

LAW ON FOREIGN INVESTMENTS

“Official Gazette” of Republika Srpska, 25/02

NOTE: Law on Amendments to the Law on Foreign Investment, published in the Official Gazette of the Republika Srpska 24/04, is not included in this translation.

-unofficial translation-

Pursuant to Amendment XL Item 2 to the Republika Srpska Constitution (“Official Gazette of the Republika Srpska”, number 28/94), I pass the

DECREE ON PROMULGATION OF THE LAW ON FOREIGN INVESTMENTS

I promulgate the Law on Foreign Investments adopted by the Republika Srpska National Assembly at the session held on 18 April 2002.

Number: 01-020-344/02
23 April 2002
Banja Luka

President of the Republic
Mirko Sarovic, *with his own hand*

LAW ON FOREIGN INVESTMENTS

I – GENERAL PROVISIONS

Article 1

This Law shall regulate rights, obligations and benefits of foreign investors, forms of foreign investments, procedure of approval and registration of foreign investments and determine bodies competent for approval and registration of foreign investments in the Republika Srpska.

Provisions of the Law on the Policy of Foreign Direct Investment in Bosnia and Herzegovina (“BiH Official Gazette”, number 17/98) shall apply to the issues not regulated by this Law.

Article 2

In terms of this Law the used expressions:

- “Foreign direct investment” or “foreign investment”,
- “Foreign investor”,
- “Foreign control”,
- “Domestic investor” (Resident of BiH),
- “Equity”,
- “Freely convertible currency”,
- “Public information”,

shall have the meaning defined in Article 2 of the Law on the Policy of Foreign Direct Investment in Bosnia and Herzegovina.

II – RIGHTS, OBLIGATIONS AND BENEFITS OF FOREIGN INVESTORS

Article 3

In accordance with the laws of the Republika Srpska and Bosnia and Herzegovina, a foreign investor - natural person shall have the same rights and obligations as a domestic natural person which implies that there

will be no discrimination against foreign investors on any grounds including but not limited to their citizenship, residence, religion or state of origin of investment.

Article 4

Foreign investors shall be entitled to invest and to reinvest profit of such investments into any sector of economic and non-economic activities in the Republika Srpska in the same form and under the same conditions as defined for domestic investors (residents of Bosnia and Herzegovina) under the applicable laws of the Republika Srpska and Bosnia and Herzegovina (hereinafter: BiH).

Exceptionally to the provisions from Paragraph 1 of this Article, foreign equity ownership of an enterprise engaged in the production of arms, ammunition, explosives for the military use, military equipment and public information (hereinafter: Sectors subject to the restrictions) shall not exceed 49% of the equity of the enterprise.

Article 5

A foreign investor may establish an enterprise in the Republika Srpska under the same conditions valid for the domestic investors in compliance with the Law on Enterprises (“Official Gazette of the Republika Srpska”, number 24/98) unless determined otherwise by this Law.

In terms of this Law “the founder’s right of foreign persons” shall include rights of establishment and management of the enterprises under the conditions applicable to domestic investors.

No subsequently introduced restrictions concerning the founder’s rights of foreign persons that are in contradiction with this Law shall cause legal consequences.

Article 6

Legal persons in the capacity of foreign investors shall have the same rights, obligations and responsibilities as legal persons fully owned by domestic legal or natural persons.

Legal position, rights, obligations and responsibilities of parts of foreign legal persons and foreign natural persons performing business activities in the Republika Srpska shall be regulated by special laws.

Article 7

Foreign investors shall have the same property rights in respect to real estate as domestic legal or natural persons.

Foreign investors, who are citizens of any of the successor states to the former Socialist Federal Republic of Yugoslavia, shall have the rights referred to in Paragraph 1 under the conditions of reciprocity.

Article 8

Foreign investors shall have the right, for the purposes of their investments, to open in the territory of the Republika Srpska accounts in any commercial bank denominated in the national or any freely convertible currency.

With respect to all payments related to their investments in the Republika Srpska, foreign investors shall have the right to freely convert the national currency into any other freely convertible currency.

Foreign investors shall have the right to transfer abroad, freely and without delay, in freely convertible currency, profit resulting from their investment in the Republika Srpska, including but not limited to:

- income from investments received in the form of profit, dividends, interest and other forms;
- funds received by investors after partial or full liquidation of their investments in the Republika Srpska, or sale of property, i.e. property rights and
- compensation referred to in Article 8 of this Law.

Article 9

Foreign investors shall have the right to freely employ foreign employees unless determined otherwise by the labor legislation of the Republika Srpska.

Article 10

Foreign investment shall not be subject to any act of nationalization, expropriation, or measures which have similar effects, except in the public interest in accordance with applicable laws and other regulations.

Foreign investors shall be entitled to adequate, prompt (IMMEDIATO) and appropriate compensation which they may have at their disposal for any damage that is a consequence of nationalization, expropriation or other measures of similar effects.

The right referred to in the previous Paragraph shall not exclude the right of a foreign investor to submit a complaint against the decision on nationalization, expropriation or a measure of similar effect under a regular procedure.

The Republika Srpska Government (hereinafter: Government) shall, within 30 days as of the day of this Law becoming effective, pass and harmonize a bylaw regulating conditions and procedure for compensation in cases of nationalization, expropriation or other measures having similar effects.

Article 11

Foreign investments may be exempt from customs and customs duties, except for customs registration, in compliance with the provisions of the laws regulating the customs policy of Bosnia and Herzegovina.

Foreign investments may be exempt from payment of taxes in accordance with provisions of the laws regulating the tax policy in the Republika Srpska respecting Article 9 of the Law on the Policy of Foreign Direct Investment in Bosnia and Herzegovina.

Foreign investors shall keep books and prepare financial reports in accordance with the regulations of the Republika Srpska.

III – FORMS OF FOREIGN INVESTMENTS

Article 12

Forms of foreign investments in accordance with this Law shall be the following:

1. establishment of a legal person fully owned by a foreign investor;
2. establishment of a legal person – a joint venture by domestic and foreign investors;
3. investment in the existing legal person;
4. special forms of investment.

The Republika Srpska Government shall prescribe detailed conditions and manners for foreign investments referred to in the previous Paragraph should it not be regulated by special laws.

IV – PROCEDURE FOR APPROVAL AND REGISTRATION OF FOREIGN INVESTMENTS

Article 13

In the Republika Srpska foreign investments in the sectors subject to the restrictions shall be approved by the Republika Srpska Ministry of Defense, i.e. competent body for information of the Republika Srpska Government, each within its competencies (hereinafter: competent Ministry).

For investments in the sectors subject to the restrictions, foreign investors shall be obliged to submit to the competent Ministry a request for approval of the investment.

The competent Ministry shall be obliged to pass an appropriate decision within 30 days as of the day of receipt of the request.

In case of failure to pass a decision within the deadline referred to in Paragraph 3 of this Article, foreign investment shall be considered approved unless the competent Ministry has informed the applicant, in writing, about postponing of passing of the decision beyond the deadline of 30 days.

Should there be reasons for postponing of passing the decision on foreign investment, the competent Ministry shall inform the applicant about it within the deadline referred to in Paragraph 3 of this Article. The final decision on foreign investment shall be passed within 90 days as of the day of receipt of the request.

In the event of failure to pass the decision within the deadline referred to in Paragraph 5 of this Article, foreign investment shall be considered approved.

Approval of foreign investment shall be valid without time limit.

The Government shall prescribe, i.e. harmonize the procedure and conditions for approval of foreign investments in the sectors subject to restrictions within 30 days as of the day of this Law coming into effect.

Article 14

In the Republika Srpska foreign investments shall be registered with the Republika Srpska Ministry for Foreign Economic Relations (hereinafter: Ministry).

Foreign investors shall be obliged to submit an application to the Ministry for registration of the contract or another act on investment as well as all changes pertaining to these acts within 30 days as of the day of signing.

Within 5 days as of the day of submission of a proper application, the Ministry shall pass a decision on registration of foreign investment. Should the Ministry fail to register the duly submitted application of foreign investment within the legal deadline, foreign investment shall be considered registered.

In the cases referred to in Article 13 of this Law, the Ministry shall register foreign investment only upon issuance of the appropriate approval.

The Minister of the Ministry shall prescribe the procedure on the manner of application and registration of foreign investment within 30 days as of the day of this Law coming into effect.

Article 15

Data on registered foreign investments in the Republika Srpska shall be used for the needs of the institutions of the Republika Srpska and Bosnia and Herzegovina.

The Government or the body authorized by the Government may release general data on foreign investments. When doing it, they shall respect legitimate interest of enterprises and ensure that their business secrets are not revealed.

The Government or the body authorized by the Government may provide the third persons with specific data provided that the enterprise concerned approves it.

Article 16

The Minister of the Ministry shall submit, by the end of February of the current year at the latest, an annual report to the Government on realization of foreign investments in the Republika Srpska for the previous year.

V – PENAL PROVISIONS

Article 17

A legal person shall be fined with 500 KM to 5,000 KM for an offense should:

- it fail to report foreign investment within the prescribed deadline or should it submit an application of foreign investment with inaccurate data (Article 14 Paragraph 2)

A responsible person in the legal person shall also be fined with 100 KM to 1,000 KM for the offense referred to in Paragraph 1 of this Article.

VI – TRANSITIONAL AND FINAL PROVISIONS

Article 18

Rights and benefits of a foreign investor and obligations on the grounds of previous regulations and this Law may not be cancelled or proclaimed null and void upon entering of subsequently passed laws and other regulations into force. Should such subsequently passed laws and other regulations be more favorable for foreign investors, they shall be entitled to choose the regime which will be applied to their investments.

Article 19

Contracts or other acts on investment submitted for approval i.e. registration to the competent body before entering of this Law into force which are not approved i.e. registered by the day of this Law coming into effect, shall be approved, i.e. registered under provisions of this Law.

Article 20

The Law on Foreign Investments and Concessions (“Official Gazette of the Republika Srpska”, nos. 21/96 and 5/99) shall cease to be valid on the day of this Law coming into effect.

Article 21

This Law shall come into effect on the eighth day as of the day of its publication in the “Official Gazette of the Republika Srpska”.

Number: 01-340/02
18 April 2002
Banja Luka

Speaker of the National Assembly
Dr Dragan Kalinic, *with his own hand*