

## INTRODUCTION

The white paper on the border between Slovenia and Croatia was drawn up with a view to presenting to the broader public Slovenia's positions, arguments and selection of documentary material favourable to Slovenia on resolving the maritime and land border issue.

It must be taken into account that this white paper is no scientific treatise, therefore scientific critic is not expected. However, it could provide a sound foundation and basis for additional scientific argumentation of Slovenia's positions. Today, this is insufficient, particularly when compared with Croatia's treatises and argumentations that serve as a basis for Croatia's positions. If the white paper triggers critical and expertly (not only politically!) founded debate on the issue of the border between Slovenia and Croatia, then its objective will be reached. The publication of the white paper is an open invitation to those who may in any way wish to contribute to it.

The publication of the white paper will be interpreted by some people as an early show of Slovenia's weapons. Those may be satisfied that the white paper contains nothing that in one way or another, has not already been presented in public (and thus also to the Croatian side). Understandably, Slovenia has not disclosed all arguments yet.

We would also like to underscore the following: The white paper is no scientific paper. No more is it a complete collection of Slovenia's positions and documents. Therefore the white paper does not deal with some very interesting and demanding issues (e.g. historic bays, the *uti possidetis* principle, the comprehensive resolution of the border issue). The white paper is a guideline or orientation that may yield such a satisfactory result. This is what Slovenia anticipates.

Ministry of Foreign Affairs of the Republic of Slovenia  
Task force on the border with Croatia

## MARITIME BOUNDARY BETWEEN SLOVENIA AND CROATIA

The settlement of Slavs to Istria following the collapse of Roman and Byzantine rule there did not result in the disappearance of Istrian coastal towns. Istrian towns began to mature into fully developed townships after the 12<sup>th</sup> century when they started turning to Venice and entering into "friendly" alliances with it (1283 agreement with Piran). Each town nevertheless maintained ties with its surroundings, which provided sustenance for the townsfolk, and gradually built up trade with the hinterland. Each town, including Piran, and its surrounding rural and marine areas thus formed an economic whole.

In the 13<sup>th</sup> century Piran's surrounding area comprised the Bay of Piran, adjacent Savudrija and Kaštel and the saltpans. There was a special connection between the Bay of Piran and the saltpans, as manifest from the care devoted to ramparts between the sea and the saltpans and to the preservation of the integrity of the saltpans area. Furthermore, the local people depended on fishing in the Bay of Piran for their livelihood. The town of Piran, the population on both sides of the Bay, fishermen and salt workers needed the entire area. The connection between the town and the marine surrounding has been preserved through centuries, from the collapse of the Venice Republic until the end of World War Two and beyond. Consequently, the area developed under very different administrative and state regimes (France, Austria-Hungary, Italy and Yugoslavia).

The regime, however, began to alter during the Second World War, when this part of Istria was for the first time ethnically divided between Slovenians and Croats for military operational reasons. As is evident from the Memorandum of the Regional National Liberation Committee for the Slovenian Littoral and Trieste submitted to the Interallied Commission examining the Venezia Giulia issues relating to the establishment of the Yugoslav-Italian border, Slovenians resided in the Savudrija Promontory and further to the south. This can also be clearly seen from the attached maps (Annexes 1, 2, 3).

The first ethnical division during the Second World War was based on a decision hastily adopted by representatives of regional and military authorities for military operational reasons in 1947. When taking the decision, which divided the Istrian County into two parts, the authorities failed to duly consider the relevant historic, economic and cultural conditions. This was the first time that the border cut Piran and its hinterland in two: the Koper District consisting of the towns of Koper, Izola and Piran, and the Buje District comprising Novi grad and Umag as well as the cadastral municipalities of Savudrija and Kaštel. This primary division continued after the termination of the Free Territory of Trieste and the annexation of the entire territory concerned to the former Yugoslavia in 1954. The new division ran along the 1947 border, without any justification or assessment of the appropriateness or even correctness of such delimitation.

As a consequence of this division a large portion of the territory came under another state, and this is the reason for all the complications that have recently surfaced concerning the Bay of Piran. Slovenia has every justification and a solid basis to refer to the whole context of this recent unjust division in the procedure of resolving the border issue.

# **SLOVENIA'S TERRITORIAL ACCESS TO THE HIGH SEAS**

## **Introduction**

Following the dissolution of the former SFRY, Slovenia preserved territorial access to the high seas.

## **Basis for Slovenia's position**

Slovenia's position is based on the following facts:

1. As part of the former Yugoslavia, Slovenia had territorial access to the high seas, as was also explicitly admitted by Croatia in one of its notes. In Note of the Ministry of Foreign Affairs of the Republic of Croatia No 5893/03 of 18 November 2003 Croatia unambiguously stated that Slovenia had had territorial access to the high seas when it was part of the former SFRY (Annex 4).

In compliance with the principle of respecting the status as on 25 June 1991, Slovenia thus still has territorial access to the high seas.

2. Slovenia is a successor to the Treaty between the SFRY and the Italian Republic with Annexes I to X of 10 November 1975 (Osimo Treaty). According to the Osimo Treaty, which defines the border between Slovenia and Italy, this border extends to point T5 in the south, which is the point of Slovenia's territorial access to the high seas (T5 marks the beginning of the high seas in the Adriatic) (Annex 5).

3. Slovenia is a successor to the 1968 Agreement between the Government of the Socialist Federal Republic of Yugoslavia and the Government of the Italian Republic on the Delimitation of the Continental Shelf between the Two Countries. Slovenia has notified Italy (Note of the Ministry of Foreign Affairs of the Republic of Slovenia No ZSD-JVE-46/03 of 24 July 2003 – Annex 6) as well as Croatia of the succession to this Agreement.

Italy has taken note of Slovenia's succession to the Agreement (Note of the Ministry of Foreign Affairs of the Italian Republic No 003889/205 of 22 December 2003 – Annex 7), thus recognising Slovenia's succession to the Agreement and consequently "admitting" that Slovenia has the continental shelf (to the south of T5). Since Slovenia has the continental shelf, it also has territorial access to the high seas.

4. Prior to 25 June 1991, Slovenia exercised jurisdiction beyond the Bay of Piran, as is evident from:

a) Individual legal acts:

- Ruling of misdemeanours judge of Piran of 22 February 1987, clearly showing that the judge concerned exercised jurisdiction over the area 2.5 nautical miles from the coast, or 3 nautical miles from the Savudrija Promontory in the direction of 280 degrees (Annex 8);
- Ruling of misdemeanours judge of Piran of 16 September 1987, clearly showing that the judge concerned exercised jurisdiction over the area 2.9 miles outside of the Bay of Piran (Annex 9).

b) Documents relating to actions of national and local authorities:

- Report by the Koper Police Station to misdemeanours judge of 7 September 1987, which shows that prior to 25 June 1991 the Slovenian Police exercised jurisdiction in a case of the illegal crossing of the Yugoslav-Italian border, i.e. outside the Bay of Piran (Osimo Border!) (Annex 10);
- It is evident from official note of the Koper Police Station No 306-04/0005-90 of 19 December 1990 on activities of the Koper PS at sea, that a patrol of the Koper Police Station accompanied a vessel up to Umag (Annex 11);
- Official note of the Koper Police Station No 306-04/0005-90 of 19 December 1990 on action of the Koper PS at sea describes the response of the Slovenian Police to an act performed at a "smaller pier at the Polinezia campground in Umag". The suspect attempted to escape to Italy and sailed along Debeli rtič, with the Slovenian Police pursuing him. It is thus evident from the official note that the Slovenian Police exercised its jurisdiction to as far as Umag (Annex 12).

c) It is evident from the list of sampling stations published in the 1990 study of Osservatorio dell'alto Adriatico-Regioni Veneto e Friuli: Venezia Giulia, Repubbliche di Slovenia e Croazia entitled Campagna scientifica di ricerca e di monitoraggio sullo stato chimico, fisico e biologico delle acque dell'alto Adriatico, in relazione al fenomeno di formazione degli ammassi gelatinosi (Annex 13) that the sampling stations in the Bay of Piran and beyond were exclusively those of Slovenia. There was even a Slovenian sampling station situated to the west of the Stara Savudrija coast. The first of Croatia's stations were located at Umag.

It may appear that there is but meagre evidence indicating the actual exercise of Slovenian jurisdiction. Yet, this should not come as a surprise since sea was not divided in the former SFRY, but rather considered to be a common sea. It was nevertheless clear in most cases to which republic bays and internal waters belonged. This was also the case with the Bay of Piran over which Slovenia had *de iure* and *de facto* jurisdiction.

It should be particularly emphasised that Slovenia also had territorial connection with the high seas under the Kingdom of Italy and the Austro-Hungarian Monarchy. The sea and its connection (without any limitations!) with the high seas and the relating fishing activities was once a very important source of sustenance. Slovenian fishermen traditionally fished along the Istrian coast and on the high seas. Consequently, food processing industry has developed in the Slovenian coastal region, which is largely dependant on the Slovenian catch on the high seas.

Slovenia's territorial access to the high seas is also important because of maritime transport to and from the Port of Koper (which, in turn, is important for Slovenia's economic development) and the development of shipbuilding.

Slovenia has always had territorial access to the high seas and also has it today; this can be proved and substantiated by sound and well grounded arguments based on international law. The Osimo Treaty is crucial in this regard, since it defines the border between Italy and Slovenia up to point T5, which is the point of Slovenia's territorial access to the high seas. The Slovene continental shelf also starts at point T5, as set out in the Agreement of the Delimitation of the Continental Shelf concluded between the former SFRY and Italy in 1968. All this leads to a very simple conclusion: The Slovenian territorial sea extends to T5 where the Slovenian continental shelf starts. Since Slovenia has the continental shelf, it must also have territorial access to the high seas.

## Croatia's positions

Croatia's position is known: Croatia denies that Slovenia has territorial access to the high seas. According to Croatia, the border between the two countries runs along the median line in the Bay of Piran and then perpendicular to the middle of the line closing the Bay of Piran and up to the Osimo border.

Croatia bases this position on the following arguments:

### 1. Article 15 of the UN Convention on the Law of the Sea

The explanation why this Article does not apply to the delimitation in the Bay of Piran is provided in the next section, which describes the problems concerning the Bay of Piran. Taking into account the undisputable fact that the Bay of Piran belongs to Slovenia and that there is no border in the Bay, it must be particularly emphasised that Article 15 of the Convention applies to the territorial sea and not to internal waters. According to the Act concerning the Coastal Sea and the Continental Shelf (Official Gazette of the SFRY, No 49/87) applicable as at 25 June 1991 (Annex 14), the Bay of Piran has a status of internal waters. Both, Slovenia and Croatia must observe the status applicable as on 25 June 1991.

The non-application of Article 15 of the Convention to the delimitation in the Bay of Piran destroys the basis for the Croatian position that the border outside the Bay of Piran runs "perpendicular to the middle of the line closing the Bay of Piran and to the Osimo border."

Croatia has not (yet) succeeded to the Osimo Treaty; its arguments are therefore much weaker than Slovenia's, whose succession to the Treaty has been recognised by Italy.

Croatia recognises that Slovenia had territorial access to the high seas when it was part of the former SFRY (as evident from Note of the Ministry of Foreign Affairs of the Republic of Croatia No 5893/03 of 18 November 2003); it is therefore difficult to understand Croatia's position that Slovenia no longer has territorial access to the high seas after 25 June 1991. Has Slovenia lost its territorial access? If so, who has taken it?

In conclusion it may be relevant to refer to the practice of other countries and international courts, which are inclined to avoid denying territorial access of countries to the high seas (agreement between France and Monaco; Canada/France dispute concerning the St. Pierre and Miquelon; dispute of the Netherlands, Germany and Denmark in the North Atlantic).

### 2. Slovenia is a geographically disadvantaged state

Croatia frequently refers to Slovenia being a geographically disadvantaged state and consequently having no territorial access to the high seas. It is absolutely necessary to clarify in this regard that geographically disadvantaged states in no way include only those states without territorial access to the high seas, but also countries that:

- Have a very short coastline in relation to their area;
- Because of the close vicinity to other states, cannot have an Exclusive Economic Zone or a continental shelf commensurate with their area or the length of their coastline;
- Have an exclusive economic zone poor in living natural resources.

Slovenia is a geographically disadvantaged state according to these three criteria and not because of a lack of territorial access to the high seas. Let us not forget that Yugoslavia, too, was considered a geographically disadvantaged state.

## **Conclusion**

We would like to conclude by underscoring that the preservation of territorial access to the high seas is a highly important, strategic issue for Slovenia. Confinement would not only have the described legal and economic consequences, but also sever Slovenia's historical, cultural and economic ties with the peoples and countries along the Adriatic and Mediterranean seas.

## ***BAY OF PIRAN***

### **Introduction**

The entire Bay of Piran belongs to Slovenia (the principle of territorial integrity of the Bay of Piran).

### **Basis for Slovenia's position**

The Slovene position is based on three essential elements:

#### **1. The Bay of Piran has the status of internal waters of the Republic of Slovenia.**

The Bay of Piran had this status during the time of the former Yugoslavia, on 25 June 1991 and consequently also has it today. According to the Act concerning the Coastal Sea and the Continental Shelf of the SFRY (Official Gazette of the SFRY, No 49/87 – Annex 14), which was applicable as at 25 June 1991, the Bay of Piran had the status of internal waters. If the status as on 25 June 1991 is respected (as has already been mentioned, both Slovenia and Croatia are obliged to observe this status), the Bay of Piran still has this status at the present time.

Since the Bay of Piran has the status of internal waters, which are entirely under Slovenian sovereignty, Article 15 of the UN Convention on the Law of the Sea is not applicable in this case, as it only regulates the delimitation of the territorial sea.

The UN Convention on the Law of the Sea contains no provisions concerning the delimitation of internal waters.

#### **2. The Bay of Piran is a historic bay.**

Slovenia also has a historic title to the Bay of Piran. The very name “Bay of Piran” shows that the Bay has historically belonged to the town of Piran and its inhabitants. From the historical perspective, the economic power of the region was for centuries concentrated in the town of Piran, which controlled and influenced all activities in the Bay, which were of no interest to other entities. Piran, on the other hand, had a historic interest in keeping the Bay under its control.

The town of Piran had property rights and exercised political control over the entire Bay of Piran (including the saltpans and the Savudrija area). Inhabitants of Piran engaged with fisheries, trade or salt panning used the Bay as their "backyard", where they anchored their boats, fished or transported salt. They built a port and a walled town on the north side of the Bay. The coast to the north of Piran, in the direction towards Strunjan, faces a strong north-east wind, which is not favoured by sailors. Captains were therefore consistent in anchoring their vessels in the Bay of Piran (under Kanegra in southerly wind, and under Bernandin in northeast wind conditions). Saltpans built by the town of Piran at the "bottom" of the Bay were among the biggest in this part of the Mediterranean. These saltpans (a more detailed description follows) were a rich source of income and economic power.

This was the state of affairs in the area for several centuries. The entire Bay and its southern coast were integral part of the Piran Municipality, as is evident from written sources dating back to the second half of the 13<sup>th</sup> century. According to these written sources, the Piran

Municipality included the southern and northern coasts of the Bay and the entire Bay. It appears that even foreign invaders were well aware that the Piran Municipality functioned the most efficiently if it covered the entire bay area, since they never interfered with this structure of the Municipality.

Piran's historic sovereignty over all three coasts of the Bay ended in 1956, with a decision of the Yugoslav authorities to divide or reduce the historic area of the Piran Municipality to the benefit of the Buje Municipality. The Kaštel and Savudrija cadastral municipalities thus became part of the Croatian territory. This decision was adopted in a monoparty system, characterised by a rubber stamp function of legislative bodies. The political situation at the time was such that the decision was never reconsidered, despite complaints by Slovenian owners of land along the Savudrija coast, complaints of the Piran Municipality, which forcibly lost part of its historic area, and complaints of Slovenian inhabitants who constituted the major part of the population in the area after Italians had left.

Up to the dissolution of the common state, Croatia never opposed to the integrity of the Bay of Piran and Slovenia's sovereignty over it despite the aforementioned contested decision that transferred the southern coast of the Bay to Croatia.

Even though its coast belongs to two countries, the Bay of Piran retained the status of internal waters after 25 June 1991. The Slovenian authorities continued to regulate the management and ecological protection of the entire saltpans and the whole of the Bay. Slovenia also continued to exercise police control over the entire Bay. The legally regulated manner of the management of the Bay by Slovenia was found disputable by Croatia only after 25 June 1991.

Slovenia's position can also be based on a case from international legal practice, where the International Court of Justice in The Hague declared that waters of a historic bay retain their status of internal waters even though a previously undivided bay of a colonial (or in this case federal) state is succeeded by one or more successor states (Land, Island and Maritime Frontier Dispute).

### 3. As on 25 June 1991, Slovenia exercised jurisdiction over the entire Bay of Piran.

Prior to this date, Slovenia had clear civil, administrative, legal, police, ecological and economic entitlements in the Bay of Piran, whereby special emphasis should be placed on fishing and salt panning.

#### **3.1. Fishing**

Fishing has been an important activity for the town of Piran and its inhabitants throughout history. Not so long ago, the Bay of Piran provided the main source of sustenance for Piran fishermen. The mullet fishing in the Bay of Piran traditionally performed by Slovenian fishermen has been sustained to the present day (the mullet is a fish species aggregating every year in the Bay of Piran to spawn).

Prior to 25 June 1991 (i.e. at the time of the former SFRY), Slovenia adopted several general and individual legal acts regulating fishing in the Bay of Piran.

##### a) General legal acts:



Special mention should be made of the Decree Restricting the Fishing in the Bay of Piran of 1962 (Ur. l. LRS, No 2/62 – Annex 15), defining the area of shellfish and fish farming in the inside bay area, which is "in the direction towards the land closed by the coastline and towards the high seas by a straight line between the saltpans warehouse and the Slovenija-Ceste Quarry." This document proves that Slovenia exercised jurisdiction over the Bay of Piran, including along the Savudrija coast.

The Sea Fisheries Decree adopted by the Assembly of the Piran Municipality on 30 June 1978 (Annex 16) provides for a fisheries reserve in the Portorož Bay, which would extend over the area delimited by the line connecting the Monfort salt warehouse in Portorož and the abandoned quarry in Kangera on the Savudrija Promontory.

Another important document is the Sea Fisheries Decree issued by the Koper Community of Coastal Municipalities on 11 December 1987 (Primorske novice No 42 of 11 December 1987 – Annex 17). It is evident from the Decree that the Fisheries Reserve in the Portorož Bay covers the area delimited by the line connecting the Monfort salt warehouse in Portorož and the abandoned quarry in Kanegra on the Savudrija Promontory. The Reserve also includes the entire area of Sečovlje saltpans and the Dragonja River mouth. Article 7 is very important since it stipulates that the Slovenian sea fishing area stretches from the Savudrija Promontory to the Debeli rtič Promontory.

It is very clear from these general acts that Croatia did not exercise its jurisdiction over the Bay of Piran prior to 25 June 1991. These general legal acts also applied as on 25 June 1991.

#### b) Individual legal acts:

The described general legal acts show that the fishing in the Bay of Piran was regulated exclusively by Slovenia, which is further proved by numerous individual legal acts, in particular decisions of the Piran Municipality concerning the shellfish farms in the Portorož Fisheries Reserve. For instance, it is evident from the Decision of the Assembly of the Piran Municipality on the Shellfish Farm Area in the Fisheries Reserve of 26 June 1981 (Annex 18) and the Recommendation of the Piran Municipality concerning the borders of shellfish farms of 23 November 1981 (Annex 19) that the Piran Municipality managed the waters of the Bay of Piran prior to 25 June 1991.

There are several similar individual acts, which can be divided into:

1. Rulings of misdemeanours judge of Piran, which clearly show that the Slovenian court exercised jurisdiction over:

a) The area of the Bay of Piran, particularly in the Fisheries Reserve; these rulings include:

- Ruling of misdemeanours judge of Piran of 15 February 1982, which indicates that the Slovenian court exercised jurisdiction over the Fisheries Reserve 0.3 mile from Kanegra in the direction towards the Sečovlje saltpans (Annex 20);

- Ruling of misdemeanours judge of Piran of 5 March 1991, which indicates that the Slovenian court exercised jurisdiction over the area of the Fisheries Reserve in the Portorož Bay (Annex 21);

- Ruling of misdemeanours judge of Piran of 5 March 1991, which indicates that the Slovenian court exercised jurisdiction over the area of the Fisheries Reserve in the Portorož Bay (Annex 22);

- Ruling of misdemeanours judge of Piran of 2 April 1991, which indicates that the Slovenian court exercised jurisdiction over the Fisheries Reserve in the Portorož Bay (Annex 23);

b) The entire area of the Dragonja River mouth (which means that the border between Slovenia and Croatia could not have run along the Dragonja River!). A ruling issued by the misdemeanours judge of Piran in 1988 indicates that the above court exercised jurisdiction over the area of the Dragonja River mouth (Annex 24), while it is evident from the ruling of misdemeanours judge of Piran of 5 December 1989 that jurisdiction was exercised over the Fisheries Reserve in the Portorož Bay 150 metres from the Dragonja River mouth (Annex 25);

c) The area outside the Bay of Piran. This is demonstrated, for instance, by the ruling of misdemeanours judge of Piran of 22 February 1987, showing that the judge exercised jurisdiction over the area 2.5 miles from the coast or 3 nautical miles from the Savudrija Promontory in the direction of 280 degrees (Annex 26), and the ruling of the misdemeanours judge of Piran of 16 September 1987 indicating that the judge exercised jurisdiction 2.9 miles outside the Bay of Piran (Annex 27).

2. Other individual legal acts indicating the exercising of Slovenian jurisdiction prior to 25 June 1991 include:

- Temporary decision of the Assembly of the Piran Municipality of 14 July 1967, stipulating that the Tourism Promotion Service Piran may issue underwater sport fishing licences for the entire fishing area of the Piran Municipality except the inside area of the Portorož Bay to the east of the straight line connecting the saltpans warehouse in Portorož and the Slovenija-Ceste Quarry in Kanegra (Annex 28);
- Consent by the Koper Harbour Master's Office No 02/14-1190/81 of 18 June 1981 concerning the shellfish farming in the Portorož Bay (in the area extending from the Seča Promontory to the abandoned pier in Kanegra) (Annex 29);
- Amended decision of the Assembly of the Piran Municipality on the area of the fish farm in the Portorož Fisheries Reserve of 23 November 1981 (Annex 30);
- Decision of the Executive Council of the Assembly of the Piran Municipality of 24 November 1989 on the adoption of the draft decision on the management of the Fisheries Reserve in the Portorož Bay (Annex 31);
- Exceptional permit No 326-70/2/PER of 28 February 1990 issued by the National Committee on Agriculture, Forestry and Food, which allows fishing in the entire sea fishing area of Slovenia, except in the 1-mile belt along the shore, which is defined specifically. The permit contains sketches and coordinates of detritic bottom, which show that the detritic bottom extended to the coast of Savudrija; this indicates that that was also the range of Slovenia's jurisdiction.
- Decision of the Executive Council of the Assembly of the Piran Municipality of 30 October 1990 stipulating that the Administrative Secretariat of the Piran Municipality should issue a call for tenders for granting a one-time right to mullet fishing in the Portorož Fisheries Reserve from 1 December 1991 to 1 March 1992. It is evident from this act that the Piran Municipality managed the waters of the Bay of Piran before *and after 25 June 1991* (Annex 33);
- Decision of the Executive Council of the Assembly of the Piran Municipality of 11 December 1990 noting that the contract on the management of the Fisheries Reserve of 3 January 1982 is invalid. Consequently the Executive Council of the Piran Municipality adopted a decision on concluding a new contract (Annex 34);
- Decision of the Executive Council of the Assembly of the Piran Municipality of 12 March 1991, with which the Executive Council of the Assembly of the Piran Municipality approved the report on the mullet catch in the Fisheries Reserve in the Portorož Bay (Annex 35);

- Decision of the Executive Council of the Assembly of the Piran Municipality of 16 April 1991, with which the Executive Council of the Assembly of the Piran Municipality approved the report on the mullet catch in the Fisheries Reserve in the Portorož Bay (Annex 36);
- Decision of the Executive Council of the Assembly of the Piran Municipality of 24 September 1991 stipulating that the Administrative Secretariat of the Piran Municipality should issue a call for tenders for granting a one-time right to mullet fishing in the Portorož Fisheries Reserve from 1 December 1991 to 1 March 1992 (Annex 37);
- Decision of the Executive Council of the Assembly of the Piran Municipality of 30 June 1992 on concluding a contract on the use of a public marine asset for fish and shellfish farming in the farming area of the Portorož Fisheries Reserve. It is evident from this document that the Piran Municipality managed the waters of the Bay of Piran after independence as well (Annex 38);
- Decision of the Executive Council of the Assembly of the Piran Municipality of 17 November 1992 on the selection of the best bidder for fishing mullet and other species in the Fisheries Reserve. It is evident from this document that the Piran Municipality managed the waters of the Bay of Piran after independence as well (Annex 39);
- Decision of the Assembly of the Piran Municipality of 11 October 1994 stipulating that the Administrative Secretariat of the Piran Municipality should issue a call for tenders for granting the right to mullet fishing in the Portorož Fisheries Reserve from 1 December 1994 to 1 March 1995. It is evident from this document that the Piran Municipality managed the waters of the Bay of Piran after independence as well (Annex 40);
- Authorisation issued by the Administrative Secretariat of the Piran Municipality on 23 November 1994 relating to the monitoring of mullet schools in the Bay of Piran from 1 December 1994 until their catch. It is evident from this document that the Piran Municipality managed the waters of the Bay of Piran after independence as well (Annex 41);

3. The Piran Municipality also concluded fishing contracts with fishermen and fishing associations, which applied to the area of the Bay of Piran ; these contracts include:

- Contract of June 1969 on the management of the Portorož Fisheries Reserve in the Portorož Bay. It is evident from this document that the Piran Municipality managed the waters of the Bay of Piran before 25 June 1991 (Annex 42);
- The same is evident from the contract of 1982 on the management of the Portorož Fisheries Reserve in the Portorož Bay (Annex 43);
- Contract of 11 November 1991 with which the Piran Municipality commissioned the protection of the Fishery Reserve in the Portorož Bay. It is evident from this document that the Piran Municipality managed the waters of the Bay of Piran after independence as well (Annex 44);
- Contract between the Piran Municipality and a group of professional fishermen of 21 November 1994 with which the Piran Municipality granted a right to mullet fishing in the Portorož Fisheries Reserve for the period from 1 December 1994 to 1 March 1994 (Annex 45).

### **3.2. Salt pans**

There were several salt pans along the Slovenian coast at the beginning of the century, the most important being the Piran salt pans and the Sečovlje salt pans at the Dragonja River mouth.

It is not known when the Piran salt pans were established, but first written data can be found in the Piran Statute of the second half of the 13<sup>th</sup> century. During the long centuries of existence,

the saltpans have experienced prosperity and decline, depending on political and social conditions.

The production of salt in the southern part of the Sečovlje saltpans, also known as Fontanigge, was abandoned at the end of the 1960s. A museum complex has been set up in the last ten years in this area, along the Giassi channel. This abandoned area has been transformed by the workings of nature into a series of diverse and more or less saline biotopes, which supplement each other and form a closed ecosystem.

In 1990, the region was declared a landscape park by the Decree on the Proclamation of the Sečovlje Salt-pans Landscape Park, which was adopted by the Piran Municipality on 26 January 1990 (Primorske novice No 5 of 26 January 1990 – Annex 46). The Decree lays down that the Sečovlje Salt-pans Landscape Park also extends along the left bank of the Dragonja Channel, i.e. to the south of the Dragonja River.

All the procedures for the proclamation of the Sečovlje Landscape Park (saltpans) have always been conducted in Slovenia and related to the entire area of the cadastral municipality of Sečovlje (up to the hill), downstream from the former Koper-Pula railway.

The Decree on the Sečovlje Salt-pans Landscape Park (Ur. l. RS No 29/01 – Annex 47) laid down that the Sečovlje saltpans be declared the Sečovlje Salt-pans Landscape Park in order to protect the natural resources of the saltpans and its biodiversity. This landscape park extends to the south of the Dragonja River as well.

The Sečovlje Saltpans were included in the Ramsar List of Wetlands of International Importance under the Convention of Wetlands of International Importance especially as Waterfowl Habitat (Official Gazette of the SFRY, No 9/77, Ur. l. RS-MP, No 9/92). The Ramsar site of the Sečovlje saltpans extends over 650 hectares along the Dragonja River mouth.

### **3.3. Activity of the Slovenian Police in the Bay of Piran**

The Slovenian Police have exercised jurisdiction over the entire Bay of Piran, as manifest from numerous documents.

A series of charging/warrant requests submitted by the Slovenian Police to the misdemeanours judge relate to its activity in the Bay of Piran. These are some examples:

- Charging/warrant request submitted by the Koper Police to misdemeanours judge on 30 April 1976 (Annex 48);
- Charging/warrant request submitted by the Koper Police to misdemeanours judge on 25 October 1976 (Annex 49);
- Misdemeanour report by the Koper Police Station of 21 September 1984 (Annex 50);
- Misdemeanour report by the Koper Police Station of 14 July 1986 (Annex 51).

The report by the Koper Police Station to misdemeanours judge of 7 September 1987 shows that the Slovenian Police exercised jurisdiction in a case of the illegal crossing of the Yugoslav-Italian border, i.e. outside of the Bay of Piran (Osimo Border!) prior to 25 June 1991 (Annex 52). The same is evident from the report by the Koper Police Station to misdemeanours judge of 16 August 1989 (the Slovenian Police exercised jurisdiction with regard to illegal border crossings in the area between the Bernandin Promontory and the

Savudrija Promontory – Annex 53) and the report by the Koper Police Station to misdemeanours judge of 4 June 1991 (Annex 54).

The Slovenian Police also supervised the implementation of the above regulations on fishing in the Bay of Piran. Reports of the Koper Police Station to misdemeanours judge of 9 December 1987 (Annex 55) and 20 February 1989 (Annex 56) furthermore indicate that the Slovenian Police exercised jurisdiction over the Fisheries Reserve in the Portorož Bay.

Other documents proving the exercise of jurisdiction by the Slovenian Police over the Bay of Piran include:

- Misdemeanour report by the Koper Police Station No 01-53/1-89 of 5 April 1989 showing that the Slovenian Police exercised jurisdiction over the Bay of Piran between the Madona and Savudrija promontories (Annex 57);
- Official note of the Koper Police Station No 306-04/0005-90 of 19 December 1990 on the activity of the Koper PS at sea. A patrol of the Koper Police Station accompanied a vessel up to Umag, which proves that the Slovenian Police exercised jurisdiction outside and to the south of the Bay of Piran prior to 25 June 1991 (Annex 58);
- Official note of the Koper Police Station No 306-04/0005-90 of 19 December 1990 on the activity of the Koper PS at sea. The criminal offence took place at a "smaller pier at the Polinezia campgrounds in Umag". The suspect attempted to escape to Italy and sailed along Debeli rtič, with the Slovenian Police pursuing him. It is evident from the official note that the Slovenian Police exercised its jurisdiction to as far as Umag (Annex 59).
- Letter by the Interior Ministry No 0213-2/2 of 17 January, which, among other things, states that "the Croatian Police has never exercised control in the Bay of Piran" despite the arrangements on the police control line reached in Pula on 29 January 1991 and 26 February 1991 (Annex 60);
- Official note by the Koper Police Station of 20 October 1992 indicating that the Police Station concerned exercised control in the entire Bay of Piran and in the area to the north of Savudrija connecting the northern part of the Savudrija Promontory with position 13 degrees, 19.0 E and 45 degrees 32.7 E (the last jog in the border with Italy). The Slovenian and Croatian sides agreed at a coordination meeting in Pula that the Slovenian Police would exercise control over the whole Bay of Piran, including the area of Stara Savudrija; the agreed area to be controlled by the Slovenian Police was thus situated to the north of Stara Savudrija – T4 point line (Annex 61).

Another document that should be underscored is letter No 21/3-2/2-i-4220-17/166 of the National Secretariat for Internal Affairs of the Socialist Republic of Slovenia of 4 September 1985 containing information about the protection of the Yugoslav national maritime boundary, which clearly states that the Slovenian Police exercised control in the sea area within 16 nautical miles from the shore of Debeli rtič (this area stretches beyond the median line in the Bay of Piran) (Annex 62).

### **3.4. Other documents proving the exercise of Slovenian jurisdiction over the Bay of Piran**

There are some other documents that demonstrate the exercise of Slovenian jurisdiction over the Bay of Piran. These documents are not governmental or legal acts but nevertheless show that the entire Bay of Piran was under Slovenia's jurisdiction. They include:

- Research thesis "Stocks of Demersal Fish and Other Edible Resources in the Coastal Waters of the SFRY in the Gulf of Trieste" (Ljubljana-Piran 1989), which indicates that Slovenian sampling stations were situated in parallel with the Stara Savudrija coast and that Slovenian control was exercised up to there (Annex 63).

- The study of the Port of Trieste entitled Campagna scientifica di ricerca e di monitoraggio sullo stato chimico, fisico e biologico delle acque dell'alto Adriatico, in relazione al fenomeno di formazione degli ammassi gelatinosi (1990) published by Osservatorio dell'alto Adriatico-Regioni Veneto e Friuli: Venezia Giulia, Repubbliche di Slovenia e Croazia. The study contains a list of sampling stations, from which it is evident that it was exclusively Slovenian stations that were set in the Bay of Piran and outside of it. There was even a Slovenian sampling station situated to the west of the Stara Savudrija coast. The first of Croatia's stations were located at Umag. (Annex 64).

### **3.5. Economic integrity of the Bay of Piran**

Only the northern coast of the Bay of Piran was populated in the past. The settlement on the southern, Savudrija coast began only after 1950, with the development of tourism, mainly through the purchase of plots and the construction of vacation houses owned by inhabitants of Slovenia.

The Bay of Piran could be said to represent a (big) swimming pool of the Portorož hotels. Water appears clearer in the northern part of the Bay, along the Kanegra coast, because of the limestone bottom as opposed to the flysch sediments characteristic of the northern part. The Kanegra coast therefore became very popular after the Second World War and a great number of swimmers have developed a habit of sailing there. This pastime has been kept to the present day and many sailing boats anchor there.

Several transport providers and companies in Portorož offer tourist boat excursions around the Bay in the summer, while hydroplanes navigate and tow water skiers and paragliders all over the Bay.

The integrity of the Bay of Piran or at least a uniform navigation regime throughout the year is therefore crucial for the development of tourism.

The season change from winter to spring is marked by the mullet fishing season in the Bay of Piran. Mulletts are fished in a traditional way, which is also attractive to onlookers. This is a particularity of the Bay of Piran. This valuable feature, typical of but a few places, can only be preserved if the Bay remains an undivided fishing area to which a uniform navigation and fishing regimes apply.

The Fisheries Reserve in the Bay is also an important fish spawning place. The only activity allowed in the Reserve is the traditional mullet fishing. The Reserve is greatly important for a balanced fisheries development and requires a uniform regime and efficient monitoring, which can only be attained if the area is under the jurisdiction of a single country.

### **3.6. Ecological integrity of the Bay of Piran**

The aquatorium of the North Adriatic is a shallow sea basin, which is affected by heavy pollution particularly from Italy. The water in the Bay has become increasingly toxic and damaged during the last 20 years, and the Bay of Piran is among the most polluted areas of the Mediterranean (algal bloom, fish exodus and shellfish dying).

Endeavours towards decreasing the pollution must reach all parts of the Bay. The situation in the Bay of Piran has considerably improved after the sewage system from Strunjan to Lucija was constructed and the sewage pipes were laid away from the Bay.

Fish and shellfish farming is not detrimental to the ecological balance of the Bay, provided it does not exceed the permitted scope. It is, however, true that large quantities of antibiotics are used in fish farming, which can have a harmful impact on the existing natural balance. A uniform ecological regime must apply to the Bay for these reasons as well.

### **Croatia's positions**

Croatia considers that the maritime boundary between Slovenia and Croatia in the Bay of Piran should run from the middle of the Dragonja's outfall in the sea, along the median line to the end of the Bay (i.e. to the line connecting the Madona and Savudrija promontories). This is a summary of Croatian official positions and Croatian (legal) literature.

In accordance with its positions Croatia (despite clear evidence that Slovenia exercised jurisdiction over the Bay of Piran at all times) disregarded the status as on 25 June 1991 and

- unilaterally changed the historic and internationally recognised name of the Bay of Piran (Piranski zaliv) into Savudrijska vala (Bay of Savudrija);
- unilaterally charted the border line according to its positions (median line) in its official maps;
- established a shellfish farm in 1998, which has then been enlarged on an annual basis, despite protests on the part of Slovenia.

Special attention should also be drawn to frequent fishing incidents in the Bay of Piran (and outside of it), since Croatian fishermen fail to observe the status as on 25 June 1991.

The main Croatian arguments are as follows:

#### **1. Article 15 of the UN Convention on the Law of the Sea**

Article 15 of the Convention stipulates that where the coasts of two States are opposite or adjacent to each other, neither of the two States is entitled, failing agreement between them to the contrary, to extend its territorial sea beyond the median line.

However, as already stated, the Bay of Piran is a historic bay with the status of internal waters (as was also the case on 25 June 1991). Article 15 of the Convention concerning the delimitation of the territorial sea does, therefore, not apply.

Even if Article 15 of the Convention were applicable (hypothetically, if the Bay of Piran had the status of the territorial sea), it clearly stipulates that the relevant provision (on the median line) does not apply where it is necessary by reason of historic title or other special circumstances to delimit the territorial seas of the two states in a way which is at variance therewith. Mention should be made in this regard of Note of the Ministry of Foreign Affairs of the Republic of Croatia No 2184/98 of 12 June 1998, stating that "in its previous proposal for the settlement of the Bay of Piran issue Croatia was ready to accept the delimitation in

such a way that approximately one third would belong to Croatia and two thirds to Slovenia, taking into account the specifics of the Slovenian demands." Croatia thus withdrew from its claim that the border in the Bay of Piran should run along the median line and recognised special circumstances for Slovenia in the Bay of Piran (Annex 65).

### 2. *Uti possidetis* principle does not apply to maritime delimitations

The White Paper is not a scientific work and only a brief reference will be made to the practice of international courts and arbitration tribunals.

In 1989, the Arbitration Tribunal deciding on the Guinea Bissau/Senegal dispute explicitly recognised the applicability of the principle to the maritime delimitation between African states, emphasising that there was no legal reason for a different treatment of former colonial borders at sea and land. The Arbitration Tribunal consequently applied the *uti possidetis* principle to the maritime delimitation between the newly established states, referring to a great number of cases recognising the succession to maritime boundaries established during colonialism.

International literature also argues with good reason that there are no grounds for the existing borders between newly independent countries to cease to exist or lose their legal relevance upon the independence of the countries concerned just because of the existence of many cases of undefined maritime boundaries between former colonies. It must be remembered that the basic purpose of the *uti possidetis* principle is to ensure stability of former colonial borders and thus also of newly established states. It therefore also applies to maritime borders since there is no difference between maritime and land boundaries in this regard.

In the Land, Island and Maritime Frontier Dispute of 1992 the International Court of Justice decided that the *uti possidetis* principle applied to both land and sea. It established that the rights of the present states in the Fonseca Gulf were acquired, as was also the case with their land territories, through the succession to Spain (ICJ Reports 1992).

### 3. Croatia has exercised jurisdiction to the middle of the Bay of Piran

Croatia has so far produced no significant evidence that would so clearly prove its exercising jurisdiction as the exercise of Slovenia's jurisdiction is demonstrated by the above Slovenian documents. It is therefore not possible to make any grounded claims denying Slovenia's exercising jurisdiction over the entire Bay of Piran before 25 June 1991.

Slovenia's positions are substantiated even by Croatian documents, including Croatia's legal acts (particularly acts of Croatia's local authorities and the police), with which the Croatian side agreed that jurisdiction over the Bay of Piran be exercised by Slovenian authorities. These documents clearly show that the Croatian side recognised the integrity of the Bay of Piran under Slovenia's sovereignty. The Buje Municipality, for instance, agreed on the borders of the Slovenian Fisheries Reserve along the Dragonja River mouth (Consent of the Assembly of the Buje Municipality No 01/2-1105/1978 of 8 June 1978 – Annex 66). The Croatian side thus formally recognised the integrity of the Fisheries Reserve under the jurisdiction of the Piran Municipality.

Another important document is the Marine Fisheries Decree of the Buje Municipality of 3 June 1982 (Annex 67), showing that the fishing area of the Buje Municipality extended from the border of the Piran Municipality to the Umag Cement Grinding Plant. According to the Decree, shellfish could be fished from "the old quarry in Kanegra to the old port in



Savudrija". This document proves that the Croatian side did not exercise jurisdiction over the inside area of the Bay of Piran prior to 25 June 1991.

There is also an interesting case when the Croatian Police reported a Slovenian person because he was fishing in the Fisheries Reserve declared by the Slovenian Municipality of Piran (Annex 68). In brief, Croatian police officers were implementing a Slovenian regulation. Furthermore, a misdemeanour decision on this violation was later issued by the Piran Municipal Court.

#### 4. The Bay of Piran cannot be a historic bay since its coast belongs to two countries

This is a well known position of Croatia, according to which only those bays whose borders belong to a single country can be regarded as historic bays. It should be noted in this regard that the International Court of Justice decided in the Land, Island and Maritime Frontier Dispute that the Gulf of Fonesca is a historic bay, which had been under a colonial sway but then succeeded to by Nicaragua, Honduras and El Salvador, which also have sovereignty over it. The United Nations Secretariat study of 1962 defines the following two essential criteria for the recognition of the status:

- it has claimed the bay as internal waters and effectively exercised authority in it for a considerable period of time;
- other countries acquiescent (do not have any objections).

The Bay of Piran meets all the above criteria. It had the status of internal waters at the time of the former Yugoslavia, to which other countries did not object. Historically, the Slovene jurisdiction over it has been exercised for a very long time. As stated by The Hague International Court of Justice in the Land, Island and Maritime Frontier Dispute: "Historic titles must be observed and preserved, as they always have been through long use."

#### Conclusion

It is evident from the above that the exercise of the Slovenian jurisdiction over the entire Bay of Piran has never been questionable. Considering that Slovenia and Croatia must observe the situation as on 25 June 1991, it logically follows that Slovenia retained its sovereignty and jurisdiction over the entire Bay of Piran.

## **The area south of the Dragonja River – the Sečovlje cadastral municipality on the left bank of the Dragonja – the settlements of Mlini-Škrile, Bužini and Škodelin**

### **Introduction**

The 113-hectare area is located to the south of the Dragonja River (Sv. Odorik Channel). It includes a narrow stretch of land on the south bank of the Dragonja River, approximately 200 metres wide and 6 km long, extending downstream from the bridge under the settlement Kaštel/Dragonja to the southernmost point of the Sečovlje cadastral municipality, located south of the Dragonja River mouth. This area is the southernmost part of the Sečovlje plain and represents the southern border of the Sečovlje cadastral municipality extending to the foot of the hills, where it borders the Kaštel cadastral municipality (Croatia).

There are three settlements in the area Škodelin, Bužini and Mlini-Škrilje. Until the establishment of independent states the households of the three settlements were connected to Slovenian infrastructural facilities (electricity and water supply, telephone and road networks and postal services). As a rule, their inhabitants are employed in Slovenia and are holders of Slovenian retirement and health insurances.

### **Slovenia's position**

The area of the Sečovlje cadastral municipality to the south of the Dragonja River is Slovenia's national territory and rightfully belongs to the Republic of Slovenia.

### **Basis for Slovenia's position**

The entire area on the south bank of the Dragonja River, measuring 113 hectares, is included into the Sečovlje cadastral municipality. Thus this territory is integral part of the cadastre of the Republic of Slovenia. Slovenia kept the cadastral and land registers for this territory before 25 June 1991 and continues to keep them today. It has to be pointed out that – contrary to Slovenia – Croatia did not include either the Sečovlje cadastral municipality or any of its parts into its territory until 1991. Slovenia has considered this land as Slovenian national territory throughout the past years and on 25 June 1991.

### **Historic background**

After the town of Piran came under Venetian authority in 1283, the Bay of Piran gradually took over the entire surrounding area. Certain important settlements such as Sečovlje, Savudrija and Kaštel were established in this area.

Between 1797 and 1918 – with a short break of French authority between 1809 and 1813 – the entire area was under Austrian authority.

After 1820 the entire area of the town and municipality of Piran was subdivided into parcels by Austrians and the territory along the Bay of Piran was divided into three cadastral municipalities: Piran III cadastral municipality, which was later renamed the Sečovlje cadastral municipality, Kaštel cadastral municipality and Savudrija cadastral municipality. These three (and other) cadastral municipalities together formed the political and

administrative municipality of Piran. The cadastral municipalities of Savudrija (in its entirety) and Kaštel (partly) situated on the south side of the Bay of Piran constitute, so to say, "internal waters" of the town and municipality of Piran, which has never been divided nor belonged to any other town than Piran (Chart A – Annex 1).

This actual regime was preserved after 1920, when the area came under jurisdiction of the Kingdom of Italy.

Following the Second World War the Slovenian Littoral and Istria (Venezia Giulia) constituted Zone B of the Free Territory of Trieste and were as such governed by the Military Administration of the Yugoslav Army. On 20 February 1947, the Supervising Authority of the Regional National Liberation Committee for the Slovenian Littoral, authorised by the Regional National Liberation Committee for the Slovenian Littoral and Trieste, and the Governing People's Committee of the Yugoslav Army in Opatija, adopted the Ordinance on the Establishment of the Istrian County for the Area of the Koper and Buje Districts.

The Ordinance was published only later, on 1 September 1947, the day of the establishment of the Free Territory of Trieste (Official Gazette of the Istrian County People's Committee No I/1) (Annex 2). Article 1 of the Ordinance stipulates that the Istrian County be established for the area of the Koper and Buje Districts. This division into districts later crucially impacted on all developments in the area. The Ordinance furthermore provided the legislative and administrative framework for the activity of authorities in the area. The Istrian County People's Committee was kind of government under the aegis of the Military Administration of the Yugoslav Army.

The regional and military authorities adopted this Ordinance hastily, without paying due attention to the relevant historic, economic and spatial circumstances. This initial division of the Istrian County, reflected in the Ordinance, for the first time drew the border across Piran and its hinterland, cutting it in two – the Koper District with the towns of Koper, Izola and Piran, and the Buje District comprising Novi Grad, Umag and the cadastral municipalities of Savudrija and Kaštel. This division continued after the termination of the Free Territory of Trieste and the annexation of the entire territory concerned to the former Yugoslavia in 1954. The new division ran along the 1947 border, and no attempts were made to justify and assess the appropriateness or correctness of such delimitation. Such decisions taken by the authorities after 1947 deprived Slovenia of the historic hinterland of the Slovenian Piran Municipality, which had up to then always belonged to the Slovenian Istria or to the then political and administrative unit of Piran and included not only the Sečovlje cadastral municipality but also the cadastral municipalities of Savudrija and Kaštel. The Sečovlje cadastral municipality thus remained under Piran in the Koper District, while Savudrija and Kaštel cadastral municipalities were transferred to the Buje District. (Chart B – Annex 3).

On 1 September 1947 the single municipality of Piran was thus divided into two districts, which later came under the jurisdiction of two different republics/states. Judicial authority was then established with subsequent legal acts, with the land registry administration becoming part of the judiciary. Land registers of the Savudrija and Kaštel cadastral municipalities were officially transferred from the court in Piran to the court in Buje, which did not happen with the land register of the part of the Sečovlje cadastral municipality situated to the south of the Dragonja River.

The judicial framework was laid down by the Ordinance Regulating People's Courts of the Istrian County (Official Gazette of the Istrian County People's Committee, No 1/47) (Annex 4). Article 10 of the Ordinance defines the court area of jurisdiction of the Piran Local Court, stipulating that the court only operates "to the north of the Dragonja River". At first glance this may not be in favour of Slovenian arguments; however, the same Article does not provide for a change in the court area of jurisdiction of the Buje court, which was consequently not extended to the area to the south of the Dragonja River. Article 10 rather explicitly stipulates that "the Buje Local Court shall operate in its present area of jurisdiction."

Inhabitants of the Mulini settlement (Sv. Odorik) were not pleased with these arrangements. The Minutes of the fifth regular session of the Istrian County People's Committee in Piran on 29 June 1948 (Official Gazette of the Istrian County People's Committee, No 6/48) (Annex 5) state that a request of inhabitants of the Mulini settlement (Sv. Odorik) was submitted to the Istrian County People's Committee to be allowed to secede from the Kaštel People's Community and to be annexed to the Sečovlje People's Community, to which "they belong economically and culturally." This request was unanimously granted by the Istrian County People's Committee, which resulted in the alteration of about 200 metres of the border of the Kaštel cadastral municipality. The border of the Sečovlje cadastral municipality was altered to the south of the Dragonja River along the entire buildable area of the Mlini settlement (present Škrilje settlement). (Annex 6).

As regards the Bužini settlement, mention should be made of the Minutes of the eighth regular session of the Istrian County People's Committee (Official Gazette of the Military Administration of the Yugoslav Zone in the Free Territory of Trieste and the Istrian County People's Committee, No 1/1950) (Annex 7) stipulating that the part of the Bužini settlement with house numbers 1019 and 1020 belonging to the Kaštel People's Community be annexed to the part of the Bužini settlement belonging to the Sečovlje People's Community in the Koper District (map – Annex 8).

This arrangement met with disagreement as can also be seen from the Memorandum of the Piran Municipal People's Committee calling for the reintegration of the Savudrija part into the municipality in accordance with the old municipal boundary (Annex 9). The document underscores the century-long belonging of the two cadastral municipalities to the Piran Municipality and requires the reestablishment of the old boundary of the Piran Municipality in the Savudrija Promontory. It is also evident from the document that two larger portions of land "at the end of the Savudrija Promontory to the south of Sečovlje on the left bank of the Dragonja River" belonged to the Piran Municipality.

Acts applying to this area include the ordinance of the Istrian County People's Committee of 25 April 1952 concerning the division of the Istrian County into districts and municipalities (Official Gazette of the Istrian County People's Committee, No 6/52) (Annex 10). It may appear that the ordinance speaks in favour of Croatia, since it states that the Mlini settlement is included in the Sečovlje Municipality, while Bužini and Škodelin are part of the Buje Municipality. However, the interpretation of the Bureau of Statistics must be taken into account, which published the definition of the Mlini settlement two years later (in 1954).

In 1954, the Bureau of Statistics in Ljubljana published data on the size of the area and population of all municipalities and settlements in Slovenia (Annex 11). Mlini (137 inhabitants), comprising the Mlini hamlet (on the right and left bank of the Dragonja River), Bužin, Kanedo and Odorik (37 inhabitants and situated on the left bank of the Dragonja

River), is listed as part of the Sečovlje Municipality. The Sečovlje Municipality thus included Mlini on the right bank of the Dragonja River as well as Mlini on the left bank, which is presently known as Škrilje.

In November of the same year Slovenia adopted the Act Extending the Application of the Constitution, Laws and Other Regulations to the Koper Area (Ur. l. SRS, No 43/54) (Annex 12) (Chart C – Annex 13), which specifically mentions the Koper District. In 1955 Slovenia adopted the act laying down the geographical scope of districts and municipalities (Ur. l. LRS, No 24/55) (Annex 14), which defines which cadastral municipalities belong to Slovenia's geographical scope. The whole cadastral municipality of Sečovlje, including the settlements along the Dragonja River, is listed as part of Slovenia. This arrangement remained undisputed up to Slovenia's independence, as is evident from the land register of the Sečovlje cadastral municipality, which has remained at and has throughout been kept by the court in Piran.

A similar provision is contained in the Slovenian Procedure for Establishing, Merging or Shifting of Municipal Boundaries and Municipal Boundaries Act of 1980 (Ur. l. SRS, No 28/80), which included the entire Sečovlje cadastral municipality (Mlini, Škodelin, Bužini and Škrile hamlets) into what was at that time the territory of Slovenia (Annex 15).

### **Slovenia's sovereignty and jurisdiction**

Slovenia's exercising of jurisdiction in this area is proven by numerous general and individual legal acts and other evidence.

#### **1. Land register**

Slovenia maintained the land register for this territory before (and after) 25 June 1991. The land register of the entire Sečovlje cadastral municipality (including the 113 hectares on the left bank of the Dragonja River) was and continues to be kept by the competent court in Piran, as is evident from, for instance:

- Extract No 385 from the land register of the Sečovlje cadastral municipality (Annex 16), showing that a new property was entered in Sheet A as a socially-owned property in the use of the Rižana Waterworks Koper at plots No 6280 and 6281 in the Sečovlje cadastral municipality to the south of the Dragonja River (i.e. Bužini and Gabrijeli water sources) on the basis of minutes of 24 February 1968 of an inquiry for creating a new land register for the Sečovlje cadastral municipality; and
- Decision of the Koper Basic Court of 24 March 1983 permitting the entry of a property of client No 68 from Bužini, for whom a new land register file was opened in the Sečovlje (i.e. Slovenian) cadastral municipality (Annex 17).

Croatia launched procedures for creating its own land register for this area only in 1992, as can be seen from Letter No sl/92 of the Administrative Secretariat of the Piran Municipality of 10 November 1992 (Annex 18), indicating it was only in 1992 that Croatia launched procedures at the Buje Municipal Court for creating the land register of the Kaštel cadastral municipality that would also include areas belonging to the Sečovlje cadastral municipality.

## **2. Land survey issues**

The entire area (113 hectares) to the south of the Dragonja River, which is part of the Sečovelje cadastral municipality, falls into the cadastre of the Republic of Slovenia. Slovenia kept the cadastral and land registers for this territory before 25 June 1991 and continues to keep them 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 Sečovelje cadastral municipality including the 113 hectares of territory on the left bank of the Dragonja River.

The southern border of the Sečovelje cadastral municipality was always indisputably considered as the border between the two republics by the Slovenian and Croatian land surveying and mapping authorities. Any other position would require the carrying out of procedures for changing borders between the two republics in the event of disputes between them, as provided for in Article 11 of the Yugoslav Land Cadastre Decree (Official Gazette of the Federal People's Republic of Yugoslavia No 43/53, 23/56) (Annex 19). These procedures have never been carried out in this area, which proves that until 1991 Croatia regarded neither the Sečovelje cadastral municipality nor any of its parts as its territory. Slovenia, on the other hand, considered this land as Slovenian national territory through all these years, and also on 25 June 1991.

## **3. Waterworks**

An important water source is situated in this area (Bužini and Gabrijeli pumping stations). This water source provides water supply for inhabitants in Slovenia and all procedures for its use have been conducted in Slovenia. The pumping station is connected with the water storage tank located at the hill near Kaneda (Gabrijeli).

The Piran Municipality issued land use and building permits for the construction of facilities and pipelines of the two water pumping stations (Bužini and Gabrijeli) located in the area concerned. These permits applied to the area situated in the Sečovelje cadastral municipality, plots No 6280 and 6281 (Annexes 20 and 21).

On 26 October 1962 the Piran Municipal People's Committee issued a decision (Annex 22) stipulating that the Rižana Waterworks "be granted a site for the construction of the main waterworks pipeline from Sečovelje to the main water storage tank above Portorož to the length of 8,500 m." This waterworks is supplied by Bužini and Gabrijeli water sources located to the south of the Dragonja River. It is evident from the above that the border between Slovenia and Croatia did not run along the Dragonja River.

The same authority issued two other building permits to the Rižana Waterworks. The building permit of 12 March 1963 (Annex 23) permits the Rižana Waterworks – Koper to construct the first stage of the Sečovelje-Portorož water supply pipeline. The building permit of 3 August 1963 (Annex 24) permits the Rižana Waterworks – Koper to construct the second stage of the Sečovelje-Portorož water supply pipeline.

Extract No 385 from the land register of the Sečovelje cadastral municipality shows that a new property was entered in Sheet A as a socially-owned property in the use of the Rižana Waterworks Koper at plots No 6280 and 6281 in the Sečovelje cadastral municipality to the south of the Dragonja River (i.e. Bužini and Gabrijeli water sources) on the basis of minutes of 24 February 1968 concerning an inquiry for creating a new land register for the Sečovelje cadastral municipality.

#### **4. Fisheries**

The fact that this area belongs to Slovenia is further evident from fishery regulations, which are described in greater detail in the section on the Bay of Piran. Reference here will therefore only be made to the most important ones.

The Slovenian decree establishing fishing areas and fishing environs (Ur. l. LRS, No 17/1959) (Annex 25) stipulates that the Koper fishing environs also include the entire Dragonja River up to its outflow to the sea. It is evident from the above that the border between Slovenia and Croatia could not have run along the Dragonja River.

Another important document is the Sea Fisheries Decree issued by the Koper Community of Coastal Municipalities on 11 December 1987 (Primorske novice No 42 of 11 December 1987) (Annex 26). It is evident from the Decree that the Fisheries Reserve in the Portorož Bay covers the area delimited by the line connecting the Monfort salt warehouse in Portorož and the abandoned quarry in Kanegra on the Savudrija Promontory. The Reserve also includes the entire area of Sečovlje saltpans and the Dragonja River mouth.

The Aide Memoire of the informal meeting on fisheries in the Bay of Piran between a delegation of the SFRY and a delegation of Friuli-Venezia Giulia held on 23 December 1980 (Annex 27) is also significant, since it makes it clear that it was a Slovenian delegation that negotiated fishing by Yugoslav fishermen in the Gulf of Trieste.

#### **5. Saltpans**

The fact that this area belongs to Slovenia is further manifest from salt panning regulations. This domain, too, is described in greater detail in the chapter on the Bay of Piran. Let it therefore only be briefly repeated here that the Piran Municipality has managed this area and was in charge of the protection of the environment and monuments and also proclaimed the Sečovlje Salt-pans Landscape Part in a portion of the area.

„The Decree on the Proclamation of the Sečovlje Salt-pans Landscape Park, which was adopted by the Piran Municipality on 26 January 1990 (Primorske novice No 5 of 26 January 1990) (Annex 28), stipulates that the Sečovlje Salt-pans Landscape Park also includes the area of the old saltpans to the south of the Dragonja River.

All procedures for the proclamation of the Sečovlje Landscape Park (Saltpans) have always been conducted in Slovenia.

#### **6. Plovanija border control facility**

A few days before 25 June 1991, Slovenia initiated the construction of a border crossing in the Mlini settlement, on the territory of its Sečovlje cadastral municipality to the south of the Dragonja River. Croatia objected to the construction of the border crossing at this location. During the turbulent times of gaining independence Slovenia stopped the construction of the border crossing at this location in order to preserve friendly relations between the two countries. It should be remembered that Slovenia was faced with the possibility of an armed confrontation with the Yugoslav Army. Slovenia nevertheless constructed a provisional border crossing at Mlini, about 150 metres to the north of the Dragonja River after 25 June 1991.

Even though Croatia objected to the construction of a Slovenian border crossing since it was allegedly disputable to which country the location belonged, it continued to prepare the terrain at the very same location and to construct its largest border control facility in this part of Istria, despite constant Slovenian protests.

The entire Croatian border control facility was constructed on the territory of Slovenia and part of the terrain on which it stands belongs to the Piran Municipality.

Croatian replies to constant Slovenian protests voiced in the first half of the 1990s were that the concerned facility was only of provisional nature and that the Plovanija border crossing (as it is named by the Croatian side) did not prejudice the establishment of the border in this area and that the *status quo* was maintained (Annex 29).

This is also clear from the letter of 18 May 1994 sent by Croatian Prime Minister Nikica Valentić to Slovenian Prime Minister Janez Drnovšek. It can be deduced from the letter that the Plovanija border facility was only of temporary nature and did not prejudice the course of the border. Prime Minister Valentić explicitly stated that the "facility can be removed within five days." All this proves that the Croatian side did not consider the area concerned to be Croatian territory (otherwise Prime Minister Valentić would not have sent the letter) (Annex 30).

Similar statement is contained in Note of the Croatian Foreign Ministry No 10094-94/OKR of 24 May 1994 (Annex 31): "... the only purpose of the work performed was to arrange for the **temporary** operation of the border crossing without any attempt to prejudice the future defining of the border that is the subject of negotiations between representatives of the two countries." The Croatian side also proposed in that same note that representatives of the two countries should meet as soon as possible in order to discuss the outstanding issues relating to the Sečovlje-Plovanija border crossing.

Detailed information and chronology are provided in the attached Information concerning the construction of the Sečovlje-Plovanija border crossing (Annex 29).

## **7. Population and education**

The fact that this territory belongs to Slovenia is also evident from the censuses and statistical data collected by both Slovenian and Yugoslav authorities. According to the census carried out by the Federal Bureau of Statistics of the FPRY on 31 March 1961, the Mlini hamlet is part of the Sečovlje settlement (Annex 32). A similar conclusion can be reached from the list of house numbers of 1949 (Annex 33), from which it can be seen that Mlini and Bužini hamlets belong to the Sečovlje People's Community.

Children from the three settlements have always attended Slovenian or minority Italian schools in Slovenia, which is also confirmed by letter No 23/99 of the Vincenzo de Castro Elementary School of 20 January 1999 (Annex 34) containing the list of pupils from Mlini attending this branch school in Sečovlje (i.e. in Slovenia) in the 1990/91 school year. This proves that pupils from the area to the south of the Dragonja River attended school in Slovenia.

## **8. Amelioration of the course of the Dragonja River**



Slovenia adopted several general and individual legal acts applying to the entire Dragonja River, including its mouth, before 25 June 1991. This is also evident from some Croatian documents.

Due to constant flooding, the Koper District People's Committee initiated amelioration works in the entire flat area along the Dragonja River after 1950, which were also performed in the following years. These activities were always funded by the Slovenian side, and contractors were selected through calls for tenders.

The Koper District funded all amelioration works at and along both banks of the Dragonja River, as is confirmed by the 1954 letter of the Secretariat for Economic and Public Utility Matters addressed to the Economic Council of the Koper District People's Committee and concerning the improvement of the course of the Dragonja River (Annex 35). It is evident from the letter that the course of the entire Dragonja River was ameliorated by the Slovenian side (which shows that the border did not run in the middle of the Dragonja River).

## **Position of the Republic of Croatia**

Croatia insists that this entire 113-hectare area to the south of the Dragonja River is Croatian national territory, claiming that it exercised its sovereignty and jurisdiction there prior as well as after 25 June 1991.

Croatia furthermore claims that the division of the Piran Municipality into two parts also resulted in the separation of a portion of Sečovlje together with the aforementioned settlements from the Piran Municipality and its annexation to the Buje Municipality (and District). Croatia bases this position on the above mentioned ordinance on the establishment of two districts (Koper and Buje) and on the Ordinance Regulating Courts of the Istrian County (Official Gazette of the Istrian County People's Committee No I/1, 1 September 1947) (Annex 36), which in Article 10 explicitly defines the area of jurisdiction of the Piran court, which should be to the north of the Dragonja River. This diction reoccurs on several occasions. At the beginning Croatia even claimed that this referred to the Stara Dragonja River and not to the Sv. Odorik Channel. After 1947 and finally after 1956 Croatia included inhabitants of the Škodelin and Bužin settlements in the Buje District. Croatia also adopted other unilateral measures (inclusion in the register of inhabitants of Croatia; attempts to enforce its tax and partly judicial jurisdiction) during the time of the former common state in order to expand its territory to this area. As already stated, inhabitants of the Škodelin and Bužini settlements opposed these aspirations. In 1948, inhabitants of the Mlini hamlet (south bank of the Dragonja River) requested the "government" of the Free Territory of Trieste (Istrian County People's Committee) to be allowed to secede from the Kaštel People's Community and be annexed to the Sečovlje People's Community (the Koper District). The same request was addressed to the same authority by inhabitants of the Bužini hamlet in 1949. Both requests were unanimously granted by the Istrian County People's Committee Koper.

Croatia is taking numerous unilateral measures in order to confirm its executive power on the territory concerned and consequently prejudge the future course of the border between the two countries in this area. Contrary to the principle of observing the status as on 25 June 1991, Croatia's police "invaded" this part of Slovenian territory immediately after independence. In addition to the southern border, which is historically unjust for Slovenia, Croatia after independence unjustifiably and forcibly expanded its executive power to further 113 hectares of the territory that is integral part of national territory of the Republic of Slovenia.

Croatia constructed roads to the hinterland without Slovenia's consent as well as redirected supply of power from the Slovenian to the Croatian network, switched telephone connections from the Slovenian network to the Croatian network, and began to exercise administrative control over the population and territory concerned. In 1992 it launched procedures for establishing its own cadastre and land register for this area. When justifying its position, Croatia of course fails to mention the fact that it unilaterally and unlawfully created its land register in 1993 by illegally copying the Slovenian cadastre. Croatia furthermore illegally constructed the Plovanija border control facility on the Slovenian territory to the south of the Dragonja River, whereby it continued and completed the construction despite continuous Slovenian protests (see item 6).

What is behind all these unilateral acts is Croatia's attempt to illegally acquire this part of Slovenia's territory (despite continuous Slovenian protests). Croatia ignores Slovenian protests as well as appeals to peacefully and consensually solve the issue of this territory, which has been declared disputable by Croatia.

Even numerous Croatian documents prove that Croatia's positions are ungrounded (and that this territory does belong to Slovenia).

One of the most important and revealing Croatian documents is the 1954 amendment to the act regulating the division of the Republic of Croatia to districts, towns and municipalities (Narodne novine No 53/54) (Annex 37), which does not mention the above three settlements in the section on the composition of the Buje Municipality.

In 1955 Croatia published the act laying down the geographical scope of towns and municipalities (Narodne novine No 36/55) (Annex 38), which states that the Pula District consists of the Buje Municipality and several other settlements, which however do not include Plovanija (i.e. a settlement above the Dragonja valley, which, according to Croatia, also includes settlements and the border crossing near Sečovlje) or any of the three settlements concerned.

Croatia did not consider the three settlements concerned as part of the Croatian Municipality of Buje even after declaring its independence (i.e. after 25 June 1991). This is also clearly evident from the Croatian act laying down the geographical scope of boroughs, towns and municipalities of 1992 (Narodne novine No 90/92) (Annex 39). The same can be deduced from the following acts and documents of Croatian national or local authorities:

- Decision of the Municipal Court of Buje No Z-260/66 of 9 April 1968 (Annex 40) indicating that plot No 1931/1 "House 1, barn, Bužin" is located in the court area of jurisdiction of the court of Piran, i.e. in the Piran cadastral municipality (later Sečovlje cadastral municipality) and not in the Kaštel cadastral municipality;

- Consent of the Buje Municipality No 01/2-1105/1978 of 8 June 1978 (Annex 41) by which the Municipality agreed on the borders of the Slovenian Fisheries Reserve along the Dragonja River mouth. The Croatian side thus formally recognised the integrity of the Fisheries Reserve under the jurisdiction of the Piran Municipality.

- Another highly important document is the Croatian regulation on the categorisation of water courses of 21 April 1981 (Narodne novine No 15/81) (Annex 42), which defines the criteria for the categorisation of Croatian rivers. The list does not include the Dragonja River. The border between the two republics thus did not run in the middle of the Dragonja River, considering that the river is not even mentioned in the Croatian regulation

- Even a ministry of Croatia (specifically the Ministry of Environmental Protection, Physical Planning and Construction of the Republic of Croatia) made an explicit statement in 1991 in the SFRY National Programme on Monitoring the Pollution of the Adriatic, 1990 Report (Annex 43) that they monitored sources of pollution in the Slovenian littoral region from Koper to Savudrija and that they "noted pollution along the coast of the Slovenian sea, including the coastal waters from Debeli rtič to the Savudrija Promontory." The part relating to the Slovenian littoral area also specifically refers to the Dragonja River and its mouth. It was thus laid down at the level of the SFRY (national programme!) that the Slovenian littoral area includes the entire Dragonja River and its outflow to the sea – the border between Slovenia and Croatia could thus not have run along the Dragonja River.

## **Conclusion**

The above reasons show that Slovenia's insisting that the territory up to the southern border on the left bank of the Dragonja River in Sečovelje cadastral municipality belongs to it is understandable and that this is the only acceptable arrangement.

Let us underscore at the end that the principle of equity must be observed in the resolving of the Slovenian-Croatian border issue and that the indisputable historic fact must be taken into account that the Piran Municipality was divided into two parts following the establishment of the Free Territory of Trieste. This fact should be illuminated in the context of Croatia's moral debt to Slovenia, deriving from the "price" that had to be paid for the ultimate settlement of the Yugoslav-Italian border issue to the benefit of Croatia by those Slovenians that remained in Italy and consequently by Slovenia. This "price" is also mentioned in the Preamble of the Decision on the Adoption of the Agreement contained in the Memorandum of Understanding between the Governments of Italy, the United Kingdom, the United States of America and Yugoslavia regarding the Free Territory of Trieste (Official Gazette of the FPRY, No 43/53), stating in paragraph 3: "... noting with regret that some of our compatriots still remain outside the borders of the FPRY..."

## **SNEŽNIK—the Tomšič plots**

### **Introduction**

Under Snežnik, to the east, there is a wooded area of 70 hectares that belonged to the Hungarian part of the Austro-Hungarian Monarchy as part of plot 5029/1, the Prezid cadastral municipality, and thus to Croatia until 1920. According to the provisions of the 1920 Treaty of Rapallo between Italy and Yugoslavia, the Prezid cadastral municipality was annexed to Italy as an integral part of the Snežnik cadastral municipality under plot number 1956.

These are 7 forest plots, with plot No. 1956, the Leskova dolina cadastral municipality, as the largest one (other plots are: 1972, 1973, 1974, 1975, 1979 and 1981). The plots have also been popularly named the Tomšič plots after one of their former owners (map in Annex 1). The resolving of this issue does not concern the life of the population along the border to such an extent as other disputed border issues, as this concerns commercial forest exploitation. Despite the fact that the above plot is undisputedly situated on Slovenian territory, these plots have been managed since 1950 by different Croatian forest managers on the basis of ten-year forest management plans. Croatians have felled trees once a decade, except in 1990 and 1993, when they felled twice. After 1993, the felling of trees should have been stopped (see below). By that time, 20,000 – 25,000 cubic metres of conifer timber were transported from the above forests.

The Tomšič plots are entered in both Slovenian and Croatian land registers. The Croatian land register includes plot No. 5029, the Prezid cadastral municipality.

With regard to the course of the border, the territory belonged to the Hungarian part of the Austro-Hungarian Monarchy as part of the plot 5029/1, the Prezid cadastral municipality, and thus to Croatia until 1920. According to the provisions of the 1920 Treaty of Rapallo between Italy and Yugoslavia, the Prezid cadastral municipality was annexed to Italy as an integral part of the Snežnik cadastral municipality under plot number 1956. After World War II, the (former) Italian Venezia Giulia region was divided in two military zones (A and B). In 1947, zone B (and part of zone A) – Primorska with Istria without Trieste – was annexed to Yugoslavia and then divided between Slovenia and Croatia. Slovenia acquired Primorska and Slovenian Istria. The border was determined according to the boundaries of cadastral municipalities. Among the annexed cadastral municipalities was also the entire Snežnik cadastral municipality that included the Tomšič plots. Croatia annexed the part of the former zone B that belonged to it (Istria, Gorski Kotar, Rijeka, islands etc.) without expressly mentioning the shift of the boundaries between the Snežnik and Prezid cadastral municipalities.

The eastern borders of the Snežnik cadastral municipality, including the Tomšič plot, remained unchanged after the capitulations of both Italy and Germany and became the border between the Republic of Slovenia and Croatia after 1945.

Slovenia insists that after 1947, within Yugoslavia, it had been assigned the territory of the former zone B including the entire area of the Snežnik cadastral municipality (the entire Primorska and a part of Istria; the rest of Istria was, despite having a Slovenian population and a partial historic belonging to Slovenia, assigned to Croatia).

Slovenia exercised jurisdiction over the Tomšič plots, carried out denationalisation procedures, collected taxes, etc. The certificate on land registry data on plots at the time of

nationalisation of the Ilirska Bistrica Municipality of 18 May 1993 (Annex 2) clearly shows that the Tomšič plots are entered under the Snežnik cadastral municipality and thus belong to Slovenian territory. Denationalisation procedures are also being carried out in Slovenia. In 1993, the former owner of these plots filed a denationalisation claim with the Ilirska Bistrica Municipality (Annex 3).

## **Historic background**

### *a) Historic course of the border on Snežnik*

Due to constant conflicts between the Čabar and Ilirska Bistrica nobilities over the borders of the estates in the Snežnik forests, a border between Carniola and Croatia (Austria and Hungary) was determined in 1860/61. Plot No. 5029 was entirely on the Hungarian (Croatian) side. Conflicts between the Snežnik and Čabar nobilities continued. In 1906, the Snežnik estate marked the entire course of the forest boundary between Klanska polica and Berišček with new boundary stones. The Čabar side was dissatisfied with it, and border conflicts ensued the following year, in 1907. However, thanks to the then prefect in Logatec, the dispute was rapidly settled to the benefit of Carniola. The forest border between Carniola and Croatia in the Snežnik forests was finally determined in 1913. A special mixed Austrian-Hungarian national commission was appointed to determine the course of the border in the field and clearly mark it with boundary stones. Plot No. 5029 fell to the Hungarian (Croatian) side.

After World War I, a part of the border between Carniola and Croatia, determined as per the agreement in 1913, provided the basis for the Rapallo division between Italy and the Kingdom of Serbs, Croats and Slovenians. Henceforth, a part of this border constituted an administrative division between Slovenian and Croatian territory in the newly established Yugoslavia. After the Treaty of Rapallo, the Tomšič plot was divided into two parts: the greater part remained in the Kingdom of Serbs, Croats and Slovenians and was assigned plot number 5029/1, the Prezid cadastral municipality, whereas the smaller part (66 hectares) was politically and cadastrally annexed to Italy. It was included in the Snežnik (Monte Nevoso) cadastral municipality and got a new plot number, 1956, and a new eastern boundary of the Snežnik cadastral municipality (Annex 4). The political border between Italy and Yugoslavia thus ran along the eastern boundary of the Snežnik cadastral municipality. This boundary may be seen in the field today, and there is also full Yugoslav documentation on the arrangement of boundary stones along the border. Croatia does not contest this documentation.

Thus, the area belonged to Croatia until 1920 or to the Hungarian part of the Austro-Hungarian Monarchy within the plot 5029 of the Prezid cadastral municipality. According to the provisions of the Treaty of Rapallo between Italy and Yugoslavia, the Prezid cadastral municipality was annexed to Italy as an integral part of the Snežnik cadastral municipality under plot number 1956. Later, this land fell to Slovenia.

In 1929, when the territory of the Kingdom of Yugoslavia was divided into ban's domains and the Slovenian political districts Črnomelj and Metlika were shortly incorporated into the Croatian Sava ban's domain, the Drava ban's domain with its seat in Ljubljana got the formerly Croatian political district of Čabar as compensation. This applied only until 1931, when Čabar was reintegrated into the Sava ban's domain and Bela Krajina was returned to the Drava ban's domain.

On 20 June 1945, Marshall Josip Broz Tito and Marshall R. Alexander, through their deputies, concluded an arrangement on establishing a special authority in the entire area of the former Venezia Giulia region that was taken away from the Kingdom of Italy after World War II (Annex 5). The entire territory was divided into zone A (around Trieste and Venezia) and zone B that later fell to Yugoslavia or Slovenia and Croatia as the Slovenian Littoral with Istria. In August 1947, a peace treaty was signed with Italy, and thus the former Venezia Giulia region fell to Yugoslavia.

In September 1947, the Presidium of the People's Assembly of the People's Republic of Slovenia adopted a decree extending the applicability of acts of the People's Republic of Slovenia to the territory annexed to Slovenia in compliance with the peace treaty with Italy. The wording reads "... if this territory belongs to the People's Republic of Slovenia..." and then in Article 3: "... "The Government shall be authorised to decree the beginning of terms provided for under the law... " (Annex 6).

The Government of the People's Republic of Slovenia determined by a decree of November 1947 (Annex 7) the beginning of terms laid down in the regulations of the People's Republic of Slovenia applicable to the territory annexed to Slovenia in compliance with the peace treaty with Italy. The text shows that the regulations were extended to the entire territory of the former zone B that fell to Slovenia. This shows that the entire territory of zone B to the north of the Croatian border in Istria was annexed to Slovenia.

The above decree also introduced agricultural reform on the annexed territory and later also the nationalisation of the Tomšič plots.

On the basis of the above Decree, plot No. 1956 of the Snežnik cadastral municipality and other Tomšič plots were nationalised according to the provisions of the agricultural reform by decisions of 5 April 1948, 23 May 1948 and 13 September 1948 for the benefit of general people's property and entrusted to the management of the Postojna Forest Management in Šempeter na Krasu. This is evident from the land certificate for the entry in the land register No 190 of the Snežnik cadastral municipality of 6 November 1991 (Annex 8).

Slovenia and Croatia are successor states to the SFR Yugoslavia. The border between them is the same as the border between the republics of Slovenia and Croatia in the former SFR Yugoslavia. In other words, the former border between them was internationally recognised as the border between the newly established countries. The two countries committed themselves to respect the status applicable on 25 June 1991.

With regard to the above, there is no doubt that the Tomšič plots belonged to Slovenia on 25 June 1991 and are thus still part of Slovenian territory today.

#### *b) Ownership*

By the end of World War I, this area belonged to the Čabar nobility. After World War I, the border between Yugoslavia and Italy was established in this area. Italians set up boundary stones along the entire length of the border and entered the plot in the land register under the number 1956 of the Snežnik cadastral municipality. It is therefore evident that the Tomšič plots ceased to be part of Croatia in 1920.

Thus, plot No. 1956 (formerly part of the plot No. 5029 of the Prezid cadastral municipality) was entered in the land register in Ilirska Bistrica in 1933. K. G. from Čabar had been entered as the owner of plot No. 5029.

In 1943, the owner from Čabar (Dr K. G.) sold the plot to V. T. from Ilirska Bistrica. The sale has been entered in the land register in Ilirska Bistrica (then in Italy) under ZKV 190, entry number 269/43. K. G. also sold to V. T. plot Nos. 1972 through 1975, 1979 and 1981 that were entered in the land register in Ilirska Bistrica and included in the Snežnik cadastral municipality (Annex 9).

In 1951, the plot became part of the general people's property. The management of the plot was entrusted to the Postojna Forest Management, which is also entered in the land register (see the above mentioned Annex 8).

After World War II, the part of the old Italian-Yugoslav border to the length of 2.6 kilometres by the Tomšič plot was recognised as the border between Slovenia and Croatia.

The National Committee for Istria, Department for Forestry from Labino, sent on 8 May 1947 a letter to the Presidency of the Government of the People's Republic of Croatia, requesting the annexation of the entire "territory to the south of Snežnik and running along the old Croatian border with Gorski Kotar in the surface of 10,000 hectares" to Croatian territory (this also included the Tomšič plots) (Annex 10). On the same day, the Presidency of the Croatian Government sent a letter to the Presidency of the Slovenian Government with the request to examine the Labino requirement. The Croatian Government sent the same request on 8 August 1947.

The Slovenian Government responded to the Croatian Government on 13 September 1947, entirely rejecting the above initiative (Annex 11). On the same day, the Croatian Government adopted the Decree on forests of national importance, which declared the forests in the Delnice District, including plot No. 5029 in the Prezid cadastral municipality as forests of national importance (Annex 12). Croatian authorities, including foresters, disregarded the fact that all plots annexed to Italy with the new border between the Kingdom of Serbs, Croats and Slovenians and Italy, were sold to V. T. from the then Italy (and entered under the Snežnik cadastral municipality).

As may be seen from the letter of the Court of National Arbitration with the Government of the People's Republic of Slovenia (Annex 13), this arbitration regulated the dispute on the Tomšič plots. The Postojna Forest Management sued the Viševica Forest Management for omission of the management of plots in the Snežnik cadastral municipality (Tomšič plots). According to the Postojna Forest Management, the former border between Yugoslavia and Italy was applicable, and according to the Viševica Forest Management, the former Austro-Hungarian border should be applied that existed before 1920.

As already mentioned, plot No. 1956 of the Snežnik cadastral municipality (and other Tomšič plots) were nationalised according to the provisions of the agricultural reform by decisions of 5 April 1948, 23 May 1948 and 13 September 1948 for the benefit of general people's property and entrusted to the management of the Postojna Forest Management in Šempeter na Krasu. This is also evident from the letter of the Ministry of the Interior of 30 July 1992 (Annex 14).



## **Plot management**

The fact that this area was actually managed by the Postojna Forest Management is also evident from the revision for the Leskova dolina grounds (status after 1953), (Annex 15). On 26 November 1991, the Postojna Forest Management called the attention of the Delnice Forest Management to the fact that plot No. 1956, Snežnik cadastral municipality, was located on Slovenian territory and announced that it would claim damages for Croatia's felling of trees in this area (Annex 16).

The Slovenian inspector considered himself competent to carry out inspection of this area. This is clear from the letters of the Inter-municipal inspectorate of the Cerknica, Ilirska Bistrica and Postojna municipalities of 18 January 1988, 30 May 1988, 27 June 1988 and 6 February 1989 (Annexes 17, 18, 19 and 20).

The letter of the Cerknica Municipality assembly of 11 May 1971 (Annex 21) is particularly interesting, as it shows that "the border between the Cerknica Administrative Municipality and the Socialist Republic of Croatia – Čabar Administrative Municipality, is completely identical and the borderline as presented on land registry maps of our office overlap the borderline as depicted on the maps of the Socialist Republic of Croatia". Thus, the border between the administrative municipalities in this area should not be disputable and should run along the border as shown in the Slovenian land registry maps. This is also evident from a letter of the Geodesic Authority of the Republic of Slovenia of 30 March 1993, which stipulates that the Croatian side in the period between 1970 and 1975 did not mention the above plots as disputable (Annex 22).

It must be pointed out that the Croatian side for several times illegally felled trees on the Tomšič plots, both before and after 25 June 1991. Slovenian authorities were notified of it and addressed protests to the Croatian side (Annex 23, 24, 25, 26, 27 and 28). Croatia stopped felling trees on the Tomšič plots after 1993 (this is explicitly confirmed in a note of the Croatian Foreign Ministry of 10 February 1993) (Annex 29). It is evident from the above that the Croatian side was aware of the fact that it was not entitled to fell trees on Slovenian plots and thus stopped this activity. The decision of the Croatian Ministry of Agriculture and Forestry of 10 February 1993 (Annex 30) stipulates that the Delnice Forest Management had to stop any felling of trees in this area due to "unresolved border issues with the Republic of Slovenia". The decision applies until the "resolution of the dispute about pecuniary issues - border issues with the Republic of Slovenia". The letter of the head of the office of Croatian Foreign Minister Matek of 10 July 1993 to the Slovenian Foreign Minister Dr Peterle shows that the Croatian Minister of Agriculture and Forestry Tarnaj communicated that according to his instructions and at the request of the Croatian Foreign Ministry, all works in the Snežnik forests were stopped as of 9 July 1993 (Annex 31).

## **Croatia's position**

Croatia is of the opinion that the Treaty of Rapallo unjustly took away from it the territories of Istria, Gorski Kotar, Rijeka and the islands, and in the area of Prezid additionally part of plots of the Prezid cadastral municipality that were annexed to the Snežnik cadastral municipality. The continuation describes two essential elements on which Croatia has based its position:

a) Everything that belonged to K.T. before World War I belongs to Croatia. The border should be determined on the basis of that of 1919.

It must be particularly underlined that it is essential to take into account the actual situation after this year. In 1943, K. T. sold the plots that were annexed to Italy with the new border between the Kingdom of Serbs, Croats and Slovenians and Italy to V.T. from the then Italy. The extract from the Croatian land register (Annex 32) shows that in 1933, K.T. owned plot No. 5029 of the Prezid cadastral municipality.

The purchase and sale agreement of 1943 is not recorded in the Croatian land register, although it was concluded and performed. This is also evident from an extract from the Slovenian land register and from denationalisation which was carried out in respect of the new owner, V. T. The latter also filed a denationalisation claim in Slovenia.

The extract from the Croatian land register clearly shows that several plots (not only one!) were left out from plot No. 5029 that "fell to Italy due to the delimitation". This is completely in accordance with Slovenia's position and proves the correctness of the entry in the Slovenian land register.

b) After Italy's capitulation, ZAVNOH on 20 September 1943 declared the treaties between Italy and Yugoslavia null and void (Annex 33), and SNOS did the same in September of 1943. This decision was endorsed by AVNOJ on its second meeting in Jajce on 30 November 1943. Croatia claims that with this annulment, the legal bases for the belonging of the Tomšič plots to Slovenia ceased to exist. Slovenia should return the disputable plots to Croatia entirely or at least in part (50:50).

However, Item 1 of the ZAVNOH decree clearly stipulates what is declared null and void in respect of the territories that the "Government of great Serbia" left to Italy. This list includes nothing definite on the area where the Tomšič plots are located.

Item 2 declares as null and void all treaties concluded between Pavelić and the Italian Government. Nothing happened between Pavelić and the Italian Government that would concern the Tomšič plots.

It may thus be established that after 1947, Croatia annexed these plots to its territory with no act, whereas Slovenia legally regulated these plots (nationalisation).

## **Conclusion**

With regard to the above, the Tomšič plots are part of the Snežnik cadastral municipality and thus of Slovenian national territory. Since the establishment of the border between the Kingdom of Italy and the Kingdom of Yugoslavia, i.e. from the end of World War I (from 1920 or 1921), these plots have never belonged to Croatia in terms of administration, not even at the time when they were owned by K.G. or the Čabar nobility. As regards the status as on 25 June 1991 and the fact that the former border between republics became a new national border on the same date, these plots belong to Slovenia.

## **Bela Krajina - Sekuliči**

### **Introduction**

This is a cadastral municipality in the area of Bela Krajina on the south-western slopes of the Gorjanci, bordering to the east on the Croatian Žumberak. It measures 335 hectares, with the greater part of it (northern, hilly) covered with woodland, and to the south, there is the only settlement, the Drage village, and some arable area.

### **Slovenia's position**

The entire area of the Sekuliči cadastral municipality measuring 335 hectares is Slovenia's national territory and belongs to the Republic of Slovenia.

### **Croatia's position**

Croatia claims that the area belongs to it from the aspect of legal formality. The statement is based only on the circumstance that Croatia is in possession of the land register of the Sekuliči cadastral municipality, which also includes the Slovenian Sekuliči cadastral municipality.

### **Historic background**

In the second half of the 16<sup>th</sup> century, the formerly unpopulated area was settled by the Uskoki that later made up the majority of the population in the area. The Church of *Majka Božja* is mentioned as the first building in the area (the Greek-Orthodox Church of *Rodjenje sv. Bogorodice* still stands on the location). From the administrative aspect, this was the border area between *Vojna Krajina* and *Carniola*. Cadastral measurements in the 19th century (the Franciscan Cadastre) showed that the area was allotted to the Karlovac Generalcy (*Vojna krajina*) as part of the original Sekulič cadastral municipality, and after the introduction of the Austro-Hungarian Empire, it fell to the Hungarian part of the monarchy.

Geographic factors of the area and the related present traffic infrastructure imply that the only settlement in the area, the Drage village, gravitated to the area of Bela Krajina or Carniola ever since its foundation in the period of the settlement of the *Uskoki*; this has remained unchanged until today. This adherence to the Slovenian territory was consolidated after World War I also in terms of the administration and the judiciary.

In the 1918-1929 period, the area of the then Sekuliči cadastral municipality was under the Ljubljana authorities, the Kastav District. In the period of the formation of ban's domains (1929-1931), the area's adherence changed several times, and after 1931, the entire Sekuliči cadastral municipality fell to Črnomelj District and thus to the Drava ban's domain as part of the Radatoviči municipality (*Krajevni leksikon Dravske banovine*) (Lexicon of Towns of the Drava ban's domain), 1937, Ljubljana, Annex 1). The period leading up to World War II saw the final consolidation of the connection of the Drage village and the adjoining agricultural and forest plots of land with the Slovenian hinterland.

As a result of this general connection of the area with Slovenia (infrastructure, employment, education,...), a part of the Sekuliči cadastral municipality in Bela krajina (Žumberak) was left out in 1947 according to the local arrangement from the Sekuliči Cadastral Office and

transferred to the Črnomelj Cadastral Office, where the independent Sekuliči cadastral municipality was established. Slovenian official documents at that time begin to use the name "Sekuliči - part", which implies a historic background of division of the original Sekuliči cadastral municipality. At that time, the Drage village (Administrative Division of the People's Republic of Slovenia Act, Ur. l. LRS, No. 9/48 of 23 February 1948, **Annex 2**) and the adjoining plots of land (335 hectares) were annexed to Slovenia. The Archives of the Republic of Slovenia thus contain original land registry maps, which were deposited with the Archives by the Geodesic Authority of the People's Republic of Slovenia in 1961 (AS – 176, Franciscan Cadastre for Carniola). The arrangement on leaving out a part of the original Sekuliči cadastral municipality which should also include the division of the land register was not carried out in full. The land register was not divided and the part referring to plots of land, for which the cadastre had been transferred, was not transferred to Slovenia. It is still in store today at the land registry department of the Court in Karlovac/Ozalj (Croatia), in charge of land registry affairs. The court has been aware throughout, that these procedures were carried out for the area which is part of Slovenia. This is evident from the relevant official notes of desk officers.

### **Bases for Slovenia's position**

In the light of real and other facts, Croatia's position is easily rebuttable.

On 25 June 1991, the area belonged to the Republic of Slovenia (Procedure for Establishing Municipalities, the Merging or Shifting of Municipal Boundaries and Municipal Boundaries Act, UL SRS, 17 November 1980, 28/80, **Annex 3**). In general, the area gravitates towards Slovenia (administration, geography, infrastructure, employment, education,...). The comprehensive inclusion of the Sekuliči cadastral municipality in the competence of the Geodesic Authority of the People's Republic of Slovenia is also evident from the 1960 Authority document (successive list and alphabet register of cadastral municipalities in the People's Republic of Slovenia, 6 July 1960, Annex 4), where the Sekuliči cadastral municipality, registry number 1503 and a surface of 335 hectares, is entered under the Metlika Municipality, Črnomelj District.

The Drage settlement is not entered in Croatia's register of place names; the settlement was not included in the Croatian census of 1991 (**Annex 5**). The settlement has no direct road connection to Croatia.

The Republic of Slovenia has held and still holds all prerogatives of power and also executes this power (Decision of the Assembly of the Metlika Municipality of 23 April 1980 on shifting a part of the public path in the Sekuliči cadastral municipality, **Annex 6**).

There are 33 permanent and 6 temporary residents of the Drage settlement. In 2005, 28 persons were entered in the electoral register of the Republic of Slovenia.

On 25 June 1991, socially-owned forest plots of land of the Sekuliči cadastral municipality were managed by the Novo mesto Forest Management. The delimitation with the neighbouring, Croatian manager was done by agreement in 1968. In the relevant decision of 24 October 1968, the Croatian authority decisively establishes that "the Novo mesto Forest Management already possesses the listed surface areas, as the latter remained in the Socialist Republic of Slovenia and in possession of the Novo mesto Forest Management after the establishment of the border between the Socialist Republic of Slovenia and the Socialist Republic of Croatia" (**Annex 7**).

### **Conclusion**

Croatia's demand for the territory of the Slovenian cadastral municipality of Sekuliči is based only on the circumstance that the land register of the Sekuliči cadastral municipality was not divided and the part including the Slovenian cadastral municipality of Sekuliči was not left out from it. This is Croatia's only argument.

Slovenia rejects any renewal of the debate on this issue. Slovenia insists that the division of the former Sekuliči cadastral municipality immediately after World War II was carried out by agreement and that the belonging of both the Drage settlement and the adjoining plots within the period of 50 years has been proved without a doubt and is final.

## **MURA**

### **Introduction**

Due to its size and untameable nature, the Mura River has represented a natural boundary between Slovenia and Croatia throughout history. Its natural regime has marked and directed the life of the people of Prekmurje, who have always carried out their economic and other activities along the entire left bank of the Mura River and on the river itself.

The course of the Mura River as a natural boundary also determined the cadastral boundary, which was based on the first measurements and parcellation of land between 1820 and 1860 (Franciscan Cadastre). In the past century and a half, the Mura River has often changed its course and was also ameliorated in the first half of the 20<sup>th</sup> century. Cadastral boundaries did not reflect these changes. Today, the Mura River flows in certain places up to 2 kilometres further south of its former course. As a result, approximately 800 hectares of Croatian cadastral areas are on the left and 260 hectares of Slovenian cadastral areas are on the right bank of the Mura River.

Regardless of the general course of the cadastral boundaries, the people of Prekmurje have always followed the Mura River and carried out their activities in areas on its left bank and on the river itself, and this was largely followed also by the jurisdiction of Slovenian Authorities.

### **Slovenia's position**

When determining to which country the areas on the left bank of the Mura River and Slovenian cadastral territories on its right bank belong, the status as on 25 June 1991 must be taken into account. As is evident from the explanation below, jurisdiction over these areas was exercised by Slovenia.

### **Croatia's position**

Croatia defends the position that all plots on the left bank entered in Croatian cadastre belong to Croatia. Croatia defends the same principle regarding the right bank; however, it does deny that in 1956 and 1957, it illegally annexed 207 hectares of Slovenian cadastral areas.

Croatia's positions are unfounded, which is evident from the explanation below.

### **Basis for Slovenia's position**

In the continuation, arguments are stated that prove the justification for the final inclusion of the entire territory on the left bank of the Mura River, including a half of the water course, and Slovenian cadastral areas on the right bank of the Mura River in the national territory of the Republic of Slovenia.

### **a) Fisheries**

Fisheries are among the most significant areas in which Slovenia exercises its jurisdiction on the Mura River. Due to the accessibility of both the bank and blind river branches of the Mura River, Slovenian fishermen had exclusive rights in this area.

The decree designating fishing areas and fishing environs, Ur. l. LRS, No. 17/1959 (Annex 1), delineates the Lendava fishing environ running along the entire course of the Mura River from Gibina to the three-border area (Slovenia, Hungary, Croatia), including all tributaries, channels and blind river branches on the left bank. This concerns the left bank of the Mura River with all channels and fish ponds that were previously partly used as gravel pits. The above decree still applies. Part IV of the Rules on fish-farming plans and implementation record, Ur. l. SRS, No. 7/78 (Annex 2), adopted on this basis, regulates parts of the "Mura waters bordering on the Socialist Republic of Croatia". According to these Rules, the Mura River is the border river.

On 18 May 1962, the Lendava Municipal People's Committee issued a decision, which entrusted the management of the above Lendava fishing environ on the left bank of the Mura River to the Lendava Fishing Club (Annex 3). At that time, copies of this decision were also forwarded to the Mursko središče Sport and Fishing Society, the Mursko središče Municipal People's Committee and the Dekanovci Municipal Committee.

Since 1983, there has been an agreement between the Assembly of the Lendava Municipality and the Lendava Fishing Club entrusting to the Lendava Fishing Club the management of the entire Lendava fishing environ (on the left bank of the Mura River) (Annex 4).

Thus, the Lendava Fishing Club has managed the fishing waters on the left bank of the Mura River since 1962. Slovenian fishermen have managed the blind river branches and fish ponds, planted fish offspring and taken care of fish breeding.

This is confirmed by all the above internal legal acts and the actions of fishermen. The above situation was also confirmed by the Association of Sports Fishing Societies of the Međimurska županija in a letter (without a date and number) which shows that "during the period of the common state, fishing on the Mura River was carried out by agreement on both banks, each from its own side, with a partial respect for cadastral boundaries" (**Annex 5**). The letter also states that until 1999, Croatian fishing guards had the permission of the Ministry of the Interior to cross the border in discharging their work at any point on the Mura River, provided that they do not cross over to the bank of the neighbouring country.

Slovenian fishermen were fishing in this territory undisturbed after 1991, which was explicitly confirmed by the Croatian side. On 11 March 1994, representatives of different fishing associations and societies from both sides of the border, including both national associations (Croatian Sports Fishing Association, Međimurska županija Association of Sports Fishing Societies, Županija Varaždin Sports Fishing Association, Varaždin Sports Fishing Society, Fishing Association of Slovenia, Pomurje Fishing Clubs Association, Lendava Fishing Club) signed the Declaration on sport fishing on border waters between Slovenia and Croatia, which provided the consent to respecting acts, decrees and ordinances of both countries (Annex 6).

### **b) Police**

Slovenian police exercised jurisdiction in this territory before and also after 25 June 1991. The Mura River provided the natural division between Slovenia and Croatia, therefore the

police exercised its competencies on the Mura River, thus formally beyond its territorial jurisdiction defined by the boundaries of cadastral municipalities. Before gaining independence, Slovenian police officers dealt with several cases of violations regarding the loading of sand on the left bank of the Mura River.

Before 1991, Slovenian police were also regularly present in the Brezovec settlement, which is entered in Croatian cadastre. According to the local population, Slovenian police controlled the left bank of the Mura River until 1993 at least.

### **c) War for Slovenia**

During the war for Slovenia, Slovenian police and territorial defence units used the Mura River as the natural boundary between Slovenia and Croatia and their presence and activity on the entire left bank prevented the Yugoslav People's Army entering Slovenian territory.

### **d) Unrealised geodesic arrangement of 1956**

The area under Hotiza is particularly underlined. As regards this area, representatives of geodesic authorities of Lendava and Čakovec agreed to align the cadastral border with the course of the Mura River in 1956. In this regard, an exchange of Croatian cadastral areas under Hotiza was agreed upon for the same surface of Slovenian cadastral areas on the right bank of the Mura River (part of the Pince cadastral municipality).

This arrangement (in the form of an initiative) has never been either realised or legalised; nevertheless, Croatia illegally annexed 207 hectares (out of 260 hectares belonging to Slovenia) of Slovenian plots on the right bank of the Mura River. Thus, Croatia created its own cadastre for the part of plots in the Pince cadastral municipality located on the right bank of the Mura River, and extended its cadastral municipalities of Novakovec, Podturen and Ferketinec. These plots were not adequately compensated for upstream the Mura River (under Hotiza) as arranged at the level of geodesic authorities.

The Slovenian Geodesic Authority only learned about the Croatian actions in 1970 from a letter of the Federal Geodesic Authority in Belgrade (Annex 7).

In addition to the above incorrect procedures on the part of Croatia in the sense of absence of adequate compensations to Slovenia in the area of Hotiza, Croatia determined the shift of boundaries of three of its cadastral municipalities with the Pince cadastral municipality in a manner contrary to the then applicable regulations or specifically contrary to the Decree on land cadastre (Ur. l. FLRJ 43F/53). The changes of cadastral boundaries between the two republics were discussed neither by the competent republic authorities nor by the Federal Executive Council.

The Croatian side is attempting to prove that in 1956 and 1957, the delimitation of Croatian cadastral municipalities was executed according to the relevant procedure, i.e. in cooperation with a Slovenian representative. However, the accessible documentation shows that this procedure had many flaws and was generally conducted in a most controversial manner. The minutes used by Croatia to prove that delimitation between the Pince cadastral municipality and the Ferketinec cadastral municipality was executed in cooperation with the Slovenian side are incomprehensible, written in two different versions, with the final version bearing neither signatures of the members nor a seal; the name of the Slovenian member of the commission, Pustai Franc, is changed to Pustin Franjo (Annex 8). The minutes on the delimitation of the Pince and Podturen cadastral municipalities bear no seal (Annex 9). Furthermore, the

delimitation commission failed to report to the competent municipal authority in Lendava to acquire the existing land registry maps. It is also interesting that the invitation to be present at the delimitation of cadastral municipalities forwarded to Slovenian representatives referred only to the delimitation of the Podturen and Pince cadastral municipalities and not also to the Ferketinec cadastral municipality. The invitation shows that the delimitation procedure was to take place on 3 June 1956 (Annex 10), whereas the above minutes on delimitation of the boundary between the Pince and Ferketinec cadastral municipalities and the Pince and Podturen cadastral municipalities bear the dates "28 May 1956" and "from 14 May to June 1956" respectively. Croatia has never submitted the minutes on delimitation of the border between the Pince and Novakovec cadastral municipalities, which causes doubts as to their existence, particularly as the 1958 technical report on the measurement of the Novakovec cadastral municipality by the Croatian Geodesic Authority (Annex 11) clearly shows that the "boundary with the Pince cadastral municipality was time consuming due to the disagreement between the commissions of the Pince and Novakovec cadastral municipalities in the delimitation of territories of both cadastral municipalities".

After 1970 and up to 1978, Croatia's illegal procedures were subject to numerous debates, meetings and exchange of letters between the Slovenian and Croatian geodesic authorities and the Federal Geodesic Authority in Belgrade. Slovenia insisted on the position that the boundaries between the Pince cadastral municipality on the one hand and the Ferketinec, Podturen and Novakovec cadastral municipalities on the other were harmonised with the 1859 land registry maps. The lack of clarity regarding the course of the border between the Socialist Republic of Slovenia and the Socialist Republic of Croatia only appeared in 1956 and 1957. Until it has been removed, the "republic border between Slovenia and Croatia should not be drawn on the basic national Yugoslav map" (Annex 12). On the contrary, Croatia proposed that until the agreement on the border between Slovenia and Croatia in this part of Prekmurje is final, the border be drawn as undefined and with two lines (Annex 13). Its proposals were based on the minutes of the meeting between Slovenian and Croatian geodesists of 20 November 1970 that were drawn up by the Croatian side and never harmonised with the Slovenian side (Annex 14). In this regard, Slovenia forwarded on 22 December 1970 to the Geodesic Authority of the Socialist Republic of Croatia a letter in which it decisively protests against the contents of the minutes that distorted the actual conversation and agreements of the meeting between geodesists of both republics of 20 December 1970 (Annex 15). The above letter also shows that at that time, there was also a meeting between presidents and attorneys of the Čakovec and Lendava municipalities, at which it was (again) agreed that the "disputed 207 hectares belonged to the Čakovec Municipality, and the area of the same surface belonged to the Lendava Municipality in another area" (under Hotiza).

The illegal nature of Croatia's actions were confirmed by Marijan Božičnik, head of the Čakovec Geodesic Authority, in his article entitled "*O granicama SR Hrvatske*" (Borders of the Socialist Republic of Croatia) (*Geodetski list Republike Hrvatske*, 1987, 10-12), who was also involved in the annexation of the 207 hectares of Slovenian territory on the right bank of the Mura River. The article states that Slovenia did not accept the delimitation of the border line between the Socialist Republic of Croatia and the Socialist Republic of Slovenia done in the fifties and "which circumvented the constitutional regulations" (Annex 16).

The land register for these plots has always been located in Lendava. This is also confirmed by the above disputed Croatian minutes (Annex 14) that clearly state that "land registers for



this territory are still kept and stored in the Lendava Municipality". This was so on 25 June 1991 and has remained unchanged until today.

The Lendava Local Court has entirely and regularly executed its judicial power over the Slovenian cadastral municipalities on the right bank of the Mura River. Even after 1956/57, when Croatia illegally annexed 207 hectares of land in the Pince cadastral municipality, the Court practice showed no discrepancies, which means, that the owners of land, regardless of their nationality (Croats or Slovenians) always applied to the Lendava Local Court for land registry data.

With regard to the above, it is clear that Croatia illegally annexed 207 hectares of Slovenian territory in the Pince cadastral municipality. The course of the cadastral boundary of the Pince cadastral municipality was definitely and clearly determined already in 1859 (identified on the basis of old land registry charts of 1859) and has not been changed since (Annex 17). This is also confirmed by the Slovenian land registry chart drafted on the basis of the applicable land registry maps and thus the measurements made in 1932/33 and which shows that all land on the right bank of the Mura River belongs to the Pince cadastral municipality (Annex 18). Provided that Croatia understands that these 207 hectares were acquired on the basis of an arrangement between geodesists in 1956, on the basis of the principle of equity and the respect for arrangements, Slovenia is also entitled to 207 hectares of land in the Hotiza area. If not, the 207 hectares on the right bank of the Mura River that are part of the Pince cadastral municipality still belong to Slovenia.

#### **e) Brod na Muri**

The ferry on the Mura River connecting Hotiza on the Slovenian side and Sveti Martin na Muri on the Croatian side of the river and access to it represent significant proofs of the traditional presence of inhabitants of this part of Prekmurje on the banks of the Mura River. The connection by a ferry on the Mura River has always been in Slovenia's interest, therefore the Slovenian side undertook to establish a river crossing by ferry, and also financed and maintained the ferry. This is in exclusive ownership of the Hotiza Local Community, and managed by a Slovenian ferryman on the basis of a contract concluded with the Hotiza Local Community. Until Slovenia's gaining independence, the ferry's ownership and operation was never made an issue. After 1991, technical inspection of the ferry was done by the competent Slovenian institution (Annex 19). The competent Slovenian authorities also issued other required navigation permits for the ferry. Example: subscription document with navigation permit of the Hotiza ferry issued by the Lendava Administrative Unit on 10 October 2003 and which allows the ferry to navigate on the Mura River in the direction Hotiza-Sveti Martin na Muri and Sveti Martin na Muri-Hotiza, until regulated otherwise by an international agreement (Annex 20).

The connection of the population of the Hotiza Local Community with the Mura River is also evident from the recreation grounds along the Mura River (upstream and downstream from the ferry on the Mura River). The road leading to the ferry and the recreation grounds was also constructed and maintained by the Hotiza Local Community.

The population of both sides of the Mura River have always perceived the Mura River as a boundary, which is also evident from the minutes of the meeting of representatives of the Hotiza Local Community and the Sveti Martin na Muri Municipality of 8 February 2002 (Annex 21). Local community representatives on both sides of the border agreed that all the

control in crossing the state border be carried out on the bridge that would replace the ferry, or on the Mura River.

#### **f) Energy**

Elektro Maribor constructed electric power facilities through the area under Hotiza before 1991. These facilities were also running partly through the Sv. Martin na Muri cadastral municipality and their building and operating permits were issued by Slovenian authorities (Annex 22).

#### **g) Water management and dikes**

The fact that jurisdiction on the left bank of the Mura River was exercised only by Slovenia is also evident from facts relating to left-bank dikes. Due to flood risk to approximately 58,000 hectares of land in the eastern part of Prekmurje, Slovenia gradually constructed and entirely financed flood dikes after World War II on the entire left bank and regardless of the cadastre. These are running approximately 15 kilometres along the Mura River at a larger or smaller distance from the present course of the river. Slovenia has repaired and maintained these dikes all these years (also after 25 June 1991). This is evident from a letter of the Mura Water Management Company of 4 October 1991 addressed to the Petišovci, Dolnji and Gornji Lakoš, Gaberje and Kot local communities and to the Mestna zajednica Mursko središče. It refers to the obligations of the owners to remove trees in the security zone of the dike between the road Lendava - Mursko središče and the Kot settlement, which runs partly along the Croatian cadastre (Annex 23). The letter also shows that in case of violation of obligations, the competent Slovenian water management inspector will intervene. The work was based on the decisions on applying for the works issued by the Department for environmental protection and spatial planning in the Lendava Municipality (Annex 24).

For all these years, the dikes were maintained and improved by the same company – a Slovenian company - Mura Water Management Company from Murska Sobota. At the first meeting of Slovenian-Croatian working group for water management of the Mura River catchment area in Murska Sobota on 10 January 1997, the Slovenian and Croatian sides agreed to regulate the issue of selecting the contractor for renovating the dikes with regard to the “actual situation and legal status – practice as applicable on 25 June 1991” (Annex 25).

Croatia has never maintained the dikes on the left bank. The letter of the Ministry of Foreign Affairs and European Integration of the Republic of Croatia of 9 December 2005 to the Croatian Ministry of Agriculture, Forestry and Water Management clearly shows that in the renovation of the Mura River dikes, “the principle of reciprocity should be applied regardless of cadastral boundaries” (Annex 26). This was also the case all the years before Slovenia’s and Croatia’s gaining independence, when each side took care of dikes on its own bank of the Mura River.

The 1968 decision on water management consent for the main project on regulating the Mura River with channels near Hotiza shows that the Mura River from Gibine to Mursko Središče and further to the Krka estuary is the border river between the Socialist Republic of Slovenia and the Socialist Republic of Croatia (Annex 27).

#### **h) The Brezovec settlement**

The Brezovec settlement (locally known as Murišče) deserves special mention, although it is entered in the Croatian cadastre. Regardless of the above, the belonging of the settlement to

Slovenia was proven ever since the Mura River was ameliorated and the settlement remained on the left bank of the river, far away from the Mura River's current course. The amelioration was carried out gradually in the second half of the 19<sup>th</sup> and the first half of the 20<sup>th</sup> century. According to the above geodesic agreement of 1956, the settlement was included in the proposed exchange of land.

The settlement was listed among the settlements in the Lendava District in the Administrative Division of the People's Republic of Slovenia Act, Ur. l. LRS 9/58 (Annex 28). The settlement is also mentioned as part of the Lendava Municipality in the Establishing of Municipalities and Municipal Boundaries Act, Ur. l. RS, No. 60/1994 (Annex 29). According to the record of spatial units, applicable as on 25 June 1991, the settlement was entered in the area of the Hotiza Local Community. Today, the Slovenian record of spatial units shows that the Brezovec settlement has five houses.

The inhabitants of the settlement are Slovenian citizens and all their documents were issued in Slovenia. Their vehicles were registered in Slovenia, they are entered in the Slovenian electoral register and they also take part in elections. The inhabitants are generally gravitating towards Slovenia (employment, school) and have no contacts with Croatia. Even in terms of infrastructure, including road network and public utility connections (telephone, water supply, electricity), the settlement is part of Slovenia. The Lendava Local Court conducted and still conducts probate hearings of the inhabitants of the Brezovec settlement (on the basis of reciprocal operation of courts in Lendava and Čakovec). Until the abolition of the conscript system, the Ministry of Defence of the Republic of Slovenia kept military records of national servicemen from the Brezovec settlement (Annex 30).

#### **i) Land ownership**

It must be taken into account that most land on the left bank of the Mura River entered in the Croatian cadastre is owned almost exclusively by Slovenians. These owners receive agricultural subsidies for their land on the basis of the implementation of the EU Common Agricultural Policy.

#### **j) Three-border area**

The three-border meeting point between Slovenia, Hungary and Croatia must be particularly underlined. This is situated at the confluence of the Krka and the Mura rivers. By the three-border meeting point, there is a 30-hectare piece of land, mostly marshes, which represents an island of Slovenian territory. This area has no direct connection with the main territory of the Republic of Slovenia. Croatia appropriated this territory (probably about 1932) and now claims that it is Croatian national territory. On this basis, Croatia insists on the position that the three-border meeting point between Slovenia, Croatia and Hungary lies at the confluence of the Krka and Ledava rivers, approximately 1.5 kilometres upstream of the Krka.

Among other documents attesting that the mentioned "island" is indisputably Slovenian national territory, the most significant proof is the official Croatian cadastral chart, which depicts a white spot within the Croatian cadastral area, representing the above island and marked "Republic of Slovenia" (Annex 31 – to be acquired). The confluence of the Krka and the Mura rivers was already the three-border area between the Drava ban's domain, the Sava ban's domain and Hungary, which is clearly evident from the 1938 Yugoslavian Ordnance Survey Map (Annex 32). At this point, the border zone A ends and zone B1 begins already according to the markings in the Kingdom of Yugoslavia and in the period after World War II.

The fact that the island belongs to Slovenia is also proved by the above Croatian cadastral chart based on original measurements of the Novakovec cadastral municipality of 1859, from which all plots of land of the Pince cadastral municipality lying along the Novakovec cadastral municipality were left out, including the island near the three-border area at the confluence of the Ledava and the Mura rivers (Annex 17). The same conclusion may also be drawn from the Slovenian cadastral chart (reduced) drafted on the basis of the applicable land registry maps and founded on the measurements made in 1932/33 and which shows that all land on the right bank of the Mura River and at the confluence of the Mura River and the Ledava River belong to the Pince cadastral municipality (Annex 18).

The competent Slovenian geodesic authority annually forwards a list of plots on the “island” to the competent Slovenian tax authority for the requirements of imposing taxes on agricultural areas.

### **Conclusion**

When determining the border in the area of the Mura River, the status as on 25 June 1991 must be taken into account. As already mentioned, in terms of cadastre, Slovenia is entitled to some plots on the right bank of the Mura River, and Croatia to certain plots on the left bank of the Mura River. Nevertheless, the proof stating that on 25 June 1991, the jurisdiction on the entire left bank of the Mura River and on the river itself was exercised by Slovenia, is much more important. This is evident from Slovenian general and individual legal acts, contracts between local authorities and natural or legal persons, from other documents and from the operation of national and local authorities in this field.