

# **Decision imposing the Framework Law on Privatisation of Enterprises and Banks in BiH**

In accordance with my authority under Annex 10 of the Peace Agreement and Article XI of the Bonn Document, I do hereby decide that the Framework Law on Privatisation of Enterprises and Banks in Bosnia and Herzegovina shall enter into force by 23 July 1998 on an interim basis, until the House of Peoples adopts this law in due form, without amendments and no conditions attached.

Sarajevo, 22 July 1998

Carlos Westendorp  
High Representative

## **Framework Law on Privatisation of Enterprises and Banks in Bosnia and Herzegovina**

### **Preamble**

The General Framework Agreement for Peace in Bosnia and Herzegovina (hereinafter called the GFAP) and particularly its Annex 4 determines the respective functions and responsibilities of the Institutions of Bosnia and Herzegovina and of the Entities as well as the financial obligations of the Entities towards those Institutions, but contains no specific provision regarding the ownership of public assets.

The purpose of this law is to establish a secure legal environment for the privatisation process of enterprises and banks and to permit that such process takes place as transparently and rapidly as possible for the benefit of the citizens of Bosnia and Herzegovina (BH), including displaced persons and refugees.

Therefore, the Parliamentary Assembly of Bosnia and Herzegovina passes this Law expressly recognising the right of the Entities to privatise non-privately owned enterprises and banks located on their territories and to receive the proceeds therefrom according to legislation adopted by their respective Parliaments.

### **Article 1 Definitions**

For the purpose of this Law:

*BH natural persons* means citizens of BH, irrespective of their place of residence.

*BH legal persons* means legal persons organised under the law and registered in either Entity.

*Citizens Claims* means the right to compensation as part of the privatisation process in recognition of obligations as defined by Entity legislation.

*Foreign natural persons* means natural persons who hold the citizenship of another state than BH.

*Foreign legal persons* means legal persons established and having their registered office, central administration or principal place of business in a state other than Bosnia and Herzegovina.

*Enterprises and banks* means any BH legal persons engaged in business venture located in the territory of the Federation of BH or in that of Republika Srpska, including those enterprises and banks which are components of holding companies or conglomerates of enterprises and banks.

### **Article 2 Scope of the Law**

1. In accordance with the GFAP, this Law expressly recognises the right of the Entities to privatise non-privately owned enterprises and banks located on their territories.

The determination whether or not an enterprise or bank is non-privately owned shall be made on the basis of entity legislation. Such legislation shall provide for a transparent review of any changes in capital structure or ownership transformation of non-privately owned property, that has occurred after 31 December 1991, where such changes are in dispute.

2. The exercise of the right of the Entities to privatise those public facilities falling within the scope of Annex 9 to the GFAP shall be consistent with whatever reorganisation might be necessary to fit the new internal structure of the country, as is determined pursuant to the GFAP and in particular its Annex 9.
3. In any process of restitution, privatisation of enterprises and banks will not prejudice restitution claims that may be brought in accordance with applicable restitution laws.

### **Article 3 Entity Privatisation Laws**

1. The Entity Parliaments shall adopt legislation, which is non-discriminatory, ensures maximum transparency and public accountability in the privatisation process and is in conformity with GFAP.
2. The laws of the privatising Entity will cover only those assets and related liabilities located on its territory.
3. The laws on the Entities shall regulate on a non-discriminatory basis, which BH or foreign natural and legal persons have the right to acquire shares and property in the privatisation process in accordance with Article 3.1 of this Law.
4. Criteria by which BH natural persons are entitled to Citizens Claims shall be based on the laws adopted by the Entities.

Such laws shall include BH natural persons who were citizens of the former Socialist Republic of BH and permanent residents on 31 March 1991 on the territory now falling within the privatising Entity. This includes refugees and displaced persons in accordance with Annex 7 to the GFAP as well as legal successors of dead and missing entitled persons.

### **Article 4 Allocation of Proceeds and Claims**

1. Proceeds from the privatisation of enterprises and banks located in the territory of one Entity shall be at the disposal of that Entity or the legal persons authorised to receive them under the laws of that Entity.
2. Claims against enterprises and banks to be privatised shall be deemed as a liability of the privatising Entity.

### **Article 5 Inter-Entity Co-operation**

The Entity Governments shall co-operate to address and resolve issues related to the implementation of this Law and other matters related to privatisation which are of Inter-Entity interest, and which cannot be resolved by one Entity alone. If necessary, they will establish a joint mechanism for this purpose.

Issues that cannot be resolved by consensus decision of the Entities should be subject to arbitration in accordance with Annex 5 to the GFAP. The establishment and use of such a mechanism to resolve specific issues should not impede the process of privatisation in general.

### **Article 6**

The Entities will bring their legislation into line with this Law within 60 days after the entry into force of this Law.

### **Article 7 Entry into Force**

This Law enters into force 8 days after the publication in the Official Gazette of Bosnia and Herzegovina. This Law will also be published in the official gazettes of the Entities.

**Office of the High Representative**