

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

We are writing to you as Slovenian Members of the European Parliament to express our great concern over recent developments which have shown that the European Commission is not executing its duty to respect, protect and promote the rule of law which is the most essential common denominator of the European Union and wider international community. We are highly concerned by Commission's conduct in the case of legally binding arbitration ruling by which the Arbitral Tribunal determined the land and sea border between the Republic of Slovenia and Republic of Croatia. The lack of transparency and inaction of the Commission is very worrying and harmful to the values and credibility of the Union. Moreover, it sends a wrong message that ignoring the rule of law is something that is acceptable in Europe today.

We were especially concerned to find out that you, Mr Juncker, as President of the European Commission decided to ignore the opinion of your own Legal service to issue a reasoned opinion in the dispute between Slovenia and Croatia regarding the implementation of the binding and final arbitration ruling. As it has been revealed, the European Commission had been advised by its Legal Service to back up Slovenia's position; however, you personally decided not even to discuss this legal opinion. Let us remind you, Mr President, that during your recent State of the Union speech in the European Parliament you stated that European Union is a community of law and that respecting the rule of law and abiding by judgments of the Court is not optional. We welcome this statement of yours as it demonstrates a spirit that we share. We expect from you to act accordingly and make your own words count. Citizens are rightfully expecting the highest of standards when it comes to your behaviour as the top representative of the European Commission.

Please allow us to mention some important facts. As you have been well aware, the Arbitral Tribunal rendered its Final Award in the arbitration concerning a territorial and maritime dispute between Croatia and Slovenia on 29 June 2017. This ruling is final and legally binding for both countries, however, it still has not been implemented by this date. With Croatia's position not to respect the Final Award, Croatia is in violation of international law and also infringing some of the oldest legal principles as "*pacta sunt servanda*" and "*res judicata*" that are elementary and universally agreed principles fundamental to all legal systems. Slovenia on the other hand carried out all its obligations in good faith and is now rightfully expecting of Croatia to do the same and fulfill its commitments.

The agreement to submit the border issue to a third party, ad hoc Arbitration Tribunal in The Hague, was a political breakthrough and a voluntary decision of both countries after decades of failed attempts to resolve this issue and most importantly numerous border incidents. Thus, the fact that Slovenia and Croatia managed to agree on the resolution of the border dispute by Arbitral Tribunal was an important milestone and a positive sign in the region burdened by many open bilateral issues that such disputes are solvable in a peaceful and legal way. Slovenia

put all its efforts to adhere to and implement the arbitration award, however, without any progress so far. From the date onwards when the ruling was published, we can speak only of its implementation and the details regarding its execution, as border dispute no longer exists. The land and sea border between both countries is determined by legally binding tribunal decision. Slovenia and Croatia should now peacefully and in dialogue join their efforts in implementing the defined border course and set an example as responsible members of the international community.

At the same time we would like to remind you that this is far from merely being a question of bilateral relations between Slovenia and Croatia as it affects the whole European Union. The Arbitration Agreement between Slovenia and Croatia was sponsored by the European Commission and it was signed by the prime ministers of both countries in the presence of the Swedish Prime Minister acting on behalf of the Council of the EU at the time. Moreover, the Arbitration Agreement and the reference to its *full implementation* is part of the *acquis*, the Accession Treaty of Croatia to the EU. Therefore, Croatia is not only in violation of the international law but also of the Union law. And the European Commission as the guardian of the Treaties is required to act accordingly and ensure that the Treaties are properly enforced. It is your responsibility, Mr Juncker, as President of the Commission to ensure that this very important Commission's duty is executed in a responsible and transparent manner. Abandonment of such duty would mean that the European Commission does not carry out its obligations and duties entrusted to it by the Treaties.

Your silence in this matter sets a dangerous example also for Western Balkans' countries and it sends a message that mutually agreed commitments do not necessarily have to be respected. Taking into account the complexity of relations throughout the region this could have serious implications for the future of the Western Balkans region and its stability. Indeed, this issue is a test not only for the European Commission but also for the European Union as such since, if it cannot protect the rule of law within the Union, it can then hardly be in a position to lecture other entities of the international community others, including candidate countries.

Therefore, Mr President, we urge you to unequivocally demand from Croatia to respect the rule of law and implement binding arbitration ruling without any further delay. Speaking in legal and political terms, there is no alternative to the implementation of the border arbitration and we believe that you, as President of the Commission, which is entrusted with safeguarding the Union Treaties, should make this crystal clear. At the same time, we call upon you to act according to the strong transparency commitments that you and the Commission made in the past. All procedures in this respect have to be conducted openly and transparently without unnecessary politicization that we have unfortunately witnessed so far. With Euroscepticism and populism on the rise transparency, ethics and integrity are now more essential than ever before.

Rule of law is a cornerstone of the European Union and a backbone of modern democratic societies. It is our joint responsibility to ensure it remains this way.

We thank you for your attention on this matter.

Sincerely,

Igor Šoltes, Member of the European Parliament (Greens/EFA Group)

Franc Bogovič, Member of the European Parliament (EPP)

Tanja Fajon, Member of the European Parliament (S&D)

Ivo Vajgl, Member of the European Parliament (ALDE)