

The Republic of Serbia  
The Government of the Republic of Serbia  
The Anticorruption Council  
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Belgrade

THE GOVERNMENT OF THE REPUBLIC OF SERBIA  
- Prime Minister Mirko Cvetkovic-  
B e o g r a d

Dear Sir,

The Anticorruption Council was addressed by the employees of the Company "Zastava elektro" from Raca. Along with their complaint, the employees forwarded the documentation related to the privatization of this Company, which clearly indicated that the Privatization Agency had made serious mistakes with regard to control over performance of the Contract, particularly referring to the part which concerns mandatory investments.

Under the Contract of Sale of Assets by method of public auction, signed on 15 March 2006 between the Privatization Agency and a Consortium of physical persons represented by Ranko Dejanovic, the 70% of the socially – owned capital of the Joint Stock Company "Zastava elektro" from Raca was sold at price of 27,763,000.00 (amounting to 10% of the estimated value of the company's socially – owned capital). Besides settling the purchase price, the buyer made a commitment to invest RSD 26,085,000.00 in the Company within the period of twelve months, and to present an irreversible and irrevocable bank guarantee, within 30 days period of the day of the signing of the Contract, payable on first demand of the Agency with respect to fulfillment of the investment obligations. The Article 7.1.2 of the Contract envisages that the Contract shall be deemed terminated under the law on grounds of non-fulfillment, if the buyer does not submit this bank guarantee. Following the documentation forwarded to the Council, the buyer did not fulfill this obligation within the estimated deadline, because the Privatization Agency received a bank guarantee given by "Kulska Banka" on 13 September 2006 with the maturity period of nine days, i.e. set to expire on 22 September 2006. Resulting from the Contract, the Agency was bound to terminate the Contract on grounds of non-fulfillment five months before it received the guarantee.

The Contract also stipulates that the investment has to be made in fixed assets serving "exclusively to the purpose of performing the main business activity for which the company was registered on the day of the auction" (The Article 5.2.1. of the Contract). As for the investment made, the buyer had to submit the Privatization Agency a certificate given by a certified auditor confirming that he acted in accordance with the stipulated obligation, and regardless of the auditor's report the Agency was entitled to perform an inspection of books and documentation in order to determine whether the buyer acted according to the undertaken obligations. Resulting from the forwarded documentation, the Agency accepted the findings of the auditor "Fineko revizija" d.o.o. from Belgrade as a proof of an investment made, even though the auditor's Report did not give an answer to the most important question – if the equipment which was invested served exclusively to the purpose of performing the Company's main business activity. There is no doubt that the procured equipment continues to be in a warehouse to this day, and that it was never used in a manufacturing process. Besides, the auditor's Report contains no evidence of the origin of the equipment which was presented as a fulfillment of the investment obligation (the equipment in question was produced by a foreign manufacturer but had no customs declaration, invoices, and proper sales contracts and so forth). This fact alone was sufficient for the Privatization Agency to initiate a procedure to verify the purpose and origin of the equipment, as well as a procedure to determine the accountability of the auditor that gave findings on a basis of an inaccurate and inadequate documentation, however, the Agency accepted the auditor's findings regardless of a conspicuous inadequacy.

The employees, in their letter to the Council, stipulate that in March 2007 the new owners gave the position of the production manager to Marica Dasic, the wife of Nikola Dasic, an employee of the Privatization Agency who was in charge of control over fulfillment of the contractual obligations in "Zastava elektro", and that an employee from the Department of the Privatization Agency in Kragujevac, Nebojsa Milojevic was at the same time commissioned by "Zastava elektro" to perform consulting services through his private company "Mentor Consulting". The employees presented this information to the Acting Director of the Privatization Agency and to the public, but we do not know to this day how the Agency dealt with the statements given by the employees.

The documentation also contains information on how in 2006 the Ministry of Economy and Regional Development approved a short term loan in the amount of RSD 18,500,000.00 to "Zastava elektro" in order to settle out outstanding debts with the employees. Following the employees' quotes, as well as the statement given by the Ministry of Economy on 10 September 2009, after the agreement with the "Zastava elektro's" Strike committee, there is no doubt that this debt was not settled, i.e. that the loan was spent for a purpose other than specified.

In January 2007, SIEPA announced on their web site that "Zastava elektro" company signed an agreement on business and technical cooperation with the multinational company "Delphi", and that for the purpose of the fulfillment of the agreement additional 700 workers will be employed by the end of 2007 and additional 3000 by the end of 2009. ([http://www.siepa.sr.gov.yu/attach/SIEPA\\_Newsletter\\_January\\_2007.pdf](http://www.siepa.sr.gov.yu/attach/SIEPA_Newsletter_January_2007.pdf)).

On the basis of that "Zastava elektro" received incentive funds for foreign investments and promotion of export from SIEPA, i.e. from the budget of the Republic of Serbia. The

documentation forwarded to the Council contains a letter from the company "Delphi" of 27 January 2009 where this company states that it terminates their Contract with "Zastava elektro" on account of the Company's insolvency. The Contract was terminated on the day this letter was forwarded, and afterwards the representatives of the company "Delphi" took all their material, equipment and products from "Zastava elektro".

The Statement given by the Ministry of Economy and Regional Development and forwarded to media on 10 September, stipulates that, as soon as the buyers of the company give away their shares to the state, this Ministry will take the obligation to "help the new management with launching of production and securing salaries for the employees starting September 2009", until a new strategic partner for "Zastava elektro" is found.

Following the forwarded documentation, it becomes obvious that numerous violations of law occurred in the privatization procedure of "Zastava elektro", and that unconscientious buyers are accountable for the non-fulfillment of the contractual obligations, as well as for any damage imposed on the factory and its employees.

What concerns deeply is the fact that the so called handing over of the company's shares to the state is an attempt of avoiding responsibility for the violation of law and the Contract, both by the buyer and the government institutions. Instead of damage compensation, unconscientious buyers are allowed to transfer their obligations to the state. The Anticorruption Council deems that the facts given should serve as grounds to determine the responsibility of the government institutions, as well as the responsibility of the unconscientious buyer, after which a procedure for damage compensations would be launched. It is also necessary to initiate proceedings for damage compensation on account of a misuse of the loan which was approved by the Ministry of Economy and the incentive funds given by SIEPA.

Yours faithfully,

PRESIDENT

Mrs. Verica Barac