ATP VOJVODINA AD NOVI SAD
1a Put novosadskog partizanskog odreda
21000 Novi Sad
In connection with: the Litigation with the City of Novi Sad-P.br. P-1327/2015 and P-191/2016
TO MANAGING DIRECTOR, STEERING COMMITTEE, SUPERVISOR COMMITTEE AND COMMITTEE OF TRUSTEES

I, Ilija Dević, investor, shareholder and trustee of *ATP Vojvodina* am warning you that you are significantly reducing the bankruptcy estate of the debtor *ATP Vojvodina*. In the court case relating damage compensation number P-1327/2015 and P-191/2016 which are conducted at the Commercial Court in Novi Sad I have the process role of intervener on the side of the claimant. It is obvious that I have to warn you that you and the Supervisor Committee have not made a proper decision when establishing these two claims.
It seems that I have to warn you that you and the Steering Committee have been set on the duty in accordance with the Plan of Reorganization which was voted and approved in the bankruptcy procedure. *ATP Vojvodina* is not a commercial company owned by the members of the Steering Committee (mostly banks as secured creditors). The Steering Committee has not been set in order to protect interests of bankers. The banks showed their interest during the bankruptcy procedure when they several times voted for bankruptcy. Why bankruptcy? The banks were interested in selling of the assets so that they could get money for their demands. Banks were neither interested in the company with a long work history nor well planned investment. They were interested in neither 350 workers and their families nor other unsecured trustees. They were not interested in me as a deceived man. Let me just remind you that the banks had not given me the money for no reason. They had also believed in my investment named *New Bus Station*; they had also believed in the contracts signed with the City of Novi Sad, they had also believed that the contract had strength of law for the contractual parties. Before giving approval for the credits, the banks had carefully and in details controlled complete documentations at the Risk Department in Paris, had made analysis and then gave money.
I would like to remind you that the litigation P-1327/2015 and P-191/2016 is neither your personal litigation, nor personal litigation of the Steering and Supervisor Committee members. It is the litigation of 400 trustees of *ATP Vojvodina*. It is also my litigation because I am shareholder, trustee and guarantee of *ATP Vojvodina*. It is litigation of more than 350 workers and their families. It is litigation of all small, common people in their struggle against the powerful, but small as well, people from politics. It is the litigation which public attention is directed to. All of them are expecting the justice and law to win. All the evidence in the documents of this case speaks in favour of the fact that the justice and law are on our side. In addition, I primarily want the commercial company *ATP Vojvodina* to come out of bankruptcy, to put all 350 workers back to work and to go on with my business from the place where it was stopped in an unjustified and illegal way.

According to the Plan of Reorganization … one of the principal measures is the court proceedings for damage compensation. Does a successful conducting of court proceedings mean that the Bankruptcy Trustee, and obviously the Steering and Supervision Committees as well, should take more care of the opponents' budget than of the bankruptcy estate? Is it possible that the bankers do not see that we do see that they have decided to reimburse only part of the damage, and to sell the rest of assets of *ATP Vojvodina* and totally destroy the company? It is well known what you were doing in the previous litigation P 4597/2010 when you were giving up all forms of damage. If you had defined the claim properly in that time, the company *ATP Vojvodina* would have come out of bankruptcy and all the trustees would have been reimbursed!!!

You have never initiated some future litigation for the other forms of damage you were talking about; the one litigation you initiated is a partial one, so that after the proceedings P 4597/2010 you did not file the claim for demanding the entire damage!
After all, according to the provisions of the Article 189, Paragraph 3 of the Law of Obligations, the amount of the lost profit is to be estimated in relation to the regular course of the events or the circumstances which could objectively happen. Having in mind that there was the contract of official representing, that there was Service, that there were trained employees, that the buses were being sold in certain period of time, it was realistic to expect that *ATP Vojvodina* would make profit in the abovementioned activities.
I want to remind you and the members of the Steering and Supervisor Committees to provision of the Article 82 of the Bankruptcy Procedure Law which says that the bankruptcy estate is total property of a debtor in the country and abroad on the day of starting the bankruptcy procedure, **as well as the property obtained by the debtor during the bankruptcy procedure**. The bankruptcy procedure is just at a stoppage!!! Your legal obligation is to enhance the bankruptcy estate, but not to reduce it.
I remind you and the members of the Steering and Supervisor Committees of the trustees that the one who reduces the bankruptcy estate is going to be responsible in terms of criminal and legal responsibility.
I demand from you to expand all the claim demands or to file new charges for all forms of damage in order to prevent reduction of the bankruptcy estate.
I also want to point to the lawsuit at the Commercial Court in Novi Sad P 1317/2007 – *ATP Vojvodina* against the company *Budućnost.* You did not continue the lawsuit although it was almost decided in favour of *ATP Vojvodina*. After introduction of the bankruptcy procedure, the persons from that company keep the main word in front the Board of Trustees; you approved their high amount of demands but you did not continue the proceedings against them, although the Anti-corruption Agency warned you about the proceedings several times. In this way, you have been reducing the bankruptcy estate of *ATP Vojvodina*.

**2. THE PROBLEM OF THE DEFAULT INTEREST**

It is not disputed that the Article 189 of LO regulates that the amount of the damage compensation is to be defined in accordance with the process at the moment of making the court decision, except in the case when the law defines some other price. By one interpretation, in this case the default interest would start from the day of the decision making till the moment of complete payment (although as the decision making day can be taken the one when the second instance court, for example, has changed the first instance decision/judgement). By the other interpretation, the claimant has the right to get the default interest from the day when the debtor has fallen into arrears in accordance with the provisions of the Article 277 of LO. In our litigation, the City is in arrears for each month. Finally, the City is in arrears from the day of the lawsuit filing.

A fact which is very important and we would like to point out, is the provision of the Article 190 of LO which says **that the court, taking in account the circumstances which have taken place after causing the damage, shall make the decision on the compensation which is necessary in order to make the damaged party's material situation be put back to the state in which it would have been if the harmful act had not happened**. Due to failure of the respondent to fulfill the contract, *ATP Vojvodina* went into bankruptcy, so the bankruptcy trustees also demanded, besides the principal, the legal default interest (at least till the day of the bankruptcy opening). In connection with that, paying of the damage at the prices valid on the day of the decision/judgement making does not bring the claimant back in his financial position prior to the bankruptcy and harmful acts. It means that the claimant has the right to get the default interest which he, after all, has to pay to the bankruptcy trustees.

It is true that the day of starting the interest is going to be legally disputed. I believe that the interest should be demanded from the day of the lawsuit filing, meaning that it is the processing interest. According to the provisions of the Article 279 of LO, when periodic cash benefits are concerned, the default interest starts from the day of filing the demand to the court for their payment. Since the issue concerned in this case is the lost profit which falls due every month I think that, no matter when it has been defined, we would have right to demand the default interest as a form of process penalty interest starting from the day of the litigation.

We could at least demand the default interest from the day of the lawsuit filing so, depending on the court decision, in the appeal stage we can demand either the interest starting from the day of due of every month installment or from day of publishing the latest official price of station services and it is 328.56 dinars (the price was determined almost two years before making the first instance decision and it is not the price valid on the day of the decision making) or from the day when the expertise was done. We can set several possible demands, and they are related to maturity of liabilities and starting calculation of the default interest; in case the court does not accept one possible demand, it will accept the following one and so on.

**3. THE PROBLEM OF THE INTEREST ON EXPENSES**

The new Law on Enforcement and Security does not predict possibility of demanding the default interest on the proceeding expenses from the day of the decision making. That is why I think that, as far as the proceeding expenses are concerned, the legal default interest from the day of the decision making till the day of payment should be demanded in the claim. There has not been court practice relating this issue so far, but I believe it is worth of trying.

I hope that you will carefully consider our benevolent warning and properly prepare the claim while there is still time.

Belgrade, 8 September 2016

Sincerely Yours,

ILIJA DEVIĆ, INVESTOR, SHAREHOLDER AND TRUSTEE OF *ATP Vojvodina*

Sent to:
-Credit Agricole Bank Serbia
-Credit Agricole Bank Paris
-Commercial Bank
-Anti-corruption Agency
-Anti-corruption Council
-European Commission
-European Parliament
-Bankruptcy Judge