



Republic of Croatia
Ministry of Foreign and European Affairs
First Deputy Prime Minister and
Minister

Mr Dirk Pulkowski
Registrar of the Arbitral Tribunal established
between the Republic of Croatia and the Republic of Slovenia
PCA, The Hague

Zagreb, 24 July 2015

Dear Mr Pulkowski:

Arbitration between the Republic of Croatia and the Republic of Slovenia

I write on behalf of the Government of the Republic of Croatia in regard to the shocking development that calls into serious doubt the integrity and fairness of the entire arbitration proceedings.

Attached is a copy of the newspaper article published on 22 July 2015 in the Croatian daily newspaper. I also attach a link from the Serbian newsweek.rs with the link to the audio recording of the conversations described in it, as well as the audio from Croatian Television. I would also like to recall my letter sent to you on 30 April, Slovenia's reaction dated 1 May, as well as the response by the Tribunal dated 5 May 2015.

The conversations between Mr. Sekolec, the arbitrator appointed by Slovenia, and Ms. Simona Drenik, the Agent of Slovenia, reveal that the most fundamental principles of procedural fairness, due process, impartiality and integrity of the arbitral process have been systematically and gravely violated, to the prejudice of Croatia. As you will be aware, the Terms of Appointment provide in Section 9.1 that "(t)he Parties shall not engage in any oral or written communications with any member of Arbitral Tribunal *ex parte* in connection with the subject matter of the arbitration or any procedural issues that are related to the proceedings."

In the wake of the unprecedented situation that the publication of these materials has given rise to, we note the resignation of Arbitrator Sekolec, as noted by the Permanent Court of Arbitration. We understand that Ms. Drenik has also resigned as Agent of Slovenia.

The two resignations do not begin to address the gravity of the situation. The communications appear to reveal that Arbitrator Sekolec *inter alia* disclosed critical elements of the Arbitral Tribunal's deliberations to Slovenia's Agent; advised her on

the issues on which he believed the Tribunal was inclined to rule in Slovenia's favour, and on which issues it was not so inclined; requested that Ms. Drenik provide him with arguments and "facts" not already in the record so that he could use them in his discussions with other members of the Arbitral Tribunal as his own; conspired with Ms. Drenik to assure that the other members of the Tribunal would not know their true source; communicated these arguments and "facts" to the other members of the Tribunal on the basis that they were his own.

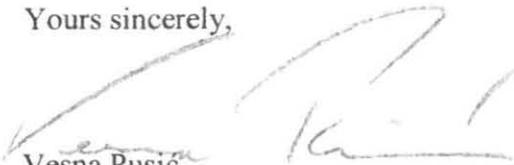
Croatia is deeply alarmed by these events. The apparent collusion between Arbitrator Sekolec and Ms. Drenik is without known precedent, reflecting a fundamental breach of professional ethics and dishonesty that gives rise to a violation of fundamental due process and prejudice to Croatia.

On the basis of what has been made publicly available, Croatia considers that the entire arbitral process has been tainted by the actions of Arbitrator Sekolec and Ms. Drenik. To our further dismay, arbitrator Sekolec appears to have had numerous conversations, dinners, and written communications with other members of the Tribunal, and with members of the PCA staff, during the more than 13 months that have passed since the end of the oral hearings, when the submission of argument and evidence by the Parties was closed. Croatia has difficulty understanding how it would be possible, at this juncture, for the other members of the Tribunal, or the PCA staff, to distinguish between the arguments and "facts" presented by Slovenia through Arbitrator Sekolec, and those developed solely by Arbitrator Sekolec on his own. The official records appear to have been corrupted by improper argument and "facts" submitted by one of the Parties after the close of the written proceedings and the hearings.

In these circumstances, Croatia asks that the Tribunal suspend the proceedings with immediate effect.

At the same time, I am bound to invite the remaining members of the Tribunal to review the totality of the materials presented, and reflect on the grave damage that has been done to the integrity of the entire proceedings, as well as to public perceptions of the legitimacy of the process. I express my appreciation to the remaining members of the Tribunal for their urgent attention in this matter.

Yours sincerely,



Vesna Pusic