

In accordance with Article 88 Item 2 of the Constitution of the Republic of Montenegro I hereby pass the

**ENACTMENT ON PROCLAMATION OF
THE LAW ON SETTLEMENT OF OBLIGATIONS AND CLAIMS IN RESPECT OF
FOREIGN DEBT AND FOREIGN CURRENCY SAVINGS OF CITIZENS
("Official Gazette of RoM", no. 55/03 as of 1st October 2003, 11/04 as of 20th
February 2004)**

This is a proclamation of the Law on Settlement of Obligations and Claims in respect of Foreign Debt and Foreign Currency Savings of Citizens, adopted by the Parliament of the Republic of Montenegro at the meeting of the fifth extraordinary session in the year 2003, on 24th September 2003.

Number: 01-877/2
Podgorica, 25th September 2003
President of the Republic of Montenegro
Filip Vujanović, signed

**LAW ON SETTLEMENT OF OBLIGATIONS AND CLAIMS IN
RESPECT OF FOREIGN DEBT AND FOREIGN CURRENCY
SAVINGS OF CITIZENS**

I BASIC PROVISIONS

Article 1

This Law shall govern the conditions and procedures of assumption of obligations and claims of banks in respect of foreign debt and foreign currency savings of citizens by the Republic of Montenegro (hereinafter: the Republic) and determine the method for their settlement.

Article 2

Foreign debt in respect of this Law shall be the obligations to foreign creditors guaranteed by the Socialist Federal Republic of Yugoslavia or the Federal Republic of Yugoslavia, recorded in the balance sheets of authorized banks with their head offices at the territory of the Republic (hereinafter: authorized banks) prior to the end of 1992 and registered as claims of banks in respect of loans extended to legal entities with their head offices in the Republic, that is, obligations comprised in the agreements with foreign creditors, established by the Commission for Division of Joint Property formed in accordance with the Law on Implementation of Constitutional Charter of the State Union of Serbia and Montenegro (hereinafter: the Commission) and accepted by competent bodies.

The obligations referred to in paragraph 1 of this Article shall relate to the obligations due to international financial institutions, foreign governments and their financial, insurance, export-credit, commercial and development agencies, as well as aid agencies represented in the Paris Club, and also to the foreign commercial banks represented in the London Club, determined through negotiations with foreign creditors as undisputable obligations originated from granting loans to economic entities with their head offices at the territory of the Republic.

Article 3

Foreign currency savings of citizens (hereinafter: foreign currency savings), in respect of this Law, shall represent the foreign currency savings deposited by physical persons to foreign currency accounts and foreign currency savings passbooks with authorized banks with their head offices at the territory of the Republic, then transferred by authorized banks to the National Bank of Yugoslavia and subsequently converted into public debt of Federal Republic of Yugoslavia and stated in Deutsche Mark, as well as the foreign currency savings determined by the Commission and accepted by relevant authorities as the obligation of the Republic.

The foreign currency savings of citizens referred to in paragraph 1 of this Article shall be taken over in the amounts as presented in the balance sheets of banks at the territory of the Republic as of 30th June 2003, increased by accrued interest at the annual rate of 2 percent starting from 1st January 2003.

Interest rate referred to in paragraph 2 of this Article shall be applied annually to unsettled remaining balances at the end of each repayment period until the total repayment of foreign currency savings.

On the day this Law comes into force, the liabilities in respect of foreign currency savings referred to in paragraphs 1 and 2 of this Article shall be converted from their original currencies into Euro.

Article 4

The Central Bank of Montenegro (hereinafter: the Central Bank) shall provide the records and all necessary documentation related to foreign debt and foreign currency savings referred to in Articles 2 and 3 of this Law and shall be responsible for the accuracy and validity of data transferred from the balance sheets of authorized banks.

Article 5

On the day this Law comes into force, the Republic shall assume:

- 1) obligations of authorized banks due to the foreign creditors stated in Article 2 of this Law;

- 2) claims of authorized banks due to debtors in respect of loans extended from sources referred to in Article 2 of this Law;
- 3) obligations of authorized banks due to physical persons in respect of foreign currency savings;
- 4) claims of authorized banks referred to in Article 3 of this Law to the Federal Republic of Yugoslavia and the National Bank of Yugoslavia in respect of foreign currency savings;
- 5) obligations of authorized banks in respect of agreements on foreign currency term deposits concluded between authorized banks and the Ministry of Finance in accordance with the Program of Repayment of Foreign Currency Savings of Citizens adopted by the Government of the Republic of Montenegro (hereinafter: the Government);
- 6) balances of accrued prepaid deferred interest on foreign currency savings of citizens, in accordance with the Law on Settlement of Obligations in respect of Foreign Currency Savings of Citizens ("Official Gazette of FRY", No. 59/98).

The transfer of obligations and claims referred to in paragraph 1 of this Article from banks to the Republic shall be performed by their removal from the balance sheets of authorized banks, referred to in Article 3 of this Law, and by recording in a special balance sheet to be opened by the Central Bank.

The recording in the special balance sheet referred to in paragraph 2 of this Article shall be provided by the Central Bank in accordance with a special agreement concluded with the Ministry of Finance.

Article 5a ("Official Gazette of the Republic of Montenegro", number 11/04)

The Republic shall assume the obligations and claims referred to in Article 5, paragraph 1, items 1 and 2, by removal from the balance sheet of the bank under bankruptcy, with the balance as of the day of bankruptcy procedure realization.

Article 5b ("Official Gazette of the Republic of Montenegro", number 11/04)

Exceptionally to the Article 5, paragraphs 1 and 2 of this Law, in case of a bank under bankruptcy, the Republic shall assume the liabilities due to physical persons in respect of foreign currency savings and take their place in the balance sheet of the bank under bankruptcy.

Article 6

The Ministry of Finance (hereinafter: the Ministry) shall enact the instruction on opening a special balance sheet referred to in Article 5, paragraph 2 of this Law, where the obligations and claims removed from the balance sheet of banks shall be temporarily recorded, until their final recording in the general ledger of state debt by the Ministry.

Article 7

Upon removing the claims and obligations from the books in accordance with Article 5 of this Law, the authorized banks shall be obliged to provide the Central Bank with a detailed breakdown of the records of obligations in respect of foreign currency savings and records of obligations in respect of foreign debt.

If at the moment of removal of obligations and claims in respect of foreign currency savings, there is a disbalance between the liabilities and corresponding items on the assets side in the balance sheet of the bank, the authorized bank shall recover the balance in the following way:

- a mismatch that is the result of removed claims being greater than the claims, shall be balanced by reporting the liabilities to the Republic;
- a mismatch that is the result of removed claims being greater than the liabilities shall be balanced by reporting the difference against the reserve account.

If at the moment of removal from books of liabilities and claims in respect of foreign debt in the balance sheet of the bank there is a disbalance between the liabilities and corresponding items on the assets side, the balancing in this respect shall be achieved by transferring to the special balance sheet referred to in Article 5, paragraph 2 of this Law debiting those balance items of the bank that are related to permanent investments of the bank in other legal entities or by creating liabilities toward the Republic, if the bank has no permanent investments in other legal entities.

The balancing referred to in paragraphs 2 and 3 of this Article with regard to potential generation of liabilities to the Republic shall not apply to banks under bankruptcy.

Commercial banks shall be responsible for validity of data referred to in paragraph 1 of this Article.

The Ministry shall establish the conditions, procedure and the manner of settlement of banks' obligations referred to in paragraphs 2 and 3 of this Article by a separate regulation.

Article 8

The Central Bank shall enact necessary regulations on removal and recording of debt from balance sheets of banks, according to the provisions of this Law.

The Central Bank shall submit to the Ministry the updated special balance sheet referred to in Article 5, paragraph 2 of this Law, as well as the supporting documentation no later than 90 days after this Law enters into force.

The Central Bank shall be responsible for validity of data presented in the special balance sheet referred to in paragraph 2 of this Article.

Article 9

Based on the documentation that the Central Bank shall submit within the deadline determined in Article 8 of this Law, the Ministry shall keep records, make payments, manage and perform other activities related to debt assumed by the Republic according to the provisions of this Law.

An organizational unit shall be created within the Ministry of Finance and shall be involved, among other activities, in management of debt in respect of foreign currency savings, including direct coordination with the Central Depository Agency for the purpose of maintaining updated registry of bonds with regard to their maturity and changes in ownership, including but not limited to:

- 1) day-to-day changes in ownership on the stock exchange,
- 2) changes due to redemption of bonds by the State,
- 3) changes resulting from cases referred to in Articles 16 and 18 of this Law.

II SOURCES FOR FINANCING REPAYMENT OF FOREIGN DEBT

Article 10

The funds for repayment of debt referred to in Article 2 of this Law shall be provided by the Budget of the Republic for each year, in accordance with the conditions defined in the agreements and contracts signed with foreign creditors.

Article 11

The following funds may also be used for the repayment of foreign debt:

- 1) the funds collected from end-users of foreign loans referred to in Article 2 of this Law;
- 2) the receipts of the Republic realized from privatization, liquidation or bankruptcy of end-users of foreign loans and banks, within the framework where the Republic has priority status, in accordance with the applicable regulations related to bankruptcy of business organizations and banks.

The funds obtained from property division and collection of claims from the Federal Republic of Yugoslavia and National Bank of Yugoslavia, assumed by the Republic in accordance with Article 5 of this Law, shall also be used for repayment of foreign debt and foreign currency savings.

Article 12

The Ministry shall determine for each individual loan extended by domestic banks from the foreign debt funds and related to debt assumption referred to in Article 2 of this Law, as well as any other assets assumed by the Republic, if it is collectible.

The Ministry of Finance shall be obliged to collect the funds in respect of loans referred to in paragraph 1 of this Article and place such deposits into the account of the State Treasury of the Republic, if they are determined to be collectible.

If the Ministry of Finance determines that the loans referred to in paragraph 1 of this Article are collectible or the collection of funds of the collectible loans referred to in paragraph 2 of this Article could be more efficiently realized by an agency or by a new agency, the Ministry may propose to the Government to entrust such activities to an international specialized agency or to propose to establish a new agency, not requiring the adoption of other regulations.

If a new agency is created, the proposal for its authorizations, competence, organization, funding and other functions relevant for adequate functioning of the new agency within the framework of the provisions of this Article shall be made by the act on foundation.

Article 13

The statute of limitations shall not apply to collectibility of loans extended to end-users with the funds from foreign loans referred to in Article 2 of this Law, for the purpose of protecting the specific interests of the Republic. The Government shall keep the right to collect the loans extended regardless the period of time elapsed from the day they were originally extended.

III FINANCING OF THE REPAYMENT OF FOREIGN CURRENCY SAVINGS

Article 14

The Republic shall provide funds for fulfillment of the obligations in respect of foreign currency savings of citizens referred to in Article 3 of this Law.

Article 15

The debt in respect of foreign currency savings shall mature in the following periods:

- on 1st July 2004, in the amount of 380 EUR per one foreign currency savings deposit;

- on 1st July 2005, in the amount of 530 EUR per one foreign currency savings deposit.

The remaining amount of the foreign currency savings referred to in Article 3 of this Law shall be repaid in 12 annual installments that shall increase by the geometric progression rate of 10% and mature every 1st July between the years of 2006 and 2017, and shall be calculated by multiplying such amount by the following coefficients:

- for 2006 – by 0.05425092,
- for 2007 – by 0.05967601,
- for 2008 – by 0.06564361,
- for 2009 – by 0.07220798,
- for 2010 – by 0.07942877,
- for 2011 – by 0.08737165,
- for 2012 – by 0.09610881,
- for 2013 – by 0.10571970,
- for 2014 – by 0.11629167,
- for 2015 – by 0.12792083,
- for 2016 – by 0.14071292,
- for 2017 – by 0.15478421.

The holder of the foreign currency saving deposit shall be entitled to repayment of an annual installment amounting to no less than EUR 500, if the installments referred to in paragraph 2 of this Article are smaller than that amount.

The right to receiving the reimbursement, in respect of this Article, including the anticipated calculated interest of 2% p.a., shall be determined on the basis of one foreign currency deposit.

Reimbursement of funds referred to in paragraphs 1 and 2 of this Article shall be performed by authorized banks or by the Central Bank on the basis of the contract concluded with the Ministry.

IV REIMBURSEMENT OF FOREIGN CURRENCY DEPOSITS THROUGH BONDS

Article 16

The Government shall issue bonds for the purpose of fulfilling the obligations in respect of foreign currency deposits, in accordance with Article 15 of this Law.

The bonds referred to in paragraph 1 of this Article shall be issued in dematerialized form and shall be registered with the Central Depository Agency.

On the day of the issue of bonds, the conversion of foreign currency savings to bonds shall be performed.

The bonds referred to in paragraph 1 of this Article shall be registered, transferable and not subject to property or capital gain taxes.

The amount of the issue, the term of the issue, the recording of conversion of foreign exchange deposits into bonds and the manner and conditions for realization of bonds, shall be prescribed by the Government, based on the criterion defined in Article 15 of this Law.

The bonds issued in accordance with the Decree on Purchase of Shares with Old Foreign Currency Savings (Official Gazette of RoM, number 23/02) shall continue to be valid under the conditions which they were issued under until they are exchanged by shares of enterprises owned by the Government, Development Fund, Pension and Disability Insurance Fund and Employment Bureau, or reconverted into foreign exchange deposits. Holders of these bonds may, at their request, exchange them with the bonds issued according to this Law. The Ministry shall be obliged to adopt a decision regarding the procedures for the exchange.

Article 17

Domestic and foreign physical persons and legal entities may freely trade in bonds, referred to in Article 16 of this Law, obtained in the securities market, on the secondary securities market in the manner determined in the Law on Securities (Official Gazette of RoM, numbers 59/00 and 10/01).

V REPAYMENT OF FOREIGN CURRENCY SAVINGS PRIOR TO MATURITY

Article 18

The bonds issued in accordance with Article 16 of this Law may be used prior to their maturity for the purpose of:

- 1) purchase of shares of State enterprises and enterprises owned by funds, under the process of privatization,
- 2) purchase of apartments, residential premises, business premises, land or other state owned property, the purchase of which with the non-matured bonds is allowed by the Republic,
- 3) payment of tax liabilities with bonds, which in accordance of Article 15, mature for collection in the year which the tax liabilities are related to.

The Government shall determine detailed conditions for use of bonds prior to their maturity for the purposes referred to in paragraph 1 of this Article.

VII TRANSITIONAL AND CLOSING PROVISIONS

Article 19

The Decree on Purchase of Shares with Old Foreign Currency Savings (Official Gazette of RoM, number 23/02) shall be rescinded as of the day this Law comes into force.

Article 20

This Law shall come into force on the eighth day after its publication in the Official Gazette of Montenegro.