

Ref: RECHT/0001/2021

N o t e o f R e p l y o f t h e R e p u b l i c o f A u s t r i a

The Embassy of Austria to the Slovak Republic presents its compliments to the Ministry of Foreign and European Affairs of the Slovak Republic and with reference to the note verbale of the Ministry No. 061629/2020-MEPO-5 of 29 December 2020, has the honour to inform that the Republic of Austria agrees to conclude the following

”Agreement between the Republic of Austria and the Slovak Republic on the Termination of the Agreement between the Republic of Austria and the Czech and Slovak Federative Republic for the Promotion and Protection of Investments as amended by the exchange of notes of 22 December 1993 and 14 January 1994 (hereinafter referred to as the “Termination Agreement”)

1. The Agreement between the Republic of Austria and the Czech and Slovak Federative Republic for the Promotion and Protection of Investments as amended by the exchange of notes of 22 December 1993 and 14 January 1994 (hereinafter referred to as the “Investment Protection Agreement”) shall be terminated in accordance with the provisions set out in this Termination Agreement.
2. For greater certainty, the Parties expressly agree that Article 11 Paragraph 3 of the Investment Protection Agreement, which extends the protection of investments made prior to the date of termination, shall also be terminated and thus shall not produce any legal effects.
3. The Parties herewith confirm that Article 8 of the Investment Protection Agreement on Investor-State dispute settlement by arbitration is contrary to the EU Treaties and thus inapplicable. Consequently, since 1 May 2004 on which the Slovak Republic became a Member State of the European Union, Article 8 cannot serve as a legal basis for arbitration proceedings.

4. The Parties confirm that, notwithstanding Paragraph 3 above, this Termination Agreement shall not affect concluded arbitration proceedings. Those proceedings shall not be reopened.”

The Republic of Austria accepts that the note verbale No. 061629/2020-MEPO-5 of 29 December 2020 of the Ministry of Foreign and European Affairs of the Slovak Republic and this note verbale shall constitute the Termination Agreement, which is authentic in the English language only.

The Termination Agreement shall enter into force on the first day of the second month following the date of the receipt of the latter of the notifications by the Parties that the respective internal procedures for the entry into force of the Termination Agreement have been fulfilled.

The Embassy of Austria to the Slovak Republic avails itself of this opportunity to renew to the Ministry of Foreign and European Affairs of the Slovak Republic the assurances of its highest considerations.

Bratislava, 10 February 2021

L. S.

Ministry of Foreign and European Affairs
of the Slovak Republic
International Law Department
BRATISLAVA