Joint Statement of the OHR and the World Bank on Draft Labor Legislation

This week, the Government of the Federation of Bosnia and Herzegovina will submit to Parliament a draft Law on Amendments to the Labor Law. Preparatory work on the draft had been ongoing for over nine months within the Labor Legislation Reform Commission established by decree of Minister Garib. The Commission has been chaired by a senior Ministry official with active participation of technical staff. The Commission has also had representation from the OHR, World Bank, and the International Labor Organization (ILO). Similar work is ongoing in Republika Srpska, and a draft Labor Law is expected to be submitted to the R5 Government in the coming weeks.

In the Federation of Bosnia and Herzegovina, OHR and the World Bank have welcomed the opportunity to participate in this work, which they view as important for improving the environment for promotion of productive employment opportunities and investment. The draft Law on Amendments reflects modern European practice suitable for a mixed market economy. Just as importantly, it ensures that basic labor standards, consistent with ILO conventions, are respected, in several cases more strongly than under the existing Labor Law (e.g. the proposed strengthened anti-discrimination provisions). Many local businesses, and virtually all potential investors in the Bosnia-Herzegovina economy, view the restrictions on labor relations in the current law as preventing an accelerated pace of job creation, which is needed to reduce current high levels of unemployment. The new Law on Amendments contains many revised articles which will stimulate employment, including greater freedom to enter into fixed term contracts, greater freedom for workers and employers to determine key terms and conditions of employment

(either through collective agreements, or employment contracts), and other measures

The provision of the proposed Law on Amendments which has received the greatest attention relates to wait listed workers under Article 143 of the present Labor Law. It is important to comment on why the Commission considered the proposed amendment was necessary. The existing article contains entitlements for workers which are simply unaffordable for the vast majority of firms with wait listed workers. The estimates of obligations under Article 143 range from KM 600 mln. to over KM 1 bln, depending on eligibility and length of service criteria. The effect of enforcing such a provision would be that many firms which are otherwise viable would be driven into bankruptcy or at a minimum face severe liquidity problems. This outcome would not be positive for assisting workers in such firms, who could lose their jobs as a result, in many cases without wait list claims being satisfied either. This is an outcome that nobody would like to see, and which the Government's draft amendment seeks to prevent.

Both OHR and World Bank appreciate that the proposed amendment reduces the formal legal entitlement, but believe that setting wait list compensation at the more affordable levels in the draft law adopted by the Government is the only responsible option. It would have the double benefit of increasing the chances of wait listed workers to actually receive some compensation, and substantially reduce the incidence of bankruptcies – and hence the loss of more jobs – caused solely due to the unaffordable financial obligation under Article 143. Equally important, a final resolution of the waiting list issue in the Federation will remove many of the uncertainties that have inhibited both domestic and foreign investors from moving forward with their investment plans. It will thus remove a significant obstacle to privatisation.

Both organisations stress that the proposed wait list amendments are only one part of a comprehensive overhaul of

the Federation Labor Law which takes a major step in moving labor relations and the labor market towards market economy principles which will contribute to employment growth and a dynamic economy better prepared for integration with Europe. The Government of the Federation has shown foresight in approving the draft Law on Amendments. We are hopeful that the Government can persuade the Parliament to adopt these critical measures.