

**ANNUAL REPORT ON THE IMPLEMENTATION OF
EXTRAORDINARY ADMINISTRATION MEASURES AT
AGROKOR D.D.**

FOR THE PERIOD FROM 1ST APRIL 2019 TO 31ST MARCH 2020

Prepared pursuant to Art. 12, Item 9 of the Act on Extraordinary Administration Proceedings in Companies of Systemic Importance for the Republic of Croatia (Official Gazette 21/2017) and the Ruling sanctioning the Settlement Plan of 6th July 2018

AGROKOR

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1. Executive Summary

This Annual Report covers the period from 1st April 2019 to 31st March 2020. The Report is intended to recapitulate the regular reports on the Settlement Plan implementation, ie. the activities undertaken after the Settlement Plan Implementation Commencement Date on 1st April 2019 in the companies under Extraordinary Administration.

Given the transfer of business units from Agrokor d.d. (Agrokor) to Fortenova grupa d.d. (Fortenova Group) on 1st April 2019 and the fact that Fortenova Group is not subject to the Extraordinary Administration Procedure, this report does not follow the development of the economic and financial situation within Fortenova Group nor does it report on the realisation of operating activities and the overall business of Fortenova Group and its operating companies.

2. Activities on the Settlement Plan Implementation Commencement Date

Following the final and non-appealable decision of the Commercial Court of Zagreb dated 1st March 2019 and the declaration that 1st April 2019 would be the Settlement Plan Implementation Commencement Date, as at 1st April 2019 restructuring measures and implementation activities set forth by the Settlement Plan were undertaken including, among other matters, the comprehensive transfer of the economic units of Agrokor under Extraordinary Administration to Fortenova Group, with the new parent company and the mirror companies thus having commenced their operations.

As at the Implementation Commencement Date the following actions took place:

- The obligation to make a Cash Disbursement of Impaired Claims of minor amounts in cash with recoveries below HRK 40,000 became effective. Within the agreed deadline of 30 days payments of Recovery amounts were made pursuant to Clause 23.4 in connection with Clause 23.5 of the Settlement Plan, according to the Final List of Creditors to receive Cash Disbursements, to all Creditors who have provided due and complete data about the Creditor and their account (SWIFT and IBAN) to the Debtor, ie. to all Creditors whose accurate account data (SWIFT and IBAN) and reference number the Debtor and its subsidiary and affiliated companies had in their business records;
- Write-off of claims to be written off pursuant to the Settlement Plan (as set forth in Clause 16.1 of the Settlement Plan);

- Assignment of Assigned Claims to Fortenova Group TopCo (as set forth in Clause 18 of the Settlement Plan);
- Issuance of New Instruments to New Instrument Beneficiaries and the Securities Escrow Agent (as set forth in Clause 18.3.2 of the Settlement Plan). The New Instruments were issued to creditors who had met the required conditions, ie. to the Escrow Agent, and are managed by Lucid Issuer Services Limited as Security Agent;
- Issuance of Supplier Loan Notes and Sberbank Loan Notes;
- The conditions for the recovery of Claims held by creditors with separate satisfaction rights (as set forth in Clauses 23.2 and 23.2.2 of the Settlement Plan) and Fully Recoverable Claims (as set forth in Clause 23.1 of the Settlement Plan) became effective;
- The obligation to transfer the operations of Companies under Extraordinary Administration to the New Group (as set forth in Clause 22.1.1 of the Settlement Plan) became effective;
- The first DR Holders' Meeting was held (as set forth in Clause 19.1 of the Settlement Plan).

Furthermore, at the Settlement Plan Implementation Commencement Date the stocks, ie. shares of the viable companies were transferred to Fortenova grupa d.d., whereby the Extraordinary Administration Procedure over the viable companies ended.

Following the repeal ruling of the High Commercial Court of the Republic of Croatia, the Commercial Court of Zagreb passed a ruling on 27th November 2019 sanctioning the final wording of the following implementation documents:

- (1) Incorporation acts / Articles of Association of the Holding Companies
- (2) STAK Administrative Conditions
- (3) Convertible Bonds Trust Deed
- (4) Convertible Bonds Terms and Conditions
- (5) Rules of Transfer
- (6) Deed of Issue of Registered Shares
- (7) Deed of Issue of Receipts
- (8) Securities Escrow Deed
- (9) Supplier Loan Note Instrument
- (10) Sberbank Loan Note Instrument
- (11) Indemnity
- (12) KYC Form and
- (13) Decisions of operating companies subject to consent.

Adris grupa d.d. lodged an appeal against the aforesaid Ruling and Agrokor filed its answer

thereto on 15th January 2020.

3. Settlement Plan implementation process

The very implementation of the Settlement Plan was executed by successfully applying the adopted implementation plans in all key pillars, comprising the legal implementation (including the transfer of assets), operational implementation, IT implementation and implementation in the field of accounting/finance/taxes.

4. Cost of Extraordinary Administration and Operations of Agrokor d.d.

As at 1st April 2019, within the scope of the Settlement Plan implementation, the assets and operations of Agrokor were transferred to Fortenova Group.

Pursuant to the provisions of the Settlement Plan, Fortenova Group bears the costs of the Extraordinary Administration until its completion and the deletion of Agrokor from the court register. In the period from 1st April 2019 to 31st March 2020 only the necessary expenses were paid for Agrokor, financed by Fortenova Group.

5. Litigations and asset transfers outside the Republic of Croatia

With regards to the transfer of assets abroad, all assets other than the assets of the company Mercator d.d. were transferred under the Settlement Plan, while the registration of the transfer has not been carried out for the companies Idea d.o.o. and Dijamant a.d. in the Republic of Serbia.

a) Banca Intesa

A litigation against Agrokor is pending in Serbia, brought by Banca Intesa with regards to the collection of claims of that Bank under the Loan Facility Agreement up to the maximum amount of EUR 15,000,000, concluded on 9th November 2016 (hereinafter: Loan Agreement), with affiliated companies' (Konzum d.d., Jamnica d.d., Agrokor-trgovina d.o.o. and PIK Vrbovec d.d.) guarantees and one bill of exchange "without protest" as securities.

In May 2017, after the Act on Extraordinary Administration Proceedings in Companies of Systemic Importance for the Republic of Croatia (hereinafter: ZPIU) had become effective, Banka Intesa filed all its claims against Agrokor and its subsidiary companies in that

procedure, including the claims under the Loan Agreement. In parallel to its participation in the Extraordinary Administration Procedure, Banca Intesa brought an enforcement procedure over the shares in the company Dijamant Zrenjanin a.d. (Dijamant) owned by Agrokor before the Commercial Court of Zrenjanin. On 7th June 2017 the aforementioned Court passed an enforcement ruling over the shares held by Agrokor in Dijamant to collect the respective claim of Banca Intesa, against which Agrokor stated a complaint in August of the same year and the matter was referred to the Commercial Court of Belgrade.

In spite of the exercised legal remedy, Agrokor's request for recognition of foreign bankruptcy proceedings in Serbia was finally dismissed and following the enforcement procedure, a court judgment was passed in March 2019 ordering Agrokor to pay to Banca Intesa the amount of EUR 15,194,996.44 incl. interest, plus costs of the procedure, within 8 days. Following an appeal, in December 2019 the second instance court sanctioned the first instance judgement, whereby it became final and non-appealable, without having taken into account the fact that the Settlement Plan had in the meantime been adopted and implemented, and thus Banca Intesa not only recovered its claim in full, but also became owner of 0.5% of Fortenova Group pursuant to the provisions of the Settlement Plan. In January 2020 an enforcement ruling was passed over the shares of Dijamant, which was rescinded for procedural reasons. In March 2020 a new enforcement ruling was passed by the Commercial Court of Zrenjanin over the shares of Dijamant, against which ruling Agrokor lodged an appeal and Fortenova Group a third party objection.

The aforesaid court decisions, intended to dispossess Agrokor, ie. Fortenova Group of its ownership over the shares of Dijamant, are based on the principle of non-recognition of the Croatian ZPIU and the Settlement Plan by the competent courts and authorities of Serbia, unlike all other EU Member States, the USA, United Kingdom of Great Britain and Northern Ireland and the Swiss Confederation, which hold that ZPIU was both procedurally and substantively aligned with the widely adopted principles of the insolvency regulations in those legal systems.

Agrokor, the company Fortenova Group and the Dutch company Fortenova Group TopCo (to which, pursuant to the Settlement Plan, all claims were assigned) have taken a number of legal actions to protect themselves from such proceeding by the competent Serbian authorities and courts and the non-recognition of the Croatian legal system, and have, *inter alia*, filed: (i) an appeal against the enforcement ruling, (ii) suit against Banca Intesa, together with a request to impose an injunction on Banca Intesa, prohibiting it to request and collect the aforesaid claim from Agrokor (given that Banca Intesa is no longer a creditor), (iii) revision on 5th February 2020 and (iv) a request for recognition of a foreign (bankruptcy) procedure, together with a request for legal support.

b) Competition Agency of the Republic of Slovenia

The company Agrokor AG, Zug, from Switzerland (represented by its legal representative Mr. Ivica Todorčić) on 14th May 2016 concluded an agreement on the sale and purchase of shares with the company Alsafi Partners Ltd., Dubai, UAE, pursuant where to Agrokor AG acquired a 100% stake in the company Ardeya Global Ltd., Dubai, which has held a 100% stake in the company Costella d.o.o., Kostel, Slovenia (the Transaction). In the opinion of the Competition Agency of the Republic of Slovenia, the Transaction is subject to Art. 43 of the Market Competition Act (ZZTN) and it should therefore have been notified to the competent authority within 30 days, ie. by 13th June 2016. The sanction for not filing for concentration under the aforesaid Act is a misdemeanour fine in the amount of 10% of the offender's global revenue.

The Extraordinary Administration of Agrokor only learnt of the aforesaid Transaction of Swiss Agrokor AG from 2016 in the second half of 2017 and in December 2017 a moratorium procedure was opened over Agrokor AG and the company has since then been under supervision of an administrator / commissioner appointed by the Swiss court.

On 24th September 2019 the Competition Agency of the Republic of Slovenia (*Javna agencija Republike Slovenije za varstvo konkurence*) passed a non-final decision imposing a cash fine of EUR 53m on Agrokor because the Swiss company Agrokor AG had in 2016 not filed the takeover of the company Costella d.o.o. The entire transaction stated in the Agency's decision was undertaken by the then President of the Management Board of Agrokor Mr. Ivica Todorčić, who had back in 2016 signed all the documents related to the transaction which is the subject matter of the decision on behalf of the company Agrokor AG with registered seat in Switzerland.

Agrokor and Fortenova Group have taken all available legal steps against the aforesaid non-final decision.

c) Filing for concentration for the transfer of Mercator shares

Pursuant to Clause 22.3 of the Settlement Plan, the shares held by Agrokor in the Slovenian company Poslovni sistem Mercator d.d. (registration number 5300231000) were not transferred to the New Group on the Implementation Commencement Date but will be transferred later ("Mercator Shares Transfer Date"). The Mercator Shares Transfer Date will be determined by the Extraordinary Commissioner in agreement with Fortenova grupa d.d.

In pursuance of the above and according to the Council Regulation (EC) No. 139/2004 of 20th January 2004 on the control of concentrations between undertakings (EC Merger Regulation), the transfer of Agrokor's 69.57% of shares in the company Mercator is subject to obtaining approval in the concentration control process in the following jurisdictions: European Union, Republic of Serbia, Bosnia and Herzegovina, Montenegro and Republic of Northern Macedonia (in the latter three countries the unconditional approval has already been obtained).

Fortenova Group has started the procedure of pre-notification of merger before the competent EU authority, ie. the European Commission and has within the scope of it presented the first draft of the explanatory submission with all required data to the group in charge of the case. Fortenova Group continues to proceed in accordance with the required procedural obligations and submit/respond/take all actions ordered by the EU Commission and should in due course have formally participated in the first stage of examining the filing. However, on 13th March 2020 the European Commission issued a notification whereby, due to the complexity and the expected suspensions of work caused by the COVID-19 pandemic, the receipt of formal filings/notifications was postponed until further notice. Once the notification is formally filed, the approval is expected within a time frame of five weeks.

Fortenova Group continues its constructive collaboration with all competent authorities within the EU and the Republic of Serbia and continues to take all available legal actions for the transfer of shares in Mercator to be carried out in whole as soon as possible.

d) Adria Group Holding B.V. and Ivica Todorić

Adria Group Holding B.V. and Ivica Todorić filed suit with the Commercial Court of Belgrade against Agrokor, Fortenova grupa d.d. and certain Croatian and Serbian companies, requesting to establish the nullity of agreements on the transfer of business stakes / shares in the subsidiary companies in Serbia. Along with the suit, a request was filed to impose an injunction prohibiting the disposal of shares in those companies. The defendants filed an answer to the suit and the request for injunction and the decision of the court is pending.

6. Interim Creditors' Council

The Interim Creditors' Council held three sessions in the period under review, where Members of the Council were regularly informed about the course of the Settlement Plan implementation and all relevant developments related to Agrokor.

At the session held on 4th July 2019 the Members were presented with the status of the Settlement Plan implementation. In brief, the Members were informed that all activities were carried out within the planned deadlines. All permits of material importance were transferred to the New Group. All concessions were transferred as well.

The Interim Creditors' Council held a session on 4th September 2019, where the consent was considered to be given to the Extraordinary Commissioner to assume a new guarantee of the Old Group for the new financing, which consent the Interim Creditors' Council adopted with the majority of votes cast.

In particular, the Old Group guarantees for the bonds issued by Fortenova Group in the amount of EUR 1,157bn, whereby the process of refinancing the Super Priority Facility Agreement dated 8th June 2017 (SPFA) was concluded. The new financing is structured as a 4-year bond in the amount of up to EUR 1,157 billion, with a 7.3% interest rate plus EURIBOR, with 1% floor and is led by HPS Investment Partners in cooperation with VTB Bank. The refinancing agreement envisages the interest rate to be successively reduced as Fortenova Group will be reducing its leverage ratio.

At the session held on 23rd December 2019 the Members were informed about the course of the procedure in the Republic of Slovenia (with regards to the shares of the company Mercator d.d. owned by Agrokor), the initial amount of the transaction (EUR 12,000,000.00) that is the subject matter of the procedure due to the alleged failure to file concentration and how it came about, with the conclusion that the resolution of the procedure in question to the benefit of Agrokor would constitute one of the last major steps towards the complete finalisation of the Settlement Plan. Within the scope of the exposition, the Members were notified that in the aforesaid case Agrokor was represented by Slovenia's largest Law Firm – Rojs Peljhan Prelesnik & partneri, as well as the Law Office Zdolšek. It was as well pointed out that due to the unsubstantiated expropriation of Mercator shares Agrokor had reported the Competition Agency of the Republic of Slovenia to the authorities of the European Commission and informed the Embassies in Slovenia of the current situation and problems in writing. It was further presented that the possible occurrence of negative consequences for the potential process of Fortenova Group's financing by new creditors was under control and that Fortenova Group was cooperating with them in resolving the problems in the Republic of Slovenia.

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A session of the Interim Creditors' Council was planned for April 2020, but it has been postponed due to the COVID-19 pandemic. The next session will take place during summer 2020.

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