

Translation

REPUBLIC OF CROATIA
MINISTRY OF SCIENCES AND TECHNOLOGY

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Zagreb, 27 December 2001

GOVERNMENT OF THE REPUBLIC OF CROATIA
Attn. Vice-President
Deputy to Vice-President
Dr. Goran Granić

Trg sv. Marka 2
10000 Zagreb

Ref. Your Number: Class: 023-03/99-03/15

File: 50303-01/01-1

Subject: Dismissal of Mr. Nikola Kopčić, M. Sc. Director to the State Intellectual Property Office
- opinion on,

Relating to your letter of 28 June 2001 requesting a statement by this Ministry regarding the letter by Association of Licensing Experts in the pursuit of the relevant proceedings concerning Mr. Nikola Kopčić, M. Sc., director to the State Intellectual Property Office, by virtue of the provisions under Article 32 paragraphs 3 and 4 of the Law on the Establishment and Scope of Ministries and Governmental Administrative Organisations («Narodne novine (Official Journal) No. 48/99, 15/00) our statement is as follows:

On 12 October 1998 Mr. Nikola Kopčić, M. Sc., Director to the State Intellectual Property Office (hereinafter: SIPO) set up with his son Davor Kopčić a company Forinpro d.o.o., dealing, among others, with representations under industrial property granting procedures before SIPO (Annex 1.)

Noting that the conditions for the application of the provisions under Article 5 paragraph 3. of the Law on Rights and Obligations of Government Officials (OJ No. 101/98, 135/98, 105/99, 25/00, 73/00, 30/01, 59/01) (hereinafter: the Law) have been fulfilled, and in case such conditions arise, government officials are bound to comply, and forthwith inform the competent body that appointed them, as well as the Ethical Committee of the Croatian Parliament.

However, director Kopčić has not met the mentioned legal obligations, and at his sole discretion evaluated that there was no conflict of interests by establishing the firm Forinpro d.o.o., and there were no real chances to be so in the future. The appointed person mentioned the aforementioned statement following our request of 28 June 2001 (Annex 2).

Our standpoint is that such practice was infringing not only to the cited provision of Article 5 paragraph 3, but also to the provisions of Article 2 paragraph 1 of the Law, according to which officials are committed to pursue their activities, so as not to jeopardise the credibility and trust of citizens in performance of their duties conscientiously and responsibly, as well as the provisions of Article 2 paragraph 2 of the Law, laying down, that officials shall not favour their private interests to the prejudice of the national and public interests.

In support of the aforementioned there is a Special Report by the Ministry of Internal Affairs, Police Administration of Zagreb, VIII Police Station addressed to the Municipal State Attorney on 31 May 2001, establishing a reasonable doubt, that the said person committed abuse of his dominant position in the performance of his civil service, which is provided under Article 338 of the penal law. According to the report, the mentioned reasonable doubt is based on the fact that director Kopčić, having issued a provisional decision concerning the registration of the company Forinpro d.o.o. into the Register of Representatives at SIPO, made possible for his personal interest and on behalf of his family, as the authorised representative under proceedings for the protection of industrial and intellectual property; representing before SIPO domestic and foreign persons, having realised under 130 cases an income of at least HRK 448.289,07 from 9 December 1998 to 9 April 2001 (Annex 3).

The mentioned Special Report was drafted on the basis of the criminal complaint filed by Mrs. Vesna Stilin, a former official at SIPO, who in detail informed the Ministry of Sciences and Technology concerning all the irregularities of Mr. Kopčić's activities. On 7 May 2001 Mrs. Stilin lodged a request to institute proceedings for the establishment of the conflict of interests to the Ethical Committee at the Croatian Parliament (Annex 4).

Notwithstanding that the provisions of Article 7 paragraph 3 of the Law specify that the said committee shall be established under the Rules of Procedure of the Croatian Parliament, it contains no provisions within this meaning; it is disputable how such proceedings may be enforced, particularly taking into consideration the fact that no proceedings for the establishment of the conflict of interests have been enforced in the Republic of Croatia on the basis of these provisions, so far. Moreover, we must underline that the Law does not regulate the subsequent procedure in case that Ethical Committee established the existence of the conflict of interests, and sanctions are not provided in case of infringement of the aforementioned provisions under Article 2 of the Law.

By virtue of the above terms, and subject to the provisions of Article 32 paragraph 1 under the Law on the Establishment and Scope of Ministries and Government Administrative Organisations, in our opinion it is necessary to enforce a dismissal of Mr. Nikola Kopčić, M. Sc., director to SIPO.

We emphasize, that the extensive tasks, which lay before SIPO indicate that the enforcement of the said procedure is an imperative. These tasks are specified under a draft project for the implementation of the Stabilisation and Association Agreement between the Republic of Croatia and the European Communities and their Member States, which was drafted by the

Government of the Republic of Croatia in September 2001. Namely, according to the above project, SIPO shall draw up six draft law projects within the field of its activities.

Faithfully yours,

MINISTER
Prof. Hrvoje Kraljević, Ph. D.

To communicate to:

1. Addressee
2. Archive

Enclosure:

- Annex 1: Excerpt with annexes from the Register at the Commercial Court in Zagreb concerning the company Forinpro d.o.o., of 14 February 2001 (Application for the registration into the Court Register, Articles of Association d.o.o., Deposit Agreement, Notary Certification)
- Annex 2: Statement by Mr. Nikola Kopčić, M. Sc. of 19 May 2001
- Annex 3: Special Report by the Ministry of Internal Affairs, Police Administration of Zagreb, VIII Police Station of 31 May 2001
- Annex 4: Request by Mrs. Vesna Stilin to institute proceedings for the establishment of the conflict of interests to the Ethical Committee at the Croatian Parliament