



**PRIKAZ
SLUČAJA
„GORNJI IBAR“
ROŽAJE**

I: SUMMARY: A case study report "Gornji Ibar" Rozaje refers to a former big company involved in wood processing industry in Rozaje, dealing mostly with the company AD "Gornji Ibar", as the largest company that was formed by division of once single company.

The case study shows how a company with two thousand employees and undisputed development prospects, was completely destroyed in less than a decade, while its workers were repeatedly damaged and now live mostly as beneficiaries of family maintenance support. The workers lost not only their jobs but also part of the assets of the company. Since the company's assets are located in the center of Rozaje, its property was converted into a building site, which multiplies its value. Subsequently, in 2015 the government of Montenegro decided to accept the offer of the Turkish company interested in buying and leasing the site of the factory "Gornji Ibar".

II: BRIEF HISTORY OF COMPANIES: The former socially-owned enterprise "Gornji Ibar" was a leading giant in the Montenegrin wood industry for years and as a major business was the backbone of the development of Rozaje and the whole region. The company was transformed back in 1994, when the capital of the company was estimated at the then DM 67.8 million.¹ At the time, the company employed about two thousand workers, and when international sanctions on former Yugoslavia were imposed the company's production dramatically fell, and in 2002 it employed as few as 575 workers.

A period of drastic fall in production coincides with the division of once single company, when a number of separate companies emerged. Thus, among others, separate companies *AD "Gornji Ibar"* and *"Sumarsko preduzece AD Rozaje"* were established. However, it is important to stress that the fall in production is also linked to the problem of obtaining government concessions for the exploitation of forests and the development of the illegal sector in the procurement of wood as the basic raw material.²

When it comes to the ownership in the company, the data show that the end of 2002 the state funds had 51 percent in AD "Gornji Ibar", employees had 38 percent, whereas the citizens after the mass voucher privatization held 7 percent stake and *Montenegrobanka* held 2.9 percent stake. At the same time, the capital of *AD "Gornji Ibar"*, after the official currency in the country was changed, was estimated to be €28.8 million.

ASSETS	SUM
Land	1,152,119
Buildings	17,069,826
Equipment	10,623,669
IN TOTAL	28,845,615

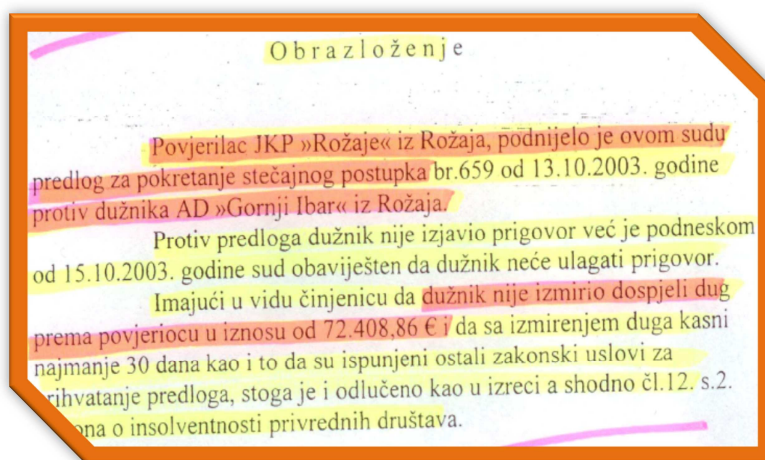
Tabel 1: Value of movable and immovable property of "Gornji Ibar"

¹ Decision on approving the transformation of SOE "Gornji Ibar" Rozaje 02 / 1844-2 on 4 December 1995

² Source: The document "Analysis of the Situation and Projection of Development Opportunities of AD "Gornji Ibar" Rozaje, created by the Faculty of Economics Podgorica, May 2003

III: GOING BANKRUPT IN 2003: The privatization plan for 2003 envisaged launching an international tender for selling "Gornji Ibar". In March of the year in question, the government took over foreign debts worth four million euros. These were pre-sanctions debts, i.e. loans which were granted before the international sanctions and which were „dormant“ during the economic blockade.

Despite the problems in business activities from the document entitled "Analysis of the Situation and Projection of Development Opportunities of AD "Gornji Ibar" Rozaje, which was created by the Faculty of Economics in Podgorica in May 2003, it appears that wood giant could have positive business results and had a perspective. However, in October the same year, the commercial court in Bijelo Polje started bankruptcy proceedings against the two companies, based on the proposal of Rozaje-based public utility company, due to the debt which stood at €72.4 thousand.



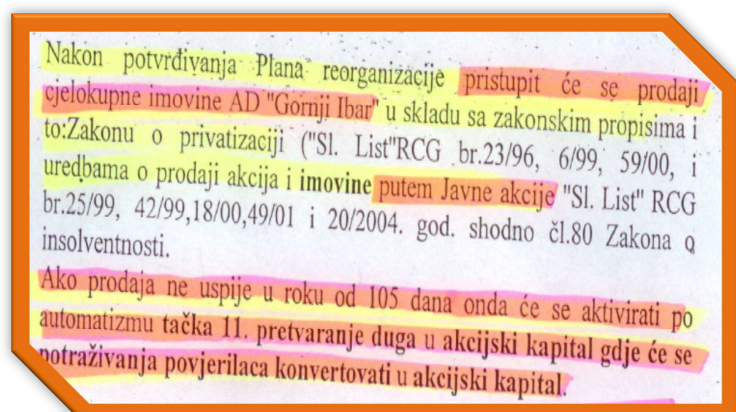
Debt of the factory "Gornji Ibar" to public utility company "Rozaje" led to bankruptcy

That same month when the bankruptcy proceedings were initiated, the government approved "Gornji Ibar" a loan of €250,000 for working capital investment. Previously (in June the same year) it took over claims of the company *Montenegrobanka* which amounted somewhat over one million euros. Otherwise, in the pre-bankruptcy period, both companies employed about 440 workers.

IV: FILING CLAIMS AND PLAN OF REORGANIZATION: In early 2004, the Central Bank of Montenegro acknowledged that credit debts of "Gornji Ibar" amounted to €7.6 million, including pre-sanction loans. In May, the government filed claims with regard to two companies from Rozaje. The government wanted to collect around five million from "AD Gornji Ibar" and over €800,000 from the forestry company.

The same month, the bankruptcy administrator made a plan of reorganization, which suggested the continuation of production and survival of the company, along with paying claims to the creditors.

The plan proposed selling the entire property of the company on a public tender to complete paying the claims to the creditors. If the sale fails within 105 days, according to the proposal of the bankruptcy administrator, the creditors' claims



Selling entire property of factory "Gornji Ibar" Rozaje

would be converted into the share capital.

Also, the administrator accepted as undisputed the claims in the amount of two million euros, while granting the concession for exploitation of forests for a period of ten to fifteen years was emphasized as an essential condition for recovery of the company. A month later, the commercial court in Bijelo Polje accepted the proposed plan of the company's reorganization, despite numerous objections of the creditors.

V: TENDER FOR SELLING ASSETS: In July 2004, immediately after accepting the plan of reorganization, the commercial court invited the first tender for sale of all assets of Rozaje-based companies.³ Assets of AD "Gornji Ibar" consisted of buildings with equipment of approximately 35,000 square meters and land of 87,500 square meters. The offered price for the assets of the company consisting of four manufacturing plants, boiler rooms, administrative buildings and restaurants, was €2.9 million. At the same time, the assets of the forestry company "Rozaje", which included an administrative building of 250 square meters, warehouse of nearly 550 square meters, open space of 800 square meters and a dozen of heavy machines for forest exploitation, was estimated to be €290,000. As a mandatory part of the offer a buyer was obliged to submit the companies' development programs along with the investments in the next five years as well as the employment program, whereas experience in wood industry was a prerequisite. After the first tender failed, the new one was invited as early as August of the same year and on the same terms, but it also failed.⁴

Two years later, in mid-2006, the third tender for sale of property was invited, but now the value of the assets of AD "Gornji Ibar" was estimated at €5.2 million, while the price for a forestry company remained the same.⁵ This time, a future buyer did not have to have experience in timber industry. After this unsuccessful sale, a few months later a new public tender was called reducing the price of "Gornji Ibar" to €3.9 million, whereas the price of the forestry company remained the same.⁶ Only a month later the fifth tender was invited, which again adjusted the price of "Gornji Ibar".⁷ In fact, now the company's assets were offered for 1.9 million, while the price of the forestry company fell fifty thousand, i.e. it was €249,000.

YEAR	AD „GORNJI IBAR“	S.P. „ROZAJE“
2004	2,900,000	290,000
2004	2,900,000	290,000
2006	5,201,325	290,000
2006	3,900,994	290,000
2006	1,997,309	249,000

³ Tender for sale of the assets of the bankrupt company AD "Gornji Ibar" Rozaje, and assets of the bankrupt company S.P. AD "Rozaje" Rozaje, at public auction submitting written offers

⁴ Second tender for sale of the assets of the bankrupt company AD "Gornji Ibar" Rozaje, and assets of the bankrupt company S.P. AD "Rozaje" Rozaje, at public auction submitting written offers

⁵ Tender for sale of the assets of the bankrupt company AD "Gornji Ibar" Rozaje, and assets of the bankrupt company S.P. AD "Rozaje" Rozaje, at public auction submitting written offers

⁶ Tender for sale of the assets of the bankrupt company AD "Gornji Ibar" Rozaje, and assets of the bankrupt company S.P. AD "Rozaje" Rozaje, at public auction submitting written offers

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2007	2,700,000	500,000
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Tabel 2: Tender prices for selling Rozaje-based companies

In early 2007, a new, sixth tender for sale of assets of Rozaje-based companies was invited. Starting price of AD "Gornji Ibar" was established at €2.7 million, but now for the first time the obligation of a buyer was to take over 350 members of staff of the bankruptcy debtor, which could not be declared redundant within five years.⁸ Also, the buyer was required to maintain the core activity of the Rozaje-based companies for a period of 10 years from the signing of the contract, whereas the buyer was obliged to provide an adequate bank guarantee for investments. The same condition applied to a buyer of the forestry company "Rozaje", in this case 90 workers were to be taken over. The selling price for this company was half a million euros.

VI: GOVERNMENT BUYS ROZAJE-BASED COMPANIES: In September 2007, after six tenders failed, the commercial court in Bijelo Polje announced that assets were to be sold to the interested buyer, i.e. the government of Montenegro, through the direct contracting. Thus, "Gornji Ibar" was sold to the government for €2.5 million, and the forestry company "Rozaje" for €625,000.⁹

YEAR OF SELLING	BUYER	PRICE AD „GORNJI IBAR“	PRICE S.P. „ROZAJE“
2007	Government of Montenegro	2,575,000	625,000

Tabel 3: Government of Montenegro bought the assets of Rozaje-based companies for €3.2 million

The government's decision was preceded by a series of activities. Namely, according to the information from the Ministry of Economic Development, which was published in March 2007, it can be concluded that the total liabilities of two companies from Rozaje are €2.7 million, and the proposed starting price for the sale of the property was 3.2 million, which would should cover a minimum of welfare program and certain claims of creditors.

In September of the same year, the government adopted a conclusion which freed Rozaje-based companies from repaying approved loans during the bankruptcy, in the amount of 540,000, and took over the claims of *Elektroprivreda* which stood at €432,000. Also, the Forest Administration waived claims of €315,000 against Rozaje-based companies, the municipality of Rozaje waived its claims of €315,000, while the government undertook to settle a few minor claims of creditors.

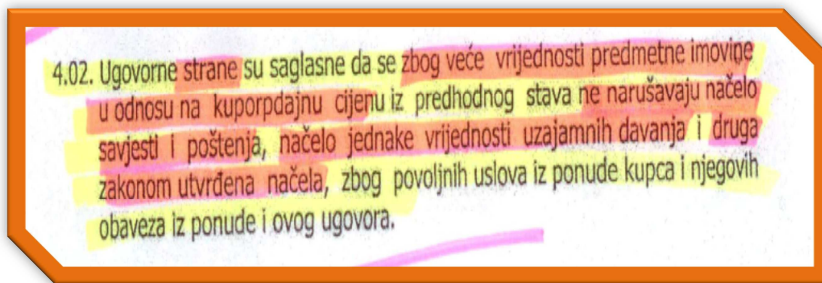
⁸ Tender for sale of the assets of the bankrupt company AD "Gornji Ibar" Rozaje, and assets of the bankrupt company S.P. AD "Rozaje" Rozaje, at public auction submitting written offers

⁹ Notice of sale of part of the assets of AD "Gornji Ibar" from Rozaje with the transfer of rights to use the land through direct contracting and the Notice of sale of assets of SP AD "Rozaje" from Rozaje with the transfer of rights to use the land through direct contracting, on 26 September 2007

Contracts with the government on the purchase of two companies from Rozaje worth €3.2 million were concluded on 19 October. For the purpose of purchasing the assets of Rozaje-based companies the government signed a loan agreement with *Crnogorska komercijalna banka* in the amount of €3.2 million, on a three-year term, with a grace period of one year and an interest rate of 6 percent annually. Also, in late 2007 the government supported the municipality of Rozaje's loan request in the amount of €278,000 aimed at paying the obligations to former workers, guaranteeing the return of these funds after the sale of assets of companies from Rozaje.

The contracts contain identical provisions based on which the contracting parties accept that "due to the higher value of the assets in question in relation to the purchase price do not violate the principle of good faith, the principle of mutual considerations and other rights determined by the law, due to the favorable conditions from the buyer's offer and the buyer's obligations arising from the offer. "These

provisions are indisputably illegal and are the basis for the nullity of the transactions.



Disputable contract provision basis for nullity of transactions

Study on the assessment of movable and immovable property of two companies, which was made for government's needs in February of the following year, confirms the underestimated value. Namely, according to the study the value of the company was estimated to be €18.4 million.

ITEM	Estimated value of S.P. „Rozaje“	Estimated value of AD „Gornji ibar“	Overall estimated value
Land	150,120	6,058,800	6,208,920
Buildings	135,181	8,472,261	8,607,442
Equipment	-	3,318,919	3,318,919
Reserves	9,342	266,180	275,522
TOTAL	294,643	18,116,160	18,410,803

Table 4: Value of Rozaje-based companies determined in the Study as of February 2008

Furthermore, in May 2008 the Study on Development Opportunities and Capacities of Purchased Assets of AD "Gornji Ibar" and the forestry company was made, which was commissioned by the Ministry of

Economic Development. The study proposed modernization of the production program, with the focus on manufacturing of semi-finished wood products. According to the study the companies was supposed to employ 500 workers, while the predicted investments were estimated at €1.5 million.

ITEMS	AMOUNT
Basic technology	1,046,000
Auxiliary technology	64,000
Infrastructure technology	120,000
Recomposing equipment	60,000
Furnishing objects	14,000
Greenery and fences	80,000
OVERALL	1,510,000

Table 5: Necessary items for company's modernization

VII: SALE OF COMPANY'S ASSETS: In early 2009, the Ministry of Finance acknowledged that a million was paid to workers of AD "Gornji Ibar" and €1.5 million for a welfare program for 347 workers. When it comes to the forestry company, a sum of €300,000 was paid to workers and approximately the same amount for the welfare program for 88 employees. However, outstanding debts of creditors, including taxes and electricity debts, as well as a loan of the municipality of Rozaje remained, so it was stated that by selling the assets, aimed at settling obligations taken over in the bankruptcy procedure and repaying loans, it was necessary to provide at least 4.5 million. It is therefore recommended to urgently proceed with the sale of the assets.

According to the available information, in December 2008 the government of Montenegro sold a substantial portion of movable property of Rozaje-based companies for about €120,000.

VIII: ADOPTION OF PLANNING DOCUMENT: Machinery of the former industrial complex, which is located almost in the city center, is ruined, while many objects were built on the land. According to the detailed spatial plan "Industrial zone Center" this site is to be turned into a residential and business area, where the maximum permitted number of floors five.¹⁰ The total cost of the infrastructure equipment is estimated to be around six million euros and there is no doubt that the value of the former industrial site will increase several times.

On the other hand, workers from Rozaje, who were once employed in the wood industry, will not have any benefits from the urbanization of the area, because their company has been destroyed. In the meantime, most of them live on welfare which is about a hundred euros for a household with five or more members. According to 2012 annual report of the Centre for Social Work Rozaje, as much as 35 percent of all families in this city receive family maintenance support.

In 2011 several hundreds of former workers sued the Montenegrin government for failing to pay arrears per year of service.¹¹ According to the media reports, the workers filed complaints, claiming that from the welfare program, worth about €2.7 million a sum of 125,000 was missing. In 2012 former employees of the company started protests where they called for the government to correct the injustice since a

¹⁰ Amendments to the detailed spatial plan " Industrial zone - Center" Rozaje as of December 2010

¹¹ An article in the Daily Vijesti " Successful "privatization ended with padlocks" on 19 May 2012; <http://www.vijesti.me/ekonomija/uspjesne-privatizacije-završile-sa-katancima-74345>

few years ago they received four times lower severance pay in comparison to their colleagues from other state bodies. Back then, the workers of "Gornji Ibar" received €117 per year of service, while the employees of the " Sumarstvo" received only €68. On that occasion they were told that the arrears would be subsequently paid, which never happened.

In February 2014 workers filed a complaint to the competent court with a request to annul the contract on the purchase of part of the company signed between the Ministry of Finance and the company "Gornji Ibar", as well as to annul the contract on physical protection of "Gornji Ibar", which was concluded between the Ministry of Finance and " Security agency ". The employees demand that the Prosecution investigate looting of property which was guarded by the agency in the early years, starting with the closure of the company, then a ban on further sales of assets and the reduction of the share capital, and resolving the status of workers who are victims of the transition and based on the planned bankruptcy deliberately left on the Labor Bureau without employment opportunities. Due to the rejection of those requests, the workers filed a complaint with the Court in Strasbourg for violation of basic labor and human rights.¹²

During 2015, workers repeatedly protested, among other things, seeking for amendments to the Law on Pension and Disability Insurance, which envisages retirement of former workers, who lost their jobs, in privatized companies under more favorable conditions.¹³

IX: INITIATIVES SUBMITTED TO COMPETENT AUTHORITIES: The annual report of the Commission for Monitoring and Control of Privatization Process for 2013 stated that control of the privatization process of "Gornji Ibar" was considered at the meeting held at the end of January of the same year, and at the session held at the beginning of February 2014 the Commission adopted conclusions¹⁴ to submit an initiative to the Privatization Council that the company "Gornji Ibar" and "Rozaje" were to be included in the Privatization Plan for 2014.¹⁵

In addition, the initiative was submitted to the Supreme State Prosecutor's Office to review bankruptcy proceedings since 2003 in the companies "Gornji Ibar" and "Rozaje", and to the Ministry of Agriculture and Rural Development which was aimed at launching production in certain segments of these companies. Also, the initiative was submitted to the Ministry of Labor and Social Welfare, which required paying the arrears to 88 former workers of the company "Rozaje", as well as the initiative to the Securities Commission to review the ownership structure of the company "Gornji Ibar", as well as the ownership of the company's land.

X: "GORNJI IBAR" FOR SALE IN 2015: The Privatization Plan for 2015 included the site of the factory "Gornji Ibar" in Rozaje in the list of companies that will be valorized through public and private

¹² Article in the Daily Vijesti "Employees of Gornji Ibar believe the court in Strasbourg only", on 23 August 20; <http://www.vijesti.me/ekonomija/radnici-gornjeg-ibra-vjeruju-samo-sudu-u-strazburu-792192>

¹³ Article in the Daily Vijesti "Former workers from the north: If on Friday amendments to the Law on Pension and Disability Insurance are not voted for we get out on the street" on 25 February 2015 <http://www.vijesti.me/vijesti/bivsi-radnici-sa-sjevera-ako-se-u-petak-ne-izglasaju-izmjene-zakona-o-pio-izlazimo-na-ulicu-820914>

¹⁴ Conclusions of the Commission for Monitoring and Control of Privatization Process No. 00-63-15 / 14-3 / 3 on 6 February 2014

¹⁵ Annual work report for 2013 of the Privatization and Capital Investment Council

partnerships.¹⁶ Namely, it was planned that the public invitation was structured in such a way to valorize the real estate through sale or lease, along with delivery of investment and employment programs. Thus on 20 May, the Privatization and Capital Investment Council invited a public tender for valorization of part of the site of the factory "Gornji Ibar" Rozaje through selling and leasing property.¹⁷

The site of the factory consists of three parts, but the tender included one site that consisted of Locations 1A and 1B¹⁸ covering the area of 36.321 square meters, with facilities and equipment.

The company "Sancakli Mobiliya" Agactic AS, Turkey submitted the offer within the deadline and it bought the Location 1A for €400 thousand (covering the area of 24,693 square meters), while the Location 1B was leased to the Turkish company for a seven-year period (the location covers the area of 11,628 square meters) for a price of €0.6 per square meter, or €6.9 per year. The decision to sell the site to the Turkish company was made at the end of August 2015.¹⁹

XI: PROPOSED SALES AND PURCHASE AGREEMENT AND LEASE AGREEMENT: MANS does not have a sales and purchase and lease agreement, which was concluded with the investor from Turkey. However, according to the proposed sales and purchase agreement and investing in part of the site of the factory "Gornji Ibar", which refers to the Location 1A, which is published on the government website²⁰, construction and reconstruction of industrial and multi-purpose facilities is envisaged.

According to the contractual provisions, by paying the purchase price the buyer acquires the right of ownership of property and the right to restrict access to the site. Within 12 months from the closing date the buyer had to obtain all the necessary permits for construction and reconstruction of the site. Otherwise, the contract may be terminated.

The contract obliges the buyer to invest a minimum amount of 5.36 million, of which 4.3 million in working capital and the amount of 986 thousand euros in equipment and facilities. The investment program envisages adaptation of buildings at the Location 1A and surrounding roads.²¹ During the first phase the following works will be undertaken: construction of a modern sawmill, reconstruction of the pool, machines and dryers, as well as the construction of the boiler room. In the next phase of the project the construction of modern pools for steaming lumber, installation of machinery and purchase of new equipment is envisaged. During the third stage it is planned to introduce production lines in one part of the manufacturing plant.

Year	Equipment and objects investments	Working capital	Total
I year	238,000	0	238,000

¹⁶ Decision on the privatization plan for 2015, on 12 February 2015

¹⁷ Report of the Tender Commission for Privatization on the results of the public tender for valorization of part of the locality of the factory "Gornji Ibar" Rozaje at the Location 1 owned by the State of Montenegro, on 12 August 2015

¹⁸ Real estate folio 305 KO Rozaje, cadastral plot No 932/20

¹⁹ Decision to sell the property on part of the site of the factory "Gornji Ibar" Rozaje, labeled as 1A location, owned by the State of Montenegro No. 08-2002 on 20 August 2015

²⁰ Proposed Purchase and Sales Agreement and investing in part of the site of the factory "Gornji Ibar" - Location 1A, Rozaje, Montenegro August 2015

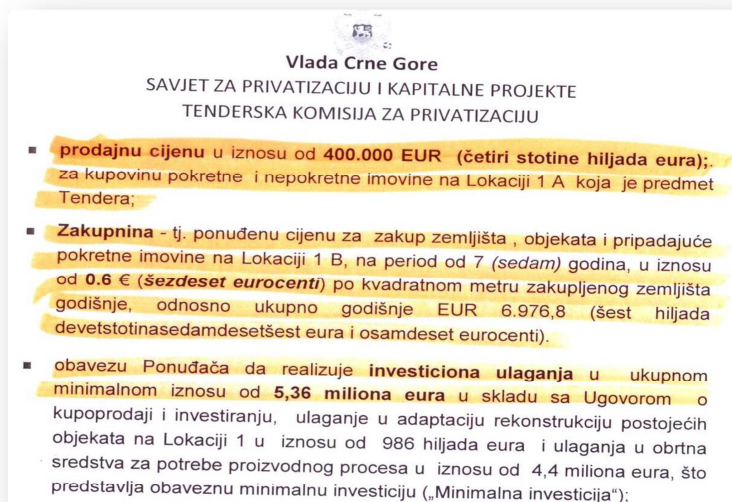
²¹ Appendix 3, Investment program of the company "Sancakli Mobiliya" A. S. Turkey, on 15 July 2015

II year	318,000	979,000	1,297,000
III year	244,000	1,057,320	1,301,320
IV year	90,000	1,141,906	1,231,906
V year	96,000	1,199,001	1,295,001
Total:	986,000	4,377,227	5,363,227

Table 6: Investments per year

On the other hand, within six months from the date of entry into force of this Agreement, the seller is obliged to ensure that the local government of the municipality of Rozaje adopted planning documents which will create conditions for the issuance of building permits to the customer and realization of investment program, and will take all necessary measures to issue the necessary permits to the investor within 60 days of the request to the competent authority. Otherwise, the Turkish company has the right to terminate the contract. Also, the government committed to ensuring the unhindered import to the

buyer, installation of equipment as well as buying equipment owned by the seller located outside Location 1.



In case of termination of the contract due to non-fulfillment of the contractual obligations, the buyer is obliged to return all the property to the seller. In the event that the contract is terminated by the fault of the investor, the investor is entitled to refund of the purchase price.

Obligations of the Turkish company to the factory "Gornji Ibar"

agreement, after registering the local company, would hire at least nine workers. Also, in the first investment year, it will provide at least 45 new jobs, while in the second year it will provide 30 new jobs, whereas at the beginning of the third investment year another 80 new employees are planned to be hired and production at full capacity is envisaged, as well.

The bidder acknowledged that, immediately after signing the purchase and sale agreement and lease

Regarding the proposal of the agreement on the lease of Location 1B of August 2015,²² the lease was agreed for a five-year period for the sum €6,976 per year, and the lessor did not have the right to increase the lease price for the duration of proposal. The contract may be extended.

The government has allowed the lessee to obtain the right of ownership over machinery and equipment through repairing them, while in the case of their selling, the Turkish company has the right of pre-emption. The agreement is automatically terminated in the event of termination of the sales and purchase agreement.

In early August 2015, the Secretariat for Planning, Spatial Planning and Environmental Protection of the municipality Rozaje and company "Sancakli Mobiliya" from Turkey signed the Protocol according to which the municipality of Rozaje was obliged to prepare spatial planning documents for the area of the Detailed Urban Plan "Industrial zone Center" - "Center II," according to the requirements of investors.²³

XIII: TENDERS FOR SALLING LOCATION 2 AND 3: Tender Commission for Privatization invited a public tender for sale of two locations in Rozaje.²⁴ The government of Montenegro, invited qualified local and international investors who are financially capable and have experience in processing and managing production in the industry to submit bids. The total land area for sale covers the area of 29.3 thousand square meters, with auxiliary facilities. The spatial urban plan of the municipality of Rozaje envisages reconstruction of existing, or construction of new buildings for industrial production, core business and different purposes at Location 2. Tender was opened until end of July 2015, but it is not known if there were any interested parties.

Also, the Tender Commission issued an invitation to tender for the lease and investment in part of the site of the factory "*Gornji Ibar*", Location 3 in Rozaje.²⁵ The subject of sale is land of 5,505 square meters with auxiliary facilities. The spatial urban plan of municipality Rozaje envisages reconstruction of the existing and construction of new buildings for industrial purposes, production of confectionary products and different purposes at Location 3. Tender was opened until 16 November 2015.

XIV: PRIVATIZATION COUNCIL ANNOUNCES SALE OF PROPERTY SECRET: In late January 2015 the Privatization and Capital Investment Council of Montenegro adopted the decision on determining the degree of data confidentiality contained in the tender documents and offers in the process of valorization of companies and assets of 13 companies, among which the site of the factory "*Gornji Ibar*"

²² The lease agreement for part of the site of the factory "*Gornji Ibar*", location 1B, Rozaje, Montenegro, in August 2015

²³ Protocol No. 450, on 5 August 2015

²⁴ Public invitation to participate in tender in order to sell part of the site of the factory "*Gornji Ibar*", Location 2, Rozaje, Montenegro

²⁵ Public invitation to participate in tender in order to sell part of the site of the factory "*Gornji Ibar*", Location 3, Rozaje, Montenegro

is included.²⁶ The data relating to the sale of assets of the factory are marked as "Confidential" for a period of five years.

The Privatization Council adopted a controversial decision on the grounds that a disclosure of the tender procedures could have detrimental consequences for security and interests of Montenegro. In February 2015 MANS lodged a complaint to the Administrative Court due to the decision of the Privatization Council.²⁷

Podgorica, December 2015
Author: MANS Investigation Center

²⁶ Decision on determining the degree of data confidentiality No. 01-34/2 on 27 January 2015

²⁷ Complaint against Privatization and Capital investment Council submitted by NGO MANS, on 27 February 2015