

**State Attorney's Office of the Republic of Croatia**

**Reaction to the allegations published in the weekly newspaper *Nacional***

18 May 2022

**In the last two issues of the weekly newspaper *Nacional*, articles were published regarding the procedure initiated before the International Center for the Settlement of Investment Disputes (ICSID), with a series of inaccurate and unverified information, as well as claims that are in no way related to this procedure.**

On its website (<https://icsid.worldbank.org/cases/case-database/case-detail?CaseNo=ARB/20/6>) ICSID publishes basic information on the ongoing arbitration proceedings, which is available to all. The ICSID data shows that **the procedure for deciding on the jurisdiction of the tribunal is still ongoing**, and that the procedure for deciding on the merits of the dispute has not even begun.

In the dispute initiated by **Adria Group BV and Adria Group Holding BV against the Republic of Croatia** (ICSID case number ARB /20/6), the Tribunal ordered **confidentiality of the proceedings**, which is why the information on the proceedings may not be made public. Disclosing the content of the Tribunal's orders and decisions, as well as the submissions of the parties, without the consent of both parties, violates the tribunal's orders and the parties' obligations not to aggravate the dispute and to act in good faith.

Therefore, the State Attorney's Office of the Republic of Croatia cannot comment on the allegations made in these articles and will not send a correction notice to the editor-in-chief of the weekly *Nacional*.

Furthermore, the State Attorney's Office of the Republic of Croatia considers that linking the arbitration proceedings to the reconstruction of the Government of the Republic of Croatia and the proceedings of USKOK against three defendants (former ministers) is a complete miss. In order to fully inform the public, we publish in attachment below, once again, **USKOK's press release** on the handling of cases within their jurisdiction, as well as the **information on cases within the jurisdiction of the County State's Attorney's Office in Zagreb**.

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**County State Attorney's Office in Zagreb – Reaction to the published  
information**

In the criminal case (so-called **large Agrokor**) against the first defendant (1951) and fourteen other defendants for the criminal offenses of breach of trust in business operations under Article 246, paragraphs 1 and 2 of the Criminal Code and other criminal offenses, pursuant to Article 365, paragraph 1 in conjunction with Article 356, paragraph 1 of the Criminal Procedure Act, the County State's Attorney's Office in Zagreb withdrew the indictment in order to better clarify the matter, of which the public was informed by a statement of the State Attorney's Office of 16 November 2021.

The withdrawal of the indictment, as the public had been previously informed, is entirely unrelated to the financial-bookkeeping and auditing expertise conducted by KPMG Poland upon the order of the County State Attorney's Office in Zagreb.

In the above case, the County Court in Zagreb ordered the first defendant (1951) to remain in custody due to the danger of escape (Art. 123, para 1, point 1 of the Criminal Procedure Act) on the grounds of reasonable suspicion that he had committed the criminal offenses charged against him. The County Court in Zagreb then replaced the pre-trial detention with a bail, so, following the requirement for the bail, under Art. 98, paragraphs 1 and 2, items 1 and 7 and Art. 99, paragraphs 1 and 7 of the Criminal Procedure Act, precautionary measures were imposed, namely the prohibition to leave the place of residence and temporary confiscation of the passport of the Republic of Croatia. The first defendant filed appeals against the decision on bail, which were rejected by the decision of the County Court in Zagreb and the High Criminal Court of the Republic of Croatia.

The notices on the rendered decisions were published **on the websites of the competent courts**, as well as the decision of the High Criminal Court of the Republic of Croatia regarding the defendants' appeals against the decision of the County Court in Zagreb whereby the defendant's proposal to separate evidence from the file was rejected.

In the **second criminal case, the County State Attorney's Office in Zagreb** in mid-2017 began investigating the bills of exchange operations of a company from the Agrokor Group for the period from early January 2010 to April 2017, during which

2,761 bills of exchange were issued with false allegations that they were issued for the taken goods, even though they were issued for the purpose of providing loans to the Agrokor company, in the total amount of HRK 17,839,185,000.00. Following the investigation, 14 indictments were filed for criminal offenses.

On 26 August 2019, the County State Attorney's Office in Zagreb filed **13 indictments before the Municipal Criminal Court in Zagreb against the total of 29 responsible persons** of Agrokor Group suppliers (these persons signed the said bills as endorsers) on the grounds of having committed criminal offenses of forgery of official or business documents referred to in Article 279, paragraphs 1 and 2 of the Criminal Code.

The Municipal Criminal Court in Zagreb rejected the 13 indictments explaining that the false statement on the bills of exchange was not relevant for legal relations, and that it was therefore not a criminal offense of forgery of official or business documents. The County State Attorney's Office in Zagreb filed appeals against such court decisions, which were accepted by the County Court in Zagreb.

**In a repeated procedure, the Municipal Criminal Court in Zagreb then confirmed the 13 indictments** and the criminal proceedings are now ongoing before the Municipal Criminal Court in Zagreb pursuant to the said indictments.

Having confirmed these 13 indictments, the County State Attorney's Office in Zagreb **filed another, fourteenth, indictment** on 29 March 2021. The indictment was filed against the first defendant (1951) as well as against 22 other defendants (responsible persons of the companies from the Agrokor Group who signed the above-mentioned bills of exchange as drawees and drawers) for having committed the criminal offense of forging an official or business document under Article 279, paragraphs 1 and 2 of the Criminal Code.

The said indictment, by a delegation of jurisdiction, was assigned to the Municipal Court in Novi Zagreb which **returned it to the State Attorney's Office** on 4 May 2022 for further clarification in order to better clarify the case regarding the facts of whether the false statement on those bills of exchange is relevant for legal relations.

The explanation of the decision of the Municipal Court in Novi Zagreb shows that this court took a different position from that of the County Court in Zagreb regarding the 13 indictments for document forgery under Article 279, paragraphs 1 and 2 of the Criminal Code and these proceedings are now ongoing before the Municipal Criminal Court in Zagreb.

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### **Office for the Suppression of Corruption and Organised Crime – Reaction to the published information**

The allegations that this Office made decisions promptly and under political pressure on the rejection of criminal charges related to the so-called **Borg affair** are incorrect and untrue.

With respect to the above, USKOK received several criminal complaints in relation to which extensive enquiries were conducted and decisions on rejection were made solely on the basis of the law and the results of these enquiries, without anyone's influence and pressure.

This Office first conducted uniform enquiries in the case initiated following the complaints from the political parties *Živi zid* and *Slobodna Hrvatska*. Based on the results of these enquiries, it was concluded that the actions of the reported persons did not constitute the characteristics of the reported criminal offenses, nor any other criminal offenses for which the prosecution is conducted ex officio, which is why on 18 June 2018 a decision was made to dismiss the criminal complaints.

Also, this Office conducted extensive enquiries in the case initiated following several criminal complaints of the applicant Ivica Todorčić and the political party *Živi zid*, in which, among other things, the allegations from the previous complaints were reconsidered, given that they partially overlapped with the allegations in the new complaints. During these enquiries as well, all available documentation relevant to the allegations in the complaint was first collected, and statements of a significant

number of persons who had relevant knowledge on the subject of the complaint were taken. During the comprehensive analysis of the collected data and the entire documentation, all of the information collected in the enquiries following the previous complaints were also considered. However, as the results of the enquiries did not indicate a reasonable suspicion that the reported persons would commit the criminal offenses indicated in the complaints, nor any other criminal offense for which prosecution is undertaken ex officio, these criminal complaints were dismissed on 26 July 2019.

The fact that the aforementioned USKOK's decisions on the dismissal of criminal complaints were made solely on the basis of the law and the results of investigations, without anyone's influence and pressure, has been confirmed by the **judge of investigation of the County Court in Zagreb who rejected Ivica Todoric's proposal to continue prosecution as an injured party and to conduct investigation against the persons** in respect of whom the decision on rejection had been rendered. **The decision of the judge of investigation was also confirmed by the panel of the County Court in Zagreb**, which rejected his appeal against the decision of the judge of investigation.