



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, 31 July 2015

Dear Mr Pulkowski

I write to you following my previous letter dated 24 July 2015, regarding the arbitration proceedings between the Republic of Croatia and the Republic of Slovenia, with respect to actions of the former Slovenian Agent and the former Member of the Tribunal appointed by Slovenia.

Since my previous letter, and upon thorough examination of the available evidence, the Government of the Republic of Croatia concluded that the arbitration process has been totally and irreversibly compromised. In the view of Croatia, arbitral proceedings cannot produce an impartial decision, notwithstanding the nomination of a replacement Member of the Tribunal. Croatia considers itself bound to express its surprise that the person appointed appears to be the “appointing authority” within the meaning of Article 12(1)(b) of the PCA Optional Rules for Arbitrating Disputes between Two States: see Article 2(1) of the Arbitration Agreement.

The official record of the entire arbitration has been contaminated, for reasons set out in my previous letter. There is no tool available for repairing the damage that has been occasioned to the proceedings and the Arbitration Agreement. The official records appear to have been corrupted by unlawful and unethical submissions by one of the Parties after the close of written proceedings and hearings, and no reasonable person would conclude that the actions that have occurred may not have influenced other actors in the arbitration process.

The arbitration process as a whole has been compromised to such an extent that Croatia is confident that the arbitration process cannot continue in this or any similar form. Croatia has entered into the arbitration process *bona fide* and with full confidence in the work of the Arbitral Tribunal, its Members and technical staff. This confidence was violated to the level that Croatia cannot further continue the process in good faith.

On 29 July 2015, the Croatian Parliament considered this situation and reached the conclusion that the arbitration process has been totally and irreversibly compromised. By its unanimous decision, it instructed the Government to initiate the termination of the Arbitration Agreement between the Government of the Republic of Croatia and the Government of the Republic of Slovenia signed on 4 November 2009. Yesterday, the Government undertook several decisions to this end.

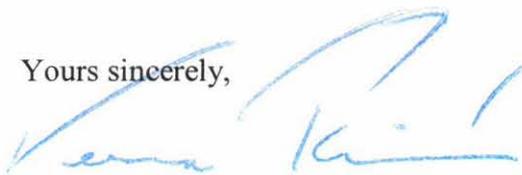
In accordance with the relevant provisions of the Vienna Convention on the Law of Treaties, the Government informed the other Signatory to the Agreement of its intention to terminate this Agreement, notifying at the same time that as of the date of the notification it ceased to apply the Arbitration Agreement. The Secretary-General of the United Nations, in his capacity of the depositary of the Agreement, has equally been informed.

Having acted to terminate the Arbitration Agreement, the procedure to be followed next will be governed by Article 65 of the Vienna Convention. In this regard, Croatia is bound to point out that the Arbitration Agreement contains no provision with regard to the settlement of disputes arising in relation to the validity and effect of the Arbitration Agreement and the Tribunal is without competence to express any views as to the requirements for the termination of the Arbitration Agreement. In the event that Slovenia objects to the termination, Article 65(3) of the Vienna Convention provides that the parties shall "seek a solution through the means indicated in article 33 of the Charter of the United Nations".

I would also like to take this opportunity to inform you that the Government of the Republic of Croatia relieved Maja Seršić and Andreja Metelko-Zgombić of their respective duties as Agent and Co-Agent of the Republic of Croatia in the arbitration proceedings before the Arbitral Tribunal. Counsels and assistants have also been relieved of their engagement in the case.

I would ask that further communication, if needed, is addressed by the Tribunal to the Ministry of Foreign and European Affairs of the Republic of Croatia.

Yours sincerely,



Vesna Pusić