

Paris, July 8, 2014

By email and DHL

Ms. Meg Kinnear
Secretary-General
ICSID
1818 H Street, NW
Washington, DC 20433
USA

**Re: EuroGas Inc. and Belmont Resources Inc. v. Slovak Republic
Application for Provisional Measures**

Dear Ms. Kinnear,

1. Claimants hereby apply, in the above-referenced arbitration and for the reasons set out below, for provisional measures in order to preserve their rights and avoid a severe aggravation of the dispute, and to respectfully ask that a calendar be set for the exchange of briefs in this respect, in accordance with Article 47 of the ICSID Convention and Rule 39 of the ICSID Arbitration Rules.
2. By way of reminder, on June 25, 2014, EuroGas Inc. (“EuroGas”) and Belmont Resources Inc. (“Belmont”) filed a Request for Arbitration against the Slovak Republic, under the ICSID Convention and Rules.
3. On the very date of the filing of the Request – which had been communicated to Respondent in the course of negotiations¹ – JUDr. Roman Púchovský, Judge on Preliminary Proceedings of the Special Criminal Court in Banská Bystrica, Slovak Republic, issued an “Order for a

¹ In an Order for a House Search dated June 25, 2014, discussed below, Respondent itself acknowledged that it was aware that “*the companies EuroGas Inc. and Belmont Resources Inc. are currently threatening to submit, on 25 June 2014, the dispute to the International Center for the Settlement of Investment Disputes (ICSID), pursuant to the notice of dispute dated 23 December 2013, which will initiate the arbitration procedure*” (**Exhibit C-49**, Order for a House Search, dated June 25, 2014, p. 3).

ASSOCIATION D’AVOCATS À RESPONSABILITÉ PROFESSIONNELLE INDIVIDUELLE

House Search”² at the domicile of Ms. Jana Czmoriková, the external accountant of Rozmin sro (“Rozmin”). As explained in the Request for Arbitration, Rozmin is a Slovak Republic-incorporated company in which EuroGas and Belmont hold a 90% shareholding interest and which held exclusive rights for mining activities at the Gemerská Poloma deposit until these were unlawfully revoked in 2005.

4. The Order for a House Search entitled the police to secure, *inter alia*, all accounting and tax documents, all documents issued in the name of, or addressed to, Rozmin or its shareholders since the creation of Rozmin without any limitation of scope on the subject-matter of these documents, as well as any documents in relation to the Gemerska Poloma Mining Area, whether such documents were available on hard copies or on data storage mediums. The scope of the search order was wide enough to encompass any and all correspondence and any document even remotely related to Rozmin, EuroGas or Belmont.
5. Specifically, the Order encompassed the following:
 - *all accounting documents, all tax documents of the company Rozmin, s.r.o., with its current seat at Karadžičova 8/A, Company ID no. 36 174 033, in any form since the date of the creation of this company in 1997 until now, together with the e-mail correspondence,*
 - *documents issued in the name of the company Rozmin, s.r.o., Company ID no. 36 174 033 since the year 1997 until now,*
 - *documents issued in the name of the shareholders of the company Rozmin, s.r.o. in any form since the creation of this company until now,*
 - *documents issued in the name of other entities since the year 1997 until now, addressed to the company Rozmin, s.r.o. and its shareholders EuroGas, with its seat in Vienna (Austrian Republic) and Belmont Resources, with its seat in Canada,*
 - *documents and other materials of various kinds issued during the period from 1997 until now in the name of the business entities registered abroad, or addressed to the business entities abroad,*
 - *all powers of attorney to represent and act in the name of the company Rozmin, s.r.o. and its shareholders,*

² **Exhibit C-49**, Order for a House Search, dated June 25, 2014.

- *documents and other materials connected to the Mining area Gemerská Poloma,*
 - *stamps, agendas, calendars and other materials of various kinds issued since the creation of this company in 1997 until now in the name of company Rozmin, s.r.o., and in the name of its shareholders,*
 - *data storage mediums of various kinds, on which there could be records of the mentioned documents, computer equipment and accessories, which could have been used to issue the mentioned documents.*³
6. As absurd and inconceivable as this may seem, this Order was issued purely and simply in reaction to Claimants’ legitimate right to pursue their claims via arbitration, by the filing of a Request for Arbitration.
7. The Order was indeed explicitly issued considering “*an especially serious crime of fraud [...] in the stage of attempt [...], assumed to have been committed by currently unidentified individuals, who acted in the name of the shareholders of the company Rozmin, s.r.o., with registered seat in Bratislava, and EuroGas, with registered seat in Vienna, and Belmont Resources, with registered seat in Canada, with the intent to elicit financial resources, make significant financial profits and mislead the relevant state authorities by claiming the amount of 3,2 billion Euros from the Slovak Republic in an unspecified arbitration procedure in connection with a revocation of mining rights of the company Rozmin s.r.o. by the relevant administrative authorities of the SR related to the mining area Gemerská Poloma.*”⁴
8. In other words, the criminal investigation launched against Rozmin by this organ of the Slovak Republic, an EU Member State, is on its face nothing but a good old Soviet-era style retaliatory measure against Claimants for having filed an ICSID arbitration and, by the same token, a way for Respondent to seize and retain Claimants’ full files in violation of fundamental principles such as the integrity of the arbitral process and the principle of the equality of arms.
9. The farcical nature of the charges is even more blatant as Claimants had, at the very request of Respondent during the cooling off period, prepared and submitted a preliminary quantification of their damages claim, which was in no way, as the Order portrays, a claim for

³ **Exhibit C-49**, Order for a House Search, dated June 25, 2014, pp. 1-2.

⁴ **Exhibit C-49**, Order for a House Search, dated June 25, 2014, p. 2; emphasis added.

EUR 3.2 billion but was rather well below EUR 1 billion and was expected to lead to a counter-proposal by the Ministry of Finance, which Respondent however never provided.⁵ Similarly, the arbitration procedure was, contrary to what the Order states, not “unspecified” but rather clearly identified as an ICSID procedure.⁶ As to the substantive merits of the claims, they could hardly be portrayed as abusive considering that the Slovak Supreme Court itself has found the taking of the investments to be in violation even of Slovak law.⁷

10. On June 23, 2014, two days prior to the issuance of the Order for a House Search (again, when Respondent knew that the initiation of the arbitration process was imminent, given correspondence between the parties in which Claimants had indicated, following extensive efforts to amicably settle their dispute, that the Request for Arbitration would be filed on June 25, 2014), JUDr. Spirko Vasil, Prosecutor from the Office of the Special Prosecution in Bratislava, Slovak Republic, had already issued, on the same grounds, an “Order for Preservation and Handing over of Computer Data.” This Order instructed both Ms. Czmoriková and Rozmin to:

- *preserve and keep the data complete*
- *allow the making of and keeping of copies of the computer data and*
- *hand over the computer data for the purposes of criminal procedure*

which are

1. *complete accounting evidence, tax evidence, commercial evidence and correspondence of the company Rozmin, s.r.o., with current seat at Karadžičova 8/A, Bratislava, Company ID no.: 36 174 033 for the whole company*
2. *including all supplementary evidence such as for example:*
 - *evidence of received invoices*
 - *evidence of sent invoices*
 - *evidence of property*
3. *accounting syllabus*

⁵ Claimants’ preliminary assessment of the losses they sustained is not produced herewith as it is privileged and confidential.

⁶ **Exhibit C-42**, Letter from EuroGas Inc. and Belmont Resources Inc. to the Government of the Slovak Republic, dated December 23, 2013, ¶ 37.

⁷ **Exhibit C-33**, Decision of the Supreme Court of the Slovak Republic, dated February 27, 2008 (Ref. 6Sžo/61/2007-121); **Exhibit C-36**, Decision of the Supreme Court of the Slovak Republic, dated May 18, 2011 (Ref. 2Sžo/132/2010); **Exhibit C-38**, Decision of the Supreme Court of the Slovak Republic, dated January 31, 2013 (Ref. 5Sžp/10/2012).

4. *all tally books, which relate to the accounting evidence and to the organizational scheme of the company, i.e. tally book of certificates which could be saved via computer system of the company Rozmin, s.r.o. Company ID no.: 36 174 033.*⁸
11. Further to the Order for Preservation and Handing over of Computer Data, dated June 23, 2014 and the Order for a House Search, dated June 25, 2014, and after Respondent had been notified by ICSID of Claimants' Request for Arbitration on June 27, 2014, all of Rozmin's property and records were seized, even documents only remotely related to the company or its shareholders, as explained below.⁹
12. Indeed, on July 2, 2014, a search was carried out at the home of Ms. Czmoriková, without prior warning.¹⁰ The search took place between approximately 6 am and 3 pm, that is, it lasted over 8 hours despite Ms. Czmoriková being cooperative, as reflected in the Minutes on Performance of House Search carried out on July 2, 2014.¹¹ The search was conducted by no less than eight members of the Slovak police force, the National Criminal Agency, the National Troop of the Financial Police, the National Anti-corruption Troup, and the Public Order Police, and in the presence of an "uninterested individual" and an "expert."¹²
13. Ms. Czmoriková was requested to hand over all materials and documents referred to in the Order for a House Search of June 25, 2014 and to make available all electronic data, in accordance with the Order for Preservation and Handing over of Computer Data dated June 23, 2014, including a computer belonging to Rozmin, several CDs and diskettes containing data on Rozmin's accounts and various correspondence, all existing soft copies of Rozmin's accounting data, as well as over 15,700 pages of documents and records, including hard copies of accounting records and notes, audit documentation and reports, Rozmin's and Ms. Czmoriková's correspondence (including correspondence with mining offices), bank statements, tax documentation, technical and geological documentation, contracts, invoices, internal directives, and personal agendas.¹³ Indeed, the "Minutes on Performance of House

⁸ **Exhibit C-50**, Order for Preservation and Handing over of Computer Data, dated June 23, 2014, pp. 1-2.

⁹ **Exhibit C-51**, Minutes on Performance of House Search dated July 2, 2014.

¹⁰ Nothing indicates that the Order for Preservation and Handing over of Computer Data, dated June 23, 2014 or the Order for a House Search, dated June 25, 2014 had been notified to Ms. Czmoriková prior to this search.

¹¹ **Exhibit C-51**, Minutes on Performance of House Search dated July 2, 2014.

¹² **Exhibit C-51**, Minutes on Performance of House Search dated July 2, 2014.

¹³ **Exhibit C-51**, Minutes on Performance of House Search dated July 2, 2014.

Search dated July 2, 2014” record the following materials and original documents as having been confiscated:

- Rozmin’s computer;
- installation CDs and diskettes;
- the only existing CD containing a copy of Rozmin’s accounting documents;
- 4634 pages of accounting and tax-related documents as well as notes for the years 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2012;
- 66 pages of documents referred to as “Rozmin – Mining Office;”
- 3690 pages of bank and account statements and related documents for the years 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006;
- 34 pages of documents referred to as “Geotechnology 2000;”
- 1224 pages of documents related to salaries, working contracts, and insurance-related matters for the years 1998, 1999, 2000, 2001, 2002, 2003;
- 298 pages of documents referred to as “internal documents” for the years 2000 and 2001;
- 103 pages of documents related to business trips for the years 1998 and 1999;
- 403 pages of tax-related documents for the years 1999, 2005, 2006, 2008;
- 789 pages of correspondence, including correspondence with mining offices and privileged and confidential correspondence with attorneys, as well as records of received and sent emails and paper correspondence;
- 945 pages of invoices for the years 1999, 2000, 2002, 2003, 2004;
- 199 pages of contractual documents for the years 1998-2008;
- 176 pages of documents referred to as “document from the DU control, inventories 2000-2003, treasury 2001-2002, internal directives, number of pages;”

- 1642 pages of documents referred to as “treasury” as well as bank-related documents, invoices, and internal documents for the years 1998, 2001, 2002, 2003, 2004, 2005, 2006;
 - the personal agendas of Ing. Czmoriková, RNDr. Rozložník, Kristína Liptáková, Roman Rozložník, and Ing. Hajdeker;
 - 749 pages labelled “documents;”
 - over 166 pages of audit reports for the years 1998, 1999, 2000, 2001, 2002, 2003 (for most of the years, the number of pages is simply not specified in the Minutes of July 2, 2014);
 - 88 pages of “Statements from the Employment Agency 2003;”
 - 8 pages of “Announcements of DzPFO 1999-2000;”
 - 103 pages of contracts and tax-related documents;
 - 14 pages of “Financial result 2004;”
 - 75 pages of “Analytical evidence 1991;”
 - 107 pages of “donation contracts, tax returns 2003, yearly financial settlement 2006, financial result 1997, partners deposits 1997, agreed budget 1999;”
 - 197 pages of “summary of financial flow, tax documents;” and
 - telephone records.
14. A copy was also made of Rozmin’s accounting program for the years 2007 to 2013, which was on the computer of the company ASCON, sro. Furthermore, the stamp of Rozmin was confiscated. According to the Minutes on Performance of House Search dated July 2, 2014, it appears that the only item that was not confiscated was the said computer belonging to the third-party company ASCON sro.
15. Finally, during the house search, Ms. Jana Czmoriková was requested to provide, and did provide, information regarding documents that had been handed over to Mr. Straka, Rozmin’s former Slovak legal counsel, and to Mr. Vojtech Agyagos in 2008.

16. All documents and records confiscated were original documents. No copies were made, in blatant violation of Rozmin's right to defend itself and to put its case. A list of the materials and documents confiscated – on the basis of which the above list is based – was included in the Minutes on Performance of House Search dated July 2, 2014, which Ms. Czmoriková was invited to sign.
17. No further particulars were provided with respect to the documents seized. The Minutes only provide broad categories of documents and materials confiscated. Amongst the documents seized were privileged attorney-client memoranda and correspondence. Also, the bulk of these documents are necessary for Claimants to present their case in the arbitration proceedings.
18. Following the search of her house, Ms. Czmoriková was summoned to appear to testify before the Police Corps in Roznava at 16:15 pm on July 2, 2014.¹⁴
19. Considering the above, Claimants respectfully request that the Tribunal, once constituted, take the following measures:
 - a. Order the Slovak Republic to maintain the *status quo* as of the date of the filing of the Request of Arbitration, namely as of June 25, 2014, and put the Parties in the position they should have been in as of the said date.
 - b. Order the Slovak Republic to return to Rozmin and Ms. Czmoriková all originals of documents and all property seized pursuant to the Order for Preservation and Handing over of Computer Data dated June 23, 2014 and the Order for a House Search dated June 25, 2014, including records, documents, hardware and software collected in the course of the search carried out on July 2, 2014.
 - c. Order the Slovak Republic to refrain from using, in the arbitration proceedings, any material or documents seized pursuant to the Order for Preservation and Handing over of Computer Data dated June 23, 2014 and the Order for a House Search dated June 25, 2014, including records, documents, hardware and software collected in the course of the search carried out on July 2.

¹⁴ **Exhibit C-52**, Witness summons, dated July 2, 2014.

- d. Order the Slovak Republic to refrain from taking any further measure of intimidation against Rozmin, EuroGas, Belmont or any director, employee or personnel of any of these companies and to refrain from engaging in any conduct that may aggravate the dispute between the parties and/or alter the *status quo* that existed prior to the initiation of the criminal investigation launched on June 23, 2014 or any local proceedings related, directly or indirectly, to the subject-matter of this arbitration, including any further steps which might undermine Claimants' ability to substantiate their claims, threaten the procedural integrity of the arbitral process, or aggravate or exacerbate the dispute between the parties.
20. The "Slovak Republic" should be understood, pursuant to Article 4.1 of the International Law Commission Draft Articles on Responsibility of States for Internationally Wrongful Acts, as any "*State organ [of the Slovak Republic] whether the organ exercises legislative, executive, judicial or any other functions, whatever position it holds in the organization of the State, and whatever its character as an organ of the central Government or of a territorial unit of the State.*"¹⁵
21. Claimants reserve the right to supplement and/or amend the above list of provisional measures applied for, which are both necessary and urgent to the preservation of their rights. This application is without prejudice to Claimants' right to seek moral damages for the acts and omissions of Respondent.
22. To facilitate expeditious action by the Tribunal once it is constituted, and to protect Claimants' rights adequately, Claimants respectfully ask that the Secretary-General promptly register the Request for Arbitration filed on June 25, 2014, pursuant to Article 36(3) of the Convention. To that end, Claimants have responded today to your letter of July 2, 2014, and provided all requested information and documents.
23. Claimants further request that pursuant to Rule 39(5) of the ICSID Rules, the Secretary-General immediately establish specific time limits for the parties to present observations on the present Application for Provisional Measures, so that this Application and the parties' observations thereto may be considered by the Tribunal promptly upon its constitution.

¹⁵ The International Law Commission Draft Articles on Responsibility of States for Internationally Wrongful Acts, adopted in 2001, are available at http://legal.un.org/ilc/texts/instruments/english/draft%20articles/9_6_2001.pdf.

24. With respect to time limits, Claimants propose to provide full briefing on the applicable standards and the case-law relevant to this Application for Provisional Measures no later than 30 days after registration of this dispute at ICSID. Claimants further propose that the Slovak Republic provide its observations on the Application for Provisional Measures no later than 30 days thereafter; that Claimants file its reply two weeks thereafter; and that Respondent file its rejoinder two weeks thereafter. By this schedule, briefing on the Application for Provisional Measures will have been completed within 90 days of registration of this dispute, by which time the Tribunal should have been constituted and should be available to consider the two exchanges of submissions.

Sincerely yours,

[Signed]
Hamid G. Gharavi

CC: Ms. Lindsay Gastrell