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**Ana GOMES**

Her Excellency
Frau Angela Merkel
Chancellor of Germany

Brussels, 04 December 2014

Dear Chancellor,

I have yet to receive a reply to my previous letter sent to you dated 31st July 2014.

In my endeavours to assist the Portuguese Public Prosecutors, I write to you again much worried with the continuing lack of cooperation by the German Government and the German courts in helping clarify the corruption suspicions involved in the sale of two submarines to the Portuguese State by a German Submarine Consortium (GSC), led by MAN/Ferrostaal, in April 2004. The related contracts - on the purchase and on the related offsets - are under judicial investigation in Portugal since 2006, implicating representatives of the GSC, Portuguese officials and middlemen in fraud, bribery and money laundering.

In my previous letter, I raised with you that MAN/Ferrostaal's lawyers submitted a petition to challenge the use of the documents seized in the joint search to Ferrostaal headquarters in Essen by Portuguese and German prosecutors in 2009, actually preventing them from being channelled into the investigation in Portugal. The Portuguese prosecutors attempted several times to get copies of all documents seized and kept by the German Prosecutors, to no avail. And they publicly complained for not having been informed of the German decision, including on the said petition submitted by MAN/Ferrostaal.

In December 2011, a Munich court convicted two former managers of Ferrostaal for paying bribes to a former Portuguese Honorary Consul in Munich, Mr Jürgen Adolf, who accepted to organize high-level meetings for MAN/Ferrostaal executives with Portuguese top decision-makers, including the Defence Minister, Mr Paulo Portas (current Portuguese Vice Prime Minister), and the then Prime Minister Durão Barroso (later President of the European Commission). For his intervention in this case, Mr. Adolf was convicted for corruption in March this year by a Munich Court. However, in Portugal, all those corrupted are yet to be identified, tried and punished. And lack of cooperation from Germany is protecting them.

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I recently found out that in an interrogation conducted by German prosecutors, Mr. Erbslöch, who worked for MAN/Ferrostaal since 1969, affirmed that the documents concerning Portugal "*were not easy to track*". He continued: "*as far as I know from reactions to the searches* [carried out by German Prosecutors] *in 2006 and 2007, the referred documents were seized. The agents of the criminal investigation were then sent to my Department. I explained to them that I was not responsible and I indicated Mr. Weretecki to them, in Haus 3. I called the Legal Department, which managed to avoid the delivery of the documents, thanks to a secrecy agreement". The Department of Mr. Weretecki was the only one put in safety though a numerical number*". These affirmations, that are registered in the German justice proceedings, reinforce the suspicion that important evidence concerning Portugal was either deliberately not seized by German prosecutors or was covered up, perpetuating the "secret agreement".

The reference to a "secret agreement" is even the more significant if one takes into consideration that ESCOM Ltd and later ESCOM UK - consultancy firms owned by Grupo Espírito Santo (GES), now collapsed and under separate judicial investigation - were hired by the GSC to assist in the obtention of the contract and in engineering the related (and mostly fictitious) offsets, for which they were paid a fee of EUR 30 million. Furthermore, Banco Espírito Santo, also GES-controlled, was part of the financial consortium ensuring the payment to the GSC in secret, unusual and adverse conditions to the Portuguese State's interests.

In a parliamentary inquiry in Portugal, it was confirmed by ESCOM executives that ESCOM UK was established in 2003, at the urge of MAN/Ferrostaal, as a conduit for payments only. ESCOM UK paid by late 2004 (after the contract was signed), EUR 8,25 million to AFREXPORT (a fund headquartered in Luxembourg and also belonging to GES universe), which, in turn, transferred EUR 5 million to bank accounts in Switzerland belonging to Espírito Santo family members controlling GES/BES, including its CEO Ricardo Salgado (newspaper "i" published last October 1st the transcription of a taped meeting of the Superior Council of Grupo Espírito Santo, where members discussed distribution of the commissions received in connection with the submarines contract).

As reported in Portuguese media, judicial investigations also found that ESCOM UK transferred, out of the GSC fees, by December 29 2004, EUR 19 million to an account owned by a Felltree Investment Fund, which is, in turn, controlled by FELLTREE INVESTMENTS INC in The Bahamas. The Portuguese Attorney General has sent rogatory letters to the authorities in The Bahamas requesting information on beneficial owners and financial movements of this fund, suspecting that the amount was used to pay bribes. The Bahamas counterparts have not cooperated.

These transfers are indicative of a complex system of financial movements, involving several jurisdictions and corporate structures, designed to pay bribes to decision-makers in Portugal. MAN/Ferrostaal, a German company convicted in German courts for corruption in this and other cases, was instigator, instrumental and accomplice in implementing that system.

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I cannot accept that the German authorities, in view of their international and European obligations to fight corruption and money laundering, may hinder the discovery of the truth by the Portuguese judicial authorities, protecting this corrupt business deal, the German corruptors with whom judicial deals were made despite convictions and, most outrageously, protecting the Portuguese citizens corrupted.

I emphasize that the requested documents are crucial for the investigation in Portugal, which was stalled for years, allegedly due to the lack of cooperation from the German counterparts. It is of the interest of German authorities, I believe, to clarify any misconceptions about evidence gathered and not delivered, having in mind the principles of genuine cooperation and mutual trust which permeate mutual legal assistance within the European Union.

I urge you, therefore, to set up an inquiry to the German authorities involved, so as to ascertain exactly what happened in those searches and what Mr. Erbslöch meant with a "secrecy agreement", and have the results of that investigation sent to me and to the team of prosecutors in Portugal as soon as possible.

Best regards,

Ana Gomes

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Member of the European Parliament

Cc:
Mr. Sigmar Gabriel, Vice-Chancellor
Mr. Martin Schulz, President of the European Parliament
Mr. Norbert Lammert, President of Bundestag
Mr. Hans-Joachim Eckert, Presiding Judge of the Penal Court Munich I
Mr. António Cluny, Eurojust, Portugal's National Member
Mrs. Joana Marques Vidal, Portuguese General Prosecutor,

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