

ANTI-CORRUPTION COUNCIL'S RESPONSE TO MILAN BEKO'S UNTRUTHS SPOKEN ON A B92 TV PROGRAMME and published on page 11 of the daily *Politika* of 7 February 2011

Milan Beko did not speak the truth on the B92 Television programme *Između redova /Between the Lines/*, broadcast on 21 November 2010. Given that the media in Serbia are firmly controlled by politics and tycoons, we would like to point out some facts that Beko twisted and tried to manipulate in his TV appearance. The Anti-Corruption Council wishes to present to the public all relevant data and facts that refute the statements made by Beko on this programme as citizens have been denied true and confidential information about such important cases.

Milan Beko uttered the first untruth at the very beginning of the programme when he commented on President Tadic's call to tycoons in Serbia to give some of the enormous wealth they have amassed over the past few decades back to the public. Referring to the experience of some other countries where similar requests have been addressed to owners of big businesses, Beko explained that there was a big difference between America and Serbia: ***"As Serbia is America, so are we Bill Gateses, and we differ from America in that Bill Gates was created, that America created him, while it seems that we happen by chance and do things in spite of the system."***

Besides reminding the public of the statement made by Beko only a few months earlier that he was rather Djindjic's, Kostunica's and Tadic's tycoon than Milosevic's, we should also remind the public of his biography, which shows that he has been successful merely thanks to the system.

- He made his first capital stock at the time of Slobodan Milosevic's rule, when he also acquired the habit of trading and buying businesses in Serbia, hiding himself behind off-shore companies; he concluded his first business deals through the company *DiBek*, owned by companies from Ireland, the Bahamas and Liberia; no data is available on the owners of those companies, but the first director of *DiBek* was Milan Beko.
- In the second half of the 90s he was Serbia's minister of ownership transformation and Milosevic's man for the most sensitive economic transactions.
- *Luka Beograd* was privatized in 1998, at the time Milan Beko was the minister of ownership transformation.
- He was in charge of the privatization and sale of *Telekom Serbia* in 1997; the role of some of the participants in this 1.5 billion-DM transaction is still unclear as it is suspected that they illegally received a high commission; as a key negotiator in the Telekom sale, Beko testified before legal authorities in Italy.
- He was soon given another important assignment; this time he was to start production at the Kragujevac Car Factory *Zastava*; during the NATO bombardment he devised a "human wall" defence of the factory.

- A year later he appeared as JUL's candidate in the Kragujevac constituency in an election for a delegate to the Citizens' Council of the Federal National Assembly.
- The last office Beko held at the time of Milosevic's rule was that of Federal Minister of Economy in the Government of Momir Bulatovic.
- After the changes of 5 October 2000, Beko participated in a number of disputable privatization schemes, such as those of the largest Serbian dairy plants, *Knjaz Milos, Luka Beograd, Vecernje novosti* and *C-Market*; so far the origin of the money that was funneled into Serbia through off-shore companies has not been established in any of these cases.

Because of all this and the fact that due to his close relationship with the Milosevic regime he was put on the list of FRY citizens forbidden entry into European Union member states in 1999, it was realistic to expect that Beko, as one of the pillars of that regime, would be subjected to lustration. Instead, there was increasing news of Beko's privatization arrangements, and he has consequently become one of the biggest investors and owners of businesses, real-estate property and land in Serbia.

Trying to justify his intention to have *Luka Beograd* relocated from its present location so that he could start the construction of a residential-business complex there, Beko said on the TV programme that the relocation of *Luka Beograd* had been foreseen in Belgrade's 1972 and 1993 General Urban Development Plans and in all city development documents adopted in the meantime: ***"..since '72, when the General Urban Development Plan of Belgrade was adopted , and later in 1993, when it was adopted again, and in all of the documents referring to city development in the meantime, it has been emphasized that there is no place for Luka there."***

Such statements by Milan Beko are absolutely untrue as no urban development plan to date envisages the relocation of *Luka*.

- The heart of the fraud in this case is the fact that *Worldfin* bought *Luka Beograd* shares with the intention of shutting down the basic activity of *Luka* and grabbing the land of *Luka Beograd*, which *Worldfin* representatives have always openly expressed in their public statements. (*Exhibit 1*).
- *Luka Beograd* is an international port and Serbia has obligations under international regulations.
- It is foreseen by all general plans, including the 2003-2021 plan, which was in force at the time the *Luka* shares were taken over, that it would remain in its present location and that the harbour area would also be extended. (*Exhibit 2*)
- Just because *Luka* should remain where it is and because it is an industrial zone where building construction was not permitted, the ruling majority of the Belgrade Assembly and LDP delegates adopted Amendments to the General Urban Development Plan of Belgrade, under which the intended use of *Luka Beograd's* land was changed; these amendments provide that an area of about 70 hectares, which currently hosts production, warehousing and traffic facilities, should be transformed to suit commercial purposes, which paves the way for the

implementation of the plans of *Luka*'s owners to build a residential-business complex. (*Exhibit 3, page 17.*)

- Moreover, in order to justify Beko's request for the relocation of *Luka*, shortly after the takeover of its shares and only three years after the City Council adopted the General Plan for the next twenty years, the Directorate for Building Land and Construction of Belgrade issued a public call for the elaboration of a preliminary feasibility study for a new harbour in Belgrade; this effort to establish technical grounds for the abrogation of the interests of the City because of the interests of the owners of *Luka*, have cost the citizens of Belgrade 912,000 euros. (*Exhibit 4*)

Milan Beko also manipulated facts when referring to the bank guarantee that the bidder, *Worldfin*, was to provide in taking over the *Luka* shares: **"(Luka) was bought by a company which had the required funds because it met all legal obligations to deposit a bank guarantee, and that part of our Law which specifies who is to provide the guarantee says that the broker is to provide it in accordance with the Law. Well, that's how it is laid down in the Law, and it cannot be provided by anyone else."**

- It is true that brokers submit bank guarantees; however, not in their own name, but in the name of the bidder.
- Therefore, Milan Beko's company *Worldfin*, which submitted its bid for the takeover, did not have the required funds or a bank guarantee; the bank guarantee issued by *Hypo Bank* was issued in the name of the broker *M&V Investment*, in spite of the fact that Article 78 of the Securities Act, which was in force at the time of the takeover of the *Luka* shares, specifies that "before submitting his bid for the takeover of shares, the bidder shall deposit funds with a bank... or provide a bank guarantee issued for the same amount". (*Exhibit 5 – Bank Guarantee; Exhibit 6 – Securities Act*)

Beko also spoke an untruth in saying that it was not true that *Worldfin* had no funds in its account when it was buying *Luka*: **„You want to say that the shareholders who received the money for their shares were given a bank guarantee that had been cut into pieces?"**

- The denial, issued in March 2010 by *Worldfin* in order to refute Stanko Subotic's claim that *Luka* was bought with his money proves that *Worldfin* indeed did not have the required funds at the time of the takeover of *Luka* shares: **"Worldfin's only financial partner at the time of the takeover of Luka Beograd shares was Hypo Alpe-Adria-Bank International AG from Klagenfurt. The total amount of the funding was 40.11 million euros, and it was paid in four installments: 9.4 million on 25 October 2005, 2.46 million on 27 March 2006, 12.5 million on 15 December 2006 and 15.75 million euros on 14 June 2007. All of the loans are still used"**, reads a statement by the Luxemburg company. **The ownership of Luka shares was transferred to Worldfin in September 2005!** (*Exhibit 7*)
- Indeed, the very representatives of *Worldfin* admit that the company did not have enough funds to buy *Luka* shares, but they took out a loan only after the

takeover, because it was only then that *Worldfin*, a “shell“ company in the words of its very owner, did actually become creditworthy.

- On a number of occasions the Anti-Corruption Council has submitted facts to the Government and the Prosecutor’s Office suggesting possible money laundering in the takeover of *Luka Beograd* shares; *Worldfin*’s statements confirm these allegations because the first loan installment was paid a full month after the takeover, and the last one as late as two years afterwards.

Beko also manipulates facts when he says that no one forced small shareholders to sell their shares to *Worldfin*: **„Do you know who sold shares to us? Small shareholders. They responded to the offer they had been given, and we were also successful without state-owned shares, and no one can say...that anyone forced small shareholders to sell their shares to us.”**

- Small shareholders were not familiar with data on the fair price of *Luka Beograd* shares, which was significantly higher than the one quoted in *Worldfin*’s bid. (*Exhibit 8; Exhibit 9 Estimate by the Institute of Economic Sciences*).
- *Worldfin* did not inform small shareholders about it, even though under Article 71 of the Securities Act **it was obliged** to do so: “If, during the bidding period, or after the conclusion of the bid, but before the expiry of the period during which shareholders may desist from the bid they have already accepted, any circumstances arise that may significantly influence shareholders’ decision regarding the acceptance or rejection of the bid – the bidder shall be obliged to inform the shareholders, the Securities Committee and the shareholding company whose shares he is buying of such circumstances”. (*Exhibit 6*)
- Three days prior to the expiry of the period for the conclusion of the bid for the takeover, the Government decided to sell its 40% of the shares at the price offered by *Worldfin*, whereby small shareholders were put in a *fait accompli* situation and practically forced to sell their shares at the same price, as after that they might have been unable to sell their shares at all.
- We would like to remind you that *Luka* shares were sold at the price of 800 dinars, that the newly-estimated value, which was kept secret from shareholders, was more than 1,770 dinars, and that shortly after the takeover *Luka*, the price of a share on the stock exchange reached a value of over 7,000 dinars.
- Two years ago nearly one thousand of *Luka Beograd*’s small shareholders submitted a complaint against the responsible persons of *Luka* because they had been cheated by them into selling their shares at a lower price; a great number of lawsuits have been filed for compensation of damages, but none of these proceedings have been completed yet. (*Exhibit 10*)

Beko speaks an untruth when he says that government authorities have examined the process of the takeover of *Luka Beograd* and have established that everything was done in accordance with the Law: **“That story has already been cleared up. Mrs. Barac, and the Anti-Corruption Council submitted that material two and half years ago, when the Prosecutor’s Office also carried out preliminary investigations... The police had**

already completed their job, received all the materials, and the Prosecutor's Office decided that there were no grounds for a criminal investigation."

- Every tender in which small shareholders sold their shares to companies behind whose names Milan Beko was hiding was followed by legal action by shareholders after they would discover they had been deceived.
- To date, none of the complaints or lawsuits filed against Milan Beko and his accomplices concerning *Luka Beograd*, *C-Market*, or *Vecernje novosti* has been rejected.

The selective approach in the actions of the judiciary depending on the fact who the complainant is, as well as the influence of Milan Beko and Miroslav Mišković on social developments and the judiciary were issues raised by the host of the TV programme *Između redova*. By way of example, he mentioned the proceedings initiated against Slobodan Radulović, the former general manager of *C-Market*. Finding the question insulting, Beko denied having been behind anyone's arrest or behind the charges brought against Radulović: ***"Well, there's been a change of government in Serbia, and we have European legislation and a modernized and reformed judiciary, and now I should be responsible because the judiciary finds that he should give some answers. Who has it been afraid of all along?"***

Beko avoided to speak about his role in the acquisition of *C-Market* shares:

- The *C-Market* acquisition fraud began with an attempt by Beko and Radulović to impose a capital increase on the Shareholders Meeting of the Company and thus become majority owners and devalue the shares of the other shareholders. (*Exhibit 11; Exhibit 12*)
- Having realised that Radulović had lost control over the small shareholders and that, despite threats and pressure, he would not manage to push the capital increase decision through, Beko parted company with Radulović and joined Misković's camp.
- On the initiative of Prime Minister Kostunica, the so-called *Memorandum of Understanding*, hammered out by Danko Djunic, was then signed by Misković, Beko and Radulović as a secret cartel agreement on a joint attempt to take over *C-Market*'s shares and establish a dominant position in Belgrade's retail market. (*Exhibit 13*)

The outstanding question is why Milan Beko thinks that only Slobodan Radulović should face prosecution because of his unlawful dealings in the takeover of *C-Market*, given that it was a joint business arrangement.

Beko continued making untrue statements and distorting facts when speaking of the takeover of *Vecernje novosti*: ***"WAZ was interested in this, unsuccessfully trying to buy it, before I got in on the act. At one point, when a change in legal regulations in Serbia prevented general managers of companies from stopping small shareholders selling their shares on the stock exchange by declining to sign the prospectus, well, after the***

amendment to this regulation, it was crystal clear that Novosti would soon go public. And WAZ wanted to buy the shares. They wanted to become the owner and they searched for a partner in this transaction as their history of doing business in this region had largely been a negative one.”

Again, Beko avoided saying how after the changed circumstances (regulations) he was able to buy *Novosti* and WAZ was not. Why did not WAZ realize its intention to take over *Novosti* through the responsible state institutions and through negotiations with the Government and other owners in spite of its efforts to do so for months, but it was forced to accept Beko’s mediation? That was not a matter of a positive or negative “history of doing business”, but had to do with hidden centers of power, which can unlawfully stop shares from being sold whenever it suits them.

Beko also confirmed that the three companies through which the *Novosti* shares were bought belong to him: **“That has never been a point of dispute”**.

Once again, Beko avoided explaining who enabled him to unlawfully buy a majority block of *Novosti* shares and to keep them in his possession since 2006.

- The three companies that bought the *Novosti* shares on behalf of Beko – *ArDOS*, *Trimaks* and *Karamat* – are related legal entities.
- Under the Law on the Acquisition of Joint Stock Companies, related legal entities may buy only up to 25% of the shares of a company on a stock exchange. (*Exhibit 14*)
- On 27 November 2010 Vesna Vujic from the Serbian Securities Commission said that after Beko’s appearance on the B92 TV programme the Commission requested an “official explanation as to whether they are related”, pointing out at the same time that four years earlier the Commission had investigated the involvement of the *Novosti* owners, but they had never received any reply; it is still unknown if the Commission has received the requested information and what action it will take if Beko’s companies again fail to provide an “official explanation as to whether they are related”; it is only certain that they have not taken any measures so far, just as they did not four years ago when they must have realised during the control procedure that these were related entities. (*Exhibit 15*)

Speaking about the takeover of the *Knjaz Milos* shares, Beko made untrue statements, once again misleading the public. Commenting on the claim of the host of the programme that the bid of the *Apurna* company for the takeover of *Knjaz Milos* shares had been disqualified, Beko replied: **“Well, you are mistaken. They offered less. Let me remind you. So, they offered less than we did. And as it was less, and cannot be more, the small shareholders then gave all their shares to us.”**

- The prominent French company *Danone*, which set up the company *Apurna* with Vlade Divac, and the *Balkan Limited* fund from Cayman Islands, for which Milan Beko worked, took part in this tender.

- In the first call for tenders for the takeover of the shares, which was approved by the Serbian Securities Commission on 10 September 2004, *Apurna* offered 17,500 dinars per share, while *Balkan Limited* offered 17,200 dinars; this means that *Apurna*'s bid was better.
- The tender failed because the computer system of the Central Securities Register allegedly crashed.
- In the second call for tenders, *Balkan Limited*'s offer was better, with 23,000 dinars per share and a commitment to buy off the state-owned block of shares at the same price over the two following years. Nevertheless, the Commission disqualified *Apurna* and allowed the only remaining bidder, *Balkan Limited*, to change its bid and remove from it the obligation to buy off the state-owned block of shares within a period of two years at a price of 23,000 dinars per share. (*Exhibit 16*)
- The tendering procedure was concluded so that the Serbian Government requested an investigation by the Administration for Combating Organized Crime (UBPOK) claiming that Commission members had worked under pressure; *Danone* was disqualified, and it left the Serbian market, and the state, as the owner of 41 % of the shares, lost 10 million euros on their value.
- The Government institutions broke the law and the prescribed procedures in protecting the private interests of Milan Beko at the expense of the state and its citizens.
- So far the public has been denied true information about the results of UBPOK's investigation into whether anyone put pressure on Commission members, and – if so – who it was and why its Chairman ended up in hospital, whether the deputy prime minister advocated the interests of one party to the takeover procedure and who was responsible for the “breakdown of the computer system” at the Central Register? (*Prilog 17*)

It is now only Milan Beko that has an opportunity to speak about all this, given that because the identity of the owners of the companies and media owners is unknown, it is not clear whom he controls and how. The fact that the financiers of political parties are also carefully hidden (their very leaders openly admit that they cannot disclose the names of their financiers lest they put them at risk) means that his influence on political decisions in the country is also exerted behind the scenes.

In the tender procedure for the acquisition of *C-Market*, the competition – Slovenia's *Mercator* (*Exhibit 18*) and Britain's *Ashmore* (*Exhibit 19*) were also eliminated. Only Beko remained. In the aftermath of the sale of the *Novosti* shares, Germany's *WAZ* (*Exhibit 20*) is leaving the Serbian market. Beko remains. As he said on the programme, his efficiency and work is protected by our “reformed and europeanized institutions”, which seem to recognize and protect only his private interests. All others who suspect and ask questions “think unlawfully”, as Beko told the host of the programme. In other words, everyone except for the tycoons is outside the law because laws are passed to suit their needs, and they appoint people who enforce these laws to positions in state institutions.

Nobody probably believes that it is a “coincidence“ that Beko’s collaborators are appointed to key positions in state institutions or that officials from state institutions are transferred to his companies after completing a job for Beko. Over the previous years state institutions have tenaciously avoided investigating the origin of money and its flows in case of all these transactions in which key persons in the institutions facilitated violations of the law, causing enormous financial damage to the state and its citizens as owners. As long as the origin of money and its flows remain undetected, we will not know who is controlled by Milan Beko and other tycoons and how it is done. Until then, Serbia will remain prisoner to corruption, with all the resulting consequences – with all citizens, except for the political elites and tycoons, living either on the verge of or in utter poverty and with more than half a million of people virtually starving. At the same time, the state has lost millions of euros just from sales of shares in several companies mentioned here.