

THE REPUBLIC OF SERBIA

COMMERCIAL COURT IN NOVI SAD

Business No. Su VI-18/2017

Date: 20 December 2017

Novi Sad

ATP VOJVODINA AD NOVI SAD

ILIJA DEVIĆ

The Commercial Court in Novi Sad received an e-mail on 13 December 2017 – Your press release and complaint to work of the judges working with the Commercial Court in Novi Sad. The complaint was registered as a separate document and it has been dealt with in accordance with the Court Rules. You have stated that there have been a lot of failures in the cases between ATP Vojvodina and the City of Novi Sad being dealt with in this Court. After reading the documents which are part of the cases Business No. P.191/2016, Business No. P.1327/2015, Business No. P. 856/2013 and Business No. P. 197/2017 and getting the statements given by the judges who have been and are still working on these cases, I want to inform You about the following:

Firstly, in the case Business No. P. 856/2013 which was originally given to acting to the judge Slobodan Sremčev the lawsuit was filed on 9 May 2013 and the subject of the lawsuit demand was damage compensation in the amount of 351,030,300.00 RSD. The judge in charge of the case Business No. P. 856/2013 made the judgement on 3 December 2013 by which the lawsuit demand of the claimant was refused and the document was sent to the Commercial Court of Appeal in Belgrade which, by its decision Business No. Pz.2012/2014 abolished the judgement on 30 July 2017 and sent the case back for a new trial.

Based on the public competition, the judge Slobodan Sremčev was elected President of the Commercial Court in Novi Sad and on 27 May 2014 he took the office. In his statement relating the facts given in your complaint, he says that he has never, including the case Business No. P. 856/2013, been exposed to any political pressure and that he made his decision in the way he believes every judge should do – in accordance with the Article 22 of the Law on Judges, adding that he finds the rest of the facts in the complaint insulting and untrue.

After abolishing of this Court's judgement Business No. P. 856/2013 by the Commercial Court of Appeal in Novi Sad, the case was sent back for a new trial and it became responsibility of the judge Goran Crevar on 26 August 2015. New Business Number of the case is. P. 1327/2015. According to the statement given by Goran Crevar, the judge in charge of the case P. 1327/2015,

all the evidence proposed by the claimant was carried out and the evidence consisted of additional expertise. During further proceedings the Court allowed intervening of Ilija Dević on the side of the claimant, and the claimant modified the lawsuit demand in such a way that he demanded damage compensation due to lost profit of business activities of the Bus Station for the period 1 December 2011-28 March 2013 in the amount of 297,823,680,00 RSD and damage compensation due to lost profit from the very business of the claimant, on the basis of cessation of transporting the passengers in intercity and international traffic, cessation of work of the Service Centre and cessation of the official representation of selling „Evobus“, „Setra“ and „Mercedes“ buses for the period 1 March 2007-28 February 2013 in the amount of 6,479,383,608.00 RSD. After carried out evidence, the Court concluded the main hearing on 16 November 2017 and expedited the decision to attorneys-at-law of the parties. The Court refused the lawsuit demand of the complaint. As for other statements given in the complaint, Goran Crevar did not want to give his statement, finding them personal and insulting.

On 19 February a lawsuit was filed to this Court by ATP VOJVODINA AD NOVI SAD against the respondent THE CITY OF NOVI SAD for the damage compensation in the amount of 748,864,000,0 RSD. Business Number of the case is P 191/2016 and the judge in charge of the case is Gordana Ristić. According to the statement of the judge in charge of the case, it was allowed to the intervener Ilija Dević to participate in the proceedings on the side of the claimant. There were six hearings in the period from 23 June 2016 and 31 October 2017 and one was postponed. Economic and financial expertise was ordered as well as two additional on the motion of the claimant. The following hearing is scheduled for 23 January 2018.

Litigation procedure was also conducted in this Court under Business No. P.4597/2010 between the same parties and the intervener. The judge in charge of the case was also Gordana Ristić and the decision made by this Court was the one by which the respondent is obliged to pay to the claimant the amount of 1,333,914,000.00 RSD with the legal default interest starting from 20 December 2011 till payoff. The judgement made by the Supreme Court of Cassation No. Pre-58/13, PZZ – 1/13 from 9 May 2013 the first-instance and second-instance decisions were modified, so the judgement was made by which the lawsuit demand filed by the claimant for payment of 1,026,114,000.00 with the legal interest from 20 December 2011 till payoff was rejected.

The proceeding currently conducted in this Court is the one in accordance with the lawsuit of the claimant ATP VOJVODINA AD NOVI SAD against the respondent THE CITY OF NOVI SAD due to commitment in the amount of 534,080,220.43.00 RSD. The case Business No. is P. 197/2017 and the judge in charge is Vladimir Nastić. The judge says in his statement that, after sending reply to the lawsuit in accordance with the law till 29 November 2017, preparational hearing took place and it was scheduled for several (six) dates so that the parties and proposed intervener could have enough time to send/propose all the evidence they planned to refer to at this hearing, as well as for the Court to economically, in a high-quality way and efficiently concentrate the evidence and demand the necessary explanations for the parties and proposed

intervener. As for the dynamics of the hearing schedule, the parties involved and the intervener and their representatives/attorneys-at-law did not have any objections.

The judge also says in his statement that his actions in the case are regulated by the provisions of The Law of Litigation Procedure and he thinks that he applied them entirely in the phase of the preparational hearing, trying to ask the questions and do the appropriate actions in order to discuss the circumstances under which the proceeding would be conducted in the future, since that is something upon which the parties, as well as the persons who have or might have or have the ambition to have that position by law, can significantly influence. He finds the statement given by the claimant that this court/judge is/are waiting for something unfounded, especially not waiting for the outcome of the procedure P.191/2016 or P.1327/2017. He says that this Court does not even think that the case P/ 197/2017 and the abovementioned ones are essentially connected, having in mind the fact that the principal demand in the proceeding P. 197/2017 is fulfillment of the contract from 8 May 2006, i.e. damage compensation in the form of payment of the value of the Bus Station in Novi Sad on the location of Sentandrejski put etc.

Estimating that he needed the insight into the act P. 287/2013 before making the decision on the further course of the proceeding, the judge postponed the hearing which took place on 29 November 2017 for a short period of time, because he could not at that moment make some assumptions about the time necessary for providing the act. Since in the meantime he got the information that the respective act would be sent to him in a short period of time, on 11 December 2017 the judge scheduled a new hearing for 26 January 2018, having in mind the coming New Year and Christmas holidays as well as the judge's already planned, scheduled and paid annual vacation in the second part of December 2017. He hopes that the parties involved, the proposed intervener and their representatives and attorneys-at-law will understand his reasons.

He does not want and cannot make comments on other elements of the complaint because they are personal attitudes and he finds unnecessary, as the one having judiciary function in THE REPUBLIC OF SERBIA, to make comments about political and other attitudes of the claimant.

Having in mind the previously described chronology, it is clear that in all the cases the court have acted efficiently as much as possible, taking in consideration complexity of the cases; it is clear that all the decisions have been made and written within the legal deadlines and in accordance with the Law, as well as within competence of the complaint consideration.

I also think that each and every judge has acted and is still acting in accordance with the Article 22 of the Law on Judges which says that a judge is free to support and defend his opinion, to define the facts and to implement law in everything they decide about. It is not a judge's obligation to explain to anybody, including other judges and Court President, his understanding of law and established factual situation, except in explanation of a decision or in case the Law especially demands that.

That is why I think that the charges are not acceptable.

The decision on the complaint has been made by the Deputy President since a part of the complaint refers to acting of the judge who is currently the Court President.

Yours sincerely,

DEPUTY PRESIDENT OF THE COURT

Slobodanka Komšić, judge