



PRESS RELEASE

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Audit of Agrokomerc ordered by the Human Rights Chamber completed

The Human Rights Chamber has received from the Foundation OdRaz - Project PTAC which implements a World Bank credit for technical assistance in privatization, the final Report concerning the forensic audit of the ownership structure of Agrokomerc d.d.. This audit was ordered in the Chamber's decision on admissibility and merits of 8 March 2003 in cases no. CH/00/5134, CH/00/5136, CH/00/5138 and CH/01/7668, *Škrgić, Ćerimović, Murtić and the Association for the Protection of Unemployed Shareholders of Agrokomerc v. the Federation of Bosnia and Herzegovina*. The auditor, Deloitte & Touche from the Czech Republic, has determined that about 9.67 percent of the capital of Agrokomerc d.d. is privately owned, the rest being state-owned capital. The Chamber now expects the authorities of the Federation to take all necessary action to ensure that the results of the audit are properly and speedily implemented, including causing the new ownership structure of Agrokomerc to be properly registered, causing individual share certificates to be issued to each applicant in accordance with the Law on Securities of the Federation, and causing a general meeting of the assembly of shareholders to be convened in accordance with the law.

Factual Background

The case before the Chamber concerned the applicants' failed attempts to gain recognition of their claimed rights as shareholders of the Agrokomerc joint-stock company.

The applicants Muhamed Škrgić, Raska Ćerimović and Fikret Murtić and the members of the Association for the Protection of Unemployed Shareholders of Agrokomerc were employed by the company Agrokomerc in Velika Kladuša. All of them claim to hold shares in the company which they acquired during the period of 1991 until 1994 under the so-called "Marković scheme" for privatisation. The applicants allege that they acquired such shares as partial payment for salaries and on other grounds.

The applicants complain that they have been denied their rights to take part in the decision-making process of Agrokomerc and to exercise other shareholder rights from 1994 until the present day. In addition, on 17 July 1997 the Assembly of the Una-Sana Canton issued a decision that "establishes a list of enterprises in the area of the Una-Sana Canton over which the powers and obligations of the owner on the basis of state capital are performed by the Government of the Canton". The parties seem to interpret this decision as declaring Agrokomerc to be exclusively state-owned. Based upon a conclusion of approval by the Agency for Privatisation of the Federation, on 7 March 2001 Revsar, a company for auditing and consulting in Sarajevo, issued a decision on the results of its renewed audit regarding the transformed ownership of Agrokomerc. In the renewed audit, Revsar concluded that the registered internal share capital was not properly and effectively formed; therefore, Revsar completely cancelled it on behalf of state capital in the auditing process. The applicants challenge the validity of both these decisions, and any other official acts which deprive them of their rights as shareholders of Agrokomerc.

The Chamber's decision on admissibility and merits

In the decision on admissibility and merits of 8 March 2003, the Chamber concluded that the applicants acquired protected "possessions" in their paid internal shares in Agrokomerc for which payment was made on the basis of: a) permanent deposits; b) allocations of parts of salaries, either on a monthly basis during the period of 1991 to 1994, or on an annual basis for 1992; and c) distribution of profits for 1992 in proportion to the amount of paid internal shares. The decision on

the results of the renewed Revsar audit of 7 March 2001, which cancelled all internal shares in favour of state capital in Agrokomerc, deprived the applicants of these protected possessions. In addition, by exercising effective exclusive control over the management of Agrokomerc, the authorities of the Federation further interfered with the rights of the applicants to participate in the management and to share in the profits of Agrokomerc in relation to their paid internal shares. In these respects the Federation did not act "subject to the conditions provided by law". Consequently, the Chamber concluded that the Federation has violated the rights of the applicants protected by Article 1 of Protocol No. 1 to the Convention.

Remedies

The Chamber fashioned a remedy that allows the applicants to regain ownership over their paid internal shares and to exercise the management and participation rights that naturally and legally flow from these shares. Consequently, the Chamber has made the following orders to the Federation of Bosnia and Herzegovina: a) to take all necessary steps to recognise the applicants as holders of internal shares in relation to the amount of their paid internal shares in Agrokomerc and to enable the applicants to exercise the management rights connected to these shares, as described in this decision; b) at its own expense, to employ internationally recognised auditors, in strict compliance with best practice procurement rules for international tenders, to undertake a forensic audit to determine the complete present ownership structure of Agrokomerc, in accordance with the Chamber's decision and in compliance with International Accounting Standards and International Auditing Standards; c) upon completion of the forensic audit, to take all necessary action to ensure that the results of the audit are properly and speedily implemented, including causing the new ownership structure of Agrokomerc to be properly registered, causing individual share certificates to be issued to each applicant in accordance with the Law on Securities of the Federation, and causing a general meeting of the assembly of shareholders to be convened in accordance with the law and at the latest within three months from the delivery of the results of the forensic audit. In addition, the Chamber issued several conclusions as interim measures which allow the applicants the opportunity to participate in the management of Agrokomerc until the delivery of the results of the forensic audit. The Chamber rejected the applicants' claims for compensation for pecuniary damages.

Note: The Chamber will not distribute copies of the auditor's report.