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## **The Pantovčak\* rewarded him: Instead of facing prosecution, the Director of the Office responsible for monitoring ZAMP was promoted!**

[\* *Note: Pantovčak = the Office of the Croatian President*]

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The State Intellectual Property Office (SIPO) is the administrative body which is responsible for monitoring the operations of the Croatian Composers' Society (HDS) and, likewise, its professional royalty collecting service ZAMP. However, the recent handover of responsibility for the supervision of the SIPO from the Ministry of the Economy to the Ministry of Science has revealed that for years the operations of that Office have not been subject to any proper supervision.

The fact is that until December last year, the government department responsible for intellectual property rights - and thus in charge of the supervision of the SIPO - was the Ministry of the Economy, Labor and Entrepreneurship. However, following the formation of the new Government [*under Prime Minister Zoran Milanović*], this competence was transferred to the Ministry of Science, Education and Sports led by Željko Jovanović.

### **The Office which should monitor ZAMP was itself without oversight**

As "Index" learned, a meeting was held last month at the Ministry of Economy. In addition to representatives of the two aforementioned Ministries, this meeting was also attended by a former employee of the SIPO, Vesna Stilin, who once again, on the occasion of the transfer of competence, endeavoured to draw attention to the many irregularities in the operations of the SIPO, in particular concerning the actions of its Director, and to remind the other participants of the circumstances of her case in which she was dismissed from the position of Assistant Director for Copyright and Related Rights at the SIPO.

The meeting only served to confirm that for years now, the Office has effectively been under the autocratic rule of Mr. Topić and a small clique of his "minions". The former government appears to have turned a blind eye to everything going on at the Office.

We would like to remind our readers that the highly controversial SIPO Director, Mr. Željko Topić, previously replied to a query from the Ministry of Finance as to whether certain business operations of ZAMP had in fact been carried out by a private company Emporion. At that time, Topić claimed that everything had been done by the book.

However, according to the latest document which "Index" is in possession of, it is clear that the Government, whether intentionally or not, has for years avoided any involvement with what was going on at the SIPO and never bothered to conduct an administrative audit of SIPO's work and operations.

Instead of looking into the "ZAMP case" and investigating a series of charges against Mr. Topić, the official SIPO website published a news item reporting that Mr. Topić had been appointed to the position of Vice-President of the European Patent Office, and that he was leaving the SIPO! It would appear that Mr. Topić can thank "Croatian diplomacy" for his promotion which has been mostly orchestrated - as you might have guessed - by the President's office.

### **A new car for the minister**

But let's get back to the handover. The official minutes of the meeting confirm that no member of the HDZ Government responded adequately to the various allegations of bribery, embezzlement of budgetary funds, irregularities concerning the internal organization of SIPO or the wrongful dismissal of Vesna Stilin. The meeting was attended by Sandro Mustafagić and Darinka Vedrina from the Ministry of Economy and Lean Salamunić Džaja from the Ministry of Science, Education and Sports.

Ms. Stilin once again drew the attention of the representatives of the two Ministries to irregularities in the internal organization of the SIPO, implemented in a covert manner by the SIPO Director [*i.e.* Topić], and the inadequate response of the Ministry of Science on the occasion of her dismissal. Ms. Stilin was dismissed from her duties in 2008. At that time, the Ministry of Science, led by Mr. Dragan Primorac, was responsible for the SIPO. According to Ms. Stilin, her dismissal was carried out with the approval of the Ministry of Science because the SIPO director Mr. Topić was using funds from the SIPO budget to pay for a new Audi 6 for the Ministry of Science which was used by the Minister Primorac.

Topić was paying some 20 thousand HRK to the Ministry of Science every month. At the same time, it was the responsibility of that particular Ministry to propose to the Government the appointment and the dismissal of the SIPO Director. Under such circumstances, transactions of this kind effectively constitute the giving and receiving of bribes.

### **Embezzlement of budgetary funds, stealing computers and favoritism**

The competent Ministries have never specifically addressed the fact that an inspection carried out by the Ministry of Finance in 2008 identified financial wrongdoings on the part of the SIPO Director, Mr. Topić. A budgetary inspection at that time found that he first tried to embezzle 7.5 million HRK and then 9.7 million HRK. Under threat of foreclosure, the SIPO was required to make an immediate reimbursement of these funds to the State budget account. Sanctions were never imposed for these breaches of the regulations, although the Budget Law specifically prescribes what is to be done in such cases.

Neither was anything ever done about the fact that, whether intentionally or not, Mr. Topić effectively colluded in the cover-up of a criminal act by his predecessor, the first SIPO Director Mr. Nikola Kopčić, namely the theft of a computer from the SIPO. Furthermore, Mr. Topić never adopted the Regulation on Protection of Classified Information, which should have been implemented at a state institution such as the SIPO from the very beginning. The former SIPO Director [*i.e.* Kopčić] had at the same time been registered as a professional representative with the SIPO contrary to the applicable official regulations and the computer was a key piece of evidence that he had access to the official SIPO databases and, thus, unauthorised access to classified information. However, following the disappearance of the computer, no action was taken.

In this way, over a period of years FORINPRO Ltd., a private company, owned by the former SIPO Director, Mr. Nikola Kopčić, managed to avoid paying the costs of searches in the aforementioned SIPO databases thereby causing financial damage to the SIPO and, likewise, to the State budget. Mr. Topić did nothing until a year and a half after the event and by then it was too late for the police to trace the perpetrators of the theft, despite the 38 cameras and two security guards at the entrance to the SIPO.

Topić was also under obligation as a matter of official duty to initiate administrative proceedings to revoke the registration of FORINPRO in the SIPO Register because the owner of the company and former SIPO Director, Mr. Kopčić had been indicted and sentenced in consequence of the disputed registration which amounted to a criminal offence. Topić never took any action to revoke the registration despite a written reminder and a request from two members of the executive committee of the Croatian branch of the International Society for the Protection of Industrial Property (AIPPI).

Although these matters, supported by relevant documentation, have managed to find their way into public awareness, they have for the most part been ignored by the competent official authorities.

### **The circumstances of Stilin's dismissal**

A particular issue here is the manner in which Vesna Stilin was dismissed from SIPO.

Stilin's dismissal which was issued with retroactive effect from 10 April 2008, was delivered to her on 24 April. During the period from 14 to 18 April, she was on annual leave which had been previously approved by Topić. Stilin had never received any prior notification of his intention to dismiss her. As confirmed by official records, during the period when she was on leave Topić ordered all of her effects, including those in locked cabinets, to be removed from her office and he allocated a room at the Ministry of Economy for her use, so that upon returning from 'holiday' she no longer had any office to go back to [*at the SIPO*].

According to the minutes of the meeting held at the Ministry of Economy:

*"After receiving the decision concerning her dismissal, in May 2008 Ms. Stilin filed an appeal with the Administrative Court which, in September 2008, decided that the Government was entitled to make a discretionary decision. However, it omitted to examine the question as to whether when taking its decision the Government had relied upon the relevant legal provisions which would have given it the right to make such a discretionary decision and which it had not invoked despite the obligation to do so; and why there was no mention of other relevant reasons and circumstances, such as, why other Assistant Directors, who, in accordance with the decision of Mr. Topić in January 2008 received their mandates from the Government, and like Ms. Stilin, were dismissed by the Government but much later than her, i.e. following the enactment of the Ordinance on the Internal Order of the SIPO which included the relevant classification of jobs, whereas Ms. Stilin was dismissed after the adoption of the Regulation on the Internal Organisation of the SIPO and thus contrary to the prescribed procedure. The Croatian Constitutional Court does not, as a rule, examine whether the previous administrative instances and courts have established the facts of the case correctly and completely. Such a practice was adopted in this case, which is why Ms. Stilin filed a complaint with the European Court of Human Rights".*

## **Neither Sanader nor Kosor**

As we have also learned, Stilin only discovered later on that the SIPO Director, Mr. Topić, had sent an additional submission concerning her dismissal to the Government. This submission contained a series of unfounded allegations about her, in particular in relation to the Public Lending Right, a significant new right for writers, which was her area of special expertise at the SIPO. Topić kept this submission secret, and Ms. Stilin only received a copy of it from the Croatian Government by chance whereupon she initiated criminal proceedings for defamation against Topić which are still ongoing.

In April 2009, Ms. Stilin sent a request to the Government asking for the annulment of the decision to dismiss her, following which Mr. Sanader and his successor as Prime Minister, Jadranka Kosor, requested the Ministry of the Economy to solve the problem with the SIPO Director, Mr. Topić, on three separate occasions. However, Ministry of Economy has so far failed to respond, and each time they indicated they were awaiting the decision of the Constitutional Court, which, according to Stilin, related to an entirely different matter.

The lawsuit originally filed with the Administrative Court in May 2008 which then went to the Constitutional Court whose decision the Ministry of the Economy claimed to be waiting for, is now before the European Court of Human Rights in Strasbourg and is a completely separate case from Stilin's request for the annulment of her dismissal.

According to the minutes of the meeting:

*"Stilin recalled that she also filed a request for mediation with the Municipal State Attorney's Office. This is a step preceding a civil lawsuit, and was pursued because in the three years following the dismissal, the Ministry of the Economy failed to conduct an administrative audit of the SIPO as confirmed in writing by the Ministry in November 2010 and in August 2011."*