

STUDY CASE: AUTOCAMP DOBROTA



Camp Dobrota Lying along seashore

I Introduction: This study shows that public officials from the Municipality of Kotor illegally exchanged immovable property on the attractive spot by the seashore, on the site of a former autocamp in the village of Dobrota. The location was ceded to the company "MD Enterprise" d.o.o. from Kotor, owned by Edin Kolarevic, known to the public as the nephew of the prime minister Milo Djukanovic. In mid-July 2015, the NGO MANS filed a criminal complaint against the competent authorities in the

Municipality of Kotor, which facilitated Kolarevic's harmful business concerning building a luxury tourist complex on a very attractive site. Research on related companies backed by Edin Kolarevic and their financial status, i.e. the fulfillment of tax and other obligations imposed by the State is underway.

II: Attractive Location of Autocamp Dobrota:

The autocamp Dobrota is located in the village of Dobrota, located three kilometers from the center of the town of Kotor, the most valuable and attractive landmark, lying along the seashore, between the highway Kotor-Risan and the coastal area of the Bay of Kotor.¹ Single-floor building from the twentieth century was situated there, with a unique architectural design, whereas the whole area is part of the world's cultural heritage, composed of tiny villages and palaces along the shore covered with significant historical objects. Such being the case, any kind of construction works should be forbidden in the area, inasmuch as its inherited values, due to which it was awarded World Heritage Site status, would be lost.²

The same document points out that the 2013 report by the Advisory Mission for Natural and Cultural and Historical region of Kotor stressed, that after 2005, a sharp increase in the investment rate occurred, and a massive wave of urbanization swept over the area, threatening to destroy recognized cultural and historical values of the site.

III: „Tara Investments Montenegro“ purchases Autocamp:

In November 2005, after the bankrupt hotel company "Fjord a.d." Kotor fulfilled obligations to the State of Montenegro arising from the Fiduciary Agreement from 2000³ in the amount of DM 286 thousand,⁴ the government of Montenegro transferred the right to use the property and the ownership right on the

¹ Location is registered in the List of Immovable Property No 567 and 1590 Cadaster of Dobrota I, Municipality of Kotor.

² Decision on Conservation Conditions of Directorate for Protection of Cultural Property No. UP/I-05-108/2013-4 on 28 January 2014.

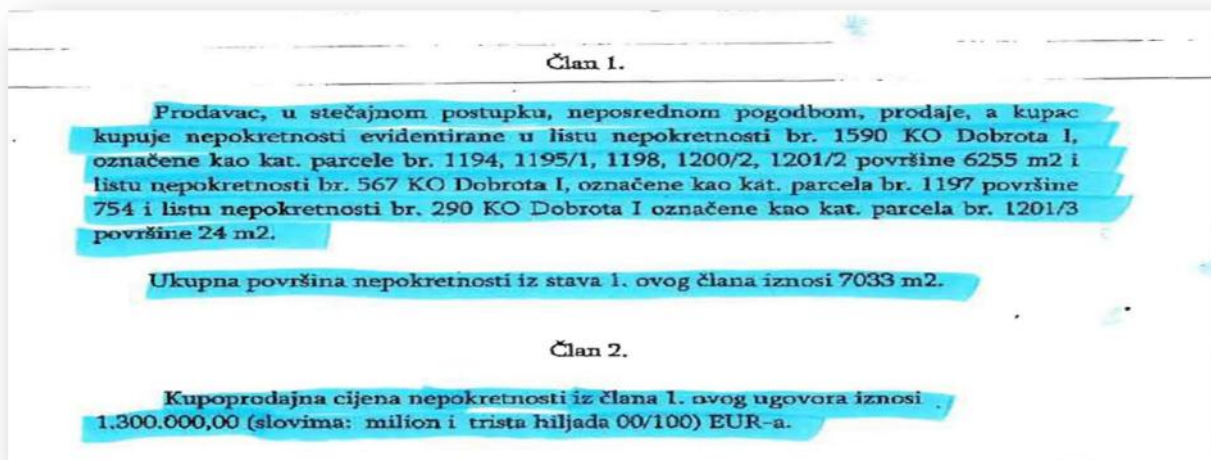
³ Agreement on Fiduciary Transfer of Ownership Right on Immovable Property, No. 02-106/2 on 22 February 2000.

⁴ Pursuant to the Agreement on Fiduciary Transfer of Ownership Right on Immovable Property, debts owed by the bankrupt hotel company "Fjord a.d." stood at DM286.638. The debts were owed on the basis of the loan arrangement totaling DM224,469 on 17 September 1998, Loan Agreement worth DM32,169 on 1 November 1999 and Foreign Currency Loan Agreement worth DM30,000 on 19 January 2000.

object, where the autocamp was located.⁵ Pursuant to the Fiduciary Agreement, the value of the property was estimated at DM479,659.

In 2005, the company "Alpha Invest" bought the hotel company "Fjord" for €2.3 million⁶ and became the owner of 94.6 percent of the share capital of the company.⁷ Damjan Hosta and Veselin Barovic, controversial Montenegrin businessmen close to the Montenegrin government, set up the company "Alpha Invest".⁸

Twenty days after the property was returned to the ownership of the said company, i.e. on 24 November 2005, the bankrupt hotel "Fjord" and the company "Tara Investments Montenegro" from Bar⁹ signed a property sales and purchase agreement. The subject of the sales and purchase agreement was a property of 7033 square meters and the price was of \$1.3 million.¹⁰ Under the Agreement the buyer was discharged of any obligations towards the staff of the Kotor-based company.¹¹



Company "Fjord" sold property to "Tara Investments" for €1.3 million

At the end of January 2010, the property was registered as being owned by the Kotor-based company "Tara Investments Montenegro" d.o.o, since in the meantime it changed its address.¹² According to the available

⁵ Cadastral parcels No. 1197, 1194, 1195/1, 1198, 1200/2, 1201/2 KO Dobrota I, which are registered in the list of immovable property No. 567 and 1590.

⁶ <http://www.vijesti.me/ekonomija/u-toku-sprovođenje-plana-reorganizacije-hotela-fjord-206401>

⁷ Audit Report on Financial Statements for 2006, on June 2007.

⁸ Data from the website of the Central Registry of Business Entities of Montenegro. Visited on 19 June 2015.

⁹ Company was registered on 21 November 2004. No data is available on the website of the Central Registry of Business Entities concerning the founders of the company, nor individuals who performed other functions in the said company. Last visited on 11 June 2015.

¹⁰ The price of the real estate from the Sales and Purchase Agreement stood at €1,300,000 on 24 November 2005.

¹¹ Property Sales and Purchase Agreement on 24 November 2005.

¹² According to the data of Central Registry of Business Entities on 23 September 2013, the company „Tara Investments Montenegro d.o.o.“ Kotor had the registered financial capital of €1,372,502.

data, the firm's founder was the company "Pareman Limited" from Nicosia, Cyprus¹³, whereas Branko Colovic¹⁴ was the CEO and authorized representative, better known as the lawyer of the controversial businessman Zoran Coca Becirovic.

Firma "Agneta Investments" was established in early February 2010 as a limited liability company in Nicosia, Cyprus, with a capital of one thousand euros. The company became a co-owner of real estate in the amount of 550 thousand euros.

IV: Real Estate Sold to the Company of Prime Minister's Nephew: At the end of September 2013, the company "Tara Investments Montenegro" sold half of the property at the autocamp site to the Cypriot company "Agneta Investments Limited" owned by Kolarevic, the nephew of the Montenegrin prime minister Milo Djukanovic.¹⁵ In early February 2010, the company "Agneta Investments" was established as the limited liability company in Nicosia, Cyprus, with the initial capital of €1,000.¹⁶ The company became a co-owner of the property¹⁷ for the sum of €550,000.¹⁸

Name	AGNETA INVESTMENTS LIMITED		
Reg. Number	HE 262076		
Type	Limited Company		
SubType	Private		
Name Status	Current Name		
Registration Date	05/02/2010		
Organisation Status	Active		
Status Date	Last Annual Return Date		
<input type="radio"/> Present <input checked="" type="radio"/> Previous <input type="radio"/> All Back Details			
Director			
EDIN KOLAREVIC			
Su, Petra Cetinjskog, 69		Date of Appointment:	05/02/2010
Podgorica, Montenegro, Μαυροβούνιο		Termination Date:	05/02/2010
		Last Date of Changes:	05/02/2010
		Country of Citizenship:	Μαυροβούνιο

Data from Cypriot Register show that Montenegrin company "Agneta Investments" is owned by Montenegrin prime minister's nephew

The Agreement contained a termination clause which was to take effect only if "Agneta Investments Limited", within 30 days from the date of registration in the list of immovable property, found another

¹³ The company was established on 30 July 2008, with the seed capital of €1,000. "Cymanco Services Limited" was listed as the shareholder of the company.

¹⁴ Data from the website of the Central Registry of Business Entities of Montenegro on 11 June 2015. The data in the register about authorized persons were changed on 17 November 2008.

¹⁵ Notarized Sales and Purchase Agreement number 1125/2013 on 23 September 2013.

¹⁶ Founding Certificate of "Agneta Investments Limited", Cyprus, on 8 February 2010.

¹⁷ Subject of the sale is the cadastral parcel 1197 KO Dobrota I, lot of 712 square meters, building, auxiliary building of 42 square meters with separate parts of the auxiliary building, registered in the immovable property list 567 KO Dobrota I, cadastral parcel 1194 KO Dobrota I, the forest area 1,075 square meters, two buildings on the same parcel, two buildings of 124 square meters and 40 square meters on the remainder of the parcel, with separate parts of the building; cadastral parcels 1195/1, forest area 1,564 square meters, cadastral parcels 1198, forest area 3,045 square meters; cadastral parcels 1200/2, lot of 323 square meters; cadastral parcel 1201/2, forest area 84 square meters, all registered in the list of immovable property 1590 KO Dobrota I.

¹⁸ Pursuant to the Sales and Purchase Agreement from 23 September 2013 the agreed price was €550,000.

buyer a sales and concluded sales and purchase agreement for the other half of the property for the sum which was not below €1.5 million. The approval for registration of co-ownership, i.e. joint ownership of the company "Agneta Investments Limited" was issued at the beginning of October 2013,¹⁹ which was registered in the Cadaster at the end of the same month.²⁰

In early July 2014, "Tara Investments Montenegro" approved the registration of all the assets as being owned by the company "Agneta Investments Limited", based on the sales and purchase agreement signed on 23 April 2014.²¹ At the same time, "Agneta Investments Limited" agreed to transfer funds in the amount of two million euros to the account of the seller "Tara Investments Montenegro".²²

At the end of October 2014, the company "Agneta Investments Limited" Cyprus established a limited liability company "MD Enterprise d.o.o." Kotor²³ to which it transferred its value determined in the amount of nearly four million euros.²⁴ The values of the company includes the property on the autocamp site, and several residential properties in Dobrota, also in the municipality of Kotor.²⁵

Prices of real estate on autocamp site in the village Dobrota over years	
Year 2000	DM 479.659
Year 2005	€1.300.000
Year 2014	€3.995.130

Table 1: Value of property over years

V: Exchange of Properties between Kolarevic's Company and Municipality of Kotor: In mid-November 2014, the Municipal Assembly of Kotor adopted the Decision on the Property Exchange for the Purpose of Rounding up Cadastral Parcel 1080 KO Dobrota I.²⁶ Being a holder of the right to use, the Municipality exchanged its parcels worth €168,000 for parcels in the ownership of "MD Enterprise", which were estimated at approximately €240,000. At the same time, the company "MD Enterprise" undertook to build a road, while the Municipality of Kotor took on the obligation to pay the difference in market value related to the properties that were exchanged, for a total of €71,300.

¹⁹ Notarized document No. 1174/2013 on 1 October 2013.

²⁰ Decision of the Real Estate Administration of Kotor District, No. 954-106-U-2537/13 on 23 October 2013.

²¹ NGO MANS does not have access to the Sales and Purchase Agreement signed on 23 April 2014.

²² Registration approval No. 769/2014 on 3 July 2014.

²³ Decision on Setting up Limited Liability Company No.1139/2014 on 20 October 2014;According to the latest update in the Central Registry of Business Entities of Montenegro, the founder is the company "Serzman Incorporated d.o.o." Kotor, Nadira Malesevic is the CEO, and Tanja Kovacevic is the authorized representative; founder and authorized representative of the company "Serzman Incorporated d.o.o." Kotor is Slavko Vujovic, who has been known to the public as the former CEO of the company "Sublime Developments d.o.o." Podgorica under the ownership of Edin Kolarevic.

²⁴ Value of property registered in the list of immovable property No. 567 and 1590 KO Dobrota I, Municipality of Kotor, was estimated at €3,995,130.

²⁵ Company "Agneta Investments Limited" owns three residential properties on the cadaster parcel No. 1887 KO Dobrota I, Municipality of Kotor, worth €574,500.

²⁶ Decision on property exchange for the purpose of rounding up cadastral parcel on 14 November 2014.

1600.

Na osnovu člana 6. i člana 40 stav 2. tačke 3. Zakona o državnoj imovini ("Sl.list CG" br. 21/09), člana 561. i 562. Zakona o obligacionim odnosima ("Sl.list CG" br. 47/08, 4/11) i člana 16. stav 2. i člana 30. Statuta Opštine Kotor ("Sl. list Opštine Kotor" br. 3/04 i "Sl. list CG-Opštinski propisi" br. 17/08 i 31/09, 40/10 i 4/11), Skupština opštine Kotor na sjednici održanoj 14. 11. 2014. godine donijela je

ODLUKU

o razmjeni nepokretnosti radi dopunjevanja urbanističke parcele

Član 1

Opština Kotor, kao nosilac prava korišćenja na nepokretnosti, označenoj kao kat. parc.1196 u površini od 354 m² i kat. parc.1199 u površini od 55 m² sve K. O. Dobrota I, po izvodu iz Lista nepokretnosti br. 268 Uprave za nekretnine CG, PJ Kotor, čija procijenjena tržišna vrijednost iznosi 412,32 €/m² odnosno ukupno 168.638,88 eura.

"MD Enterprise" DOO Kotor, Dobrota Autokamp BB, kao nosilac prava korišćenja na nepokretnosti označenoj kao dio kat. parc.1195/1 površina 386 m² i kat.par. 1194 u površini od 196 m² sve K.O. Dobrota I, LN 1590, čija procijenjena tržišna vrijednost iznosi 412,32 €/m² odnosno ukupno 239.970,24 eura.

Excerpt from Decision on Property Exchange

The Municipality of Kotor referred to the Law on State Property²⁷ and the Law on Obligations,²⁸ so it is highly controversial that the Agreement under which the right of ownership of the exchanged parcels was transferred, although both parties have the right to use the property, but did not have the ownership right, which is why they referred to the Law on Obligations, which provides the possibility to transfer the ownership rights on the basis of the agreement on exchange.

Furthermore, the Law on State Property stipulates that things and other goods at the disposal of the State or the Municipality may be exchanged by mutually applying principles of equal values of mutual giving, if it is in the interest of activities performed by state and municipal bodies and public service.²⁹ In the given case it is not in the interest of the Municipality to exchange the property, but it is a concession the Municipality of Kotor made to the company "MD Enterprise".

The Agreement on Exchange of the Property was signed on 9 December 2014.³⁰

VI: Complaint against "Tara Investments Montenegro":

The available data show that in late November 2010, Vedrana Kelleher from Dubrovnik filed a complaint worth €100,000 against the Kotor-based companies "Kilroy Investments d.o.o."³¹ and "Tara Investments Montenegro d.o.o."

dokumenta. U slučaju da navedena dokumentacija nije pravilno sastavljena ili da je neophodno da se dostavi još neka dokumentacija za prenos udjela, a koju može da obezbijedi jedino tužilja kao registrovani vlasnik udjela, dužna je da je odmah i bez odlaganja obezbijedi i dostavi Kilroy Investments d.o.o. kako bi se u najkraćem toku izvršio prenos udjela na Anu Kolarević iz Podgorice.

Court Files show Ana Djukanovic's involvement in the case

²⁷ Article 40, paragraph 2, item 3, Law on State Property (Official Gazette of Montenegro 21/09) "The sale of things and other goods in state property may be performed by direct agreement in following cases: When an owner of cadastral parcel is obliged to bear changes of borders of urban parcel pursuant to an allotment plan (rounding up of an urban parcel).

²⁸ Law on Obligations of Montenegro (Official Gazette of Montenegro 47/08, 4/11): "By a contract of exchange each contracting party shall assume a duty to the other contracting party to transfer the ownership of an object and to deliver it to him for that purpose. The subject of exchange may also be transferrable rights"; whereas Article 562 reads that: "A contract of exchange shall create for each contracting party the obligations and the rights otherwise created for a seller by the contract of sale."

²⁹ Article 31 Law on State Surveying and Cadaster of Immovable Property of Montenegro (Official Gazette of the Republic of Montenegro 32/11).

³⁰ Agreement on Property Exchange on 9 December 2014.

³¹ The company was founded on 5 June 2006, offering short-stay accommodation; authorized representative and CEO is Edi Krivokapic; Information about the first founder are not available on the website of the Central Registry of Business Entities, while according to the latest update the company's founder is Derry James Kilroy; last visited on 11 June 2015.

The complaint stated that at the beginning of December 2005, Vedrana Kelleher and her husband Kieran Kelleher signed the Partnership Agreement with Lucy-Jane and Derry Kilroy. This Agreement stipulated their partnership relations in the field of real estate transactions and investments. They were buying and selling properties, setting up different companies and concluding various business deals. One business deal pertained to buying and selling the autocamp. The buyer of the subject property was the company "Tara Investments Montenegro", founded by the company "Pareman Limited" from Nicosia, in which the complainant Vedrana Kelleher had a share of five per cent as the co-owner, but her co-ownership of the property was not incorporated in the title deeds.

Due to the complaint in question, a temporary restraint was imposed on using, burdening and alienating properties³² that were registered as being owned by "Kilroy Investments"³³ and "Tara Investments Montenegro".³⁴ The same was registered in the cadastral register at the end of November 2010,³⁵ while the temporary measure on restraining using, alienating and burdening properties³⁶ was registered in the Cadaster at the end of December of the same year.³⁷

However, in early May 2012, the parties agreed the settlement when the complainant was paid €750,000, and was required to immediately give a share of five per cent to the company "Pareman limited" to Ana Kolarevic (today Djukanovic), a sister of prime minister Milo Djukanovic. The Agreement strictly stated that Vedrana Kelleher was the owner of the company only on paper.³⁸

VII: Ministry Issued Urban Planning Requirements for Construction of Holiday Resort: At the end of October 2013, the Ministry of Sustainable Development and Tourism issued urban planning requirements for construction of a tourist complex on the autocamp site.³⁹ A number of 300 bed places for tourist in the buildings with at least 30 per cent of accommodation capacity is allowed, while 70 per cent of the accommodation should be provided in villas. Maximum number of floors of any building is basement + ground floor + 2 floors + attic.

Earlier, in July 2013, the planning document for this area⁴⁰ was changed, thus allowing construction of a tourist complex with the occupancy rate of 35 percent and index of construction of 1.4 percent.

Furthermore, in late January 2014, the Directorate for Protection of Cultural Property issued conservation requirements for the construction of the tourist complex at the location in question.⁴¹ According to the above-mentioned conditions the minimum allowed building parameters were prescribed in terms of height and footprint of a building, construction of a series of smaller buildings consisting only of the ground floor, then tree preservation and construction in the space between trees. These buildings are in the natural, cultural and historical area of Kotor, which is included in the World Heritage List. Also, in early June of the same year, the Environmental Protection Agency approved the Environmental Impact Assessment for the purpose of building a tourist complex Dobrota Palazzi & Spa Resort.⁴²

IX: Ministry Issues Building License: In the first part of 2015 the Ministry of Tourism and Sustainable Development stopped the procedure of issuing the building license for the construction of the tourist

³² Judgment of the Basic Court Kotor, No. 1406/10 on 22 November 2010.

³³ List of immovable property No. 545 in KO Kavac.

³⁴ List of immovable property 1590 and 567 in KO Dobrota I, Municipality of Kotor.

³⁵ Decision of the Real Estate Administration of Kotor District, No. 954-106-2673/2010 on 23 November 2010.

³⁶ Ruling of the Basic Court Kotor, No. P. 1406/10/10 on 14 December 2010.

³⁷ Decision of the Real Estate Administration of Kotor District, No. 954-106-2850/10 on 20 December 2010.

³⁸ Ruling of the Basic Court in Kotor No. P. 1406/10/10 on 7 May 2012.

³⁹ Urban Planning and Technical Requirements No. 04-1865/1-13 on 25 October 2013.

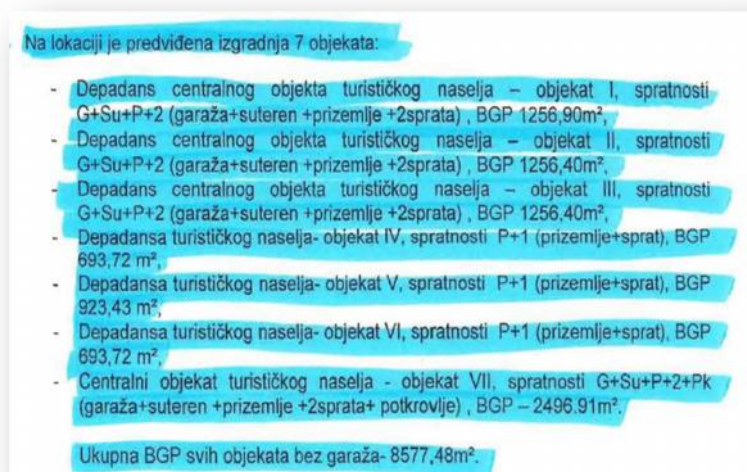
⁴⁰ Decision on adopting amendments to the Detailed Spatial Plan "Dobrota" No. 11-9612 on 9 July 2013.

⁴¹ Decision on Conservation Requirements of the Directorate for Protection of Cultural Property No. UP/I-05-108/2013-4 on 28 January 2014.

⁴² Decision by the Environmental Protection Agency No. 02-UPI-419/21 on 10 June 2014.

complex at the autocamp location, on the grounds that the company "MD Enterprise" had not paid the fee for the construction of regional water supply system in the municipalities on the Montenegrin coast.⁴³

Only 11 days after refusing to grant the building license the Ministry adopted a decision to issue building licenses for four-star holiday facilities.⁴⁴



Construction of seven buildings, out of which three has garage + basement + ground floor + 2 floors envisaged as annexes to the main building of the holiday village, three buildings with ground floor+ one floor envisaged as the annex building in the holiday village and the main building garage + basement + ground floor + 2 floors + attic. The gross floor area of all buildings without garages was 8,577.48 square meters.

X: Beginning Construction Works: In late March 2015, after issuing the building license, clearing of the autocamp site in the village of Dobrota commenced. Namely, at the end of June 2015, in the official letter to the NGO MANS, Environmental Protection Inspection stated that the preparatory works such as cutting trees, clearing the terrain, temporary fencing and installation of building board, were carried out.⁴⁵

It is symptomatic that the amendments to the Law on Spatial Development and Construction of Structures as of July 2013 changed the part referring to the buildings of national significance. Namely, among other things, the category of objects of general interest included four and five-star hotels (except apart hotels, condo hotels and garni hotels), hotel resorts, small hotels, boutique hotels, holiday villages and wild beauty resorts with four and five stars, eco-lodges and ethno villages.⁴⁶ The same amendments to the Law stated that an investor who built the building of national interest was exempted from paying utility equipment on the property.⁴⁷ The Ministry of Sustainable Development and Tourism found that the luxury tourist resort in question built by Edin Kolarevic at the site of a former autocamp Dobrota, was a building of national interest, and as such he was exempted from paying the fee for utility equipment on the construction site.⁴⁸

⁴³ Conclusion by the Ministry of Sustainable Development and Tourism No. UPI 0503-71/5 on 20 March 2015.

⁴⁴ Decision of the Ministry of Sustainable Development and Tourism No. UPI 0503-71/9 on 31 March 2015.

⁴⁵ Notification No. P-0401/2015-3093/3 on 24 June 2015.

⁴⁶ Article 7, paragraph 2, Law on Amendments to the Law on Spatial Development and Construction of Structures (Official Gazette of Montenegro 35/13).

⁴⁷ Article 66 of the Law on Amendments to the Law on Spatial Development and Construction of Structures (Official Gazette of Montenegro 35/13)

⁴⁸ Response from the Agency for Spatial Planning and Construction of Kotor No. 02-3116/1 on 1 July 2015.

Author: MANS Investigation Center
Podgorica, December 2015