to a supranational creation with characteristics of a state and an international organization (the EU) giving away an important part of its sovereignty. Simultaneously, it is changing from the inside through the decentralization process, or by transferring part of its competences to the local authorities (local government). In this complex process additional challenges came from the financial crises which have reinforced the need for a solution that works. While seeking solutions for overcoming the crisis and establishing a modern market economy and a less costly and efficient state, it is crucial to find a place for the government (central, regional and local) in economic life.

The global crisis which hit the world economy put the state's role to the forefront. As it tried to mitigate the crisis with its measures and pave the way towards

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<sup>11</sup> According to the World Bank Report for 2010 (*Doing Business Report*) Serbia is holding the 88th position by its framework for investing.

<sup>12</sup> The property devolution process is also important for Serbia (we are witnessing a long wait for this law to be adopted).



remediation, the state threatens to disturb the balance of interests. At the same time, the state itself is a debtor (significant budget deficit)<sup>13</sup> and its enterprises (founded with the aim of providing services of public importance) have been found unsuccessful according to financial parameters. This situation is basically contradictory because the state, due to its irrational economic decisions, has put itself in the position of a debtor, should help parts of its sector which are also facing difficulties. The question is - how can the state choose the most profitable solution when it is generating losses itself.<sup>14</sup> It is obvious that in many developing countries there is a radical shift from reliance on public sector manufacturing only to private sector entrepreneurship.<sup>15</sup>

The state's more extensive interference in economy and its new role points to the following risks: unsuccessful management of public finances; conflict of the political and ownership functions at the expense of ownership; and risk of violating free market competition. A similar deviation may be found at the local level. Still, local government is directly interested in investments in its territory and by nature it can handle them more easily.

The process to set up an industrial park is exactly the way that can help us perceive the full importance of local government, and also the maximum range of its actions; it is a segment of government strengthened through the decentralization process and under the direct influence of a wider regionalization process; this does not just refer to the Republic of Serbia<sup>16</sup> but the European Union<sup>17</sup> as well. A comprehensive approach requires us to look at an industrial park as an integral part of a region in light of the treatment of other regions and in particular neighbouring regions within the same state.<sup>18</sup> In that sense, we have to observe numerous factors such as: regional development, state aid measures, interest of prospects, mechanisms for eliminating conflicts of interest, the efficiency of administrative procedures, the ability to provide financial incentives, etc.

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<sup>13</sup> At the same time, some local government units possess significant investment potential, like, for instance, the City of Belgrade.

<sup>14</sup> The US experience shows that the state's capacities required by such tasks are limited, that it wandered while seeking the right solution: it is notable that its transformation from a state whose policy is to provide financial aid to businesses which are deemed to be strategically important and whose difficulties reflected on the whole economy into the state that is putting direct investments into those businesses, for instance the state as stakeholder in the financial sector.

<sup>15</sup> Caj O. Falcke *Industrial Parks Principles and Practice*(1999), *Journal of Economic Cooperation Among Islamic Countries* 20, 1. p. 5.

<sup>16</sup> See the *Regional Development Strategy of the Republic of Serbia for the period from 2007 to 2012*.

<sup>17</sup> See Stančetić V. (2009) *The Region as a Development Perspective in the European Union*, *Official Gazette, Belgrade*

<sup>18</sup> *The Regional Development Law (OG No. 51/2009)*

**LOCAL GOVERNMENT AND THE INVESTMENT PROCESS**

Local government is becoming more and more important initiator of its own economic development. The grounds for this have been placed, relatively recently, by new laws which clearly defined the new legal position of local government units<sup>19</sup>. The legal standing of local government has been, therefore, defined by law, which delineated boundaries between the competences of the central authorities and the local government (municipality or city).<sup>20</sup> Local government has its one original function and the functions which were delegated by the Republic from its own purview. Local government has the capacity of legal entity and its basic competences include adopting rules and carrying out administrative procedures based on and within legal provisions. Modern society and economy want local government to participate more in all walks of life with the aim of meeting the interests of local population. The investment process has been specially emphasized in that. For carrying out activities which are in the interest of a local community, local government may use legal or natural entities in accordance with the law<sup>21</sup>.

This way a local community becomes an active participant and creates its own destiny and has to address numerous challenges which often go beyond local importance. Changes in that respect in our country are reflecting the process which is changing Europe.

The legislative and institutional framework allows local government capacity to establish industrial parks. Laws which defined local government functions in regards to industrial parks set up legal grounds for initiating development projects and define their financing, laws which defined an entity responsible to operate such investment projects are of particular importance. Is there room for a new body that would be responsible for development, and how to organize it to be operational and efficient and responsible to collect funds, with ownership and independent management?

Competitiveness of local communities depends, in legal sense, mostly from the content of adopted rules and their transparency but, efficient and transparent implementation of rules is equally important as well as responsiveness and efficiency of the judiciary. Clearly the legislative function will remain in the hands of central authorities but local government can do a lot with its secondary legislation to promote its economic and comprehensive development. Good organization and

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<sup>19</sup> See the Law on Local Self-Government (OG No 129/2007); The Law on Local government Finance (OG No 2006)

<sup>20</sup> The Law on Local Self-Government (OG No 9/02)

<sup>21</sup> See Article 6 of the Law on Local Self-Government (OG No 9/02)

efficient internal procedures result in more efficient decision making, adoption of general and specific governing acts which is all in the interest of users and builds interest of prospects for the local community. Excellent example of efficient cooperation with investors is embodied in the concept „permitting one-stop-shop“ and business friendly climate encourages setting up industrial parks, industrial zones, business incubators and business improvement programs. The whole process, however, must be coordinated and strategy-based.

Political structure in a local community significantly affects the development of the community, particularly considering the fact that citizens cannot incorporate their specific traits into national rules. This is why the local level needs to do everything in accordance with competences and authority that were granted to the local government by law<sup>22</sup>.

#### **FREE ZONE FUNDING AND INCENTIVES**

Practice in Serbia shows that most local government units have serious problems finding financial means. The funding system has been regulated by the Law on Local Government Finance<sup>23</sup>

Such condition points to problems which the local government would have if it would opt for setting up an industrial zone by itself, through a bond issue or through some other form of borrowing. Still, we think that this approach would be unrealistic. Public sector deficit urges to look for a solution in the private sector or in the combination of the two – the public-private partnership.

Acquiring capital externally from financial markets still remains an option. Commercial bank loans are a typical borrowing form. Another solution would be borrowing through municipal bonds<sup>24</sup>. Financial leasing arrangements can also be considered a potential solution.

When contemplating conditions that follow these debtor-creditor relations the important issue becomes in what way and under what conditions local government may borrow and which laws regulate it<sup>25</sup>. The decision to borrow is passed by a relevant local government body after obtaining affirmative opinion from the

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<sup>22</sup> The Law on Local Self-Government (OG No 129/2007); The Law on Local Government Finance (OG No.2006); The Law on Local Elections (OG No 33/02, 37/02 and 42/02; The Law on Referendum and Civil Initiative (OG No 48/94, 11/98)

<sup>23</sup> The Law on Local Government Finance (OG No 2006)

<sup>24</sup> The Public Debt Law, The Law on Securities and other Financial Instruments Market

<sup>25</sup> The Public Debt Law (OG 85/2005, 115/2005)

relevant ministry. The policy makers approve local government borrowing in the case of financing or refinancing investment expenditures planned in the local government budget<sup>26</sup>. It is logical that an industrial park would be classified as item from this category.

It is very important to define the optimum amount of funds needed (addressing property issues, moving, preparatory works, putting utility infrastructure, and land development, etc.) and bring it in line with the project life cycle (depreciation of equipment, fittings, plumbing's, etc.)

Possible local government incentives would be:

1. For construction within boundaries of the free zone tenants would be exempted from paying for:
  - The land development fee,
  - Fees and charges for covering the cost of local administration and documents (utility fees, urban planning permit, approvals, building permit, etc.),
  - Charges for conditions for connecting to infrastructure networks,
  - The charge for approvals for connecting to infrastructure networks,
  - The charge for connecting to infrastructure network.
2. When using buildings within the free zone tenants are exempted from paying the following, within 10 years after the occupancy permit has been issued to them:
  - Local utility fees,
  - Land use fee,
  - Utility service charges.
3. Special benefits for increasing employment through subsidies based on the number of newly employed people for users of the industrial park.

### **THE PLANNED APPROACH**

Assuming the responsibility for its own development local government must use spatial planning as efficient tool for attracting investments and increasing the employment rate of its local population. Decision on setting up an industrial park is adopted by a local assembly and it is very important for it to be an integral part of the development strategy with serious support at the local level<sup>27</sup>. It is important to

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<sup>26</sup> See Article 36 of the Public Debt Law (OG 85/2005, 115/2005)

<sup>27</sup> See Phases of Establishment of Industrial Zones/Parks, USAID, Municipal Economic Growth Activity.

be aware that the success is not guaranteed and that conclusion after 30 year experience in Great Britain is that record is not great<sup>28</sup>.

Available land in the free zone is a resource and potential for development but its abuse and deformations from construction could be drastic example of failure. Analysts attribute this to poor legislation which was in force prior to the current Law on Planning and Construction<sup>29</sup>.

The situation that was left behind the previous law (or more precisely its violation) is called by experts a clear example of inefficiency and corruption in the public sector with negative consequences for economy and population. New law represents an attempt to regulate the area of spatial and urban planning, construction land regime, and construction properly by following European documents. This wide and complex matter has been regulated much better by the new law but the current situation is still not quite right. Whether its implementation will be successful depends on numerous factors (legal, financial, management), and it will up to the case law to prove the quality of the current solutions.

The basic requirement of this law is to make sure that the entire territory is covered with plans. It is clear that sustainable development would be impossible without competent, clear and transparent planning and availability of plans. Updated documents of this type and their availability through the Internet significantly increase the level of efficiency and reduce the room for corruption. A plan is the basis for an efficient building permitting system, the successful development and use of new industrial and trade zones and attracting investments.

The Serbian Constitution of 2006 set clear grounds for land classification by the purpose. The Law on Planning and Construction, based on that, regulates the spatial planning process, the types and content of relevant plans and permits in more detail. These plans are important development tools for local government and for setting up industrial parks for that purpose. The basic factor of competitive advantage is the speed of issuing building permits.

Setting up an industrial park implies the clear legal status of the land which will be developed. The said Public Property Law changed the previous situation where the property acquired by local government according to the Law on Assets of the Republic of Serbia<sup>30</sup> was actually the property of the Republic. This meant that before

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<sup>28</sup> See <http://www.guardian.co.uk/public-leaders-network/blog/2012/apr/11/public-private-partnerships-the-record-isnt-great>. Posted by Gillian Fawcett , Wednesday 11 April 2012..

<sup>29</sup> The Law on Planning and Construction (OG 72/2009, 81/2009)

<sup>30</sup> The Law on Assets of the Republic of Serbia (OG 53/95, 3/96, 54/96, 32/97).

the new law was adopted local government property was in fact the property of the Republic of Serbia where local government units have the right of use. Because of this all transactions that involved land (lease, mortgage, etc.) needed to be approved by the Republic Property Directorate. It was the same for the property of public enterprises, now, whether the change of the law will stir up local government and urge it to manage its own resources more efficiently it remains to be seen.

In practice problems with land frequently occur: returning land to its previous owners, long term leases, unresolved property rights, etc. In addition to property issues, the purpose of land can be the problem: whether industrial park is built on the agricultural land or the conversion of the agricultural land into non-agricultural is carried out, etc. Also, finding whether there are liens, leases, etc.

The conclusion may be that the current situation regarding this issue in Serbia is unfavourable and that it may impact negatively to the economic development of local government units. Also, the fact is that the Law on Planning and Construction<sup>31</sup> made a large step ahead by prescribing that local government units may own construction land and that this step was made possible by the Public Property Law.

#### **MANAGING SUBJECT – INVESTING AUTHORITY**

A very important question is who will be the investing authority, that is, which legal entity will be responsible for establishing and operating the park. The operational efficiency assessment implies that first we need to begin with legally permissible solutions. In that sense, the dilemma is whether it is permissible at all to have local government manage an industrial park directly (city, municipality). Is it possible to choose a private sector entity or to have a combination of the two (domestic and foreign capital)? It seems that in the light of the latest economic tendencies the solution is most frequently found in the combination of the state and private through various forms of a public-private partnership.

As already mentioned, law permits several possibilities. The investing authority may be a local government unit, directly (through some of its already established entities), or indirectly, by establishing a special local public enterprise. Regulations, also, allow local government to delegate activities pertinent to establishing and operating an industrial park to a private business with mixed ownership structure – public and private. No matter which solution is accepted in any given case there is a serious problem with balancing private and public interests.

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<sup>31</sup> The Law on Planning and Construction (OG 72/2009, 81/2009)

If we opt to make a local government an investment authority, then this task may be offered to a special entity (budget beneficiary) which may be the Construction Directorate<sup>32</sup> or a new entity also known as the Local Economic Development.<sup>33</sup> The latter is a new institution formed in some local government units, but since it is a new entity it possesses weak financial and human resources. The question - who to be responsible for such project is a delicate one and depends on the constellation of power in a local government unit.

It is also possible to delegate the investing activity to a public enterprise that would be established for that purpose – to be in charge of construction and then operations in the industrial park. This option will be the favourite choice of those who believe that a public-private entity is, by definition, a good keeper of public resources.

Finally, it is also an option to offer a private entity to operate an industrial park. This solution is often subject to resistance, although most of the experts considered it to be the most logical one, especially when in the beginning a mixed structure entity is formed - *public-private partnership*. However, this concept is relatively new one in Serbia and doesn't have well developed grounds.

No matter which entity is made responsible for this kind of project it has to face with the problem of conflict of politics and management, that is, the pressure to enforce specific political decision. A modern approach to addressing this type of conflict and separating the ownership function is to form a separate body to be responsible for property management. The body would be composed of experts, independent from political pressures.

Since we've mentioned the public-private partnership option we can list some of the most important traits of this model. Probably it is the right way for better risk management-to manage it at least cost<sup>34</sup>. The reason for having positive attitude towards this model may be found in the new law and the first example from the practice: providing approval for a public-private partnership based on the new law.<sup>35</sup>

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<sup>32</sup> This is a specific institution of a hybrid status with the key role in the implementation of development projects especially in the area of utility services, roads and other infrastructure forms.

<sup>33</sup> This unit as part of the administration, by rule, is assigned to attract investments into local governments, to promote local economy and encourage local entrepreneurship.

<sup>34</sup> European Commission (2003) Guidelines for Successful Public-Private Partnerships. pg. 15.

<sup>35</sup> The Commission for Public-Private Partnerships and Concessions provided a positive opinion for the project for building optic telecommunication network in Novi Sad in June 2012, News Agency Beta 22. 06. 2012.

As any other partner relationship, this one also comprises parties with different interests. This situation could be quite complicated in the situation when their interests diverge. Private sector's interests are simpler, of lucrative nature. Public sector's interests are somewhat more complex and we will pay more attention to them. By definition, the public sector serves public interests. However, several public interests may become intertwined (political pressure to meet social welfare interests) which may negatively affect the final goal defined in the public-private partnership agreement. The interests of local government and private capital must remain within the boundaries of the defined project and all subsequent changes of the agreement as a reaction to changed circumstances still have to remain within these boundaries.

Should local government start exploring this form of cooperation, it would need to take into account numerous questions whose answers will guide implementation. The baseline will definitely be awareness of what a public-private partnership really is which forms it can take, what are its good and bad sides and which model would stand greatest chances in a specific case.

The initial thoughts about this kind of cooperation would be about a government entity which would be responsible for the implementation of the project. The next step would be to create policies and procedures and only after that local government may start thinking about options for specific cooperation. This will be followed by a clear *cost benefit* analysis, then by creating a project team, defining the range of the project, defining time limits, including stakeholders, selecting partners, negotiations and contract, monitoring, external evaluation, conflict resolution, partnership termination, etc. It is particularly important to have a good mechanism to control potential conflict of interest or any other type of conflicts because they can be destructive and even cause termination of the partnership.

Back in the 1980's the Great Britain started forming public-private partnerships and numerous other countries followed its lead. Soon after, countries like Ireland, Portugal, Greece, the Netherlands, Spain, etc. to name a few. Successful examples may be found mostly in the area of infrastructure, telecommunications, transport, water supply, and recently in education and health care. The first forms of cooperation between the public and private sectors were those in which the private partner was getting the right to deliver specific services while the regulatory authority and property rights would stay in the hands of the public sector.

The practice of the said countries has shown that some issues are more frequently the cause of misunderstanding and, even, conflicts than others. In design and construction projects the problems came up from delays of works and services, then from situations when contractual obligations needed to be re-examined due to



change in circumstances which didn't suit the private partner; also failure of the private partner to achieve the previously agreed standard or premature termination of the contract, and other. All this requires prior thinking, or rather, that both partners have prepared scenarios for situations like that. This is particularly important for protecting the public interest and the interests of end users. Special caution is advised when contract in terms of the price and costs need to be changed.<sup>36</sup> No matter how useful the experience of developed countries is, we have to bear in mind that there is no ideal model which can be automatically applied to Serbian economy. There are several powerful factors which influence the success of such endeavours amongst which the most important are the following: economic sector traits, macroeconomic instability, legal and institutional framework, the quality of the PPP contract, monitoring whether its provisions have been observed, its flexibility to change and thus preserve the balance between the interests of the contractual parties despite of the changes of the environment<sup>37</sup>

Potential partners may choose between: Operation and Maintenance of Public Buildings Contract, Design and Build Contract, „Turn Key“ Contract, Contract on Additional Construction on the Existing Building, Lease-Purchase Contract, Lease, Development, Operation or Purchase, Development and Operation Contract, Build-Operate-Transfer Contract, Contract on Temporary Privatization or some other possible content<sup>38</sup>.

The process of creating an optimal partnership has three steps: determining public authority, defining project needs and objectives and determining the best “owner” for each project component.<sup>39</sup>

As the titles mention, partners can create all kinds of relationships and define whether the local government or the private partner have property rights, whether there is flexibility of the contract, what is the extent of control and possibility to respond to citizens wants and needs, etc.

These contracts could be applied to most of infrastructure facilities like those needed for water supply and waste water treatment, sewer facilities, solid waste

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<sup>36</sup> Iossa E. Spagnolo G, Vellez M (2007), *Contract Design in Public-Private Partnerships*, report prepared for the World Bank pg. 4

<sup>37</sup> Iossa E. Spagnolo G, Vellez M (2007), *Contract Design in Public-Private Partnerships*, report prepared for the World Bank pg. 5

<sup>38</sup> Public Private Partnership, A Guide for Local Government, British Columbia, May 1999., pg.7-10

<sup>39</sup> Partnering for Value. Structuring Effective Public-Private Partnerships for Infrastructure. [http://www.deloitte.com/assets/Dcomllobal/Local%20Assets/Documents/Public%20Sector/dtt\\_ps\\_partneringforvalue\\_090710.pdf](http://www.deloitte.com/assets/Dcomllobal/Local%20Assets/Documents/Public%20Sector/dtt_ps_partneringforvalue_090710.pdf) pg. 15

transport, roads and parks maintenance, construction and operation of sports halls and swimming pools, etc.

### **A STRATEGY FOR ATTRACTING INVESTMENTS**

For long time, Serbian economic development was initiated and guided by central authorities. It seems like the path of the initiative should be different, or rather, it should come naturally from the most interested entities – local government units and investors. Still, the success of an industrial park depends for the most part of its comparative advantages (strategic position, utility infrastructure, etc.). More specifically, it's very important to motivate investors along the lines they understand best, that is with the conditions offered by a concrete industrial park (the price of land, financial incentives, permitting procedures, legal security, etc.<sup>40</sup>).

Incentives provided by the Republic<sup>41</sup>, the regional or local levels are very important in the process of attracting direct investments. Land provided free of charge, utility services free of charge, efficient permitting procedure, etc. Local government must prepare adequate utility, energy supply, traffic and other infrastructure. Also, it may refuse certain projects (e.g. mega markets) and favour some others and give them priority status.

Local government's duty is to act in the interest of local population, and first of all to increase employment and elevate living standards, and in that sense all incentives (obligations of a city or a municipality) had to involve some kind of commitment for investors which is directly related to the basic actions of local government. One example of such commitment would be employing specific number of people<sup>42</sup>

As for any investment project it is important that numerous conditions be met. Stability of legislation and predictability of court practice are of particular importance (especially for state owned land, conversion of land purpose, issues of property devolution, etc.), as well as a simplified permitting procedure (electrical company, water and sewer, telecommunications), clear delineation of authority of the central and local level of government.

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<sup>40</sup> Land characteristics, available size and purpose of the land (agriculture), fragmentation of lots, property rights (problem with devolution of land to its original owners), etc.

<sup>41</sup> Particularly important incentives in the sphere of tax policy (corporate profit tax, wage tax, incentives for new jobs, tax credits, tax exemptions for a particular period of time. Financial incentives are of no less importance (subsidies/grants for investments, extraordinary support programs, etc.).

<sup>42</sup> Associating the number of new jobs that must be created and hectares of obtained land (e.g. 20 new jobs per hectare of obtained land); on condition that newly employed are residents of the local government.

The capacity of local government to promote investments in its territory and its financial capacity to invest from its own resources or to obtain capital from external sources (by issuing bonds, borrowing from commercial banks, etc.) have special importance. Also, all local actions need to be in line with national rules, international covenants and regional cooperation agreements<sup>43</sup>. In addition, we must not forget increasingly important factor of environmental protection<sup>44</sup>. It means that it is very important to establish the environmental risk emergency mechanisms to efficiently reduce the influence of possible environmental risk.<sup>45</sup>

In countries in transition and developing countries free zones, as tool for attracting foreign capital, have become ubiquitous. Free zones are the specific tool of economic policy and, by rule; they are associated with transitional and developing countries. They are about incentives provided in a limited space which represent customs extraterritoriality for the purpose of attracting foreign investments (industrial production). They have (or at least trying to cause) positive effects to export, country balance of payment and employment. There are many of them all over the world, and estimates are that around 20% of the world trade is carried out through the system of free zones<sup>46</sup>, science and technology parks (Hungary<sup>47</sup>), financial free zones (Cyprus) and alike.

The tendency in setting up industrial parks in Serbia points to potential transformation of an industrial park into a free zone and exploitation of specific benefits. This brings a series of incentives that need to be provided: exemptions from paying charges that follow construction and exploitation of buildings (land development fee, conditions for connection to infrastructure, fees and local administration fees, etc.).

In addition to legal grounds of their investment activities local government units must be supported by the central authorities in their quest for direct investment (strategies, concrete measures, etc.<sup>48</sup>).

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<sup>43</sup> About the importance of regionalization and cooperation of regions see Stančetić V. (2009) «Region as a Development Perspective in the EU». Official Gazette, Belgrade.

<sup>44</sup> For instance, the recent referendum in Smederevo where local population had to decide whether they want a US refinery to be set up in their city

<sup>45</sup> Robert Hollander, Wu Chunyou, Duan Ning (2009), Univerzitat Leipzig, Working p. No 81, July 20109, p13.

<sup>46</sup> <http://www.szns.rs/pojam.htm>

<sup>47</sup> See «Smart Hungary» at <http://www.szns.rs/region.htm> taken on July 22, 2010

<sup>48</sup> Decree on the Conditions and Manner of Attracting Direct Investments (OG 34/2010)- based on which grants for investments are provided through a public call for applications <sup>48</sup> About the

## CONCLUSION

The importance of this chapter is seen in increased awareness that industrial parks as places of concentrated industrial activities may be a pivot and play significant role in the development of Serbia. Local government in Serbia, according to the adopted legislation, may set up an industrial park and use it as instrument of its own development. This is a complex assignment for a local community and any prospect which brings numerous challenges of legal, financial and organizational character.

Important potential for such endeavour lies in the cooperation between the public and private sectors – a public-private partnership model recently regulated in Serbia by a law. Local government as land owner may invest that resource in partnership, and private companies, by rule, invest their capital and *know how*. The previous experience can be used in selecting a good partner and also it takes a good model of cooperation with clear definition of goals and interests of both partners in order to avoid potential conflicts.

An industrial park project implies that the land in a specific area in a city or municipality is developed – serviced with infrastructure in such way that along with other contents it becomes attractive for private companies to come and set up their production lines and other facilities. For that they will pay a fee to the owner or operator of the park. An industrial park is composed of land and accompanying properties which have been organized (or as such presented in the plan) in the manner which best suits the need of industrial production. In addition to achieving the primary goal – concentrating investors in one location and thus encourage producing and employ local labour force, an additional positive effect is achieved – industry is sent away from the urban area which has positive effects to the environment and the quality of life of the population.

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importance of regionalization and cooperation of regions see Stančetić V. (2009) «Region as a Development Perspective in the EU». Official Gazette, Belgrade.

<sup>48</sup> For instance, the recent referendum in Smederevo where local population had to decide whether they want a US refinery to be set up in their city

<sup>48</sup> Robert Hollander, Wu Chunyou, Duan Ning (2009), Univerzitat Leipzig, Working p. No 81, July 20109, p13.

<sup>48</sup> <http://www.szns.rs/pojam.htm>

<sup>48</sup> See «Smart Hungary» at <http://www.szns.rs/region.htm> taken on July 22, 2010

<sup>48</sup> Decree on the Conditions and Manner of Attracting Direct Investments (OG 34/2010)- based on which grants for investments are provided through a public call for applications (PC through the SIEPA); The Program of Extraordinary Support to the Construction Industry in Circumstances of the World Economic Crisis in 2010, etc.

The legal framework for industrial parks in Serbia has been recently established, especially in the sense of local government property, planning and construction and public-private partnerships. Despite of the fact that no legislation is standing as impediment to this type of projects, shortcoming is felt since there are no laws that would directly regulate the entire area pertinent to industrial parks.

Attracting foreign direct investments is much more complex activity than just land development. Local government must be active in this process because as taking part in the process of attracting direct investments, it will be itself exposed to the competition of other local governments, domestically and abroad.

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