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GOVERNMENT OF REPUBLIC OF SERBIA  
ANTI-CORRUPTION COUNCIL  
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B e l g r a d e

**REPORT ON THE BUSINESS  
ARRANGEMENTS HARMFUL TO  
THE COMPANY HIP AZOTARA**

**Anti-Corruption Council of the Government of the Republic of Serbia**  
**REPORT ON THE BUSINESS ARRANGEMENTS HARMFUL TO THE**  
**COMPANY HIP AZOTARA**

The Anti-Corruption Council received the letter from the employees in the company HIP Azotara Pancevo Ltd. which warned that the capital representative Radosav Vujacic, signed contracts detrimental to the company. The employees claimed that several harmful contracts had been concluded and that they feared that the company, therefore, could go bankrupt. The Anti-Corruption Council had access to the contracts, which unambiguously showed that Azotara borrowed under adverse conditions, and the damage from one of the transactions concluded, could reach an amount of several million euros.

**The history of privatization of Azotara Pancevo**

Azotara Pancevo was sold by public tender. The contract between the Privatization Agency and the customer was signed on 11 April 2006. The buyer of hundred percent of Azotara's social capital was a consortium of legal persons, which consisted of the companies: UNIVERSAL-Holding, a joint stock company for production, export-import trade, Belgrade and JOINT LITHUANIAN-USA VENTURE SANITEX and PRIVATE STOCK COMPANY ARVI & Co., both from Lithuania. The company was sold for the amount less than 1.245 billion dinars, or 13.1 million euros at the exchange rate at that moment. Since Azotara failed to fulfill the contract obligations, the Agency for privatization terminated the purchase contract in January 2009. Less than 70 percent of the shares was returned to the state, i.e. to the Privatization Agency, while the rest was still owned by the aforementioned consortium.

However, because of the Azotara's debts to the public and state enterprises, the Government of the Republic of Serbia adopted a Conclusion 05 No. 023-4700/2009-4 on 29 July 2009, which recommended that the companies make necessary decisions on the conversion of their claims to HIP Azotara Pancevo into their own capital in the company. Serbia's state-owned gas company Srbijagas was among those companies. However, in the letter sent to the Council by the Privatization Agency on 8 December 2010, it was stated that the conversion was not finished, and that the Privatization Agency still had 68.44 percent of the company's shares registered. In the letter of the Agency it was not explained why the conversion had not been carried out, while in Srbijagas, the Council could not get any information on the conversion of the property of Azotara in favour of the company. Namely, Srbijagas did not respond to the Council's letter sent on 29 October 2010. We did not get any reply even after the Decision of the Commissioner for Information of Public Importance on 12 January 2011, in which it was ordered to Srbijagas to submit a response within five days. Therefore, on 5 April 2011 the Commissioner for Information of Public Importance made a decision to impose a fine of 20,000 dinars which Srbijagas should pay within two days. As Srbijagas did not act upon the Decision, a new decision was sent to Srbijagas on 18 May 2011. According to the new decision it was requested from Srbijagas to send information to the Council within two days, and to pay a fine of 180.000 dinars because of not acting upon previous decision. Even after this decision, Srbijagas did not submit the required documents and information to the Council.

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After the termination of the purchase contract and the failure to fulfill the recommendation of the Serbian Government on conversion of the Azotara's debts into ownership of public companies, beside the Agency which had 68.44 percent of shares, the ownership also stayed in the hands of the consortium of the companies which had bought Azotara in 2006. According to the Business Registers Agency most of the remaining 30 percent of Azotara's shares were owned by Lithuanian company PRIVATE STOCK COMPANY ARVI & CO-24.19 percent. The UNIVERSAL HOLDING, whose owner was Dusan Stupar, the former head of the State Security Service in Belgrade, still had shares in Azotara.

Law on Privatization, Article 41 said that in the case of the termination of purchase contract due to unfulfilled contract obligations by the buyer, the buyer, as the unscrupulous party did not have a right to refunding the amount of money paid as agreed, for the sake of protecting public interest and therefore the buyer did not have a right to retain ownership in the company. The Council demanded from the Privatization Agency to answer on what basis the buyers of Azotara stayed owners of the stated percent of the company's shares even after the termination of the contract. The Council received an answer from the Agency on 10 February 2011, in which it was explained that according to the law which had been in force at the time the purchase contract had been concluded between the Agency and the company Azotara, the Agency had had no legal rights, after the termination of the contract, to transfer to the Share Fund the capital which the buyer acquired by investing into the privatized company, but only the share acquired by paying as agreed. In the letter of the Agency it was further explained that just because of these shortcomings, the provisions in Law on Privatization were changed on 3 January 2008, but they could not be applied to the company Azotara because the buyer acquired the ownership on the base of the investments before Law on Privatization was changed, therefore in the case the Agency applied the new law it would be the violation of the principal of prohibiting retroactive application of law.

The Privatization Agency terminated the contract with Azotara's customers on 9 January 2009 because the buyer, the Serbo-Lithuanian consortium sold the section Karbamid 2 without the approval of the Privatization Agency in 2007. This section according to the balance sheet represented 10.88% of the book value of Azotara. It was clearly defined in the purchase contract that the buyer could not possess more than 5% of the book value. According to the announcement of the Privatization Agency, the Agency ordered the customer to pay from its own funds the difference of 5.88% (10,086,840.47 euros) into the account of privatized company.

As the buyer failed to do so until 31. December 2008, when it was the deadline for payment of the first part of the difference of 5.88%, the conditions were created for the Agency to terminate the contract. Upon the termination of the purchase contract with Azotara, the Agency appointed Radoslav Vujacic as the capital representative, who, at the same time, performed the function of Deputy Director- General of Srbijagas.

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The Anti-Corruption Council asked the Agency for Privatization to explain the procedure and criteria for electing Radoslav Vujacic Deputy Director-General of Srbijagas, the public company which was one of the largest creditors of the 'HIP Azotara' Pancevo and the guarantor of the business operations between Azotara and other companies. In the letter that the Council sent to the Agency it was stated that according to the Article 31 of the Companies Law, Vujacic as the capital representative in Azotara Pancevo could get into the conflict of interest, and therefore, he could act opposite the interest of the company, since Vujacic was one of the persons who had temporary contract authority to manage the affairs of the company.

However, instead of the answers to the specific questions of the Council, the Privatization Agency sent the Privatization Agency's Instruction on the manner of electing and the exercise of the rights and the obligations of the representative managing the subject of privatization. It was stated in the Instruction that the capital representative could be chosen among the shareholders of the company which was the subject of privatization or among the persons outside the company. We did not receive the answer to the specific question what the criteria for electing Radoslav Vujacic the capital representative were, bearing in mind that according to law there was the conflict of interest.

However, at the time the Council received the letter about the actions detrimental to Azotara, Radoslav Vujacic was in custody, on suspicion that driving his Audi A4 under the influence of alcohol he killed a fifteen-year-old boy, who was riding a bike.

**Acting of The Council according to the letter of the Azotara's employees**

The Azotara's employees sent a letter to the Council which contained information about the harmful contracts which were signed by the capital representative Radosav Vujacic on behalf of the company. They sent us the contracts which indicated that the company Azotara borrowed under adverse conditions. These contracts were the Contract on commodity loan between Azotara and the company Victoria logistic signed on 17 March 2010 and the Contract between Azotara and the company YU point signed on 6 April 2010. From the aforementioned contracts we could see that the company Azotara borrowed wheat from the company Victoria logistic, which costed 12 dinars per kilogram and twenty days later the company sold the wheat to the company YU point for 9 dinars per kilogram.

The Council sent the letter to the Privatization Agency on 2 September 2010 and informed them about the received contracts. We asked the Agency to check out the allegations about business harmful to the company, which was done by the capital representative Radosav Vujacic, who had been appointed to that position by the very Privatization Agency.

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In the letter The Council received from the Agency on 24 September 2010, it was stated, among other things that " during the preparation of the letter the Agency was not able to contact the capital representative, because he was in detention pending the criminal proceeding, and therefore he could not send the report on concluded contracts". The Agency forwarded the concluded contracts to the Ministry of Internal Affairs in order to decide whether there were elements for filing a criminal complaint against the actions of the capital representative.

In the meantime, Vujacic was released from detention, and he submitted the Report on the treatment of HIP Azotara Pancevo to the Agency and he sent the Report to the Council on 13 October 2010. At the end of his report on economic justification of these operations he concluded 'the positive effects of this business arrangement are much greater than the negative nominal difference of wheat price, which will be paid if the Azotara doesn't not return the wheat until the agreed deadline'. Let`s start from the beginning so that we can consider all the details of these arrangements.

#### **Detriment arrangements**

HIP Azotara Pancevo, which produces fertilizer, entered the wheat business and according to the contracts wheat was borrowed under adverse conditions. The disputed contracts between Azotara and Victoria logistic and YU point were concluded at the time when according to the Report of the Commodity Exchange in Novi Sad, the wheat harvested in 2009 and according to JUS standards was sold for 11.66 dinars per kilogram (10.80 excluding VAT). According to the contract that Azotara concluded with Victoria on 17 March 2010, the company from Pancevo borrowed 75000 tons of wheat harvested in 2009, which cost 12 dinars per kilogram, the price did not include VAT.

Victoria logistic Ltd. From Novi sad is one of ten members of Victoria group. Victoria group has 100 percent of shares of Victoria logistic. Victoria group is one of the largest agro-industrial companies in the region, which includes the following companies: Sojaprotien, Victoria Oil, Port Backa Planka, Veterinary Institute Subotica, SP Laboratory, Victoria Zorka, Victoria phospate and Victoria Bioenergy. Four shareholders are owners of the Victoria group: the European Bank for Development and Reconstruction from London (24%) and businessmen Milija Babovic, Zoran Mitrovic and Stanko Popovic with the 25.33 percent stake.

The third contract party in the disputed contract was Srbijagas, the parent company of the capital representative Radosav Vujacic. The director of Srbijagas Dusan Bajatovic represented the company in this business, and this public company was the guarantor in the unusual business with Azotara, which was the biggest debtor to Srbijagas.

The borrowed wheat valued 900 milion dinars or aproximately 9 million euros was supposed to be returned until 15. december 2010. The company Azotara could not start returning the borrowed wheat before 15 September 2010. Instead of the wheat harvested

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in 2009 which was borrowed the company Azotara had to return the same amount of the wheat harvested in 2010 by the middle of December. In addition to numerous other costs, which according to the contract Azotara had to pay, the value of the borrowed wheat increased because of a huge increase in wheat prices on the market, which exceeded the amount of 12 dinars per kilogram.

For example, a kilogram of wheat on the Stock Exchange in Novi Sad, about 15 September, i.e. in the period when Azotara was supposed to start returning the borrowed wheat, cost 18.50 dinars without VAT, and in the period between 13 to 17 December 2010, at the time of the expiry date of the contract between Azotara and Victoria, the price reached 27.54 dinars per kilogram (25.50 excluding VAT). That meant that if Azotara had to return the entire amount of wheat in the period of the contract expiration date, it would have to allocate even 1,912,500,000 dinars (without VAT), or a billion dinars more than the borrowed wheat cost at the day when the contract was signed (which was more than 9.5 million euros according to the exchange rate on 15 december 2010).

The Contract envisaged that each of the companies, Azotara and Srbijagas had to give 10 blank bills of exchange as a guarantee and a bank guarantee of 900 million dinars, which should cover the value of the borrowed wheat at the price of 12 dinars per kilogram. The Contract provided that even if Azotara returned the whole loan, the guarantee would be returned within five days but Victoria would compensate only one third of the costs and the guarantee maintenance costs in the amount which did not exceed 50 thousands euros in dinars at the average exchange rate of the National Bank of Serbia at the day of paying. On the already mentioned costs should be added those related to the takeover of wheat from Victoria logistic- providing vehicles, loading and transportation of wheat, which were also Azotara's obligations according to the Contract. Azotara also had costs of storing, analyzing the quality of wheat and the potential interest rates. Azotara was obliged to pay VAT for the borrowed wheat to the Victoria up to the fifth day of the following month upon receiving the invoice.

To get out of this business arrangement without loss, Azotara had to sell the borrowed wheat at the price which would cover all the costs, i.e. at the price more than 12 dinars per kilogram, which was Victoria's price for borrowed wheat. But beyond economic logic Azotara sold all 75 thousand tons of wheat borrowed at the price of 12 dinars to the company YU point, owned by businessman Zoran Drakulic, at the price of 8.66 dinars per kilogram at the moment when the price of the wheat on the Stock Exchange in Novi Sad was 10.80 dinars per kilogram VAT excluded. And this was the contract signed by the capital representative Radosav Vujacic. Due to this transaction Azotara lost 248 million dinars, it was approximately 2.4 million euros because of the difference between the price of the borrowed wheat and the price at which the borrowed wheat was sold. If we added to this loss the difference in the price of the wheat at the day when it was borrowed and the day when the contract expired the total loss could be approximately 12 million euros.

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**Unanswered questions**

Bearing in mind all the facts aforementioned, it was indisputably true that by this business arrangement, the capital representative of Azotara, who had been appointed by the Privatization Agency, caused a multimillion damage to the company. It was also undoubtedly true that the Victoria logistic would benefit, because the company would get under favorable conditions newly harvested wheat instead of last year's wheat stocks. The price of wheat continued to grow after 15 December 2010, when the contract with Azotara expired. The Victoria was in win-win situation because it borrowed wheat at the price of 12 dinars per kilogram at the time when the stock price was 10.80 dinars.

But there still remained one more question. What was the interest of the public company Srbijagas to appear as a guarantor in this arrangement? What was the interest of the Director of Srbijagas, Dusan Bajatovic, to sign a guarantee that Azotara would fulfill the obligations under the contract worth 900 million dinars, Azotara which had net loss up to 1.755.356.000 dinars in 2009 , and more than 4 billion in 2010?

We posed all the aforementioned questions to the Director Bajatovic in the letter that the Council sent to Srbijagas on 29 October 2010. But we did not receive any response. We did not receive the documentation and the reasoned decision from Srbijagas, which we requested in the same letter and which would help us to understand the reasons for the decision of the public company.

There was still the question about the economic logic which had led Bajatovic's colleague and the capital representative, Radoslava Vujacica, to sell the wheat far below purchase price instead of producing fertilizer?

**Report of the capital representative of Azotara Pancevo**

The Council got the answers to the certain questions in the report of the capital representative Radoslav Vujacic. He stated in the Report that Azotara had taken a part in the arrangement because ``Victoria logistic did not want to sell wheat to YU point directly, since this company could not return the wheat to Victoria``. These allegations raised a question – why was the capital representative worried at all about interests of Victoria and YU point, and why did he give Azotara the role of a mediator in the arrangement which harmed the company. In the Report Vujacic noted that he had concluded the contracts with Victoria and Yu point to provide the working capital in the amount of 711 million dinars, and that this amount of money was paid into the Azotara's account on the basis of the contract signed with YU point. As Vujacic said money was used for buying raw materials and repromaterial, paying the salaries and the money helped them to continue the production and to prevent the immense technological and financial damage.

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For the aforementioned claims, Vujacic did not provide to the Council any evidence, and some key questions were still unanswered. Vujacic did not mention costs and losses in the arrangement with Victoria. He concealed the damage caused by the difference in the price of the borrowed wheat from Victoria and the wheat sold to YU point. We want to recall that the damage was approximately 248 million dinars or approximately 2.4 million euros. In the Report Vujacic did not say a word about the motive to sell the borrowed wheat at the price lower than the market price as well as the purchase price!

In the Report Vujacic admitted that the return of the borrowed wheat in due time was under question. He said that from the total amount of 75000 tons of the wheat which was borrowed from Victoria, due to the huge increase in wheat price on the market, Azotara could only buy 16000 tons at the price of 12 dinars per kilogram, which was the price of the borrowed wheat stated in the contract. In spite of this, Vujacic concluded in the Report that the business arrangement had positive financial effects, but he hid the fact that for 59 thousand tons of the wheat borrowed at the price of 12 dinars, they had to allocate significant additional funds, because the price of the wheat on the market was bigger from week to week. We want to recall that at the moment when the contract expired the price of wheat was 22.50 dinars per kilogram VAT excluded, therefore for the missing 59 tons, they were supposed to pay a billion and a half dinars.

Radoslav Vujacic stated that bearing in mind problems with the liquidity and providing working capital, the Government of the Republic of Serbia led talks about possible solutions for Azotara: ``beside the aforementioned loan, according to the Government's conclusions the loan of 50 thousand tons from the Directorate for Commodity Reserves was provided. Selling of the wheat provided additional working capital.`` According to his Report, instead of wheat fertilizer was returned to the Directorate according to the parity set by the Government.

These statements by Radosav Vujacic were inaccurate and untrue. In the meantime, Anti-Corruption Council got the contracts which Vujacic mentioned. From the contracts we could see that the Directorate borrowed 50 thousand tons of wheat to Azotara and the wheat was sold soon after. The statement that working capital was provided by selling of 50 thousand tons of wheat was not true, because wheat was sold at the price lower than the purchase price, and according to the payment terms Azotara could get the first significant amount of money from the sales only in November 2010.

**Contract on loan concluded between HIP Azotara Pancevo and the Directorate for Commodity Reserves**

Azotara signed the contract on loan 50 thousand tons of wheat at the price of 12.15 dinars per kilogram with the Directorate for Commodity Reserve on 24 February 2010. Similar to the contract on loan with Victoria, in this contract the guarantor was the public company Srbijagas, which guaranteed that Azotara would return the wheat worth 607.500.000 dinars up to the agreed deadline. As the guarantee that Azotara would return



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the borrowed wheat, Srbijagas was required to submit twelve signed and certified blank promissory notes. Azotara accepted to return the wheat until 1 February 2011. In the case Azotara did not fulfill this obligation, the Directorate would realize the blank promissory notes of Srbijagas, to compensate for the full market value of the wheat of the same quality as borrowed at that moment. We want to recall once again that from the moment when the contract was concluded up to now the price of wheat has increased and at the moment when the contract expired on 1 February 2011 the price was more than 12.15 dinars which was the price of borrowed wheat, the price reached 26.01 dinars per kilogram VAT excluded.

Azotara accepted the obligation to pay for the costs of delivering and returning of the borrowed wheat (loading, unloading, transportation, quality analysis, calculation of quality), and unlike the Contract with Victoria, Azotara had additional costs. Azotara was obliged to pay the interest rate at a rate of the discount rate determined by the Serbian National Bank. The basis for the calculation of the interest rate was the price of the wheat on the Stock Exchange in Novi Sad on the calculation day. The interest rate was calculated monthly until Azotara returned the borrowed wheat and it would be paid within eight days beginning with the day when the liability arose.

About twenty days later Azotara sold the wheat borrowed under aforementioned conditions to the company Invej, at the price lower than the purchase price and the deferred payment period. The purchase contract was concluded on 16 March 2010 and it was defined in the contract that 50 thousand tons of wheat was sold to the company Invej at the price of 11 dinars per kilogram VAT excluded (total 550 million dinars). Due to this arrangement Azotara lost 57 million dinars, approximately 570.000 euros, because of the difference in the price of borrowed and sold wheat. The terms of payment were unfavorable for Azotara, only 8 percent of total amount (around 44 million dinars from total 550 million VAT excluded) was supposed to be paid into the Azotara's account after the contract was signed at the beginning of May 2010. The remaining amount of 506.000.000 dinars was supposed to be paid in four monthly installments until 28 February 2011 beginning with 1 November.

For all abovementioned reasons we were surprised by Radosav Vujacic's statement that by selling wheat the additional working capital was provided, bearing in mind that since the contract was signed in March 2010 until November 2010, therefore for the period of seven months, Azotara could receive approximately 44 million dinars from the total amount of 550.000.000 dinars. We want to recall that for all that period of time Azotara was obliged to pay agreed interest rate for the borrowed wheat to the Directorate. Azotara had to set aside significant funds to buy wheat which the company was obliged to return to the Directorate, no matter whether it was about the cash the company had to provide for the bigger price of a kilogram of wheat or about the production of fertilizer.

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**Illiquid Azotara borrows the money!**

Vujacic claimed that concluded contracts were the only way to provide working capital, which surprised the Council, because in the period which Vujacic in the Report described as particularly critical ``liquidity problems were cumulating, the obligations to suppliers and the salaries to workers could not be paid``, Azotara approved two loans in the total amount of 280 million dinars! In the letter sent to the Council, it was mentioned that HIP Azotara Pancevo concluded the contract on loan with AGRO MEGA INVEST Ltd from Ruma on 5 February 2010. Azotara lent to AGRO MEGA INVEST Ltd 115 million dinars and paid this amount of money into their account between 8 and 11 February. The contract provided that the borrowed money must be returned until 31 December 2010 without establishing currency clause and interest rate. Radosav Vujacic as the director of Steering Board concluded contract on loan with the company CHEM CO Ltd. from Belgrade. Azotara paid to the company unbelievable 165 million dinars on 21 May 2010. According to the contract CHEM Co Ltd. had to return money until 31 August 2010, but deadline was extended to 30 October in the Annex of the contract. In the letter that the Council received it was mentioned that CHEM CO Ltd had not returned 165 million dinars to Azotara until 3 November 2010. Later, Azotara concluded the contract with the same company on the purchase of the goods and the prepayment.

Only three days after the company Azotara paid the loan to Chem Co. Ltd, on 24 May 2010. Azotara signed another contract with the same company, this time about buying MAP fertilizer. According to the Contract CHEM CO LTD was obliged to import 6 thousand tons of the fertilizer for Azotara, which was worth about 3 million USA dollars. Azotara would pay 65 percent in advance, and 35 percent upon arrival of fertilizer. Azotara paid for delivered goods 180 million dinars in advance during the period from 1 July to 21 August 2010.

Finally, it is very important to recall once again that both of these loans were realized in the period when Vujacic signed the contracts with Victoria, Yu point, the Directorate for Commodity Reserves and the company Invej, for allegedly providing necessary working capital in order to maintain production in Azotara.

**Epilogue**

**Contract between Azotara and the Directorate for Commodity Reserves**

The total amount of damage caused to HIP Azotara Pancevo is still unknown, but according to available and presented data, it is clear that the damage exceeds 20 million euros. Such a big damage is the consequence, among other things, of the fact that Azotara was not able to fulfill obligations from the contracts signed with Victoria and the Directorate for Commodity Reserves and therefore Azotara with the consent of the

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Serbian Government signed the Annexes of the contracts as well as new contracts on loan with the Directorate for Commodity Reserves.

Since the Azotara did not fulfill the obligation from the contract no. 338-22/2010-01 concluded with the Directorate on 24 february 2010 and did not return borrowed 50 thousand tons of wheat until 1 February this year, the Government of the Republic of Serbia adopted a conclusion which was the basis for extending the deadline for returning the wheat for one more year. The price of wheat was now higher for 800 million dinars than the price of the borrowed wheat. The Government's conclusion 05 no.339-749/2011 adopted on 10 february 2011, was the base for signing, only eighth days later, the Annex of last year contract on borrowing 50 thousand tons of wheat no.338-22-1/2010-01, in which the deadline for returning 26.758.838 kilogram of mercantile wheat was extended until 1 february 2012, since for the remining amount of 50 thousand tons (50.000.000. kilograms) Azotara and the Directorate made compansation of mutual claims. These claims, beside wheat, included fertilizer which the Directorate borrowed at the beginning of 2010 from Azotara and did not return in due time and based on the Government's conclusion made on 10 February 2011 there was also the compensation of mutual claims in the amount of 626.743.332 dinars, while the remining Azotara's debt of 26.785.838 kilos of wheat to the Directorate was the main issue of the aforementioned Annex.

According to the Annex of the contract, the total value of these 26.7 thousand tons of wheat was 723,217,626 dinars, which was calculated at the price of 27 dinars per kilogram, which was the price of the wheat on the market in Novi Sad at the day when the Government adopted the Conclusion. Instead of paying 607.5 million dinars for 50 thousand tons, which was the price of the borrowed wheat according to the contract from 2010., Azotara had to pay 115,717,626 dinars more for about half of that amount .

From all aforementioned things we calculated that with the Government consent Azotara's debt to the Directorate increased from 607.500.000 dinars, which was the price of 50 thousand tons of the borrowed wheat according to the contract from 2010 to 1.349.960.958 dinars or according to the exchange rate more than 13.5 million of euros. That meant that the capital representative, Radosav Vujacic, caused damage of 741.460.958 dinars to Azotara, which was approximately 7.4 million euros, the intrest rates excluded, the interst rates Azotara paid according to the Contract on 24. february 2010 and would pay according to the Annex on 18 february 2011, which said that Azotara would pay for the value of the borrowed goods the interest rate on the level of the discount rate of the National Bank of Serbia. The interest rate was calculated monthly and would be paid within eight days from the day the obligation arose.

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To this calculation we should add approximately 570 thousands dinars of loss incurred after Vujacic sold 50 thousand tons of the wheat borrowed from the Directorate at the price of 12.15 dinar per kilogram to the company Invej at the price of 11 dinars per kilogram. The damage to Azotara was around 8 million euros, the interest rate excluded.

Finally, it should be noted that according to the Annex of the contract, Azotara was obliged to provide the Directorate the bank guarantee for the borrowed wheat or the amount of 723.217.626 dinars and 12 blank signed and stamped promissory notes as a guarantee that the borrowed wheat would be returned and that the agreed interest rate would be paid.

**Contract between Azotara and Victoria**

The Council does not have any confirmation that the Contract on borrowing the 75 tons of wheat concluded between Azotara and Victoria on 17 March 2010 was fulfilled. The Council referring to Law on Free Access to Information of Public Importance, sent the letter in which we inquired about the Contract with Azotara on 17 May this year. In the letter we asked about the way Azotara had paid its debt to Victoria, i.e. whether Azotara had paid the debt returning the goods borrowed or in some other way. We did not receive any response from Azotara, and since the deadline expired, the Council submitted an appeal to the Commissioner for Information of Public Importance on 8 June.

Since Azotara did not act upon Law on Free Access to Information of Public Importance and did not respond to our questions, the Council could not get the confirmation of the findings related to the Contract with Victoria. This Contract was fulfilled but causing harm to another public company- Azotara borrowed the wheat from the Directorate for Commodity Reserves in order to return the borrowed goods to Victoria. Since Azotara could not return the borrowed wheat to Victoria until 15 December 2010, the Government of the Republic of Serbia adopted the Conclusion 05 no. 339-9282/2010 on 15 December 2010, and the Conclusion was the base for concluding two more contracts with the Directorate- the contract on loan of 30 thousands tons of wheat worth 814.800.000 dinars, and the contract on loan of 32.500 tons of corn worth 603.200.000 dinars.

The Azotara's debt after this arrangement increased from 900 million dinars to 1.418.000.000 dinars. If we take into consideration the data from the Vujacic's Report, which was submitted to the Council, 16 thousand tons of wheat which had to be returned to Victoria borrowed at the price of 12 dinars per kg, it can be concluded that the newly borrowed wheat and corn were enough to return the remaining debt of 59 thousands tons of wheat. In that case to the amount of 1.4 billion dinars should be added 192 million dinars for the purchase of 16 tons of wheat. The total amount was 1.6 billion dinars which

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comparing to the contract value from 2010 was the loss of 710 million dinars. If we add the loss of 248 million dinars, which Azotara lost when 75 thousand tons of the wheat borrowed from Victoria at the price of 12 dinars was sold to the company YU point, owned by the businessman Zoran Drakulic, at the price of 8.66 dinars, the damage was 958 million dinars or approximately 9.6 million euro (the exact amount was 9.616.542 euro).

When we added the damage from arrangement with Victoria to the damage from arrangement with the Directorate, the total loss was 17.6 million euros. The loss did not include the interest rates which Azotara had to pay on the level of the discount rate of the National Bank of Serbia. For these two contracts on loan of wheat and corn, Azotara was obliged to sign and certify 12 blank promissory notes to ensure that the borrowed wheat would be returned and the agreed interest rate would be paid.

To fulfill the obligations from the Annex of the contract signed with the Directorate and to return newly borrowed wheat and corn Azotara has to provide 27.8 million euros at the moment. This is the total amount of 1.418.000.000 dinars for the wheat and corn borrowed by the Contract signed on 17. December 2010 added to 1.349.960.958 dinars for 50 thousand tons of the wheat borrowed by the Annex signed on February last year. Today Azotara has debt of 12.6 million euros more than the last year debt when Azotara borrowed the wheat from Victoria and the Directorate for Commodity Reserves.

### **Recommendations to the Government**

Here, we described the asymmetric contracts, signed to the detriment of one of contractual parties, in this case Azotara Pancevo, but also the Directorate for Commodity Reserves. This is a typical example of corruption, which cannot exist without the strong connection with the company's management. The Anti-Corruption Council calls upon the Government of the Republic of Serbia and other relevant institutions to carry out the control of the aforementioned disputed contracts, the overall business of the company HIP Azotara Pancevo and to investigate the responsibility of the capital representative, Radosav Vujacic, who despite the conflict of interest and all other facts is still on the same position.

The role of the public company Srbijagas should be examined, too, because this company was the guarantor in the business arrangement. What was the interest of the Director of Srbijagas, Dusan Bajatovic, to sign a guarantee that Azotara, which already owed 70 million euros to Srbijagas, would be able to fulfill contract obligations worth 15 million euros? What was the interest of this public company to enter harmful arrangements, transferring the burden of the harmful contracts to the back of another public company and the citizens of the Republic of Serbia?

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The contracts on selling wheat between Azotara and Victoria group and Azotara and the Directorate for Commodity Reserves, according to the statements of the employed, were not the only adverse contracts. The bad business actions taken by the capital representative, who was chosen by the Privatization Agency after the termination of the privatization contract, was not the only case of this kind. Unfortunately we can easily get the impression that managing the company after the termination of the privatization contract as well as managing the company during the privatization, served exclusively to the political and economic interests of individuals and parties, and not to the interests of a company, state or citizens.

Vladislav Cvetkovic, the Director of the Privatization agency, said for TV B92 on 9 October 2010 that the Agency announced an open competition for the capital representative of the state owned companies, and that they received more than 200 applications and that the candidates would have to sign that they would give their own property as security in case of bad or negative business results. This statement of the Director of the Agency for Privatization is a little surprising because such legal obligation has already existed. Law on Privatization Article 41, provides that the capital representative bears responsibility in case damage to the subject of privatization was caused intentionally or by ultimate negligence and the guarantee for it is his own property.

Therefore, we consider it necessary that the Privatization Agency should fulfill the legal obligations related to the capital representative and his responsibilities, but also that the Government of the Republic of Serbia and other relevant institutions, within their competences, should investigate the actions of the Agency because there are numerous indications that this institution does not fulfill its obligations in accordance with law.

Belgrade, 23 June 2011.

COUNCIL PRESIDENT

Verica Barać