

10 April 2009

Anti-Corruption Council
Republic of Serbia
Belgrade

THE GOVERNMENT OF THE REPUBLIC OF SERBIA
Mr. Mirko Cvetković, Premier

B E L G R A D E

Dear Mr. Cvetković,

As part of our regular activities we continue to follow events concerning the Port of Belgrade corporation, a matter on which we have already informed the Government of the Republic of Serbia (*Report of the Anti-Corruption Council on the Concentration of Ownership in the Port of Belgrade corporation* (Luka «Beograd» a.d.), delivered to the government on 19 February 2008). It has come to our attention that the government of the City of Belgrade intends to execute an agreement with the new owners of the Port of Belgrade regarding the subdivision and rezoning of civic land. As we believe that the execution of this agreement would be contrary to the law and to the interests of the citizens of Belgrade and of Serbia, and that they would suffer a loss of inestimable proportions as a result, we ask that you take all necessary steps in order to uphold the law and to protect the interests of the citizens.

At a time of economic crisis the Serbian government should avoid taking on great financial expenditures such as would result from the obligation to relocate the port facilities to a new location at taxpayers expense and solely in order to achieve profits for private interests.

The new owners of the Port of Belgrade corporation (messers. Mišković, Beko and others) through the purchase of the corporation's shares became the owners of legally-erected buildings (warehouses, hangers, etc.) and the owners of usage rights to the land on which those buildings are located. The new owners in that manner achieved the same property rights as the old owners had, for the old owners could not alienate more property rights than they themselves had possessed. The old shareholders were themselves private parties but they did not have the right to alienate the land itself, nor did they have to right to demand that the City of Belgrade transfer the port facilities to another location so that they could erect buildings for another purpose on the existing location.

The subject of this sale was not the land, for, according to our law, land cannot be the subject of commercial transactions. This land is owned by the state and the law prohibits the alienation of this land from state ownership. The public infrastructure on this location, such as the riverfront bulwarks, water conduits, etc., fall into the same category as public squares, streets, and so on, and, as such, can never be privately owned

(not even in light of changes to the Law on Urban Land), for it has been the case since Roman Law was in force that these are *res sacra*—sacred things. Any eventual rezoning can only be achieved by means of the the appropriate legal procedures and not as a result of an agreement between the parties in a commercial transaction, nor can such parties dictate the subdivision of the land.

The laws presently in force, as well as the earlier granting of land usage rights for the purpose of creating corporations as was the practice under the laws of that period, established the relationship of the City and the corporation in question, and provide a sound legal basis for the protection of the public interest.

A change in ownership of buildings or of corporations cannot effect either the state's ownership of land or of state-owned infrastructure, nor can it create obligations on the part of the state to rezone land so as to accommodate the new owners, or to relocate infrastructure.

We are attaching the Memorandum of understanding dated 19 March 2009 between the parties *a.d. Luke "Beograd"* and the City of Belgrade (Civic Administration reference number 353-754/09) and the Agreement between the City of Belgrade and the Port of Belgrade corporation on mutual obligations (*Sporazum o uređenju međusobni odnosa*). We stress that these agreements relate to the subdivision and rezoning of land, which cannot legally be done by the parties to these agreements.

We have also supplied these documents to the Office of Special Prosecutions, investigative bodies, and the legal department of the City of Belgrade.

Respectfully yours,

P R E S I D E N T

Verica Barać

Enclosed:

1. Memorandum of understanding dated 19 March 2009 between the parties *a.d. Luke "Beograd"* and the City of Belgrade (Civic Administration reference number 353-754/09)
2. Agreement between the City of Belgrade and the Port of Belgrade corporation on mutual obligations (*Sporazum o uređenju međusobni odnosa*)