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BIH PRIVATIZATION AND WORKERS PARTICIPATION  
(THE CASE STUDY OF 'AGROKOMERC' COMPANY)

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## **BiH privatization and workers participation**

### ***(the case study of "Agrokomerc" company)***

#### **Introductory remarks**

Privatization in former Yugoslavia, and consequently in Bosnia and Herzegovina, has begun at the end of 1980s. Method of privatization was based on so-called "Marković Law" (former prime minister of former Yugoslavia), and method has taken care of interest of self-managed tradition in Yugoslavia.

Workers were supposed to get internal shares, and on such a way they should have become shareholders of their companies.

Since the end of war in Bosnia and Herzegovina a transition process has begun. So-called "coupon privatization" has become the main method of privatization. It has recently been supplemented, to some extent, by tender sale of companies in part (67% for coupons and 33% in cash).

Privatization in BiH has brought workers in a very difficult position. They are deprived of all workers rights previously enjoyed, and they are exposed to different risks.

State of Federation of BiH, in order to "grab" the cash for different purposes from time to time declares good and promising companies, already privatized by Marković law, as state companies.

This is story of one of these cases. The author of the paper has been involved in the case by appointment of Human Rights Chamber for BiH as an economic expert. The case is closed this year on behalf of workers (shareholders interest).

#### **I. Privatization in BiH**

Hand in hand with a dogma of free market and the decisive role of FDI, privatization in Bosnia and Herzegovina (BiH) is "alpha and omega" of all transition process.

So-called "coupon privatization" was intended to directly confront the problem of the lack of internal saving, and the solution adopted in the Czech republic was once considered to be the most successful example of this method in that time.

Today, the majority of international privatization experts consider the "coupon case" to be a disaster.

Still, BiH relies heavily on such a method of privatization.

In the case of the BiH, there are additionally two "Frankenstein" issues concerning privatization. Privatization in BiH has been supported, even by the World Bank and the IMF experts as an Entity privatization.

The property of BiH as a state has, thus, been partitioned into two parts: the property of the "state" of Republika Srpska and the property of the "state" of Federation of BiH. Besides, recently with a new amendment to the BiH constitution, a district Brčko has been established. In this context a part of the property of a state owned company residing in district Brčko has become the property of para-state of district Brčko.

Such a solution has contributed to the further division of an already divided BiH economic

space. It has contributed to the development of inter-entity trade and to the confusion of the citizens.

Furthermore, in the specific case of BiH having three ethnic groups (Croats, Serbs, Bosniaks) privatization along the proposed lines has been contributing to creation of so-called "ethnic privatization". That is, the Bosnia oligarchy gets the companies in the region dominated by Bosniaks, Croats in the region dominated by Croats. In the RS, Serbs are anyhow the dominant part of the population.

To add to this, employees are then selected on the basis of ethnicity.

So, due to influence of international experts on privatization and transition, on the one side, and due to domestic politicians, on the other side, employees in BiH, former self-managers and owners of their own companies are turned into:

- employees without ownership over companies,
- employees without rights to say anything regarding privatization of their companies,
- employees are employed on the basis of ethnic criteria
- employees are very often not paid for the job they performed. They are becoming somehow slaves of a new owners and political propaganda that wants to speed up privatization as a panacea for all the mistakes done in the transition process.

## 2.

### Goals of "Markovic's regulations"

The main goals of famous "Markovic's regulations" on privatization at the end of 1980s were the following:

- to carry out (gradually) ownership transformation of social ownership into private ownership by purchase of shares (called: internal shares) or by purchase of the company and in the first place by the employees and pensioners of the specific company with use of discounts/benefits at maximal rate of 70% and with instalment payments (maximum 10 years);
- to establish forms of trade companies (organisations with a profit motive) in accordance with market economies and those are the joint-stock company and the company with limited liability (so called "d.d." and "d.o.o.");
- to establish organs of corporate governance (Assembly, Management Board, Supervising Board, Manager, with participation of employees) for the purpose of more efficient management.

Accordingly, organisational and ownership transformation of companies were enforced at the same time but in a very specific manner that you may see later on. Essential economic, market, organisational and other adjustments or reorganisation of the company failed to be done.

According to annual balance sheet for 1991, 585 or 5.24% socially owned companies in BiH carried out such transformation with 98,494 or 12.87% employees.

## 3. The Case of Agrokomerc company

### Problem identification

On 31 October 1991, the *Agrokomerc* changed its status and became a stock company in terms of "Markovic's" regulations. It was registered as such with the Court in Bihać as d.d. (joint-stock Company).

At the moment of its registration the stock capital of internal/employee shares was 53 %. According to the OSCE information, on the basis of available information obtained by the OSCE through examining annual reports, the stock capital amounted to 75.9% in March 1993.

Until 1993/4 there were 7340 employed holders of internal shares in the *Agrokomerc* Company. It is understood that a certain part of the company capital was *nominated* as stock capital.

The Association for the Protection of Unemployed Shareholders considers:

that the stock capital was “determined and entered into business books on 31 December 1992 in the amount of DEM 378,577,015.36;

that during 1993 they stopped receiving their salaries and started receiving them again only on 30 June 1993 for the benefit of paying for the shares, so that the total stock capital of the *Agrokomerc d.d. Velika Kladuša* on 30 June 1993 amounted to DEM 380,146,597.16.

By auditing of the previously transformed ownership in the *Agrokomerc* performed on 21 October 1999 by the Company for Auditing and Business Consulting “Revsar” Sarajevo and also by repeated auditing performed by the same auditors in February 2001, it was established that the *Agrokomerc* capital was 100% state capital.

Thus, according to “Revsar”, stock capital in the structure of the total capital of the *Agrokomerc* does not exist. The stock capital pursuant to the finding of the auditor does not exist ever since 31 December 1991. The company “Revsar” is of the opinion that “it has been established in the audit procedure that after 31 December 1991, the company was registering the payments made for the internal shares in the same manner as during 1991, i.e. in the amount of established lump sums (1/3) of calculated monthly salaries through consolidated payroll sheets, in the amounts for which due taxes and contributions were neither calculated nor paid, neither have operating costs (salaries costs) ever been charged with those amounts” .... “Stock capital recorded in such a manner cannot be accepted in the audit procedure as effective stock capital formed in accordance with the **then** regulations on transformation of ownership **and current** regulations on auditing.”

It should be pointed out that an audit entails calculations and payment of taxes and contributions for the amounts of recorded internal shares paid by stoppage of salaries as the key argument in auditing and deciding whether there is or isn't any effective capital. The audit does not contest that the employees could pay for the internal shares by allocating a part of their salaries for purchasing shares. It only puts at issue that no taxes and contributions were paid to that amount of salaries. We may say at once, that the employees did not and do not have to be responsible for the failures of the company's management if any, particularly from the moment of its registration as a stock company (D.D.). The company's management non-compliance with the law is more of an economic infraction than anything else and deserves special treatment.

It is further stated in the audit that the stock capital of the *Agrokomerc* has been additionally recorded and on the basis of the following decisions taken by the company's Steering Board at its session held on 29 March 1992:

Decision no.: 4203/92 dated 2 April 1992 on entry of the difference between the paid salaries and calculated salaries in the period 1 January 1992 through 31 December 1992 in the amount of DEM 3,046,657.00, which was presented to the auditors in an unsigned and unverified copy” (record on repeated audit in February 2001)

Related to this note of the auditor we state that we were given a signed and verified decision to examine.

The auditor considers that the prescribed taxes and contributions were not paid again for the stated amount, which is why it has not been treated as salaries effectively used as payment for subscribed internal shares”

By the decision 4204/92 dated 2 April 1992 on entry of compensation to the employees for the damage with respect to the salaries not received in the period 1 August 1987 through 31 December 1991 and the conversion of that compensation into shares. By this decision the shares of *Agrokomerc* were increased for another DEM 120,880,000.

By the decision 4202/92 dated 2 April 1992 on entry of the value of *Agrokomerc* d.d. commodity stock piles as of 31 March 1992 for the benefit and on behalf of subscribed and paid for shares in the amount of DEM 243,000,000 the stock capital of *Agrokomerc* has been increased.

With respect to this decision, the auditors consider that “neither in the decision nor in the criteria was any reason given for its issuance, the manner of determining the value of commodity stock piles, what kind of stock piles were in question and what the basis for the value of commodity stock piles to be re-booked for the benefit of employees’ stock capital was. Regardless of that, the auditors state that the aforementioned manner of re-booking the value of commodity stock piles for the benefit of stock capital had neither any grounds in any of the regulations at that period, nor it was in accordance with earlier regulations on the transformation of ownership in companies.”

In support of the auditors’ claim, we wish to remind that in the current period, i.e. in the period of the issuance of the Decree on Previously Transformed Ownership published in the Official Gazette of the Federation BiH on 15 January 1998 in Article 4 line 4) it is stated “in case of issuing stock and bonds on the basis of unpaid salaries or on some other grounds, (the auditor’s own note) determines whether the company has been issuing stock and bonds in gross or net amount; whether it has calculated and paid due taxes and contributions, whether the issuance of shares has caused any losses or increased losses as well as whether the issuance of stock and bonds has been within the framework of the collective work agreement on salaries”.

It appears as though, under the Decree, the company could have also issued shares on the basis of unpaid salaries and on other grounds. It also appears that the auditors’ criteria have been changing; in one case the relevant regulations were those in the Decree, whereas in another those were neglected and only the regulations ‘then applicable’ became relevant.

Another very significant problem, related not only to the auditing of previously transformed ownership, consists of the retroactive effect, interpretation and acceptance or non-acceptance of various regulations in Bosnia and Herzegovina.

“Pursuant to the balance sheet as of 31 December 1992 there was an increase in stock capital during 1992 from KM 58.96 (BHD 58,959,000.00) which was the amount on 31 December 1991 to KM 208,822.24.

As reason given in the Revsar audit, that none of the aforementioned methods of recording the stock capital were based on the Regulations on Transformation of Ownership and Accountancy Rules or any other regulations. It stated that **the company did not have any effective stock capital formed for transferring into 1992, and therefore could cancel the total recorded amount of the stock capital regarding the situation as of 31 December 1992.**

To make the situation concerning the existence/non-existence of the stock capital in the *Agrokomerc* even more complex there is also the Record on Control of *Agrokomerc* d.d. by a legal person performed by the inspectors of the Financial Police Organisational Unit Biha}. The Record was made on 4 October 2000 (number 0103-0109/3-1/00). The Record states that the

balance sheet as of 31 December 1992, which was **unsigned and unverified**, registers nominal capital amounting in total to BHD 258,166,312,000.

**“Pursuant to such situations given in the balance sheet as of 31 December 1992 after the entries of allocations to internal shares made on the basis of calculated salaries and Decisions by the Steering Board the participation of the stock capital in the total nominal capital of the company amounts to 80,9%.**

The Record considers, though, that the stock capital formed on the basis of the calculated 1/3 of salaries has not been charged to operating costs and “the company did not calculate and pay for it due taxes and contributions as for salaries. So those were not effective salaries which could be treated as payments for internal shares”.

Therefore, according to the auditors’ finding and the Record, the *Agrokomerc* has no stock capital and cannot be a stock company.

In spite of all that, the Federal Ministry of Finance annulled by the Procedural Decision no. 03-19-135/90 dated 8 November 2000 the first instance procedural decision of the Auditing and Business Consulting Company “Revsar” and returned the case to the first instance body to deal with it again.

The Supreme Court of the Federation of Bosnia and Herzegovina by its judgement U-1099/00 dated 28 September 2000 accepted the action of the Association for the Protection of the Unemployed Shareholders of *Agrokomerc* and annulled the procedural decision of the auditing company and returned the case to the first-instance body.

### **Agrokomerc as a joint-stock company: YES or NO - some facts**

**By examining the Balance Sheet as of 31 December 1992, which was signed and verified by the Social Accountancy Service and other accountable persons** (of course if it is not a forgery on account of which this whole case should undergo a court audit), it may be seen that the amount of nominal capital in 000 BH dinars = 217,534,100. Of that amount the social capital amounts to 8,605,334 BH dinars (in 000). The stock capital amounts to 208,822,243,000 BH dinars.

The Decision on entry of the difference between the paid salaries and calculated salaries in the period 1 January 1992 through 31 December 1992 which increased the stock capital for the amount of DEM 3,046,657.00 was signed and verified by a stamp. (Here also an issue arises with respect to the authenticity of the signature and stamp).

For analysing the situation of the *Agrokomerc* capital the Decisions on distribution of **profit** of the Company *Agrokomerc* d.d. pursuant to the annual financial statement for 1992, which was issued at the Stock Company Assembly held on 27 March 1993, are also relevant.

By that decision, which was signed and verified, the realised profit of *Agrokomerc* for the year 1992, which according to the annual financial statement amounts to DEM 3,031,363.10 is to be assigned to:

“social capital in the amount of DEM 1,864,849.60  
stock capital in the amount of DEM 1,166,468.50.”

In paragraph II of the Decision it is stated that “the ratio related to the allocation referred to in paragraph I corresponds to the capital ratio in the Company *Agrokomerc* d.d.”.

On the basis of Article 50 of the Statute of *Agrokomerc* d.d. and Article 337 of the Rules of the Stock Company with mixed Ownership and Article 41 of the Decision on Issuance of Internal Shares the Director General of *Agrokomerc* d.d. proposes the

### **Distribution**

of the *Agrokomerc* **stock profit** pursuant to the 1992 annual financial statement.

It is proposed that the realised stock profit for 1992 in the amount of DEM 1,166,468.50 are divided:

1.  
Reserves in the form of unallocated profit  
10%

116,646.85 DEM  
Reserves in the form of shares in ownership  
of stock capital

5%

For 58,323.40 DEM  
the expansion of the company's resource base  
35%  
408,264.00 DEM

Payment of subscribed internal employee shares  
according to the number of already paid for  
internal employee shares

50%

583,234.25 DEM

“Distribution of dividend(s) to shareholders, i.e. payment of subscribed internal shares of individual shareholders shall be done in accordance with the number of already paid for internal shares.”

V. Kladu{a on 30 March 1993

Director General





- social capital

607,430,663.30 DEM or 61.52%

- stock capital

380,005,051.00 DEM or 38.48%

e) Distribution of profit pursuant to the 1992 annual financial statement

Total profit

3,031,263.10 DEM

In that:

- social capital  
1,864,894.60 DEM

- stock capital 1,164,468.50 DEM"

V. Kladu{a on 30 March 1993

Director General

**Profit-and-loss Statement  
for the time period from 1 January through 31 December 1992**

**Verified by the Social Accountancy Service dated 30 April 1993 and signed by  
accountable persons (if the signatures are  
authentic)**

- records the in-calculated gross earnings  
(in 000 dinars)

2,532,520

- profit in conducting business

2,482,131

- profit tax

- 938,215

profit for distribution

1,543,916

**By an additional accounting statement** verified by the Social Accountancy Service V. Kladu{a on 30 April 1993 the following was stated:

“ in addition to the balance sheet before-after (cross out unnecessary) distribution of results for the business year closed on 31 December 1992, which total sum of assets and liabilities is 275,273,737 thousand dinars and in addition to the Profit-and-loss Statement of the same business year, in which the total income, i.e. income amounts to 21,792,861 thousand dinars and the total expenditure to 19,310,730 thousand dinars, so that the profit is shown in the amount of 2,482,131 thousand dinars as well as the profit following the decrease in taxes and contributions from results-total realised loss of the current year (cross out unnecessary) in the amount of 1,543,916 thousand dinars. The business year lasted for 12 months, covering the accounting period 1 January through 31 December 1992.”

### **One construction of calculated taxes and contributions and net salaries**

In the Supplement to the Interim Statement of Account for the period 1 January through 31 December 1992 (which was verified and signed)

the realised income of the period is stated in the amount of

5,014,651,000

50% of the average monthly purely net salary (personal income) per employee in the previous year of 892.00 dinars

average number of employees in the period  $6584 \times 12 \text{ dinars } 892.00 = 70,475,136$

Basis for the calculation of contributions (1-2-3)

4,944,176,864

On the back of the document a calculation was done of the contributions from income for the beneficiaries.

In the Information of the *Agrokomerc* on the situation with respect to the implementation of the transformation of ownership since March 1993, it is stated that the employees had" average salary in the previous year (1992) of 271.85 DEM, which means that on average it was allocated monthly per employee 90.62 DEM which is still done today".

The Information was submitted to the Municipality.

What is evident on the basis of presented information and documents is :

- that *Agrokomerc* realised profit in 1992,
- that the profit was distributed to the social and stock capital in accordance with the capital structure of the company,
- that a portion of the profit was used (paid) for financing internal shares,
- that the increase of shares was financed by a portion of profit in the amount of: commodity stockpiles and unpaid salaries,
- that the profit was taxed according to Social Accountancy Service,
- that the *Agrokomerc* had been calculating taxes and contributions,
- that profit was not distributed to salaries, for which taxes and contributions should have been paid

It was not possible for to establish whether the company had paid the calculated contributions.

According to the record made by PIO (Pension and Disability Insurance) Branch Office Biha} dated 5 May 2000 no. 01-097-0403-302/00-K (if valid) it may be seen that the *Agrokomerc* is in debt to PIO for **the entire period 1 January 1992 through 31 December 1999 in the amount of KM 40,725.92**

By the Procedural Decision of PIO Branch Office Biha} no. 01-0403-302/00 dated 28 April 2000 the *Agrokomerc* company was ordered to fulfil its obligations to pay its unpaid contributions to the Social Fund for Pension and Disability Insurance of Bosnia and Herzegovina in the amount of KM 13,558,856.

We are of the opinion that a court expertise of the case ought to check the validity and authenticity of documents which served as the basis for our analysis and particularly the payments of contributions by *Agrokomerc* in the relevant period 1991, 1992, 1993 with the Social Accountancy Service. The reports on the debt and reports on payment to the Social Accountancy Service that we have at our disposal to inspect do not guarantee the authenticity of the documents in our lay opinion.

#### **IV OPINION ON THE CASE**

Our opinion is that the *Agrokomerc* case is an extremely delicate one from the point of view of economy, politics as well as socially.

We think that in resolving this case one should be extremely cautious especially because of the possible consequences for the whole privatisation process in BiH.

Going back to the Markovi}'s laws may serve for revealing "justice" for shareholders but it can also make complicated the privatisation process.

The issue of retroactive interpretation of regulations and implementation of current regulations to the then time period, and *vice versa*, is a very sensitive one.

With regard to the questions we may answer as follows:

The goal of Markovi}'s laws was the transformation of ownership in companies within the whole political and economic reform of the former Yugoslavia and its transformation from self-managing and socialistic country into a modern market economy.

Within this sense the model (method) of transformation of property relations based on the issuance of internal shares was the only reasonable, possible and acceptable solution. This is very obvious today when the privatisation process is going on based on other methods that are to some extent similar (certificates), but essentially different according to the effects for workers and complete economy.

Namely, according to Markovi}, the workers would have become the shareholders of the company of which they possess the shares. They would have managed the company and taken part in the distribution of profits. The new privatisation model through certificates does not offer any guarantee to the workers that they will become the shareholders of the company.

According to Markovi} the very act of registration of shares leads to the transformation of property relations and to the formation of new management structure of the company. The workers manage the company in accordance with registered shares on the following principle: one share = one vote.

In distribution of profit the workers take part in accordance with paid shares. This was the only possible solution of the problem taking into account the lack of capital and private saving at that time period.

Shares are paid by loan for up to 10 years. During that time the Company was a joint-stock Company with a Managing Board and a Shareholders Assembly, which was the goal of the transformation of ownership.

The important issue of *force majeure* is raised here in the transformation process. The war in BiH led to: a) the nationalisation (state ownership) of companies and elimination of stock capital by a simple "stroke of a pen" and b) to the fact that the payment process of shares and their transformation into "real" stocks was terminated.

Social capital could be privatised by additional capitalisation as well as by sale of social capital. Payment of internal shares could be treated also as purchase (sale) of social capital, which is emphasised in the Decision on Issuance of Stocks in the *Agrokomerc* in Article 19 of the Decision. By elimination of stock capital, no matter whether it happened a) by nationalisation or b) by cancelling of stock capital, the workers ceased to be shareholders. They do not manage the company nor can they take part in the distribution of profits. According to the privatisation through "certificate", the one that is applied now, the workers can not be protected. This means that their position is the same as of all other citizens who take part in the privatisation process.

## **Annex:**

### **Identification of key notions**

In the supporting documents to the case of *Agrokomerc* it is especially important to identify key notions and reach agreement on how they are to be understood and their importance. Knowledge of the essence of notions may provide answers to the majority of the questions put to us.

## **1. Internal share, notion, aim and definition**

The Law on Social Capital issued in 1989 has defined the notion of an internal share. It is important, before interpreting the notion, to mention that the Law was an integral part of the process of social-economical reforms in former Yugoslavia designed for replacing self-management with modern market economy. The reform of the economic system included implicitly the change of the political system, and, thus, the position of certain subjects of society, and, therefore also the position of employees in the social and self-management companies. Employees should have been “transformed” by these reforms from self-managers to the owners of capital.

Article 2 of the Law states that a company and the state capital may be the subject of sale. Article 3 states that a company may, for the purpose of gaining additional capital or selling of company, issue shares with a discount which cannot be circulated on the stock market (hereinafter: “internal shares”).

The management organ of the company shall pass the decision of issuance of internal shares.

The management organ is obliged, at the same time as it decides on issuance of internal shares, to issue a decision on the transformation of the company into a joint-stock company or a company with limited liability in mixed ownership.

Article 1b states that “internal shares shall acquire the status of shares from this Law on Securities under the condition that they are paid for in full amount and that other conditions set in that law are fulfilled”.

Accordingly, internal shares are shares even if they are not paid in whole. They, amongst other things, have the quality of internal shares for that reason.

Article 1d points out that “the value of internal shares, which an employee of a company has the right to purchase, cannot be larger than the amount of his paid annual net salary multiplied by three”.

We consider Article 1e of the Law especially relevant to answer to questions put to us. It is stated in it that “any holder of internal shares shall be entitled to a share of the company’s profits, proportionally to the paid part of the value of his shares increased by the proportional amount of discount granted”.

The same Article states that “the holders of internal shares shall obtain the right to participate in the management of company proportionally to the nominal value of their shares”.

Therefore, the Law differentiated between: the management and the participation in management and the participation in the profit of company of an internal shareholder. For the participation in profit it is important that the internal share is paid for in a manner considered as cash payment (the comment on that shall be given later in the text), while for the participation in management the important thing is that an employee possesses internal shares nominally. In other words, possession of internal shares treats an employee as an owner of company in the amount of internal shares he owns. That is also the part under which he can participate in decision-making process.

It could not have been any different in the beginning of the ownership transformation foreseen by the given method of "privatisation". If not, the company would have been self-managing in relation to decision-making process, and social in relation to the ownership structure to the moment when the main part of shares would have been paid in cash. In the prevailing circumstances of the country this could have meant that the ownership transformation would be postponed for ten years. That would not be a reform.

Article 1z states that the internal share shall be paid for in money. Instalment payment of shares can be made in one instalment, multiple instalments and continual payments.

If a purchaser pays internal shares in progress payments, he is obliged to fulfil his obligations not later than during ten years time-limit from the date of issuance of internal shares in accordance with the decision on issuance of internal shares... if the holder of internal shares has not paid the whole amount during the time-limit from paragraph 4 of this Article, he loses the right to the part of internal shares the value of which he did not pay for, and appropriate part of discount.

Accordingly, if the employee does not pay a part of internal shares he shall not lose the right to the part of internal shares - capital of company that he had paid for.

In addition, he has the time-limit of ten years to pay the value of shares, and for the whole period in question he can take part in the management, which means that he can be the owner of the share of capital of the company in accordance with the amount of "registered" internal shares. We would like to underline that the issue of participation in the profit of the company and the increase of value of shares on these grounds is of a completely different nature.

## 2.

### **Treatment of "cash payment" - payment of internal shares**

In the Official Gazette of the Federation of Bosnia and Herzegovina no. 1 of 15 January 1998, in the Decree on Auditing of the Previously Executed Ownership Transformation - the conception of payment of internal shares can be found.

Article 2, beside defining the notion of auditing, speaks about issues that should be established by the audit: "audit establishes actual ownership structure of the company's capital, i.e. relative participation of state and private capital in the capital of company on the date of 31 December 1991, legally based reform in the amount and structure of capital from 1 January 1992 until 31 December 1997, as well as the book value and relative participation of state and private capital in the company's capital on the date of 31 December 1997".

Again, in the "*Instructions on the Manner of Applying, the Necessary Information and Documents on the Procedure of Auditing of the Previously Transformed Property Relations*", which was passed by the Minister of Finances on the basis of Article 14 paragraph 1 of the Decree, published in the Official Gazette of the Federation of Bosnia and Herzegovina no. 9 of 25 March 1998, the actual private capital is defined.

"The actual private capital, in the sense of these Instructions, is book value of private capital realised by instalment payments of registered internal shares or stocks, by setting aside into internal shares from the basis of increase of salaries or other appropriate ways, including due **increases** or decreases of book **value of the private capital on the basis of performed scheme of revaluation of reserves, profit, loss** and other items of capital in accordance with provisions from the area of accountancy and accounting system."

On page 248 of the same Official Gazette in the part II - manner of applying and manner of

establishment of data, the instructions were given to the companies of how to fulfil applications for audit of previously executed ownership transformation. In paragraph 10 the table in chapter IV, The value and structure of capital, it is stated that the column 4 shall be filled by the data established in the manner that is provided for by these instructions.

Then paragraph 11 states that "the amounts in the column 4 shall be established on the basis of data and documentation under paragraph 14 of these instructions, i.e. on the basis of other available information, records and documentation, in the following manner:

No. 1 - Whole amount of effective instalment payments of internal shares (or stocks) registered under the Law on Social Capital which were performed by:

*Cash payment through the giro-account or cashier and*

*By stoppage on the payroll sheets,*

concluded with payments for the month of December 1991 including also the effective payments for the period until 31 December 1991 registered in business books in period from January to March 1992".

In the same Official Gazette the obligations of physical persons on securing data are stated, at least on the state of book accounts of capital, and that is:

on the date of 31 December 1991 under no. 8 - 13, on the basis of excerpts of an annual balance sheet from the Payment System Institute (Bureau for payment transactions) and on 31 December 1997 under no. 17 - 24 on the basis of balance state on 31 December 1997."

Accordingly, if it happens that the company does not have appropriate documentation for the identification of notions under no. 8 - total private capital, until no. 13 - total capital, for any possible reason, the company may and must use excerpts of annual balance sheets from the Payment Bureau. The only exception is if documents of the former Bureau are also unavailable!

Sarajevo, June 2002