

Bosnia, Slovenia: Arbitration, Electric Power Industry of Slovenia claims damages for old investments from Mine & TPP Ugljevik

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The arbitration between the Mine and Thermal Power Plant (RiTE) "Ugljevik" and the Slovenian "Electric Power Industry - Development and Engineering", by which the Slovenians are claiming damages from BiH amounting to 1.5 billion Eur due to pre-war investments in the thermal power plant construction, has not started yet, because the two parties cannot agree on the selection of the third - key judge in this trial.

Namely, back in mid-June last year, the Slovenians brought a lawsuit against BiH before the International Centre for Settlement of Investment Disputes in Washington.

The claim for damages amounts to 750 million EUR, and if BiH lost the dispute, it would amount to as much as 1.5 billion Eur with all interests included.

For clarification, in 1981, Slovenia invested one third, and BiH two thirds of money in the construction of the Thermal Power Plant "Ugljevik", which started operating in 1985.

The thermal power plant was obliged to regularly deliver generated electricity to Slovenia in accordance with the amount of funds invested in its construction.

And so it was until the beginning of war developments in former Yugoslavia, when the delivery was interrupted, whereas during the war, the transformer substation in Croatia, through which the electricity had been delivered to Slovenia, was destroyed due to bombardment.

Mlađan Mandić, a BiH attorney, said that the selection of the third judge in the arbitration was crucial, because his/her decision would be decisive, and he added that, by that moment, they had not succeeded in agreeing on who it would be.

- They do not want ours, and we do not want theirs, so it is a kind of outwitting now, but if we cannot agree on our own, the Secretary General of the Arbitration will decide - said Mandić.

Therefore, the meeting of parties to this dispute has been scheduled for Friday, 12th June this year in Sarajevo, so as to try once again to agree upon the selection of the third judge. Namely, the Slovenians have chosen a Swede as the arbiter for this Arbitration, whereas BiH has chosen a professor from Serbia, Maja Stanivuković.

The BiH party assures that they possess arguments to win the dispute, whereas the Slovenians claim the same, referring in this case to the Succession Law and the Self-Government Agreement, and characterizing the whole case as a dispute between two

countries, which, from the beginning, could last for around a year or two.

However, what is interesting in all this is that the lawsuit was filed by the company "The Electric Power Industry of Slovenia - Development and Engineering", which is practically fictitious, having no employees and serving only for filing such lawsuits, and not performing its activity.

However, they have a direct support of the Slovenian Government for this case, and therefore the legal team has been hired.

Mandić said that, in case of losing the dispute, the state of BiH would pay the damages, considering that this is an interstate dispute, but that he also believed that Slovenia would not succeed in winning the dispute.

- Our chances are increased by the fact that, at that time, there were no elements of internationality in the Self-Government Agreement, and that, in 1981, this company was in fact public property and it was owned, crudely speaking, by both BiH and Slovenia, as well as Serbia and other former Yugoslav states - said Mandić.

Good References of BiH Arbiter

BiH has chosen Maja Stanivuković, president of the Belgrade Arbitration Center, as the arbiter in this dispute.

Stanivuković is a leading expert in the sphere of arbitration in Serbia and she is the first woman president at the forefront of an arbitration institution in the region. Otherwise, she is a full professor of international private and arbitration law and the Head of Department of International Law at the Faculty of Law of the University of Novi Sad.

As an international arbiter, she has participated in more than 20 international arbitrations, and she is on the list of recommended arbiters of the Vienna International Arbitration Court within the Austrian Federal Economic Chamber. , transmits Serbia-energy.eu