



Dubravka Šuica, MEP
Head of Croatian EPP Delegation
Vice Chair of Foreign Affairs Committee (AFET)
European Parliament

Bruxelles, 8th January 2018

Dear President of the European Parliament Mr. Antonio Tajani,

Dear President of the European Commission Mr. Jean-Claude Juncker,

Dear President of the European Council Mr. Donald Tusk,

I am writing to you with respect to the open border issue between Croatia and Slovenia. This issue emerged after the dissolution of former Yugoslavia in 1991 and its resolution was attempted in – among others – the failed arbitration proceedings between the two states. As a convinced European, I cannot but draw your attention to facts, which must be taken into account in relation to this issue, to avoid misinterpretations and enable a way forward.

As a long-standing Member of the Croatian Parliament and as a Member of the European Parliament in my second term, I bear witness to the fact that Croatia has always been committed to the respect of international law. Croatia strongly advocated the application of international law in bilateral talks with Slovenia since 1991. When it became obvious that bilateral attempts to reach a border agreement failed and in light of ever-growing Slovenian claims, in 2002 Croatia first urged Slovenia to take the border issue to international judicial bodies – the International Tribunal for the Law of the Sea (ITLOS) in Hamburg and the International Court of Justice (ICJ) in The Hague. Croatia repeated its invitation in 2003 and in 2006. Seemingly suspicious of permanent international judicial bodies, Slovenia refused all such Croatian initiatives. Slovenia outright rejected the initiative to bring the matter to ITLOS, and with respect to the initiative to resolve the issue at the ICJ, Slovenia first accepted and then withdrew from such an agreement of the two states' Prime Ministers in 2007.

During Croatia's accession negotiations with the EU, Slovenia introduced the open border issue – an issue of exemplary bilateral nature – into this process. Even more so, Slovenia resorted to an open blockade of Croatia's accession process, blocking progress in no less than fourteen negotiation chapters and causing Croatia to lose over two years in its accession to the EU.

It was in these circumstances that the two states agreed on *ad hoc* arbitration. Croatia approached the arbitration process in good faith and respected the provisions of the Arbitration Agreement. However, in 2015 it became public that Slovenia colluded with arbitrators and influenced them, planted evidence and devised strategies on how to steer the process, gravely breaching the Arbitration Agreement and violating international law. The scope of Slovenia's actions was confirmed by the resignations of the arbitrator appointed by Slovenia and the Slovenian Agent in the case. The unprecedented scandal then resulted in a unanimous decision of the Croatian Parliament on 29 July 2015 to withdraw from the arbitration process.

The paradox is that after years of avoiding the application of international law and permanent international judicial bodies, and after having breached both the Arbitration Agreement and international law, Slovenia is now insisting on the respect for the rule of law. What is more, Slovenia is attempting to unilaterally enforce a compromised decision of a compromised body when under international law this arbitral award cannot be implemented unilaterally.

Moreover, Slovenia is now threatening Croatian fishermen with heavy fines for fishing in Croatian maritime spaces where they have been traditionally fishing. Slovenia is not only undertaking unilateral acts, but also breaching a bilateral agreement on the avoidance of incidents, in place since 2005. Unsettling messages are being sent from the Slovenian side that these Croatian fishermen will face consequences and problems when travelling and entering Slovenia. The intimidation campaign against Croatian fishermen and the heightening of tensions is both unacceptable and counterproductive and goes against the basic common European values and principles.

As the list of double standards goes on, certain things are clear: collusion and coercion, violation of international law and of the rule of law cannot be a role model for Europe nor our immediate neighbourhood. The failed arbitration process between Croatia and Slovenia is not only completely unsuitable as an example of third party dispute settlement processes, but it also undermines the values that must be adhered to within the EU. The only path to a solution is continued dialogue between the two Member States in a peaceful and constructive manner.

Both Croatia and Slovenia entered the EU with the same common border – known and functioning for years. That the two states have diverging views of the precise course of the border in very few segments of the border is neither unique nor a precedent in the EU. Many Member States are discussing their common border and related issues quietly and in good faith.

Putting aside all the misdeeds of Slovenia in the past, Croatia is again reaching out to Slovenia, proposing dialogue and solutions. Croatia invested enormous efforts in resolving this bilateral issue and has recently presented a concrete compromise proposal which takes into account the interests of both sides.

Now, after even the compromised Arbitral Tribunal rejected many extreme claims of Slovenia which in the past hindered a bilateral agreement, the two sides have an opportunity to continue dialogue in good faith on a win-win solution of the border dispute.

It is our hope that two allied and friendly countries will surpass their differences and come to a mutually beneficial and mutually acceptable solution.

Dubravka Šuica, MEP

A handwritten signature in black ink, appearing to read 'D. Šuica', written in a cursive style.