

AIDE MEMOIRE

SUMMARY

1. Pursuant to international law, Slovenia and Croatia undertook in their constitutional documents to observe the border status as applicable at the date of their declaration of independence, i.e. on 25 June 1991 (*uti possidetis* principle).

2. After 25 June 1991 Croatia has attempted to prejudice the course of the border with unilateral acts with which Croatia has unilaterally created new physical and political facts at the Slovene-Croatian border. Thus, Croatia:

- **Unilaterally changed the name of the Bay of Piran, which is historically and internationally recognized name, to the Savudrijska vala;**
- **Unilaterally and illegally established the cadaster and the land register for a part of the land along the Dragonja River in 1992;**
- Draws its official maps and adopts internal legal acts by unilaterally inserting the border line according to its positions (median line as the maritime boundary);
- Illegally set up the Plovanija border crossing on the territory of Slovenia to the south of the Dragonja River and carried on with the construction works despite continuous protests of Slovenia.

3. Slovenia insists on the basic position of observing the status applicable on 25 June 1991. This basic premise is also taken into account by the Treaty between the Republic of Slovenia and the Republic of Croatia on the Common State Border initialled in July 2001 (Drnovšek-Račan Agreement). Taking into account this basic premise Slovenia is ready for new talks on amending the above Treaty.

4. Slovenia and Croatia can resolve their open issues through bilateral contacts, discussions and negotiations; in the framework of the European Union and with its assistance; or in other ways such as arbitration. Prior to this, consensus must be reached on the respect of what has already been agreed upon, as Slovenia has had some negative experience. As a rule, Croatia has only observed those former Yugoslav and existing legal acts and international agreements, which have been to its benefit, and has not respected those imposing obligations on it and restricting its action.

SLOVENIA'S POSITION AND ARGUMENTS ON THE BORDER ISSUE BETWEEN SLOVENIA AND CROATIA

1. Following the dissolution of the former state, the Republic of Slovenia preserved territorial access to the high seas (the Slovenian territorial sea is connected with the high seas).

As part of the former Yugoslavia, Slovenia had territorial access to the high seas and still has it today in compliance with the principle of the respect for the status as on 25 June 1991.

Slovenia is a successor to the Treaty between the SFR Yugoslavia and the Italian Republic with Annexes I to X of 10 November 1975 (Osimo Treaty). The Osimo Treaty lays down the border between Slovenia and Italy, extending to point T5 in the south, which is the point of

territorial access of Slovenia to the high seas (T5 marks the beginning of the high seas in the Adriatic Sea).

Slovenia is also the successor to the 1968 Agreement between the Government of the SFR Yugoslavia and the Government of the Italian Republic on the Demarcation of the Continental Shelf between the Two Countries. Italy recognised Slovenia's succession. Slovenia has the continental shelf, therefore it also has territorial access to the high seas.

Slovenia has proof on which the implementation of Slovenia's jurisdiction in the territory outside the Bay of Piran and to point T5 is based.

With a note of the Ministry of Foreign Affairs of the Republic of Croatia of 18 November 2003, Croatia explicitly recognised that Slovenia as part of the former SFR Yugoslavia had territorial access to the high seas. In compliance with the respect for the status as on 25 June 1991, Slovenia thus still has territorial access to the high seas.

2. Slovenia owns the entire Bay of Piran (the principle of territorial integrity of the Bay of Piran). The border runs along the line connecting the Cape of Madona and the Cape of Savudrija and along the coast of Savudrija.

Before 25 June 1991 and after this date, Slovenia implemented jurisdiction in the entire Bay of Piran.

Slovenia also has a historic title to the Bay of Piran. The very name “Bay of Piran” marks its historic affiliation with the town of Piran and its inhabitants.

The Bay of Piran has the status of internal waters of the Republic of Slovenia. The Bay of Piran also had such status in the former Yugoslavia, and Slovenia had clear civil, administrative, legal, police, ecological and economic titles there.

This may be seen from a considerable number of legal acts adopted before 25 June 1991 (in the former Yugoslavia). These are general legal acts such as the Ordinance on Sea Fishing adopted by the Community of Coastal Municipalities Koper in 1987, which stipulates that the Slovenian fishing zone extends from the Cape of Savudrija to the Cape of Debeli rtič.

Slovenia has several dozen individual legal acts that clearly state the existence of Slovenian jurisdiction (jurisdiction of Slovenian authorities) over the entire Bay of Piran. This may be seen from a considerable number of legal acts on sea fishing concluded between Slovenian coastal municipalities and fishermen or their associations.

Croatian documents also support Slovenia's position. These are Croatia's legal acts (particularly acts of Croatia's local authorities and the police), with which the Croatian side agreed with Slovenian authorities exercising jurisdiction over the Bay of Piran. These documents clearly show that the Croatian side recognised the integrity of the Bay of Piran within the scope of Slovenia.

Despite the clear proof that Slovenia implemented jurisdiction in the Bay of Piran at all times, Croatia disregarded the status as on 25 June 1991:

- By unilaterally changing the name of the Bay of Piran, which is completely under Slovenia's sovereignty, to the Savudrijska vala;

- By drawing its official maps by unilaterally inserting the border line according to its positions (median line);
- By establishing a shell farm in 1998, which is enlarged every year despite the protests on the part of Slovenia.

3. The piece of land of 113 ha, located to the south of the Dragonja River (Sv. Odorik Channel) and extending from the bridge under the settlements of Kaštel and Dragonja to the sea is a part of Slovenia's national territory. These settlements are Mlini-Škrilje, Bužini and Škodelin.

As regards the cadastre, this territory is an integral part of Slovenia (Sečovlje cadastral municipality). Before 25 June 1991, Slovenia kept the cadastral operate and land register for this territory. This is still being kept today. After the annexation of Zone B of the Free Territory of Trieste to Yugoslavia (27 October 1954), Slovenia included in its territory the entire Sečovlje cadastral municipality including the 113 ha of territory on the left bank of the Dragonja River.

The present situation is derived from several legal acts adopted by the Istrian district people's committee between 1947 and 1952.

This is Slovenian territory, which was also confirmed by both Slovenian and Croatian laws on the determination of municipalities adopted by Slovenia and Croatia on 25 June 1991. In 1992, Croatia adopted the municipalities act, which does not classify this territory as part of Croatia.

The 1991 document of the Croatian ministry of environmental protection, spatial planning and construction clearly stipulates that the maritime province of Slovenia encompasses the entire Dragonja River and its mouth. Thus, the border between Slovenia and Croatia did not run along the Dragonja River, which means that the above territory belongs to Slovenia.

Before 25 June 1991, Slovenia had adopted other general legal acts that regulated the entire Dragonja River, including its mouth. This may also be seen from several individual legal acts and decisions adopted by both Slovenian and Croatian local authorities (particularly courts and the police).

The fact that this territory belongs to Slovenia is also evident from the censuses and statistical data collected by both Slovenian and Yugoslav authorities.

Only in 1992 did Croatia launch procedures for establishing its own cadastre and land register for this territory. This is contrary to the respect for the status as on 25 June 1991. Croatia also illegally set up the border transit point Plovanija on the territory of Slovenia to the south of the Dragonja River, and carried on with the construction works despite continuous protests of Slovenia.

4. The demarcation of the border in the Mura River region must take into account the status as on 25 June 1991.

In cadastral terms, the territory belongs to Croatia; however, there is proof that this territory was under Slovenia's jurisdiction on 25 June 1991. This is evident from Slovenia's general and individual legal acts.

Slovenian fishermen were fishing in this territory undisturbed even after 1991. This position was explicitly admitted by the Croatian side as well. Slovenian police exercised jurisdiction in this territory before and partly also after 25 June 1991. Slovenia had build dikes along the Mura River in this territory and has been keeping them in good condition for all these years.

The inhabitants of the settlement of Murišče entered in the Croatian cadaster had all their documents issued in Slovenia and their vehicles were also approved in Slovenia. Moreover, during the elections, they exercised their right to vote in Slovenia.

In 1956, representatives of geodesic boards of Slovenia and Croatia agreed to align the cadastral border with the course of the Mura River. On the basis of this agreement, the cadastral border between the two republics was to be changed in such a way that Croatia would gain approximately 260 ha of land on the right bank of the Mura River, and in exchange, Slovenia would gain land of equal size at Hotiza. According to the information of the Slovenian side, the arrangement was never implemented in practice. However, in 1971 the Slovenian geodesic board was informed (by a letter from Belgrade) that Croatia had realised part of the arrangement for the right bank of the Mura River and established a new cadastre for this part, so that 207 ha out of the above 260 ha fell to Croatia. The part of the arrangement relating to the left bank of the Mura River that should fall to Slovenia was never fulfilled by Croatia. Even for negotiations for the conclusion of the initialled treaty between Slovenia and Croatia on the common state border, Croatia used the new, amended cadastre for the right bank of the Mura River as a basis.

Thus, Croatia did not carry out the arrangement in full, but only in the part that was convenient.