

Decision amending the Federation Law on Funds Management Companies and Investment Funds

In the exercise of the powers vested in me by Article V of Annex 10 (Agreement on Civilian Implementation of the Peace Settlement) to the General Framework Agreement for Peace in Bosnia and Herzegovina, according to which the High Representative is the final authority in theater regarding interpretation of the said Agreement on the civilian implementation of the peace settlement; and considering in particular Article II.1.(d) of the last said Agreement, according to the terms of which the High Representative shall *“facilitate, as the High Representative judges necessary, the resolution of any difficulties arising in connection with civilian implementation”*;

Recalling paragraph XI.2 of the Conclusions of the Peace Implementation Council which met in Bonn on 9 and 10 December 1997, in which the Council welcomed the High Representative’s intention to use his final authority in theatre in order to facilitate the resolution of any difficulties as aforesaid *“by making binding decisions, as he judges necessary”* on certain issues including (under sub-paragraph (c) thereof) *“other measures to ensure the Peace Agreement throughout Bosnia and Herzegovina and its Entities”*

Noting that it was stated in the Declaration of the Peace Implementation Council which met in Brussels on 23 and 24 May 2000 that *“The Council urges the High Representative to use his authority in accordance with his mandate to ensure full and accelerated implementation in all sectors of civilian implementation, including removing obstacles that stand in the way of economic reform.”*

Noting also that it was stated in the said Declaration that certain economic reforms were critical, and that under the heading *“Enabling private sector growth”* it was set out inter alia that *“To succeed economically and attract private capital to sustain growth, BiH needs an attractive business environment”*, whilst under the heading *“privatisation”* it was set out that *“A substantial number of publicly owned enterprises must be privatised expeditiously, and the process of privatisation must be seen to be transparent and in the interests of the citizens of BiH”*;

Considering the role and importance of Private Investment Funds for the privatization process in Bosnia and Herzegovina;

Recalling that under Article 131 of the Law on Funds Management Companies and Investment Funds it is provided that *“A Privatization Investment Fund is founded for the purpose of the collection of certificates in the privatization process and their investment in shares or holdings of enterprises, in accordance with the Law on Privatization of Enterprises”*;

that under Article 132 of the said law: *“The equity of the Privatization Investment Fund must be at least 2000,000,000 (two-hundred-million) KM”*;

that under Article 134 of the said law *“Shares of Privatization Investment Fund are sold by the public offering of shares, in accordance with the law and regulations of the Commission, and they must be fully paid before Privatization Investment Fund registers with the Court Register. Shares of Privatization Investment Fund may be paid in cash or by certificates from Article 131 of this Law. The deadline for payment of shares in accordance with paragraph 1 of this Article may not be longer than three months from the day of the first announcement of the public invitation for subscription of shares.”*

Noting that there are at present two Privatization Investment Funds in the Federation of BiH which are collecting subscriptions from citizens, but that problems have been encountered in regard to the collection of the minimum amount specified under Article 132 of the aforesaid Law;

Observing that the FBiH Securities Commission has announced a decision that Sundays and holidays be excluded from the aforesaid period of three months which has the effect that the deadline in respect of the first Privatization Investment Fund which started with the subscription of shares, will expire on 19 August 2000;

Bearing in mind that the Agency for Privatization in the Federation of Bosnia and Herzegovina significantly delayed

the publication of an equity list outlining in detail the amount of equity to be sold through the public offering of shares for each company subject to privatization and that the prospects for the first Privatization Investment Fund to collect its legally required minimum of 200.000.000 KM by 19 August 2000 are slim;

Noting further that without a detailed understanding of available investment options citizens holding privatization certificates are unable to make informed decisions as to how best to use their certificates;

Concluding that the failure to publish an equity list as aforesaid in a timely manner has been an important factor contributing to the reluctance of BiH citizens to subscribe to the first Privatization Investment Fund;

Concluding further that with a view to facilitating the privatization process it is essential that there should be an extension of the Private Investment Funds' deadline to subscribe shares as presently provided for under Article 134 of the said Law; and that the said law should therefore be amended by deletion of Article 134, Paragraph 3 thereof so that the FBiH Securities Commission shall thereafter be free to issue regulations that govern the deadline for subscription and payment into Privatization Investment Funds pursuant to Article 134, Paragraph 1 of the said Law.

Having considered, born in mind and noted all the matters aforesaid, I hereby issue the following:

DECISION

As to the Amendment of the Law on Funds Management Companies and Investment Funds

The Law on Funds Management Companies and Investment Funds, published in the Official Gazette of the Federation of Bosnia and Herzegovina (number 41/98 and 36/99), is hereby amended by deletion of Article 134, Paragraph 3 thereof.

In all other aspects the Law on Funds Management Companies and Investment Funds is unchanged.

This decision shall enter into force as law on 18 August 2000 and shall be published without delay in the Official Gazette of Bosnia and Herzegovina and in the Official Gazette of the Federation of Bosnia and Herzegovina.

Sarajevo, 18 August 2000

Wolfgang Petritsch
High Representative

Office of the High Representative