



**Her Excellency  
Frau Angela Merkel  
Chancellor of Germany**

Lisbon, 31 July 2014

*Dear Chancellor,*

I write concerning the decision by the Portuguese State in 2004 to buy two submarines to a German Submarine Consortium (GSC), through contracts involving the purchase and related offsets which are under investigation by Portuguese Public Prosecutors, based on the suspicion of fraud and bribes paid by representatives of the GSC to Portuguese officials. The decision to award the contract to the GSC was taken by Mr. Paulo Portas, now Vice Prime Minister of Portugal and then Defence Minister of a government headed by Prime Minister Durão Barroso.

In April 2009, Portuguese and German prosecutors jointly searched the headquarters of MAN/Ferrostaal, one of the members of the GSC, and found relevant documentation, but the company lawyers submitted a petition to challenge the use of the seized documents, actually preventing them from being channelled into the investigation in Portugal. The Portuguese prosecutors attempted several times to get copies of all documents seized from the German Prosecutors, to no avail. And they publicly complained for not having been informed of the German decision, including on the petition submitted by MAN/Ferrostaal: "Despite numerous attempts to contact and diligence towards meeting the procedural steps of cooperation, the German authorities, in addition to a request for further clarifications, reverted to silence, not having hitherto remitted any of the required elements".<sup>[1]</sup>

In May 2011, I wrote to the Munich Prosecutor asking why all seized documentation had not been sent to the Portuguese authorities. The Prosecutor, Mr. Florian Schlosser, informed me that contacts with Portuguese Prosecutors had begun by phone in February 2010 and that miscommunication had occurred, since earlier MLA requests were sent to Essen. There was a coordination meeting at Eurojust in May 2010, and in August Munich received the request for assistance from Portugal. The Prosecutor then sent some documents to Portugal in December, followed by other requests for clarification, which were answered in January 2011. In March 2011, Munich sent the remaining documentation.

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 was in charge of organising high-level meetings between decision-makers and MAN/Ferrostaal. His trial is ongoing in Munich.

In May this year, the Portuguese Parliament initiated a Committee of Inquiry into the acquisition of the submarines and other defence equipment. In that context, the Socialist Party requested the Portuguese Public Prosecutor access to the German court sentence, which was sent under mutual legal assistance. That request was refused by the Portuguese Attorney General on the grounds that the Munich Court did not allow such access to be granted. The Portuguese Parliament was informed that a request for disclosure should be addressed to the German Federal Government.

As a consequence, the suspicions in Portugal that the German judicial authorities retained evidence seized in Essen remain and have even been reinforced. It was reported that no access was given to the Portuguese Prosecutors to annexes and witnesses statements mentioned in the German sentence by which the Ferrostaal managers were convicted and which may indicate who were the bribed Portuguese officials.

The lack of access to the court sentence, along its annexes, is obstructing the finding of the truth and strengthens suspicions of a "cover up" by German authorities of high-level officials of the Portuguese Government and the European Commission. I believe it is in the interest of Germany, Portugal and the EU to put an end to these suspicions by ensuring full cooperation and granting access to all information and evidence gathered in Germany.

Thus, as Member of the European Parliament and assistant-party in the criminal investigation still ongoing in Portugal, I hereby request your assistance to provide me with access to:

- a) the full text of the court judgment convicting ex-MAN/Ferrostaal managers, along with its annexes, testimonials and further evidence,
- b) the text of the accusation and supporting evidence by the Munich Prosecutor to Mr. Adolf.

Best regards,  
Ana Gomes

Ana Gomes  
Member of the European Parliament

Cc:

Mr. Sigmar Gabriel, Vice-Chancellor of Germany  
Mr. Martin Schulz, President of the European Parliament  
Ms. Cecilia Malmstrom, European Commission Member  
Mr. Hans-Joachim Eckert, Presiding Judge of the Penal Court Munich I  
Mr. Florian Schlosser, Public Prosecutor / Staatsanwaltschaft München I  
Ms. Joana Marques Vidal, Portuguese Attorney General

[1] In daily Público, "Ministério Público critica falta de colaboração das autoridades alemãs", 02/04/2010.