

Prosecutors Drag out Bankruptcy Investigations Fraud

Three and half years ago, workers and small shareholders of a Prnjavor bakery, Mlinpek asked prosecutors to investigate director Miladin Stanić and 20 other people accusing them of deliberately bankrupting the company as a way to take over company assets.

The request went to the Banja Luka District Prosecutor's Office and then to the Special Prosecutor's Office of Republika Srpska (RS), which still did not conclude the investigation.

This case is one of many in which workers have supplied information to the judiciary alleging planned destruction of their companies following privatization. However, no indictment has ever been filed.

Bankruptcy proceeding are initiated at court as a way for creditors to recover their claims against failing firms. The court assigns a bankruptcy judge who then appoints a trustee. His job is to list inventory and manages the selling of company assets.



Siniša Božić, an economist from Banja Luka, said that small shareholders do not trust the judiciary to protect their interests.

Photo by CIN

Official statistics on the number of companies that have gone bankrupt following privatization do not exist. But the Center for Investigative Reporting in Sarajevo (CIN), looking at data from the Association of the BiH Trustees and records published

in official gazettes, found out that bankruptcy proceedings have been initiated for 2,400 companies since 2000. Nearly 1,900 cases have been resolved and most companies were liquidated.

Siniša Božić, an economist from Banja Luka and a consultant to the RS Association of Minority Shareholders, said that small shareholders do not trust the judiciary to protect their interests.

Engineered Bankruptcy

The Mlinpek was incorporated in 2000 and the RS Privatization Agency approved its taking over a local Prnjavor bakery run formerly by the government-owned Banja Luka Žitoprodukt.

Stanić, former manager of the branch, was appointed director. He also owns Bisprom, a firm that sells agricultural products.

Slavko Segić, president of Mlinpek's association of minority shareholders, said Stanić supplied Mlinpek exclusively through his own firm until enough bills had been rung up that Mlinpek could not pay back its debts. Bisprom initiated bankruptcy proceedings to pay the debt, in November 2006.

Radovan Milaković, a bankruptcy judge from the Banja Luka Basic Court, appointed Milan Kovačević as a trustee. In March 2007, Kovačević created a reorganization plan that allowed Bisprom to convert more than 500,000 KM in claims for Mlinpek's shares. The RS government approved.

Before the reorganization, Stanić held 1.4 percent of shares in the company, and after he became the majority owner with 53 percent. The share for workers and other minority shareholders fell from 62 percent to 29.5 percent.



Nebojša Jugović of the RS Small Shareholder Association said that Mlinpek was a typical example of the legalization of privatization robbery through bankruptcy.

Photo by CIN

Two months later, those workers and minority shareholders asked Kovačević to stop the bankruptcy proceedings and proposed in a letter mailed to the court to pay the claims themselves. The judge said he could not recall receiving such a proposal.

Because they got no answer from the judge, 4,500 association members filed a complaint in March 2008 against Stanić and 20 others, demanding an investigation into the engineered bankruptcy and illegal takeover of the company. The 20 suspects include Nedeljko Milijević, head of the former Financial Department of Banja Luka Basic Court, and trustee Kovačević.

Stanić, currently a Serb Democratic Party representative in the RS National Assembly, denied the workers' charges for engineering the bankruptcy to CIN reporters.

'Workers are free to write a criminal complaint, that's their right' he said.

Nebojša Jugović, head of the Association of minority shareholders in RS said that Mlinpek 'is a typical example of the legalization of privatization robbery through bankruptcy.'

Judge Milaković said: 'I am convinced that the biggest number of bankruptcies arrived as a consequence of some illegal actions, aware or unaware.' He said it was up to prosecutors not judges to look into the reasons for bankruptcies.

Investigation Takes a Long Time but No Indictment

Unlike Mlinpek, bankruptcy proceedings in the case of the Tuzla construction company Integra Engineering resulted from action by the workers themselves there. They did this in June 2004 in an attempt to reclaim salary money they did not receive in 2001 and 2002.

Tuzla Municipal judge Milan Godžirov got the case. After it was established that the firm could cover its debts by selling its assets, Salih Fajić, a Tuzla economist, was appointed trustee.

In April 2005, creditors on their first meeting formed the Board of Creditors which was made of Integra workers Senaid Pirić and Pašan Mujkanović, lawyer Vesna Jugović who represented a retail seller Stupine, and the representatives of Tuzlanska Bank and Tax Authority.



Former workers of Integra have been waiting for more than three years for Tuzla Canton Prosecutor's Office to wind up its investigation after the criminal complaint they had lodged.

Photo by CIN

The Assembly decided to liquidate the company. Yet, only some pieces of property were sold at the time.

Six months later Jugović left the board and Godžirov appointed Nihad Džibrić, an employee of Tuzla Tehnograd Company. He also appointed another two board members in a similar way in 2007.

Džibrić's Tehnograd company tried to take over Integra Inžinjeri without auction and by offering a minimum price so that his membership on the board meant one more person to oppose an auction sale. Bankruptcy proceedings for Integra are pending.

On Feb. 15, 2007, Godžirov informed the board that Tehnograd offered to buy from Integra 5,843 square meters of construction land located in Slavinovići near Tuzla. The board decided that the proposal was serious and Fajić added that he had already hired an assessor to estimate the land's value.

According to the Bankruptcy Law, the first and mandatory step is the sale of assets at a public auction. If no one shows up

or bids the trustee and the board may then sell the firm's assets based on the sole-source proposal.

Four days later, Fajić presented the board with the estimate of the assessor – 176,657 KM. Minutes of the board make no mention of it, but Mujkanović said that he objected that the price was too low.

The board decided to sell the land to Tehnograd if within five days no one came up with the same or similar offer. Mujkanović said that he informed three firms which then showed interest in the land as well. Seven days later, the board published notice of a sale, but only on the court's notice board.

At an auction on Aug. 30, 2007, five companies participated and Tehnograd won after offering a bit more than 1.9 million KM. Tehnograd was late paying, however so the land was awarded to the second-ranking bidder a Tuzla Tom – Cat company which immediately paid and bought the land.

Unhappy workers appealed to the Tuzla cantonal court which ruled in December 2010, that three board members were appointed illegally and that the bankruptcy had been conducted without proper oversight.

In August 2008 the workers submitted a criminal complaint charging Godžirov, Fajić and Pirić, with abuse of office, but three years later the Prosecutor's Office of Tuzla Canton has not completed its investigation.

Workers collected the debt for pensions and social insurance in 2009, but they are still owed 696,557 KM in salaries and severances.

Godžirov said the board, not he, decided about selling the land. He called the criminal complaint just a way to pressure the court. The two board members declined to comment.

In May 2011, the High Judicial and Prosecutorial Council of

BiH started disciplinary proceedings and suspended Godžirov but would not tell CIN why. On Aug.15, Godžirov resigned as a Municipal judge and proceedings against him stopped.

Shares for Goods

Workers and minority shareholders of a Prnjavor trading company Promet managed to change the old management in order to prevent further indebtedness and collapse of their company, but they were not able to reclaim the shares that had been sold for peanuts to a man who, they said, tried to fraudulently take the company over.

In April 2007, Promet's director Nebojša Jugović filed a criminal complaint with the Banja Luka District Court against Petar Dušanić, the company's biggest shareholder and a co-owner of Dušanić Company. The charge was on a count of fraud. The prosecutors say that they are still collecting evidence about this case.

The workers said that they sold Dušanić shares for as much as a third of their value. He paid them in money, construction material and other goods.



Biljana Novak, president of Tuzla municipal court, said that only the High Judicial and Prosecutorial Council of BiH has the authority to initiate proceedings against judges.

Photo by CIN

Apart from the contracts, the workers signed powers-of-attorney to Dušanić so that he could sell the shares in their name. They say that they did not know that this trading was illegal and that they accepted the offer because of the dire economic situation. According to the law, the shares can only be sold on a stock exchange. This is why Dušanić was unable to register the shares as his.

Dušanić denied that he was buying shares outside of the stock exchange. He told CIN: 'People bought the goods with us on the

agreement that they would pay the goods to Dušanić Company when they cashed in their shares via the stock exchange.'

At the end of August 2002, the RS Securities Commission ordered Dušanić to stop purchasing shares outside of the exchange and the commission declared all contracts null and void.

However, in October 2003, Dušanić bought on a public auction 22.7 percent of the state share in Promet for 240,000 KM. Then he called the shareholders' assembly and he used the workers' powers-of-attorney to increase the number of votes in the Assembly, according to the criminal complaint.

With a total of 34.85 percent of shares he appointed loyal people to top positions in Promet.

The president of the Assembly became Blagoje Milutinović, director of a Prnjavor firm Metalka, and the heads of the management: Čedo Radonjić, a veteran worker of Promet, Goran Avlijaš and Gostimir Ivanković. Avlijaš was the head of the board in a Banja Luka Konzum, and Ivanković was assistant to the director of a Banje Luka Metal firm. In both of these companies Dušanić was the biggest shareholder.

Borislav Vasić, the head of Dušanić Company accountancy, was appointed the head of the Supervisory Board with members Slobodan Milaković, the head of Metal's Commercial Division and Stevo Trivalić, Promet worker.

During the following three years Promet procured construction materials and goods from Dušanić Company. They also concluded two contracts on joint investments at the expense of Promet, according to the complaint.

The internal audit reports for 2004 and 2005, state that Promet procured goods from Dušanić without the signed bills of sale and that it was not possible to establish if the goods have ever been delivered.

By 2006, all Promet's accounts were blocked because of 950,000 KM in unpaid tax obligations, while the debt to Dušanić Company amounted to 700,000 KM.

In October that year, the management accepted the report that stated that firm had no economic and financial basis for successful business conduct.

In November 2006, fearing that Dušanić could take the company into bankruptcy, the minority shareholders joined forces with the representatives of the Pension Fund and the other state-owned shareholder to oust senior management and appoint new boards.

Small shareholder and Promet workers say that they are trying to pay off the company's debts and repair the harm. So far they've sent two urgent notices to prosecutors hoping to speed up the investigation and they are preparing a third.