

**Bird & Bird**

18.

REPUBLIKA HRVATSKA  
 TRGOVAČKI SUD U ZAGREBU  
 P: BISKUPICA  
 Pr: iz ruke-prate pošte, dne 21. 06. 2022  
 Pre: iz ruke-prate pošte, dne 20. 06. 2022  
 Post: fax  
 Broj prijeka 1 priloga 1x rez  
 Pristojba Primio: [Signature]

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REPUBLIKA HRVATSKA  
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Hamburg, 20 June 2022

Our Ref: BISKL.0015/OLEB/FLBK/kawp  
 Your Ref: 18. St-1468/2020 - 84

In pre-insolvency proceedings  
 against the debtor  
 VIRO SUGAR FACTORY d.d.,  
 OIB 04525204420,  
 Zagreb, Ulica Grada Vukovara 269g

U predstečajnom postupku nad  
 dužnikom  
 VIRO TVORNICA ŠEĆERA d.d.,  
 OIB 04525204420,  
 Zagreb, Ulica Grada Vukovara 269g

We refer to the resolution of 31 May 2022  
 and hereby file the following

Pozivamo se na odluku od 31. Svibnja 2022.  
 i ovim putem ulažemo

**Complaint.****žalbu.****Explanation:****Obrazloženje:**

This court writ was created bilingually. The  
 authentic text is English. The Croatian  
 translation was done by machine translation  
 and is a courtesy translation only.

Ovaj sudski nalog nastao je dvojezično.  
 Autentični tekst je engleski. Hrvatski  
 prijevod urađen je strojnim prijevodom i  
 samo je ljubazni prijevod.

We hereby declare that we represent Bischof  
 + Klein SE & Co. KG, Rahestr. 47, 49525  
 Lengerich, Germany. ("client"). Please find a  
 power of attorney attached as

Ovim označavamo da smo Bischof + Klein  
 SE & Co. KG, Rahestr. 47, 49525 Lengerich,  
 Njemačka („klijent“). U prilogu potražite  
 punomoć kao

**Appendix 1.****Dodatak 1.**

Abu Dhabi • Amsterdam • Beijing • Bratislava • Brussels • Budapest • Casablanca • Copenhagen • Dubai • Dublin • Düsseldorf • Frankfurt • The Hague • Hamburg • Helsinki  
 • Hong Kong • London • Luxembourg • Lyon • Madrid • Milan • Munich • Paris • Prague • Rome • San Francisco • Shanghai • Singapore • Stockholm • Sydney • Warsaw

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Our client has a claim against Viro Tvornica Secera d.d in the amount of kn 256.192,44 plus interests (EUR 33.958,91). The legal basis for this claim is a goods delivery contract.

The goods were properly delivered and also accepted by Viro Tvornica Secera d.d. Nothing was complained about in this regard.

**Evidence:** Testimony of Ms Berndt, to invite over the Bischof + Klein SE & Co KG

After the delivery of the goods, the claim became due upon delivery of the invoice on 8 February 2019.

**Evidence:** Invoices, dated 8 February 2019, attached as

## Appendix 2.

As Viro Tvornica Secera d.d did not comply with the claim, several requests for payment and warnings followed. On 22 November 2021, a lawsuit was filed with the competent Regional Court Münster. The lawsuit is still pending.

**Evidence:** Lawsuit of the Bischof + Klein SE & Co KG against Viro Tvornica Secera d.d. before the Regional Court Münster, 22. November 2022, attached as

## Appendix 3.

Please let us highlight the fact that in the court proceeding Viro Tvornica Secera d.d does not dispute that the claim exists, but only argues that it cannot be enforced for the moment in Germany as long as the preliminary insolvency proceedings is pending. We neither understand nor accept that it is argued (now) that the claim does not exist.

In our opinion, the claim is already now enforceable under German law. The decision to open preliminary insolvency

Naš klijent podnio je tužbu protiv Viro Tvornice Secera d.d. u iznosu od 256.192,44 kn plus kamate (33.958,91 EUR). Pravni temelj ovog zahtjeva je ugovor o isporuci robe.

Robu je uredno isporučila i također prihvatila Viro Tvornica Secera d.d. U tom smislu se ništa nije žalilo.

**Dokaz:** Svjedočenje gde Berndt, da se pozove preko Bischof + Klein SE & Co KG

Nakon uredne isporuke robe, potraživanje je dospjelo po predaji računa 8. Veljače 2019.

**Dokaz:** Računi od 8. veljače 2019 u prilogu kao

## Dodatak 2.

Kako Viro Tvornica Secera d.d nije udovoljila zahtjevu, uslijedilo je nekoliko zahtjeva za plaćanje i upozorenja. Dana 22. Studenog 2021. godine podnesena je tužba nadležnom Regionalnom sudu Münster. Tužba je još u tijeku.

**Dokaz:** Tužba Bischof + Klein SE & Co KG protiv Viro Tvornice Secera d.d. pred Regionalnim sudom Münster, 22. Studenog 2022, priložen kao

## Dodatak 3.

V Istaknimo činjenicu da u sudskom postupku Viro Tvornica Secera d.d. ne osporava postojanje tražbine, već samo tvrdi da se ona za sada ne može izvršiti u Njemačkoj sve dok je u tijeku prethodni stečajni postupak. Niti razumijemo niti prihvaćamo da se (sada) tvrdi da tvrdnja ne postoji.

Po našem mišljenju, tužba je već sada ovršna prema njemačkom zakonu. Odluka o otvaranju prethodnog stečajnog postupka



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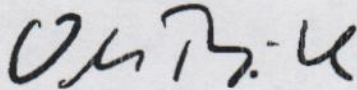
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proceedings does not bind German courts. Regulation (EU) 2021/2260, which requires courts throughout Europe to recognize the decision to open Croatian preliminary insolvency proceedings entered into force at 10 January 2022 and thus, after the claim had become pending,

It is therefore not apparent why HOSPITALIJA TRGOVINA d.o.o., OIB 40457591383, Vojvodići 25, Novaki, disputes that the claim exists and is due. The invoices (Appendix 1) provide clear evidence that the claim exists and is enforceable. The objection of HOSPITALIJA TRGOVINA d.o.o must therefore be rejected.

As of today, our client has not received any payment.

**Evidence:** Testimony of Ms. Berndt, to invite over the Dischor + Krenn SE & Co KG



Dr. Ole Brühl  
Rechtsanwalt (attorney-at law)

ne obvezuje njemačke sudove. Uredba (EU) 2021/2260, koja zahtijeva od sudova diljem Europe da priznaju odluku o otvaranju hrvatskog prethodnog stečajnog postupka, stupila je na snagu 10. siječnja 2022., dakle nakon što je tužbeni zahtjev postao neriješen.

Stoga nije jasno zašto HOSPITALIJA TRGOVINA d.o.o., OIB 40457591383, Vojvodići 25, Novaki, osporava postojanje i dospjeće potraživanja. Fakture (Dodatak 1) pružaju jasan dokaz da potraživanje postoji i da je ovršno. Prigovor HOSPITALIJA TRGOVINA d.o.o stoga se mora odbiti.

Do danas, naš klijent nije primio nikakvu uplatu.

**Dokaz:** Svjedočenic gđe Berndt, da se pozove preko Dischor + Krenn SE & Co KG



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## Vollmacht / Power of Attorney

Hiermit wird der Bird & Bird LLP und allen für die Partnerschaft tätigen Rechtsanwälten, hier insbesondere Herrn Dr. Ole Brühl und Herrn Dr. Florian Keßenich, Vollmacht erteilt,

**Bischof + Klein SE & Co. KG**  
in der Angelegenheit

***Insolvenzverfahren der Firma  
VIRO TVORNICA SECERA d.d.***

anwältlich zu vertreten (jeder Bevollmächtigte ist berechtigt, den Vollmachtgeber allein zu vertreten).

Die Vollmacht schließt u.a., ein,

- für den Vollmachtgeber rechtsgeschäftliche Erklärungen abzugeben (insbesondere die Anmeldung von Forderungen),
- für den Vollmachtgeber in Ausführung des Mandats aufzutreten,
- für den Vollmachtgeber Prozesse einzuleiten, Rechtsmittel oder Rechtsbehelfe einzulegen, zurückzunehmen oder auf sie zu verzichten und die entsprechenden Verfahren zu führen,
- Vergleichsverhandlungen zu führen und einen Vergleich abzuschließen,
- gerichtliche Ladungen und Schriftsätze entgegenzunehmen,
- Geld in Empfang zu nehmen,
- Akteneinsicht zu nehmen.

Full power and authority is hereby granted to Bird & Bird LLP and all lawyers working for the Partnership, in particular Mr. Dr. Ole Brühl and Mr. Dr. Florian Keßenich, to provide legal representation to

**Bischof + Klein SE & Co. KG**  
in the legal matter of

***insolvency proceedings of the  
company VIRO TVORNICA SECERA  
d.d.***

(each authorised representative is entitled to represent the client alone).

This power of attorney shall include, but not be limited to, the power to:

- make legally binding declarations for the client (in particular the filing of receivables)
- represent, act for and on behalf of the client in any way required for the above mentioned legal matter,
- start legal proceedings, file, withdraw or ~~renounce~~ ~~appeals or other~~ legal remedies and conduct the corresponding proceedings,
- conduct negotiations and conclude settlements,
- receive court summonses and legal documents
- receive money,
- access records.



## Bird & Bird

Die Vollmacht bezieht sich auf alle Rechtsangelegenheiten in der oben bezeichneten Sache.

Die Vollmacht umfasst auch die Befugnis zur Erteilung von Untervollmachten.

Die Vollmacht unterliegt deutschem Recht.

This power of attorney shall relate to all legal issues regarding the above mentioned legal matter.

This power of attorney shall also include the power to delegate the power of attorney to others (substitute power of attorney).

This power of attorney is subject to German Law.

Lengerich, den/the 18 Mai/May 2022

Bischof & Klein SE & Co. KG

