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REPUBLIKA HRVATSKA
VISOKI TRGOVAČKI SUD
REPUBLIKE HRVATSKE
ZAGREB

TRGOVAČKI SUD 9
U ZAGREBU
PRIMLJENO

30-06-2022

poslati - neposredno
u primj. priloga
pristojba

RTŽ - 27/2022

TRGOVAČKI SUD U ZAGREBU

U prilogu Vam dostavljamo žalbu dr. Ole Brühl, Hamburg, na St-1468/2020, zaprimljenu na našem sudu dana 21. lipnja 2022., na nadležno postupanje.

U Zagrebu, 28. lipnja 2022.



Ovlašteni službenik

Katolinka Diković

PRIMLJENO: 21-06-2022

NEPOŠLEDNO - PRIEDANO POŠTI

Obično - preporučeno: 20

Pošta: FAX

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Prilog: 113

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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.

žalba.

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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Bird & Bird

20 June 2022

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Our client has a claim against Viro Tvoronica 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 Tvoronica 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 Tvoronica 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 Tvoronica 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 Tvoronica 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 Tvoronica 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 Tvoronica Secera d.d. U tom smislu se ništa nije žalilo.

Dokazi: 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.

Dokazi: Računi od 8. veljače 2019 u prilogu kao

Dodatak 2.

Kako Viro Tvoronica 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 Tvoronica Secera d.d. pred Regionalnim sudom u Münster, 22. Studenog 2022, priložen kao

Dodatak 3.

V Istaknimo činjenicu da u sudskom postupku Viro Tvoronica 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

20 June 2022

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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 Bischof + Klein SE & Co KG

Ole Brühl

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 dospelje 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: Svjedočenje gđe Berndt, da se pozove preko Bischof + Klein SE & Co KG