

### **Report on sugar exports (part III)**

According to the EU Regulation No. 2007/00 effective from 18 September 2000 and its Addendum RC 2563/00 of 20 November 2000, the European Union market was open for the import of sugar produced in Yugoslavia and other Western Balkan countries without any restrictive measures or customs duties. The price of sugar on the European market is about EUR 650/ton and the average world-market price is below EUR 300/ton. The average sales price of Serbian sugar exported to the EU market approximated EUR 600 /ton.

At the moment, when the FRY was granted the preferential trade status for exporting sugar to the EU countries, Serbia was not in position to be a genuine sugar exporter. Serbia has 15 sugar refineries with a total refining capacity of 5,480,000 tons of sugar beet, i.e. an annual production of 700,000 tons of sugar, 250,000 tons of molasses, and 240,000 tons of sugar beet pulp. In 2000, after ten-years' deterioration of its entire economy Serbia produced only 115,400 tons of sugar – insufficient for the annual domestic consumption of 250,000 tons.

The EU preferential export regime was intended to boost up the recovery of the sugar industry in Serbia, an industry which could, owing to its natural potentials and developed production capacities, recover its former productivity within a short period of time (in 1990 Serbia produced 599,098 tons of sugar) and significantly contribute to the overall economic recovery of the country impaired by the war and sanctions (analyses made at the time showed that sugar refineries alone could employ over 5,000 workers, and all the production facilities over 500,000), especially at the ensuing time of the search for strategic partners and successful privatization of the sugar industry in Serbia.

In order to achieve the preferential status, exporters have to enclose, according to the EU Regulation, an authentic certificate of origin on the EUR1 Form, a document issued by the Customs Service in conformity with the EU Rules on the Origin of Goods. At the time when the preferential status was instituted, our legislation did not envisage that certificates of origin be issued by the Customs Service, instead it was left to the producers, who were not obliged to keep record of certificates issued.

Even after the preferential status had been instituted, the Government did not adopt any regulations to regulate the issue of certificates of origin in conformity with the EU Decree. Besides, by 1 June 2001 export- and import-oriented sugar produced from sugar beet was regulated through a permit regime. Nevertheless, at the time the Federal Government passed a decision according to which all types of sugar could be freely imported, while in case of export sugar produced from sugar beet was regulated through quotas. The Government established the amount of these quotas in 2001 and 2002 on an annual basis and decisions on awarding quotas to legal entities were issued by the Federal Ministry for International Economic Relations.

After Serbia had been awarded the first quotas for sugar exports to the EU countries on 1 August 2001, the amount of sugar exports and imports increased abruptly. At a meeting held at the Federal Customs Service in May 2002 the EU representatives expressed their concern that the Decree on the Preferential Export of FRY sugar to the EU countries was being abused. In June 2002 the EU introduced an obligation to its importers to pay deposits for sugar imported from the Federal Republic of Yugoslavia until the authenticity of the certificate of origin of the goods would be subsequently verified.

Even after the warnings, the Government of the Federal Republic of Yugoslavia and the Government of Serbia failed to adopt regulations that would govern the issuance of certificates of origin in accordance with the EU Regulations. At the same time annual sugar exports from Serbia rose from 77,184 tons in 2001 to 159,617 tons in 2002 – more than 100 per cent. In November 2002 the Delegation of the European Anti-Fraud Office, OLAF, assisted by the Customs Service of the Federal Republic of Yugoslavia, conducted an inspection of the sugar imported into the FRY by the company “MK Commerce” in Novi Sad and the Cooperative Farm “Panoninvest” with the main office at the same address, as well as the sugar import and export declarations at the customs offices in Novi Sad and the documents of the origin of sugar produced in the sugar refinery “Crvenka”.

It was confirmed that a test certificate confirming that the sugar was of domestic origin accompanied each declaration, but the authenticity of the test certificates had not been verified, nor an inspection carried out at the factories endorsing the domestic origin. The inspection of the warehouse of “MK Commerce” showed that a part of this warehouse served as a bonded goods warehouse. The company “MK Commerce” keeps record of incoming shipments of goods for that section of the warehouse, and the warehouse manager is also in charge of the accounting and products stored by “MK Commerce”.

During the inspection “MK Commerce” refused the OLAF request to inspect the list of buyers, disabling thus an integral control of the products imported by “MK Commerce”. After the OLAF Delegation inspection, instead of realizing the seriousness of the EU warnings of possible cancellation of the preferential status and prescribing that certificates of origin be issued on the EUR1 Form, the Federal Government placed sugar on free export regime as from 15 December 2002 and thus enabled those responsible for the abuse of the preferential status to export another quantity of 115,260 tons of sugar from Serbia during the first four months of 2003, almost the same quantity as in the whole previous year, and all that in the period prior to the imposition of the sanctions,.

On 17 March 2003 the High Commissioner of the European Commission, Mr. Chris Paten, wrote a letter to the Vice-President of the Federal Government, Mr. Miroslav Labus. In his letter he stated that the SCG sugar trade has become a subject of great concern in the EU because of an enormous increase of the scope of trade, and with respect to the implementation of the

regulations on the origin of goods which is sine qua non in favor of the unilateral privileges approved to Serbia and Montenegro by the EU.

On the basis of the results obtained by the OLAF delegation, the Commission reached a decision that at the moment the customs services in Serbia and Montenegro are not in position to adhere to and apply the regulations on the origin of goods as required. We are concerned because it is impossible with the prevailing customs procedures to trace the imported goods to their final destination in the country, and there is no way of tracing the export back to the relevant sugar refinery, which means that it is practically impossible to determine the origin of the goods.

In order to remedy these shortcomings, two and a half years after the preferential trade conditions in sugar exporting had been instituted, the Customs Administration elaborated a memorandum of cooperation with the sugar refineries, which was signed on 22 April 2003, providing customs officers access to sugar refineries.

By the EU Decree of 30 April 2003 the preferential status of Serbia was suspended for three months by the European Commission, with the possibility of extending the suspension period if the efforts of SCG in curbing double-dealing do not give satisfactory results. This suspension period was extended twice, so that it was not possible to import sugar of Serbian and Montenegrin origin into the EU under the preferential regime until 8 August 2004.

Only after the suspension of the preferential regime, almost three years after it had been instituted and after 352,061.00 tons of sugar had been exported without a valid certificate of origin, on 1 August 2003 did the Republic Ministry for International Economic Relations adopt Instructions on proper filling-in and issuance of certificates of domestic origin of export- and import-oriented goods, prescribing that certificates of origin be issued on the EUR 1 Form.

## **REPORTS OF THE ANTI-CORRUPTION COUNCIL OF SERBIA**

### **Data discrepancies**

On 18 November 2003 the Anti-Corruption Council submitted to the Government its Report on Sugar Export to the EU Countries. The Council analyzed the whole period from the moment of the institution of the preferential regime to its suspension and by summing up the total production and imports arrived at a figure of 783,072 tons of sugar, and by adding the total consumption and exports arrived at a figure of 892,061 tons of sugar, thus discovering an outstanding amount of 109,990 tons of the sugar, which was consumed or exported, exceeding the produced or legally imported quantities of sugar during that period in Serbia. When the stocks of 86.330 tons of sugar, existing on 15 May 2003, are added and subtracted from the available sugar quantity, the result is an amount of 196,320 tons of sugar that was consumed or

exported from Serbia during 2001, 2002 and until May 2003, but not produced in Serbia or legally imported.

The Council advised the Government that the Ministry for International Economic Relations had tried, by concealing the data of the annual sugar consumption in their respective Report, to cover up for this discrepancy, and recommended a new investigation of the case. At the meeting held on 25 November 2003 between the Council and Government members, the Government denied the findings of the Council and gave no explanation for the amount of almost 200,000 tons of sugar which did not originate from the domestic production or legal imports.

The Council also noted discrepancies in the quantities of the sugar imported and declared and those with certificates of quality for the export-oriented goods issued by the Market Inspectorate in 2001, more precisely a quantity of 77,583.41 tons of sugar was imported and only 14,744.18 had certificates issued by market inspectors, while 82,714.76 tons were imported in 2002 and only 69,483.34 had certificates of quality for export-oriented goods. Such discrepancies in the data could mean either that certain quantity of the outstanding balance in the sugar quantities was sold on the domestic market, “in the black-market fashion”, or that it had not been intended for the domestic market at all, but just imported in order to assume the preferential, Serbian origin, and then re-exported to the EU.

Minister Pitic, the President of the Commission for Production and Sugar Trade Monitoring, gave no explanation regarding these discrepancies. The Report of the European Commission following which the sanctions to Serbia on sugar export were extended in February 2004, quoted this problem as well: “Records show that all the sugar imported and declared during 2001 and 2002 was not registered with the Ministry of Finance, or the Commercial Inspection, which means that the end buyer did not report significant quantities of sugar imported into Serbia.”

The Government Commission insisted that the EU had not suspended the preferential regime because of concrete re-export, but on account of a reasonable doubt based on the incapacity of the Serbian customs authorities to determine the origin of goods, trying to represent the problem as an issue of formal nature or mere discrepancy between domestic customs regulations and EU standards. Nevertheless, introducing certificates of origin of goods on the EUR 1 Form was a prerequisite for regaining the preferential status. The Government Commission gave no explanation why it took them two years to fulfill this condition, which, together with the enormous increase of sugar imports and exports, eventually led to the cancellation of the preferential regime.

On 9 March 2004 the Council submitted the second part of its Report to the Government. Besides insisting on the clarification of the circumstances which led to the cancellation of the preferential regime, the second part of the Report specially tackled the issue of the privatization of the sugar industry in Serbia.

## **Privatization of sugar refineries**

Some of the major world sugar producers were interested in buying Serbian sugar refineries, such as: Austrian Agrana, Italian SFIR, French ST. Louise Sucre, and American Shaffer and Associates... Nevertheless, after both the Republic Government and the Federal Government had ignored the study conducted by the French consulting service, ERSUC - a research and consulting service of the French sugar industry, which concluded that the revitalization of the Serbian sugar industry was possible only if order was established in the sugar production and trade, especially in the area of imports (the study was presented in Belgrade by the French ambassador, but none of our ministers showed up), after the Minister for Economy and Privatization, Mr. Vlahovic, had ignored the warnings of St. Louise Sucre that they could not, in spite of the fact that Vojvodina had one of the largest potentials for sugar beet production in the Central Europe, recommend foreign investors to purchase shares of Serbian sugar refineries because the Serbian market was not successfully protected against legal and illegal imports, and after the Vice-President of the FRY, Mr. Miroljub Labus, had ignored again Agrana's request to support the introduction of firm parameters in the Yugoslav sugar market, serious strategic partners, having realized that no one responded to their appeals, left Serbia.

Five sugar refineries privatized by public tender ("Sajkaska – Zabalj", "Crvenka- Crvenka", "Jedinstvo-Kovacica", "Donji Srem-Pecinci", "Jugozapadna Backa-Bac") were sold in October 2002 by tenders with only one bidder. The sugar refineries in Zabalj and Crvenka were bought by the largest Balkan sugar producer, Greek Hellenic Sugar ("Sajkaska" - YUD 67,191,190, and "Crvenka" - YUD 188,285,100), while the other three were bought by the company "MK Commerce" in Novi Sad, whose basic business activity at that time was trading in agricultural products, mercantile goods and seeds.

Although the method of sale by public tender should have implied a search for a strategic partner (as it is not only the offered price on the basis of which the most favorable bidder is chosen but also the investment and social programme), three sugar refineries were privatized by tender, bought by a company that had never been engaged in sugar production before. On the other hand, just owing to the sale by tender, "MK Commerce" was able to buy 70 per cent of the capital value of the three sugar refineries at YUD 183 each, with an explanation that the liabilities of these sugar refineries, primarily to the Serbian Oil Industry (NIS), were enormous. The sugar refineries bought by "MK Commerce" by tender at YUD 183 each, at the moment of sale had stocks of over 72,000 tons of sugar, whose value on the EU market, considering the preferential sugar export regime, was over EUR 43,000,000.

In 2003 the Privatization Agency enabled "MK Commerce" to encumber the sugar refinery "Donji Srem" with a mortgage in order to obtain guaranties for the repayment of the debts of the three sugar refiners. By May 2004, when "MK Commerce" requested an approval from the Agency to sell the three sugar refineries purchased by public tender in 2002 (Imported into is

also the owner of the recently most productive sugar refinery in Serbia, “Backa fabrika secera-Vrbas”, purchased on the stock market in 2003), it had paid only one installment of the sugar refineries’ debts to “NIS”. However, as the other installments were not paid on time, the total debts by May 2004 rose to approximately the same amount as in 2002 owing to the accrued interest. Later on, in the same year “NIS” agreed to reprogram the debts of the three sugar refineries owned by “MK Commerce”.

After such a sale of the three sugar refineries, the American company “Shaffer and Associates” withdrew from the auction for “Fabrika secera – Kovin” for which they had shown interest for quite a period because of its technology and the strategic position (the vicinity of the river Danube), but they were not ready to buy it at the quoted starting price and an investment obligation of as much as EUR 2,500,000 together with the accrued debts and the need to invest in equipment. The Privatization Agency decided that this sugar refinery, as well as the sugar refinery “Secerana-Sremska Mitrovica” be sold by public action, with an explanation that they were less attractive.

These sugar refineries were not given the opportunity to be privatized by tender at a price, let’s say, of YUD 183, and with investments and a social programme as major bid assets. After four unsuccessful auctions from October 2002 to January 2004, where the starting price was gradually reduced from YUD 86,984,000 (the first auction for the sale of the sugar refinery in Sremska Mitrovica), and from YUD 152,597,000 (the starting price at the first auction for the sale of the sugar refinery in Kovin), both sugar refineries were sold on 15 April 2004 to a domestic buyer “Secer + Doo” at the starting price of YUD 22,460,000 for the Sremska Mitrovica sugar refinery and YUD 20,689,000 for the Kovin sugar refinery.

In 2001 the Italian SFIR became the majority owner of the sugar refinery “Fabrika secera TE-TO Senta” by way of recapitalization, while the sugar refinery “Secerana – Srpska Crnja” was bought in bankruptcy. In 2004 the sugar refinery in Senta became a minority shareholder of the sugar refinery “Fabrika Secera – Zrenjanin” through the conversion of debts into shares and in accordance with the Production Revitalization Programme and Creating Conditions for Further Development of the Sugar Factory “Zrenjanin” adopted by the Government of Serbia in February 2004.

Considering the installed capacities the sugar refinery in Zrenjanin ranks among the biggest sugar refineries in Serbia and one of the most important business companies in Banat, Vojvodina. The refinery was privatized in conformity with the Law on Ownership Transformation of Enterprises, but the majority shares package (60.54 per cent) was still state-owned. The Shares Fund, nevertheless, has never tried to sell the state-owned shares of this sugar refinery on the stock market. In April 2003 the sugar refinery Zrenjanin tried to ensure normal working conditions through business cooperation with the company “MK Commerce”, concluding with it a contract for the lease of the sugar refinery. The lease holder, however,

simply terminated the Contract, upon which this sugar refinery, founded in 1911, did not enter the production campaign for the first time in its history.

By its Revitalization Program of February 2004 the Government defined parameters for compensation of damages by “MK Commerce” at a minimal amount of YUD 100,000,000, but this part of the Programme has not yet been realized. In 2004 this sugar refinery entered the production campaign, but with only 12,815 tons of produced sugar it failed, not only with respect to its own annual production capacities of 60,000 tons of sugar, but also with respect to the governmental Revitalization Programme for one of the biggest sugar refineries, according to which the projected production in 2004 was to be 19,000 tons of sugar.

The first Serbian sugar refinery “Dimitrije Tucovic 1898 – Beograd” is nowadays a socially-owned enterprise with 105 years of tradition in sugar production. Its newly built plant in Padinska Skela can process 10,000 tons of sugar beet per day (top limit capacity in the EU countries). As to the territory, the refinery is located in the Belgrade market zone and it is one of the most active companies in Belgrade and a significant development generator of quite a number of industries.

At the full capacity operation it employs about 30,000 workers in the reproduction chain. The refinery has been out of work since 1998 and in 2002, due to the lack of working capital, a public tender for the lease of this sugar refinery was announced, where S.F.I.R. was chosen as the most favorable bidder. In the negotiations with this company an investment of close to DEM 36,500,000 for the revitalization of the production and repayment of the debts was agreed, but the foreign partner requested certain guaranties from the Ministry of Economy and Privatization and the pre-emptive right of purchase in case of privatization.

Following a proposal by the Ministry of Economy and Privatization this business cooperation was given up and in September 2002 the Privatization Agency brought a decision on the initiation of the restructuring process for this sugar refinery. In its document, Project Status Within the Competence of the Centre for Restructuring, forwarded to the Anti-Corruption Council in February 2005, the Agency stated that a “concept for restructuring and privatization of the Belgrade sugar refinery has been made, and that it has been assessed positively by the Ministry of Agriculture and Water Management and the relevant bodies of the City of Belgrade”.

The concept of restructuring and privatization is a general, non-obliging document, just a beginning, but the very beginning of the privatization of companies by restructuring requires engagement of legal and financial consultants responsible for the elaboration of a restructuring programme. Only in the beginning of 2005 did the Privatization Agency engage a consultant for the restructuring of the sugar refinery “Dimitrije Tucovic 1899”. In its Report on the privatization of sugar refineries in Serbia from February 2004 the Agency states: “The

implementation of the Social Programme is expected during the first quarter of 2004". However, the implementation of the Social Programme has not yet started.

So far the other two sugar refineries which are within the competence of the Centre for Economic Restructuring, Industrija secera i limunske kiseline "Selk 911- Cuprija" and "Secerana" – Sabac have not been privatized, either. No consultant has been assigned for the sugar refinery in Sabac, while the financial and legal consultants working on the "Selk 911" restructuring project submitted their respective findings to the Agency with an opinion that the company restructuring and privatization are not possible.

The bankruptcy procedure has been opened for the sugar refinery "Secerana" – Pozarevac and it has not been completed yet.

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The privatization process of the Serbian sugar industry has opened several very serious questions for which the Government of Serbia must find answers if it intends to prevent the destruction of this still highly potent industry, i.e.:

1. What criteria did the Privatization Agency use when, in 2002, it approved the privatization of the medium capacity sugar refineries by tender, selling them at a symbolic price of YUD 183 each, and then approved the buyer to mortgage the sugar refinery "Donji Srem" as surety for the repayment of debts because of which the sugar refineries had been sold so cheaply, while, on the other hand, either intentionally or negligently, it keeps stuck in the restructuring process, i.e. Revitalization Program of the Government of Serbia, two out of the three biggest sugar refineries, the ones in Zrenjanin and Belgrade (together with the sugar refinery in Vrbas), and while the sugar refineries in Sremska Mitrovica and Kovin lost their strategic partners because of too high starting prices set for the auction, and later on, after four unsuccessful auctions, were sold at a seven times lower starting price?

2. Why did the Ministry of Economy and Privatization in September 2002 disable the cooperation of the Belgrade sugar refinery with a strategic partner and opened the restructuring procedure over this sugar refinery, which is still in its initial phase? Why has the Shares Fund not yet tried to sell the state-owned shares of the sugar refinery from Zrenjanin?

3. How were determined the criteria for the tender privatization of the three sugar refineries whose capital value had been sold to the company "MK Commerce" at a price of YUD 183 each, when the chosen strategic partner was a bidder that had never produced sugar before, but only traded in agricultural products, including sugar as well? According to the analysis which the Anti-Corruption Council submitted to the Government within its respective Reports, "MK Commerce" imported 22,000 tons of sugar in 2001 without obtaining the obligatory approval



(Certificate of quality of imported goods) from the Market Inspectorate to sell it on the domestic market, which means that “MK Commerce” either illegally sold the 22,000 tons of sugar on the domestic market, or imported it in order to obtain for it the preferential Serbian origin, and then re-exported it to the EU; thus, in the period when sugar could be exported to the EU under the preferential trade regime, “MK Commerce”, as one of the major sugar dealers in Serbia, managed to present itself as a sugar producer as well.

4. How does the Agency explain the fact that, besides a large number of interested parties, only one participant responded to each of the seven tender and auction sales of Serbian sugar refineries, and could this be a reason for investigating the circumstances under which the sugar refineries were privatized?

5. What reasons did the Privatization Agency have to allow the company “MK Commerce” to burden the sugar refinery “Donji Srem”, bought at only YUD 183 because of its accrued debts, with a mortgage in order to obtain guaranties for servicing the debts to the Serbian Oil Industry (NIS)?

6. Does the Agency control the fulfillment of the contractual obligations by the buyers of the sugar refineries, and does it have records on how much “MK Commerce” paid for the farm “Belje” in Croatia, bought as a package of the fulfillment of the investment obligation for the three sugar refineries privatized in 2002 by tender at a price of YUD 183 each, and what price did it report to the Agency as the fulfillment of its obligations to invest in the sugar refineries? Is the Government familiar with the course of the investigation on the fulfillment of the contractual obligations of “MK Commerce” through the purchase of the farm “Belje” and does it have the information why the investigation was suspended?

**REPORT BY  
THE SERBIAN MINISTRY OF INTERIOR,  
THE OFFICE FOR COMBATING ORGANIZED CRIME (UBPOK)**

After the parties which won the elections, by promising among other things to unfold the sugar affair, had formed a new government, the Office for Combating Organized Crime investigated the major sugar importers and exporters, as well as the sugar refineries and on 12 May 2004 produced a report on the conducted investigations regarding the import and export of sugar between 2001 and 2003.

The result of the investigation conducted by UBPOK was similar to Minister Pitic’s attitude, claiming that no one had proved the existence of concrete re-export, but that the sanctions had been imposed because of a reasonable doubt based on the incapacity of the Customs Service to determine the origin of goods. UBPOK was, therefore, searching only for possible repacking of

imported sugar, concrete re-export, although they found out that some domestic companies had been importing sugar from foreign companies and re-exporting it back to them (for example, in 2001 the International Distribution ISD imported 5,028 tons of sugar from the Austrian company “SCO STUDEN and COGES” and in the same year exported 1,964 tons back to them. They repeated the same thing in 2002, but the Report offers no data on how much sugar “ISD” exported to “SCO STUDEN and COGES” in the same year.

UBPOK also states that in 2001 the sugar refinery “Crvenka” concluded a contract with “MK Commerce” on the exchange of goods, where “MK Commerce” placed the imported sugar at the disposal of the sugar refinery and got domestic sugar from them at even parity of 1:1, but UBPOK found nothing strange in this business trade as it was confirmed that the imported sugar had been sold on the domestic market. Can this “exchange” and similar “exchanges” constitute abuse of the preferential regime although they do not include concrete re-export? UBPOK also claims that some of the importers sold sugar to sugar refineries in Kovin and Sremska Mitrovica, but gives no evidence of the verification of the end user.

UBPOK carried out investigations in the companies importing and exporting sugar and their investigations often ended by providing data on the supplier and the buyer of the sugar, although the exporters often bought sugar from suppliers, and not directly from sugar refineries, which may be significant as many of these suppliers appear later on in the Report as importers. The company “MK Commerce” is also often mentioned in the UBPOK Report as an original sugar supplier, which indeed owns four sugar refineries, but it was also a major sugar importer and, therefore, it was not sufficient to determine that the sugar originated from a company that owns four sugar refineries, but it was necessary to determine from which sugar refinery the sugar originated exactly.

Nevertheless, besides a large number of minor inaccuracies and internal calculation errors, the most serious problem with the UBPOK Report is that it continues obscuring the scope of the illegal sugar export. The Report does not indicate the quantity of stocks at the moment of the cancellation of the preferential regime in May 2003, nor the production of sugar in 2000, while the annual consumption is estimated at 210,000 tons, which reduces the difference between the produced and the imported quantities of sugar, with respect to the consumed and exported quantities, to 50,000 – 60,000 tons. Besides, the data on the export were shown for the whole year 2003 and not only for the first four months, reducing thus the extent of the export boom after the OLAF investigation – the figure of 106,480,587 tons of the sugar exported in 2003 given by UBPOK may refer only to the first months of this year only because, after the imposing of the sanctions, Serbia raised customs levies on sugar import again, so that by the end of 2003 there was no significant import.

At the meeting with the Anti-Corruption Council held in April 2004, UBPOK representatives denied the Council’s analysis insisting, among other things, that the data on the production and

sugar supplies were not relevant for determining the scope of the illegal imports and exports. The High Commissioner of the European Commission, Mr. Chris Paten, made special demands in his letter of 24 June 2004, requesting the Government of Serbia to enable OLAF officials to access the documentation on the production and storage of sugar in the Serbian sugar refineries. The investigations made by UBPOK led to the initiation of a small number of criminal proceedings in cases of concrete re-export.

## **ACTIVITIES UNDERTAKEN BY THE GOVERNMENT TO RESOLVE THE SUGAR AFFAIR**

On June 24th last year the European Commission demanded from the new Government to examine within a period of two weeks the EUR 1 Certificates for 190,000 tons of the sugar imported into EU in the period between 26 June 2002 to 7 May 2003, to allow OLAF the access to the documentation on the sugar production and storage in the Serbian sugar refineries, to submit the data on the estimate of the sugar production in 2004, as well as the information on criminal proceedings initiated during the term of the previous and present governments.

On July 15th the Government adopted the Information – a letter of Mr. Miroljub Labus to Mr. Chris Paten, the High Commissioner of the European Commission, saying that the quick examination comprised 94 out of 5,215 invoices, i.e. that the origin of the sugar was verified for an amount of 1,069 tons. The examination revealed that out of the 94 invoices 46 were in order and 38 were not, while 10 were being processed. The Vice-President of the Serbian Government said that he realized that one per cent of the processed documentation was insufficient to prove with certainty what happened with the sugar export, and announced a thorough investigation involving not only market and customs officials, but UBPOK as well, and he invited OLAF and the EU police force to help with the investigation.

On 22 July 2004 the EU once again awarded Serbia the sugar import preferential regime, under the condition that in the following three months Serbia concludes the investigation and punishes the ones responsible for the suspension. In order to verify the origin of the exported sugar the Serbian Customs Administration acquired and analyzed the documentation of 28 companies involved in sugar export in that period, requesting at the same time the Ministry of Trade and Tourism, the Market Inspection Department and the relevant departments of the Ministry of Interior to provide a certification that in the disputable period no sugar was brought physically into the sugar refineries.

The Market Administration and the Ministry of Interior confirmed that no sugar had been physically brought into the sugar refineries in the disputable period, although it is stated in the UBPOK Report from May of the same year, for instance, that the sugar refineries in Kovin and Sremska Mitrovica had bought imported sugar. Mr. Labus gave the Market Administration's Report to Mr. Chris Paten during his stay in Belgrade on 4 October 2004 and the representatives

of the OLAF paid a visit to the Market Administration on November 26th.

At this meeting the OLAF accepted the findings of the Market Administration of Serbia. However, by the end of October last year the European Commission made a proposal to EU Council of Ministers to institute an annual quota of duty-free sugar export of 150,000 tons. Mr. Labus said that it was not sufficient and that he would try to obtain an increase. Following a proposal of the European Commission the EU Council of Ministers determined a duty-free export quota of sugar for Serbia in a quantity of 180,000 tons.

At the meeting of 27 January 2005 the Government of Serbia adopted the Information on the origin of the sugar exported to the EU submitted by the Ministry of Finance.

## **CONCLUSIONS AND RECOMMENDATIONS**

The preferential regime obtained from the EU was to achieve, within a couple of years, the full sugar production capacity of 700.000 tons. However, it was only the amount of imports and exports that has grown since 2001, while the production has not yet advanced significantly from the production average of the critical nineties (between 100,000 and 200,000 tons per year) towards the production output before the sanctions (599,098 tons in 1990, and 582,041 tons in 1989).

Here are the production data in the period since the institution of the preferential regime:

Production in 2000 119.178 tons  
Production in 2001 211.873 tons  
Production in 2002 270.517 tons  
Production in 2003 211.786 tons  
Production in 2004 403.118 tons

The production boom in 2004 is, first of all, a result of an exceptionally favorable sugar beet yield and the fact that one hectare of the land under sugar beet enabled the production of 40-50 or even 55 tons of sugar. In the previous year, 2003, one hectare under sugar beet enabled the production of 30 or maximum 35 tons of sugar. The data which should be compared with the production of sugar in 2003 and 2004 show areas under sugar beet; in 2003 – 68,745.29 hectares, and in 2004 – 65,959 hectares.

The Anti-Corruption Council considers that by the fulfillment of the demands of the European Commission the task of the Serbian Government to prove beyond any doubt the facts related to the sugar export is not completed. The reinstatement of the preferential regime for sugar export from Serbia to the EU is a significant gesture of support by the EU to the democratic changes in Serbia, especially regarding the fact that this decision was made between the two rounds of the

presidential elections in Serbia, on the eve when the nation was to choose between the candidates of the Democratic Party and the Serbian Radical Party.

Nevertheless, the annual quota of only 180,000 tons of sugar represents the EU's silent sanctions against Serbia, a clear sign that the EU still has doubts that Serbia may again abuse the preferential status. This quota also depicts the state of the Serbian sugar industry after the cancellation of the preferential regime and the suspicious privatization of the sugar refineries – with an annual consumption of around 250,000 tons and the production of 700,000 tons per year, Serbia's sugar export capacities are 450,000 tons; the quota of 180,000 tons speaks of the EU attitude and about the state of the Serbian sugar industry more clearly than all the statements made by the Government officials on the cancellation of the sanctions on sugar export to the EU.

It is stated in the Information adopted by the Government on January 27 this year that “the relevant EU bodies requested from the relevant bodies of Serbia and Montenegro to investigate possible abuses and to withdraw in such cases the issued EUR 1 certificates of origin”, and that, at the same time, some “foreign customs administration offices forwarded through the standard procedure certain EUR 1 certificates for subsequent verification”.

The worrying thing is the fact that the Government of Serbia considers that the fulfillment of the EU conditions, the withdrawal of the issued certificates of origin, is its only task and that besides the commitment to the EU to examine the 5,215 disputable invoices, it has no other obligation whatsoever towards the domestic sugar beet and sugar producers and other numerous business subjects related to the sugar industry or towards the Serbian public, to clarify who was responsible for the destruction of the Serbian sugar industry and the missed chance for the recovery of this strategic industry? The Information produced by the Ministry of Finance stipulates clearly only the interest of the EU – that Serbia should withdraw the disputable certificates and thus enable the of compensation of the EU member states.

But whose interest does the Serbian Government protect when it continues covering up the sugar affair? What measures will the Government take after the withdrawal of the certificates of origin? What will be the sanctions against those who issued the forged certificates and against those who used them to export sugar? Are the reasons for the withdrawal of the certificates given by the Customs Administration to the European Commission (delivery from different warehouses, different registration numbers of vehicles at loading and export, discrepant quantities in the documents, big time differences between the dates of loading and the export customs clearance, and other reasons because of which it was impossible to track the physical flow of the goods), at the same time reasons for further investigation and punishment of those who are guilty of the sugar smuggling?

The enormous increase in sugar imports and exports from 2001 to 2003 was enabled by the Federal Government and the Ministry for International Economic Relations, first of all by the

Decision of 1 June 2001 (when domestic sugar production was to be protected) placing sugar of all types on the free import regime and then by the Decision of 15 December 2002 (when, following the warnings of the European Commission, the control of import was to be enhanced) by which sugar was placed on the free export regime.

The Anti-Corruption Council is concerned because those who created by such decisions the conditions for the abuse of the preferential regime are now responsible for resolving the sugar affair. By its Conclusion, signed by Mr. Labus, the Government accepted the Information of the Ministry of Finance on the investigations of the origin of the sugar exported to the EU, which only satisfied the demands of the EU, and on account of which the sanctions imposed on Serbia have been partly removed, which is certainly a positive step.

However, the Council feels that the Government has to investigate who is responsible for the abuses of the preferential status, which led to the suspension of this status, who is responsible for the great losses sustained by this Serbian strategic industry, as well as for the loss of the trust of the EU in Serbia, which has not yet been fully restored. For the sake of comparison, Croatia, which was awarded the preferential trade regime for sugar export to the EU at the same time as Serbia, was also warned because of an enormous increase in sugar imports and exports. After the first warning, Croatia sanctioned the abuses of the preferential regime, fulfilled its obligation towards the EU, and thus retained the privileged status in sugar export.

The Council believes that the Government has not considered all the aspects of the sugar affair, first of all the consequences the uncontrolled sugar imports and exports had on the privatization of the sugar refineries, the withdrawal of the major world sugar producers, and the destruction of the biggest Serbian sugar refineries in Belgrade, Zrenjanin and Kovin. The Council recommends that the Government should request from the Privatization Agency a complete report on the privatization of the sugar industry in Serbia, particularly regarding the fulfillment of the contractual obligations of the buyers with respect to the investments and the social programme, as well as the reasons why some of the biggest Serbian sugar refineries have not been privatized yet. The Council recommends that the Privatization Agency should also submit a detailed plan for the privatization of sugar refineries in Serbia.

Belgrade, 15 April 2005

President of the  
Anti-Corruption Council,  
Ms Verica Barac