
From: Yee, Hoyt B RELEASE IN PART B5
Sent: Wednesday, May 25, 2016 12:19 PM
To: Rubin, Joshua A
Cc: Yazdgerdi, Thomas K; Visek, Richard C; Heffern, John A; Nuland, Victoria J
Subject: FW: Documents for meeting with Jon Finer
Attachments: Delta Background to Miskovic Case undated.docx; Key Facts About the Miskovic Case 5-20-16.docx

Josh, hope this reaches you in time. Below pls find update and suggested talking points as of today based on input from Embassy Belgrade:

The Podesta Group is paid lobbyist for Delta Holdings and Miskevic. AMB Scott met with Tony Podesta earlier this week, but he tread softly on the Miskevic case. The latest development is that the son was convicted of tax evasion a little while back, and Dad's case is expected to come to a conclusion soon in the courts. Although Miskevic's folks have pressed the issue of his need to possibly travel abroad for medical treatment in the past, Podesta didn't raise this issue in our meeting.

Suggested points:

B5

Hoyt

RELEASE IN PART B5

This email is UNCLASSIFIED.

From: Heffern, John A
Sent: Wednesday, May 25, 2016 3:49 AM
To: Yee, Hoyt B; Yazdgerdi, Thomas K
Subject: FW: Documents for meeting with Jon Finer

This email is UNCLASSIFIED.

From: Rubin, Joshua A
Sent: Tuesday, May 24, 2016 8:50 PM
To: Visek, Richard C; Heffern, John A
Subject: FW: Documents for meeting with Jon Finer

Rich, John:

Vin Roberti and Tony Podesta have asked to meet with Jon Finer tomorrow about the attached case. Is there anything you or your teams know of that Jon needs to know before the meeting? I've pasted the "key facts" document below to give you a sense.

Thanks very much,

KEY FACTS ABOUT THE MISKOVIC CASE

- Serbia's prosecution of one of the country's most successful businessmen—Miroslav Miskovic, President of Delta Holding—has all the characteristics of President Putin's prosecution of Mikhail Khodorkovsky.
- The 2014 State Department human rights report on Serbia identified a number of irregularities in the case, including intimidation of the presiding judge and unlawful detention of Mr. Miskovic.
- The 2015 State Department human rights report on Serbia cited the subsequent demotion and removal of the presiding judge in the Miskovic case as evidence that Serbia's "courts remained susceptible to corruption and political influence."
- Mr. Miskovic, who was held in prison for seven months before being charged with any crime, was eventually indicted for two alleged criminal offenses: "abuse of office", and "assisting tax evasion".
- The first of these (arising under Article 234 of the Serbian Criminal Code) is a communist-era crime that makes no sense in a free market society—so much so that the European Union has demanded that it be expunged from Serbian law as a precondition to Serbia's admission to the EU.
- The 2015 State Department human rights report on Serbia also criticizes Article 234, citing "overuse of the vague 'abuse of office' charge for alleged private sector corruption schemes" as an example of "corruption and lack of transparency in government."
- The second charge involves an allegation that Mr. Miskovic's son Marko failed to pay capital gains tax on a stock transaction, and Mr. Miskovic "assisted" this tax evasion due to his strong influence over his son.
- On March 25, Marko was convicted of tax evasion, despite the fact that he had been advised that the transaction in question was not taxable. This advice was provided in writing at the time of the transaction not only by KPMG and other reputable accounting firms, but also by officials of the Serbian Ministry of Finance.

- Marko was, however, acquitted of the “abuse of office” charge. The proceedings related to Mr. Miskovic were postponed due to Mr. Miskovic’s critical health situation, which required treatment and hospitalization.
- To convict Mr. Miskovic’s son, the judge in the case resorted to the unprecedented procedure of formally requesting the advice of the Serbian parliament on whether in their opinion the transaction was taxable at the time it was made.
- The Serbian parliament (controlled by the government) responded by drafting and then formally voting to approve an “authentic interpretation” affirming that the transaction was, in their opinion, taxable notwithstanding the written advice provided to the taxpayer by the Ministry of Finance.
- On the strength of this parliamentary action, Marko Miskovic was sentenced to 42 months in prison. The same judge is expected to render a verdict on the charges against Mr. Miskovic in the very near future.
- Given that Marko was found guilty of tax evasion, it seems likely that Mr. Miskovic will be found guilty of “assisting” that tax evasion, notwithstanding that the evidence presented at trial of his “control” over his son’s actions was non-existent.
- He may also be found guilty of the abuse of position charge, notwithstanding that the other defendants were acquitted of that charge and that Serbia is under enormous pressure to eliminate this as a criminal offense.
- All of this is taking place in the context of a recent national election and political controversy ahead of the formation of a new Government led by Prime Minister Vucic, who has repeatedly claimed credit for bringing one of the country’s most prominent and successful (but politically unpopular) businessman to justice, and publicly stated that the acquittal of Miskovic would be a “personal defeat” for him.

From: Rubin, Joshua A
Sent: Wednesday, May 25, 2016 2:17 PM
To: Visek, Richard C
Subject: RE: Documents for meeting with Jon Finer

Thanks, Rich. Got it.

RELEASE IN PART B5

From: Visek, Richard C
Sent: Wednesday, May 25, 2016 2:16 PM
To: Rubin, Joshua A
Subject: RE: Documents for meeting with Jon Finer

Josh – For reference, Kathleen Hooke now supervises L/EUR and L/LEI (law enforcement). She should be looped in going forward. Regards, Rich

SBU
This email is UNCLASSIFIED.

From: Rubin, Joshua A
Sent: Wednesday, May 25, 2016 12:23 PM
To: Yee, Hoyt B
Cc: Yazdgerdi, Thomas K; Visek, Richard C; Heffern, John A; Nuland, Victoria J
Subject: RE: Documents for meeting with Jon Finer

Thanks very much for this.

From: Yee, Hoyt B
Sent: Wednesday, May 25, 2016 12:19 PM
To: Rubin, Joshua A
Cc: Yazdgerdi, Thomas K; Visek, Richard C; Heffern, John A; Nuland, Victoria J
Subject: FW: Documents for meeting with Jon Finer

Josh, hope this reaches you in time. Below pls find update and suggested talking points as of today based on input from Embassy Belgrade:

The Podesta Group is paid lobbyist for Delta Holdings and Miskevic. AMB Scott met with Tony Podesta earlier this week, but he tread softly on the Miskevic case. The latest development is that the son was convicted of tax evasion a little while back, and Dad's case is expected to come to a conclusion soon in the courts. Although Miskevic's folks have pressed the issue of his need to possibly travel abroad for medical treatment in the past, Podesta didn't raise this issue in our meeting.

B5

Suggested points:

Hoyt

This email is UNCLASSIFIED.

From: Heffern, John A
Sent: Wednesday, May 25, 2016 3:49 AM
To: Yee, Hoyt B; Yazdgerdi, Thomas K
Subject: FW: Documents for meeting with Jon Finer

This email is UNCLASSIFIED.

From: Rubin, Joshua A
Sent: Tuesday, May 24, 2016 8:50 PM
To: Visek, Richard C; Heffern, John A
Subject: FW: Documents for meeting with Jon Finer

Rich, John:

Vin Roberti and Tony Podesta have asked to meet with Jon Finer tomorrow about the attached case. Is there anything you or your teams know of that Jon needs to know before the meeting? I've pasted the "key facts" document below to give you a sense.

Thanks very much,

KEY FACTS ABOUT THE MISKOVIC CASE

- Serbia's prosecution of one of the country's most successful businessmen—Miroslav Miskovic, President of Delta Holding—has all the characteristics of President Putin's prosecution of Mikhail Khodorkovsky.
- The 2014 State Department human rights report on Serbia identified a number of irregularities in the case, including intimidation of the presiding judge and unlawful detention of Mr. Miskovic.

- The 2015 State Department human rights report on Serbia cited the subsequent demotion and removal of the presiding judge in the Miskovic case as evidence that Serbia's "courts remained susceptible to corruption and political influence."
- Mr. Miskovic, who was held in prison for seven months before being charged with any crime, was eventually indicted for two alleged criminal offenses: "abuse of office", and "assisting tax evasion".
- The first of these (arising under Article 234 of the Serbian Criminal Code) is a communist-era crime that makes no sense in a free market society—so much so that the European Union has demanded that it be expunged from Serbian law as a precondition to Serbia's admission to the EU.
- The 2015 State Department human rights report on Serbia also criticizes Article 234, citing "overuse of the vague 'abuse of office' charge for alleged private sector corruption schemes" as an example of "corruption and lack of transparency in government."
- The second charge involves an allegation that Mr. Miskovic's son Marko failed to pay capital gains tax on a stock transaction, and Mr. Miskovic "assisted" this tax evasion due to his strong influence over his son.
- On March 25, Marko was convicted of tax evasion, despite the fact that he had been advised that the transaction in question was not taxable. This advice was provided in writing at the time of the transaction not only by KPMG and other reputable accounting firms, but also by officials of the Serbian Ministry of Finance.
- Marko was, however, acquitted of the "abuse of office" charge. The proceedings related to Mr. Miskovic were postponed due to Mr. Miskovic's critical health situation, which required treatment and hospitalization.
- To convict Mr. Miskovic's son, the judge in the case resorted to the unprecedented procedure of formally requesting the advice of the Serbian parliament on whether in their opinion the transaction was taxable at the time it was made.
- The Serbian parliament (controlled by the government) responded by drafting and then formally voting to approve an "authentic interpretation" affirming that the transaction was, in their opinion, taxable notwithstanding the written advice provided to the taxpayer by the Ministry of Finance.
- On the strength of this parliamentary action, Marko Miskovic was sentenced to 42 months in prison. The same judge is expected to render a verdict on the charges against Mr. Miskovic in the very near future.
- Given that Marko was found guilty of tax evasion, it seems likely that Mr. Miskovic will be found guilty of "assisting" that tax evasion, notwithstanding that the evidence presented at trial of his "control" over his son's actions was non-existent.
- He may also be found guilty of the abuse of position charge, notwithstanding that the other defendants were acquitted of that charge and that Serbia is under enormous pressure to eliminate this as a criminal offense.

- All of this is taking place in the context of a recent national election and political controversy ahead of the formation of a new Government led by Prime Minister Vucic, who has repeatedly claimed credit for bringing one of the country's most prominent and successful (but politically unpopular) businessman to justice, and publicly stated that the acquittal of Miskovic would be a "personal defeat" for him.

NO DISCERNIBLE CLASSIFICATION

From: Rubin, Joshua A
Sent: Wednesday, May 25, 2016 8:05 AM
To: Vissek, Richard C; Heffern, John A; Hooke, Kathleen H
Subject: RE: Documents for meeting with Jon Finan

Thanks, Rich. Just wanted to follow up on this, and thanks again. **RELEASE IN FULL**

From: Vissek, Richard C
Sent: Tuesday, May 24, 2016 2:52 PM
To: Rubin, Joshua A; Heffern, John A; Hooke, Kathleen H
Subject: RE: Documents for meeting with Jon Finan

+ Kathleen

SBU
This email is UNCLASSIFIED.

From: Rubin, Joshua A
Sent: Tuesday, May 24, 2016 2:50 PM
To: Vissek, Richard C; Heffern, John A
Subject: FW: Documents for meeting with Jon Finan

Rich, John:

Vin Roberti and Tony Podesta have asked to meet with Jon Finan tomorrow about the attached case. Is there anything you or your teams know of that Jon needs to know before the meeting? I've pasted the "key facts" document below to give you a sense.

Thanks very much,

KEY FACTS ABOUT THE MISKOVIC CASE

- Serbia's prosecution of one of the country's most successful businessmen—Miroslav Miskovic, President of Delta Holding—has all the characteristics of President Putin's prosecution of Mikhail Khodorkovsky.
- The 2014 State Department human rights report on Serbia identified a number of irregularities in the case, including intimidation of the presiding judge and unlawful detention of Mr. Miskovic.
- The 2015 State Department human rights report on Serbia cited the subsequent demotion and removal of the presiding judge in the Miskovic case as evidence that Serbia's "courts remained susceptible to corruption and political influence."

NO DISCERNIBLE CLASSIFICATION

7

NO DISCERNIBLE CLASSIFICATION

- Mr. Miskovic, who was held in prison for seven months before being charged with any crime, was eventually indicted for two alleged criminal offenses: "abuse of office", and "assisting tax evasion".
- The first of these (arising under Article 234 of the Serbian Criminal Code) is a communist-era crime that makes no sense in a free market society—so much so that the European Union has demanded that it be expunged from Serbian law as a precondition to Serbia's admission to the EU.
- The 2015 State Department human rights report on Serbia also criticizes Article 234, citing "overuse of the vague 'abuse of office' charge for alleged private sector corruption schemes" as an example of "corruption and lack of transparency in government."
- The second charge involves an allegation that Mr. Miskovic's son Marko failed to pay capital gains tax on a stock transaction, and Mr. Miskovic "assisted" this tax evasion due to his strong influence over his son.
- On March 25, Marko was convicted of tax evasion, despite the fact that he had been advised that the transaction in question was not taxable. This advice was provided in writing at the time of the transaction not only by KPMG and other reputable accounting firms, but also by officials of the Serbian Ministry of Finance.
- Marko was, however, acquitted of the "abuse of office" charge. The proceedings related to Mr. Miskovic were postponed due to Mr. Miskovic's critical health situation, which required treatment and hospitalization.
- To convict Mr. Miskovic's son, the judge in the case resorted to the unprecedented procedure of formally requesting the advice of the Serbian parliament on whether in their opinion the transaction was taxable at the time it was made.
- The Serbian parliament (controlled by the government) responded by drafting and then formally voting to approve an "authentic interpretation" affirming that the transaction was, in their opinion, taxable notwithstanding the written advice provided to the taxpayer by the Ministry of Finance.
- On the strength of this parliamentary action, Marko Miskovic was sentenced to 42 months in prison. The same judge is expected to render a verdict on the charges against Mr. Miskovic in the very near future.
- Given that Marko was found guilty of tax evasion, it seems likely that Mr. Miskovic will be found guilty of "assisting" that tax evasion, notwithstanding that the evidence presented at trial of his "control" over his son's actions was non-existent.
- He may also be found guilty of the abuse of position charge, notwithstanding that the other defendants were acquitted of that charge and that Serbia is under enormous pressure to eliminate this as a criminal offense.
- All of this is taking place in the context of a recent national election and political controversy ahead of the formation of a new Government led by Prime Minister Vucic, who has repeatedly claimed

NO DISCERNIBLE CLASSIFICATION

8

NO DISCERNIBLE CLASSIFICATION

credit for bringing one of the country's most prominent and successful (but politically unpopular) businessman to justice, and publicly stated that the acquittal of Miskovic would be a "personal defeat" for him.

NO DISCERNIBLE CLASSIFICATION

From: Vissek, Richard C
Sent: Tuesday, May 24, 2016 2:51 PM
To: Rubin, Joshua A; Heffern, John A; Hooke, Kathleen H
Subject: RE: Documents for meeting with Jon Finer
Attachments: Delta Background to Miskovic Case undated.docx; Key Facts About the Miskovic Case 5-20-16.docx

+ Kathleen

SBU
This email is UNCLASSIFIED.

RELEASE IN FULL

From: Rubin, Joshua A
Sent: Tuesday, May 24, 2016 2:50 PM
To: Vissek, Richard C; Heffern, John A
Subject: FW: Documents for meeting with Jon Finer

Rich, John:

Vin Roberti and Tony Podesta have asked to meet with Jon Finer tomorrow about the attached case. Is there anything you or your teams know of that Jon needs to know before the meeting? I've pasted the "key facts" document below to give you a sense.

Thanks very much,

KEY FACTS ABOUT THE MISKOVIC CASE

- Serbia's prosecution of one of the country's most successful businessmen—Miroslav Miskovic, President of Delta Holding—has all the characteristics of President Putin's prosecution of Mikhail Khodorkovsky.
- The 2014 State Department human rights report on Serbia identified a number of irregularities in the case, including intimidation of the presiding judge and unlawful detention of Mr. Miskovic.
- The 2015 State Department human rights report on Serbia cited the subsequent demotion and removal of the presiding judge in the Miskovic case as evidence that Serbia's "courts remained susceptible to corruption and political influence."
- Mr. Miskovic, who was held in prison for seven months before being charged with any crime, was eventually indicted for two alleged criminal offenses: "abuse of office", and "assisting tax evasion".

NO DISCERNIBLE CLASSIFICATION

1

NO DISCERNIBLE CLASSIFICATION

- The first of these (arising under Article 234 of the Serbian Criminal Code) is a communist-era crime that makes no sense in a free market society—so much so that the European Union has demanded that it be expunged from Serbian law as a precondition to Serbia's admission to the EU.
- The 2015 State Department human rights report on Serbia also criticizes Article 234, citing "overuse of the vague 'abuse of office' charge for alleged private sector corruption schemes" as an example of "corruption and lack of transparency in government."
- The second charge involves an allegation that Mr. Miskovic's son Marko failed to pay capital gains tax on a stock transaction, and Mr. Miskovic "assisted" this tax evasion due to his strong influence over his son.
- On March 25, Marko was convicted of tax evasion, despite the fact that he had been advised that the transaction in question was not taxable. This advice was provided in writing at the time of the transaction not only by KPMG and other reputable accounting firms, but also by officials of the Serbian Ministry of Finance.
- Marko was, however, acquitted of the "abuse of office" charge. The proceedings related to Mr. Miskovic were postponed due to Mr. Miskovic's critical health situation, which required treatment and hospitalization.
- To convict Mr. Miskovic's son, the judge in the case resorted to the unprecedented procedure of formally requesting the advice of the Serbian parliament on whether in their opinion the transaction was taxable at the time it was made.
- The Serbian parliament (controlled by the government) responded by drafting and then formally voting to approve an "authentic interpretation" affirming that the transaction was, in their opinion, taxable notwithstanding the written advice provided to the taxpayer by the Ministry of Finance.
- On the strength of this parliamentary action, Marko Miskovic was sentenced to 42 months in prison. The same judge is expected to render a verdict on the charges against Mr. Miskovic in the very near future.
- Given that Marko was found guilty of tax evasion, it seems likely that Mr. Miskovic will be found guilty of "assisting" that tax evasion, notwithstanding that the evidence presented at trial of his "control" over his son's actions was non-existent.
- He may also be found guilty of the abuse of position charge, notwithstanding that the other defendants were acquitted of that charge and that Serbia is under enormous pressure to eliminate this as a criminal offense.
- All of this is taking place in the context of a recent national election and political controversy ahead of the formation of a new Government led by Prime Minister Vucic, who has repeatedly claimed credit for bringing one of the country's most prominent and successful (but politically unpopular) businessman to justice, and publicly stated that the acquittal of Miskovic would be a "personal defeat" for him.

NO DISCERNIBLE CLASSIFICATION

NO DISCERNIBLE CLASSIFICATION

NO DISCERNIBLE CLASSIFICATION

RELEASE IN FULL

M E M O R A N D U M

BACKGROUND TO THE PROSECUTION OF MIROSLAV MIŠKOVIĆ

Overview

Miroslav Miškovic is the President of Delta Holding, Serbia's largest privately-owned company. He was arrested on December 12, 2012, for allegedly engaging in improper financial transactions involving PZP Niš, a road construction company that was privatized in 2005. He was formally indicted on May 9, 2013 for "abuse of position by a responsible person" and "assisting tax evasion". On July 23, 2013, following more than seven months in jail, he was released on €12 million bail, pending trial on the charges set forth in the indictment.

At the same time that Miroslav was arrested, his son Marko Mišković was arrested for engaging in other financial transactions relating to PZP Niš. Marko was released from prison April 2, 2013 and confined to home detention with electronic surveillance. Marko was also indicted on May 9 for abuse of position by a responsible person and tax evasion.

A review of the underlying facts demonstrates that both Miroslav and Marko did nothing improper. Their offense, if it can be called one, consisted only of seeking to earn a profit on routine financial transactions conducted in full compliance with applicable laws. Their actions would not be criminal under the law of any modern European country. A cursory analysis of Serbian law demonstrates that their actions were not criminal under the laws of Serbia.

About Miroslav Mišković and Delta Holding

Born in 1947, Mišković was raised in Bosnjane, a village in central Serbia, where his parents owned a small farm. He attended the University of Kragujevac, studying finance and earning a degree in economics. After completing college, Mišković went to work for the Jugobanka bank in Krusevac, becoming its youngest finance director at 29. Soon afterwards, he went to work for the largest chemical factory in what was then Yugoslavia – the ZUPA company, also in Krusevac. He became chief financial officer and, by 1982, chief executive officer.

During the final years of the former Yugoslavia, Mišković was named Deputy Prime Minister, with the task of starting the process of privatizing the economy under Slobodan Milosevic. He resigned after six months, disagreeing with how Milosevic was carrying out the privatizations. Mišković believed that Serbian companies should be looking for international partners that would help put in place best-in-class business practices and import the newest technologies.

In 1991, he founded a company – then called Delta 2M – with modest start-up capital and five employees. The business began by selling consumer goods such as toys, chocolate and roller-skates. At that time, the Serbian economy was

dominated by state-owned enterprises. Delta was one of the first private companies created in Serbia, and the business climate wasn't conducive to its growth. Yet Delta survived and thrived in an era of ethnic conflict, international isolation, difficult democratic reforms, and rampant corruption.

Over the years, the enterprise evolved into Delta Holding – a family of companies, including a bank, insurance company, investment fund, retail chains, real estate and development, distribution, and agricultural companies.

Delta Holding's real estate investments include shopping malls, business towers and residential complexes, and the firm is known throughout the region for bringing some of the top international brands to Serbia, including Nike, Fiat, Honda, BMW, Renault, Johnson Wax and Unilever. Yet another subsidiary is the largest insurance company in Serbia, also managing pension funds. Other ventures have included trade, retail and wholesale in the sport and fashion industry.

Even after selling its retail grocery units, Delta Holding remains among the three largest companies in Serbia, and among the five largest in the Adriatic area. In a country with 22 percent unemployment, Delta has more than 7,000 employees, almost half of whom are women.

In 2007, he established the Delta Foundation to integrate Delta Holding's humanitarian efforts. So far, the Foundation has conducted at least 300 projects, helping more than 65,000 people at a cost of at least €5.5 million. The major focus has been on orphans and people with disabilities. Among the ventures in 2011 alone were: a daycare center for children with disabilities in Belgrade, assistance to earthquake victims in the city of Kraljevo, and programs for hearing-disabled children in Belgrade.

About PZP Niš

The Serbian road construction company PZP Niš was privatized in February 2003. The company was sold by the state to Serbian businessman Milo Đurašković. In 2005, Miroslav supported PZP Niš in acquiring ownership of PZP Beograd, another Serbian road construction company that was then being privatized. Miroslav did this by arranging for a company owned by him, Hemslade Trading Ltd. (incorporated in Cyprus), to loan €23 million to PZP Niš to finance the acquisition of PZP Beograd. The loan agreement provided for interest to be paid at the rate of EURIBOR plus 3%, which in the Serbian market was a relatively low interest rate in 2005. Consistent with the requirements of Serbian law, this cross border loan agreement was registered with and approved by the National Bank of Serbia before the funds were disbursed.¹

The loan was repaid in 2008. The total repayment was €26.366 million, representing €23 million in principal and €3.366 million in interest. This interest

payment was the amount owed under the loan agreement, calculated at EURIBOR (€1.799 million during the period of the loan) plus 3% (€1.567 million during that same period—for a total of €3.366 million).

The criminal indictment asserts that this loan repayment resulted in an unlawful gain to Hemslade Trading Ltd. of €217,000.ⁱⁱ They have not explained the basis of their evident belief that the interest payment should have been €217,000 less than the €3.366 million actually paid (or €3.149 million), and Miroslav's lawyers and accounts have been unable to construct an interest calculation or an interpretation of Serbian law that would have resulted in an interest payment of €3.149.ⁱⁱⁱ

When initially arrested, both Miroslav and Marko were alleged to have violated Serbia's law prohibiting "abuse of office."^{iv} For many decades this law applied to both owners and managers of businesses.

The application of this law to businessmen is a relic of communist Yugoslavia. During the communist era, all commercial enterprises were state-owned, so it was not illogical to treat businessmen as state officials. In today's capitalist economy, however, it is anachronistic to treat businessmen in this manner. Accordingly, as part of the effort to conform Serbian law to European standards in preparation for admission to the European Union, the Group of States against Corruption (GRECO) recommended that this law be changed to limit its application to government officials only.^v

In response to this recommendation, the Serbian parliament last year amended the law to refine its application. Under legislation enacted on January 1, 2013, the "Abuse of Office" law was amended, and a new criminal offense entitled "Abuse of Position by a Responsible Person" was created, effective April 15, 2013.^{vi}

Under this legislation, the definition of a "responsible person" was expressly limited to persons "entrusted with management, supervision, performance or other activities within the company's operations."^{vii} In a departure from the previous law, owners of businesses were omitted from the definition. The logic of this change was that the new law is intended to protect business owners from misconduct by their managers and employees.

A defendant must fall within the definition of a "responsible person" in order to face criminal liability under the new criminal offense. It therefore is critically important that neither Miroslav nor Marko was ever personally involved in the management of PZP Niš or its subsidiaries. Both were involved only as financial investors, and in both cases their investments were indirect—through other companies that they owned directly or indirectly—were not made by them in a

personal capacity, and never gave them control of a majority of the shares of the companies.^{viii}

Under settled principles of Serbian law, criminal defendants are entitled to the benefit of amendments to the criminal code enacted prior to their conviction.^{ix} Because both Miroslav and Marko were only investors—and therefore at most minority “owners”—and were never involved in the management, supervision, or performance of the operations of PZP Niš and its subsidiaries, they cannot properly be charged with “abuse of office by a responsible person” as a result of their involvement with these companies. Nevertheless, both Miroslav and Marko were indicted for “abuse of position by a responsible person.”^x

ⁱ National Bank of Serbia registration number 613106, dated May 30, 2005.

ⁱⁱ Indictment, dated May 9, 2013.

ⁱⁱⁱ In addition to arranging financing through Hemslade Trading Ltd. for the acquisition of PZP Belgrade by PZP Niš, Miroslav’s company, Delta M, originally took a 48% stake in PZP Belgrade, with PZP Niš taking a 51% stake. Four months after the privatization, all but 1% of Delta M’s stake in PZP Belgrade was transferred to PZP Niš. Miroslav has not been accused of any criminal wrongdoing in connection with this investment.

^{iv} Article 359, item 3 with reference to item 1, of Criminal Code of the Republic of Serbia.

^v Report of Group of States against Corruption (GRECO) in respect of Republic of Serbia during the third level of evaluation.

^{vi} Act of Amendments and Supplements of the Criminal Code of Republic of Serbia.

^{vii} Article 12 of the Act of Amendments and Supplements of the Criminal Code of Republic of Serbia.

^{viii} In addition to the fact that Miroslav and Marko cannot be considered “responsible persons” under Serbia’s new law prohibiting “abuse of position by a responsible person,” there are other reasons why they cannot properly be charged under that law. Even under the previous law which did apply to owners of companies, the law was applied only to the direct owners of companies, not the indirect owners. Miroslav and Marko never invested directly in PZP Niš or PZP Belgrade. Rather, they invested indirectly through other companies that they owned. Further, the law was only applied to owners of Serbian (and Yugoslav) companies, not owners of foreign companies. The companies through which Miroslav and Marko invested were foreign companies, incorporated in Cyprus and the Netherlands Antilles.

^{ix} Article V of the Criminal Code of the Republic of Serbia.

^x Indictment, dated May 9, 2013.

May 20, 2016

KEY FACTS ABOUT THE MISKOVIC CASE

RELEASE IN FULL

- Serbia's prosecution of one of the country's most successful businessmen—Miroslav Miskovic, President of Delta Holding—has all the characteristics of President Putin's prosecution of Mikhail Khodorkovsky.
- The 2014 State Department human rights report on Serbia identified a number of irregularities in the case; including intimidation of the presiding judge and unlawful detention of Mr. Miskovic.
- The 2015 State Department human rights report on Serbia cited the subsequent demotion and removal of the presiding judge in the Miskovic case as evidence that Serbia's "courts remained susceptible to corruption and political influence."
- Mr. Miskovic, who was held in prison for seven months before being charged with any crime, was eventually indicted for two alleged criminal offenses: "abuse of office", and "assisting tax evasion".
- The first of these (arising under Article 234 of the Serbian Criminal Code) is a communist-era crime that makes no sense in a free market society—so much so that the European Union has demanded that it be expunged from Serbian law as a precondition to Serbia's admission to the EU.
- The 2015 State Department human rights report on Serbia also criticizes Article 234, citing "overuse of the vague 'abuse of office' charge for alleged private sector corruption schemes" as an example of "corruption and lack of transparency in government."
- The second charge involves an allegation that Mr. Miskovic's son Marko failed to pay capital gains tax on a stock transaction, and Mr. Miskovic "assisted" this tax evasion due to his strong influence over his son.
- On March 25, Marko was convicted of tax evasion, despite the fact that he had been advised that the transaction in question was not taxable. This advice was provided in writing at the time of the transaction not only by KPMG and other reputable accounting firms, but also by officials of the Serbian Ministry of Finance.

- Marko was, however, acquitted of the “abuse of office” charge. The proceedings related to Mr. Miskovic were postponed due to Mr. Miskovic’s critical health situation, which required treatment and hospitalization.
- To convict Mr. Miskovic’s son, the judge in the case resorted to the unprecedented procedure of formally requesting the advice of the Serbian parliament on whether in their opinion the transaction was taxable at the time it was made.
- The Serbian parliament (controlled by the government) responded by drafting and then formally voting to approve an “authentic interpretation” affirming that the transaction was, in their opinion, taxable notwithstanding the written advice provided to the taxpayer by the Ministry of Finance.
- On the strength of this parliamentary action, Marko Miskovic was sentenced to 42 months in prison. The same judge is expected to render a verdict on the charges against Mr. Miskovic in the very near future.
- Given that Marko was found guilty of tax evasion, it seems likely that Mr. Miskovic will be found guilty of “assisting” that tax evasion, notwithstanding that the evidence presented at trial of his “control” over his son’s actions was non-existent.
- He may also be found guilty of the abuse of position charge, notwithstanding that the other defendants were acquitted of that charge and that Serbia is under enormous pressure to eliminate this as a criminal offense.
- All of this is taking place in the context of a recent national election and political controversy ahead of the formation of a new Government led by Prime Minister Vucic, who has repeatedly claimed credit for bringing one of the country’s most prominent and successful (but politically unpopular) businessman to justice, and publicly stated that the acquittal of Miskovic would be a “personal defeat” for him.

From: Veidenheimer, Paul S
Sent: Wednesday, May 25, 2016 12:38 PM
To: Hooke, Kathleen H
Subject: FW: Documents for meeting with Jon Finer

Kathleen,

I don't know when Finer's meeting is, or if policy clients passed these along separately, but please see the points/info below.

Paul

RELEASE IN PART B5

This email is UNCLASSIFIED.

From: Yazdgerdi, Thomas K
Sent: Wednesday, May 25, 2016 12:16 PM
To: Veidenheimer, Paul S
Cc: Bradley, Meghan E; Campbell, Ian; Pfeuffer, Paul
Subject: FW: Documents for meeting with Jon Finer

FYI

This email is UNCLASSIFIED.

From: Yee, Hoyt B
Sent: Wednesday, May 25, 2016 12:11 PM
To: Scott, Kyle R (Belgrade); Yazdgerdi, Thomas K; Campbell, Ian; Duguid, Gordon K (Belgrade); Tervakoski, Mark A (Belgrade)
Cc: Long, Jeremy W (Belgrade); Bradley, Meghan E
Subject: RE: Documents for meeting with Jon Finer

Thanks very much for the comprehensive points Kyle. Hoyt

This email is UNCLASSIFIED.

From: Scott, Kyle R (Belgrade)
Sent: Wednesday, May 25, 2016 11:23 AM
To: Yee, Hoyt B; Yazdgerdi, Thomas K; Campbell, Ian; Duguid, Gordon K (Belgrade); Tervakoski, Mark A (Belgrade)
Cc: Long, Jeremy W (Belgrade); Bradley, Meghan E
Subject: RE: Documents for meeting with Jon Finer

Need to bear in mind that Podesta Group is paid lobbyist for Delta Holdings and Miskevich. I met with Tony Podesta earlier this week, but he tread softly on the Miskevich case.

B5

The latest is that the son was convicted of tax evasion a little while back, and Dad's case is expected to come to a conclusion soon in the courts. Although Miskevich's folks have pressed the issue of his need to possibly travel abroad for medical treatment in the past, Podesta didn't raise this issue in our meeting.

SBU

This email is UNCLASSIFIED.

From: Yee, Hoyt B

Sent: Wednesday, May 25, 2016 11:54 AM

To: Scott, Kyle R (Belgrade); Yazdgerdi, Thomas K; Campbell, Ian; Duguid, Gordon K (Belgrade); Tervakoski, Mark A (Belgrade)

Subject: Fw: Documents for meeting with Jon Finer

Kyle, any off the shelf points/background we can share with Jon Finer et al?

B5

Hoyt

Sent from my BlackBerry 10 smartphone.

From: Heffern, John A <HeffernJA@state.gov>

Sent: Wednesday, May 25, 2016 3:48 AM

To: Yee, Hoyt B; Yazdgerdi, Thomas K

Subject: FW: Documents for meeting with Jon Finer

This email is UNCLASSIFIED.

From: Rubin, Joshua A
Sent: Tuesday, May 24, 2016 8:50 PM
To: Visek, Richard C; Heffern, John A
Subject: FW: Documents for meeting with Jon Finer

Rich, John:

Vin Roberti and Tony Podesta have asked to meet with Jon Finer tomorrow about the attached case. Is there anything you or your teams know of that Jon needs to know before the meeting? I've pasted the "key facts" document below to give you a sense.

Thanks very much,

KEY FACTS ABOUT THE MISKOVIC CASE

- Serbia's prosecution of one of the country's most successful businessmen—Miroslav Miskovic, President of Delta Holding—has all the characteristics of President Putin's prosecution of Mikhail Khodorkovsky.
- The 2014 State Department human rights report on Serbia identified a number of irregularities in the case, including intimidation of the presiding judge and unlawful detention of Mr. Miskovic.
- The 2015 State Department human rights report on Serbia cited the subsequent demotion and removal of the presiding judge in the Miskovic case as evidence that Serbia's "courts remained susceptible to corruption and political influence."
- Mr. Miskovic, who was held in prison for seven months before being charged with any crime, was eventually indicted for two alleged criminal offenses: "abuse of office", and "assisting tax evasion".
- The first of these (arising under Article 234 of the Serbian Criminal Code) is a communist-era crime that makes no sense in a free market society—so much so that the European Union has demanded that it be expunged from Serbian law as a precondition to Serbia's admission to the EU.

- The 2015 State Department human rights report on Serbia also criticizes Article 234, citing “overuse of the vague ‘abuse of office’ charge for alleged private sector corruption schemes” as an example of “corruption and lack of transparency in government.”
- The second charge involves an allegation that Mr. Miskovic’s son Marko failed to pay capital gains tax on a stock transaction, and Mr. Miskovic “assisted” this tax evasion due to his strong influence over his son.
- On March 25, Marko was convicted of tax evasion, despite the fact that he had been advised that the transaction in question was not taxable. This advice was provided in writing at the time of the transaction not only by KPMG and other reputable accounting firms, but also by officials of the Serbian Ministry of Finance.
- Marko was, however, acquitted of the “abuse of office” charge. The proceedings related to Mr. Miskovic were postponed due to Mr. Miskovic’s critical health situation, which required treatment and hospitalization.
- To convict Mr. Miskovic’s son, the judge in the case resorted to the unprecedented procedure of formally requesting the advice of the Serbian parliament on whether in their opinion the transaction was taxable at the time it was made.
- The Serbian parliament (controlled by the government) responded by drafting and then formally voting to approve an “authentic interpretation” affirming that the transaction was, in their opinion, taxable notwithstanding the written advice provided to the taxpayer by the Ministry of Finance.
- On the strength of this parliamentary action, Marko Miskovic was sentenced to 42 months in prison. The same judge is expected to render a verdict on the charges against Mr. Miskovic in the very near future.
- Given that Marko was found guilty of tax evasion, it seems likely that Mr. Miskovic will be found guilty of “assisting” that tax evasion, notwithstanding that the evidence presented at trial of his “control” over his son’s actions was non-existent.

- He may also be found guilty of the abuse of position charge, notwithstanding that the other defendants were acquitted of that charge and that Serbia is under enormous pressure to eliminate this as a criminal offense.
- All of this is taking place in the context of a recent national election and political controversy ahead of the formation of a new Government led by Prime Minister Vucic, who has repeatedly claimed credit for bringing one of the country's most prominent and successful (but politically unpopular) businessman to justice, and publicly stated that the acquittal of Miskovic would be a "personal defeat" for him.

From: Veidenheimer, Paul S
Sent: Wednesday, May 25, 2016 9:07 AM
To: Hooke, Kathleen H
Subject: Fw: Documents for meeting with Jon Finer
Attachments: Delta Background to Miskovic Case undated.docx; Key Facts About the Miskovic Case 5-20-16.docx

Good morning. Sitting, waiting, on the metro but wanted to pass this string along in case useful. Will let you know if they come up with anything.

Paul

Sent from my BlackBerry 10 smartphone.

From: Pfeuffer, Paul <PfeufferP@state.gov>
Sent: Wednesday, May 25, 2016 8:22 AM
To: Veidenheimer, Paul S
Subject: FW: Documents for meeting with Jon Finer

RELEASE IN PART B5

This email is UNCLASSIFIED.

From: Yazdgerdi, Thomas K
Sent: Wednesday, May 25, 2016 7:39 AM
To: Bradley, Meghan E; Morrison, Anne M
Cc: Campbell, Ian; Pfeuffer, Paul
Subject: FW: Documents for meeting with Jon Finer

FYI

This email is UNCLASSIFIED.

From: Yee, Hoyt B
Sent: Wednesday, May 25, 2016 5:54 AM
To: Scott, Kyle R (Belgrade); Yazdgerdi, Thomas K; Campbell, Ian; Duguid, Gordon K (Belgrade); Tervakoski, Mark A (Belgrade)
Subject: Fw: Documents for meeting with Jon Finer

Kyle, any off the shelf points/background we can share with Jon Finer et al?

B5

Hoyt

Sent from my BlackBerry 10 smartphone.

From: Heffern, John A <HeffernJA@state.gov>
Sent: Wednesday, May 25, 2016 3:48 AM
To: Yee, Hoyt B; Yazdgerdi, Thomas K
Subject: FW: Documents for meeting with Jon Finer

This email is UNCLASSIFIED.

From: Rubin, Joshua A
Sent: Tuesday, May 24, 2016 8:50 PM
To: Visek, Richard C; Heffern, John A
Subject: FW: Documents for meeting with Jon Finer

Rich, John:

Vin Roberti and Tony Podesta have asked to meet with Jon Finer tomorrow about the attached case. Is there anything you or your teams know of that Jon needs to know before the meeting? I've pasted the "key facts" document below to give you a sense.

Thanks very much,

KEY FACTS ABOUT THE MISKOVIC CASE

- Serbia's prosecution of one of the country's most successful businessmen—Miroslav Miskovic, President of Delta Holding—has all the characteristics of President Putin's prosecution of Mikhail Khodorkovsky.
- The 2014 State Department human rights report on Serbia identified a number of irregularities in the case, including intimidation of the presiding judge and unlawful detention of Mr. Miskovic.
- The 2015 State Department human rights report on Serbia cited the subsequent demotion and removal of the presiding judge in the Miskovic case as evidence that Serbia's "courts remained susceptible to corruption and political influence."
- Mr. Miskovic, who was held in prison for seven months before being charged with any crime, was eventually indicted for two alleged criminal offenses: "abuse of office", and "assisting tax evasion".

- The first of these (arising under Article 234 of the Serbian Criminal Code) is a communist-era crime that makes no sense in a free market society—so much so that the European Union has demanded that it be expunged from Serbian law as a precondition to Serbia’s admission to the EU.
- The 2015 State Department human rights report on Serbia also criticizes Article 234, citing “overuse of the vague ‘abuse of office’ charge for alleged private sector corruption schemes” as an example of “corruption and lack of transparency in government.”
- The second charge involves an allegation that Mr. Miskovic’s son Marko failed to pay capital gains tax on a stock transaction, and Mr. Miskovic “assisted” this tax evasion due to his strong influence over his son.
- On March 25, Marko was convicted of tax evasion, despite the fact that he had been advised that the transaction in question was not taxable. This advice was provided in writing at the time of the transaction not only by KPMG and other reputable accounting firms, but also by officials of the Serbian Ministry of Finance.
- Marko was, however, acquitted of the “abuse of office” charge. The proceedings related to Mr. Miskovic were postponed due to Mr. Miskovic’s critical health situation, which required treatment and hospitalization.
- To convict Mr. Miskovic’s son, the judge in the case resorted to the unprecedented procedure of formally requesting the advice of the Serbian parliament on whether in their opinion the transaction was taxable at the time it was made.
- The Serbian parliament (controlled by the government) responded by drafting and then formally voting to approve an “authentic interpretation” affirming that the transaction was, in their opinion, taxable notwithstanding the written advice provided to the taxpayer by the Ministry of Finance.
- On the strength of this parliamentary action, Marko Miskovic was sentenced to 42 months in prison. The same judge is expected to render a verdict on the charges against Mr. Miskovic in the very near future.

- Given that Marko was found guilty of tax evasion, it seems likely that Mr. Miskovic will be found guilty of "assisting" that tax evasion, notwithstanding that the evidence presented at trial of his "control" over his son's actions was non-existent.
- He may also be found guilty of the abuse of position charge, notwithstanding that the other defendants were acquitted of that charge and that Serbia is under enormous pressure to eliminate this as a criminal offense.
- All of this is taking place in the context of a recent national election and political controversy ahead of the formation of a new Government led by Prime Minister Vucic, who has repeatedly claimed credit for bringing one of the country's most prominent and successful (but politically unpopular) businessman to justice, and publicly stated that the acquittal of Miskovic would be a "personal defeat" for him.

M E M O R A N D U M

RELEASE IN FULL

BACKGROUND TO THE PROSECUTION OF MIROSLAV MIŠKOVIĆ

Overview

Miroslav Mišković is the President of Delta Holding, Serbia's largest privately-owned company. He was arrested on December 12, 2012, for allegedly engaging in improper financial transactions involving PZP Niš, a road construction company that was privatized in 2005. He was formally indicted on May 9, 2013 for "abuse of position by a responsible person" and "assisting tax evasion". On July 23, 2013, following more than seven months in jail, he was released on €12 million bail, pending trial on the charges set forth in the indictment.

At the same time that Miroslav was arrested, his son Marko Mišković was arrested for engaging in other financial transactions relating to PZP Niš. Marko was released from prison April 2, 2013 and confined to home detention with electronic surveillance. Marko was also indicted on May 9 for abuse of position by a responsible person and tax evasion.

A review of the underlying facts demonstrates that both Miroslav and Marko did nothing improper. Their offense, if it can be called one, consisted only of seeking to earn a profit on routine financial transactions conducted in full compliance with applicable laws. Their actions would not be criminal under the law of any modern European country. A cursory analysis of Serbian law demonstrates that their actions were not criminal under the laws of Serbia.

About Miroslav Mišković and Delta Holding

Born in 1947, Mišković was raised in Bosnjane, a village in central Serbia, where his parents owned a small farm. He attended the University of Kragujevac, studying finance and earning a degree in economics. After completing college, Mišković went to work for the Jugobanka bank in Krusevac, becoming its youngest finance director at 29. Soon afterwards, he went to work for the largest chemical factory in what was then Yugoslavia – the ZUPA company, also in Krusevac. He became chief financial officer and, by 1982, chief executive officer.

During the final years of the former Yugoslavia, Mišković was named Deputy Prime Minister, with the task of starting the process of privatizing the economy under Slobodan Milosevic. He resigned after six months, disagreeing with how Milosevic was carrying out the privatizations. Mišković believed that Serbian companies should be looking for international partners that would help put in place best-in-class business practices and import the newest technologies.

In 1991, he founded a company – then called Delta 2M – with modest start-up capital and five employees. The business began by selling consumer goods such as toys, chocolate and roller-skates. At that time, the Serbian economy was

dominated by state-owned enterprises. Delta was one of the first private companies created in Serbia, and the business climate wasn't conducive to its growth. Yet Delta survived and thrived in an era of ethnic conflict, international isolation, difficult democratic reforms, and rampant corruption. Over the years, the enterprise evolved into Delta Holding – a family of companies, including a bank, insurance company, investment fund, retail chains, real estate and development, distribution, and agricultural companies.

Delta Holding's real estate investments include shopping malls, business towers and residential complexes, and the firm is known throughout the region for bringing some of the top international brands to Serbia, including Nike, Fiat, Honda, BMW, Renault, Johnson Wax and Unilever. Yet another subsidiary is the largest insurance company in Serbia, also managing pension funds. Other ventures have included trade, retail and wholesale in the sport and fashion industry.

Even after selling its retail grocery units, Delta Holding remains among the three largest companies in Serbia, and among the five largest in the Adriatic area. In a country with 22 percent unemployment, Delta has more than 7,000 employees, almost half of whom are women.

In 2007, he established the Delta Foundation to integrate Delta Holding's humanitarian efforts. So far, the Foundation has conducted at least 300 projects, helping more than 65,000 people at a cost of at least €5.5 million. The major focus has been on orphans and people with disabilities. Among the ventures in 2011 alone were: a daycare center for children with disabilities in Belgrade, assistance to earthquake victims in the city of Kraljevo, and programs for hearing-disabled children in Belgrade.

About PZP Niš

The Serbian road construction company PZP Niš was privatized in February 2003. The company was sold by the state to Serbian businessman Milo Đurašković. In 2005, Miroslav supported PZP Niš in acquiring ownership of PZP Beograd, another Serbian road construction company that was then being privatized. Miroslav did this by arranging for a company owned by him, Hemslade Trading Ltd. (incorporated in Cyprus), to loan €23 million to PZP Niš to finance the acquisition of PZP Beograd. The loan agreement provided for interest to be paid at the rate of EURIBOR plus 3%, which in the Serbian market was a relatively low interest rate in 2005. Consistent with the requirements of Serbian law, this cross border loan agreement was registered with and approved by the National Bank of Serbia before the funds were disbursed.¹

The loan was repaid in 2008. The total repayment was €26.366 million, representing €23 million in principal and €3.366 million in interest. This interest

payment was the amount owed under the loan agreement, calculated at EURIBOR (€1.799 million during the period of the loan) plus 3% (€1.567 million during that same period—for a total of €3.366 million).

The criminal indictment asserts that this loan repayment resulted in an unlawful gain to Hemslade Trading Ltd. of €217,000.ⁱⁱⁱ They have not explained the basis of their evident belief that the interest payment should have been €217,000 less than the €3.366 million actually paid (or €3.149 million), and Miroslav's lawyers and accounts have been unable to construct an interest calculation or an interpretation of Serbian law that would have resulted in an interest payment of €3.149.ⁱⁱⁱ

When initially arrested, both Miroslav and Marko were alleged to have violated Serbia's law prohibiting "abuse of office."^{iv} For many decades this law applied to both owners and managers of businesses.

The application of this law to businessmen is a relic of communist Yugoslavia. During the communist era, all commercial enterprises were state-owned, so it was not illogical to treat businessmen as state officials. In today's capitalist economy, however, it is anachronistic to treat businessmen in this manner. Accordingly, as part of the effort to conform Serbian law to European standards in preparation for admission to the European Union, the Group of States against Corruption (GRECO) recommended that this law be changed to limit its application to government officials only.^v

In response to this recommendation, the Serbian parliament last year amended the law to refine its application. Under legislation enacted on January 1, 2013, the "Abuse of Office" law was amended, and a new criminal offence entitled "Abuse of Position by a Responsible Person" was created, effective April 15, 2013.^{vi}

Under this legislation, the definition of a "responsible person" was expressly limited to persons "entrusted with management, supervision, performance or other activities within the company's operations".^{vii} In a departure from the previous law, owners of businesses were omitted from the definition. The logic of this change was that the new law is intended to protect business owners from misconduct by their managers and employees.

A defendant must fall within the definition of a "responsible person" in order to face criminal liability under the new criminal offense. It therefore is critically important that neither Miroslav nor Marko was ever personally involved in the management of PZP Niš or its subsidiaries. Both were involved only as financial investors, and in both cases their investments were indirect—through other companies that they owned directly or indirectly—were not made by them in a

personal capacity, and never gave them control of a majority of the shares of the companies.^{viii}

Under settled principles of Serbian law, criminal defendants are entitled to the benefit of amendments to the criminal code enacted prior to their conviction.^{ix} Because both Miroslav and Marko were only investors—and therefore at most minority “owners”—and were never involved in the management, supervision, or performance of the operations of PZP Niš and its subsidiaries, they cannot properly be charged with “abuse of office by a responsible person” as a result of their involvement with these companies. Nevertheless, both Miroslav and Marko were indicted for “abuse of position by a responsible person.”^x

ⁱ National Bank of Serbia registration number 613106, dated May 30, 2005.

ⁱⁱ Indictment, dated May 9, 2013.

ⁱⁱⁱ In addition to arranging financing through Hemslade Trading Ltd. for the acquisition of PZP Belgrade by PZP Niš, Miroslav’s company, Delta M, originally took a 48% stake in PZP Belgrade, with PZP Niš taking a 51% stake. Four months after the privatization, all but 1% of Delta M’s stake in PZP Belgrade was transferred to PZP Niš. Miroslav has not been accused of any criminal wrongdoing in connection with this investment.

^{iv} Article 359, item 3 with reference to item 1, of Criminal Code of the Republic of Serbia.

^v Report of Group of States against Corruption (GRECO) in respect of Republic of Serbia during the third level of evaluation.

^{vi} Act of Amendments and Supplements of the Criminal Code of Republic of Serbia.

^{vii} Article 12 of the Act of Amendments and Supplements of the Criminal Code of Republic of Serbia.

^{viii} In addition to the fact that Miroslav and Marko cannot be considered “responsible persons” under Serbia’s new law prohibiting “abuse of position by a responsible person,” there are other reasons why they cannot properly be charged under that law. Even under the previous law which did apply to owners of companies, the law was applied only to the direct owners of companies, not the indirect owners. Miroslav and Marko never invested directly in PZP Niš or PZP Belgrade. Rather, they invested indirectly through other companies that they owned. Further, the law was only applied to owners of Serbian (and Yugoslav) companies, not owners of foreign companies. The companies through which Miroslav and Marko invested were foreign companies, incorporated in Cyprus and the Netherlands Antilles.

^{ix} Article V of the Criminal Code of the Republic of Serbia.

^x Indictment, dated May 9, 2013.

May 20, 2016

KEY FACTS ABOUT THE MISKOVIC CASE

RELEASE IN FULL

- Serbia's prosecution of one of the country's most successful businessmen—Miroslav Miskovic, President of Delta Holding—has all the characteristics of President Putin's prosecution of Mikhail Khodorkovsky.
- The 2014 State Department human rights report on Serbia identified a number of irregularities in the case, including intimidation of the presiding judge and unlawful detention of Mr. Miskovic.
- The 2015 State Department human rights report on Serbia cited the subsequent demotion and removal of the presiding judge in the Miskovic case as evidence that Serbia's "courts remained susceptible to corruption and political influence."
- Mr. Miskovic, who was held in prison for seven months before being charged with any crime, was eventually indicted for two alleged criminal offenses: "abuse of office", and "assisting tax evasion".
- The first of these (arising under Article 234 of the Serbian Criminal Code) is a communist-era crime that makes no sense in a free market society—so much so that the European Union has demanded that it be expunged from Serbian law as a precondition to Serbia's admission to the EU.
- The 2015 State Department human rights report on Serbia also criticizes Article 234, citing "overuse of the vague 'abuse of office' charge for alleged private sector corruption schemes" as an example of "corruption and lack of transparency in government."
- The second charge involves an allegation that Mr. Miskovic's son Marko failed to pay capital gains tax on a stock transaction, and Mr. Miskovic "assisted" this tax evasion due to his strong influence over his son.
- On March 25, Marko was convicted of tax evasion, despite the fact that he had been advised that the transaction in question was not taxable. This advice was provided in writing at the time of the transaction not only by KPMG and other reputable accounting firms, but also by officials of the Serbian Ministry of Finance.

- Marko was, however, acquitted of the “abuse of office” charge. The proceedings related to Mr. Miskovic were postponed due to Mr. Miskovic’s critical health situation, which required treatment and hospitalization.
- To convict Mr. Miskovic’s son, the judge in the case resorted to the unprecedented procedure of formally requesting the advice of the Serbian parliament on whether in their opinion the transaction was taxable at the time it was made.
- The Serbian parliament (controlled by the government) responded by drafting and then formally voting to approve an “authentic interpretation” affirming that the transaction was, in their opinion, taxable notwithstanding the written advice provided to the taxpayer by the Ministry of Finance.
- On the strength of this parliamentary action, Marko Miskovic was sentenced to 42 months in prison. The same judge is expected to render a verdict on the charges against Mr. Miskovic in the very near future.
- Given that Marko was found guilty of tax evasion, it seems likely that Mr. Miskovic will be found guilty of “assisting” that tax evasion, notwithstanding that the evidence presented at trial of his “control” over his son’s actions was non-existent.
- He may also be found guilty of the abuse of position charge, notwithstanding that the other defendants were acquitted of that charge and that Serbia is under enormous pressure to eliminate this as a criminal offense.
- All of this is taking place in the context of a recent national election and political controversy ahead of the formation of a new Government led by Prime Minister Vucic, who has repeatedly claimed credit for bringing one of the country’s most prominent and successful (but politically unpopular) businessman to justice, and publicly stated that the acquittal of Miskovic would be a “personal defeat” for him.

From: Veidenheimer, Paul S
Sent: Tuesday, May 24, 2016 4:22 PM
To: Bradley, Meghan E (Belgrade)
Subject: FW: Documents for meeting with Jon Finer
Attachments: Delta Background to Miskovic Case undated.docx; Key Facts About the Miskovic Case 5-20-16.docx

Meghan,

Do you have any information or material on this case that I could/should pass back through our front office?

Thanks.

RELEASE IN FULL

Paul

SBU
This email is UNCLASSIFIED.

From: Rubin, Joshua A
Sent: Tuesday, May 24, 2016 2:50 PM
To: Visek, Richard C; Heffern, John A
Subject: FW: Documents for meeting with Jon Finer

Rich, John:

Vin Roberti and Tony Podesta have asked to meet with Jon Finer tomorrow about the attached case. Is there anything you or your teams know of that Jon needs to know before the meeting? I've pasted the "key facts" document below to give you a sense.

Thanks very much,

KEY FACTS ABOUT THE MISKOVIC CASE

- Serbia's prosecution of one of the country's most successful businessmen—Miroslav Miskovic, President of Delta Holding—has all the characteristics of President Putin's prosecution of Mikhail Khodorkovsky.
- The 2014 State Department human rights report on Serbia identified a number of irregularities in the case, including intimidation of the presiding judge and unlawful detention of Mr. Miskovic.
- The 2015 State Department human rights report on Serbia cited the subsequent demotion and removal of the presiding judge in the Miskovic case as evidence that Serbia's "courts remained susceptible to corruption and political influence."

- Mr. Miskovic, who was held in prison for seven months before being charged with any crime, was eventually indicted for two alleged criminal offenses: “abuse of office”, and “assisting tax evasion”.
- The first of these (arising under Article 234 of the Serbian Criminal Code) is a communist-era crime that makes no sense in a free market society—so much so that the European Union has demanded that it be expunged from Serbian law as a precondition to Serbia’s admission to the EU.
- The 2015 State Department human rights report on Serbia also criticizes Article 234, citing “overuse of the vague ‘abuse of office’ charge for alleged private sector corruption schemes” as an example of “corruption and lack of transparency in government.”
- The second charge involves an allegation that Mr. Miskovic’s son Marko failed to pay capital gains tax on a stock transaction, and Mr. Miskovic “assisted” this tax evasion due to his strong influence over his son.
- On March 25, Marko was convicted of tax evasion, despite the fact that he had been advised that the transaction in question was not taxable. This advice was provided in writing at the time of the transaction not only by KPMG and other reputable accounting firms, but also by officials of the Serbian Ministry of Finance.
- Marko was, however, acquitted of the “abuse of office” charge. The proceedings related to Mr. Miskovic were postponed due to Mr. Miskovic’s critical health situation, which required treatment and hospitalization.
- To convict Mr. Miskovic’s son, the judge in the case resorted to the unprecedented procedure of formally requesting the advice of the Serbian parliament on whether in their opinion the transaction was taxable at the time it was made.
- The Serbian parliament (controlled by the government) responded by drafting and then formally voting to approve an “authentic interpretation” affirming that the transaction was, in their opinion, taxable notwithstanding the written advice provided to the taxpayer by the Ministry of Finance.
- On the strength of this parliamentary action, Marko Miskovic was sentenced to 42 months in prison. The same judge is expected to render a verdict on the charges against Mr. Miskovic in the very near future.
- Given that Marko was found guilty of tax evasion, it seems likely that Mr. Miskovic will be found guilty of “assisting” that tax evasion, notwithstanding that the evidence presented at trial of his “control” over his son’s actions was non-existent.
- He may also be found guilty of the abuse of position charge, notwithstanding that the other defendants were acquitted of that charge and that Serbia is under enormous pressure to eliminate this as a criminal offense.
- All of this is taking place in the context of a recent national election and political controversy ahead of the formation of a new Government led by Prime Minister Vucic, who has repeatedly claimed credit for bringing one of the country’s most prominent and successful (but politically unpopular)

businessman to justice, and publicly stated that the acquittal of Miskovic would be a "personal defeat" for him.

M E M O R A N D U M

RELEASE IN FULL

BACKGROUND TO THE PROSECUTION OF MIROSLAV MIŠKOVIĆ**Overview**

Miroslav Miškovic is the President of Delta Holding, Serbia's largest privately-owned company. He was arrested on December 12, 2012, for allegedly engaging in improper financial transactions involving PZP Niš, a road construction company that was privatized in 2005. He was formally indicted on May 9, 2013 for "abuse of position by a responsible person" and "assisting tax evasion". On July 23, 2013, following more than seven months in jail, he was released on €12 million bail, pending trial on the charges set forth in the indictment.

At the same time that Miroslav was arrested, his son Marko Mišković was arrested for engaging in other financial transactions relating to PZP Niš. Marko was released from prison April 2, 2013 and confined to home detention with electronic surveillance. Marko was also indicted on May 9 for abuse of position by a responsible person and tax evasion.

A review of the underlying facts demonstrates that both Miroslav and Marko did nothing improper. Their offense, if it can be called one, consisted only of seeking to earn a profit on routine financial transactions conducted in full compliance with applicable laws. Their actions would not be criminal under the law of any modern European country. A cursory analysis of Serbian law demonstrates that their actions were not criminal under the laws of Serbia.

About Miroslav Mišković and Delta Holding

Born in 1947, Mišković was raised in Bosnjane, a village in central Serbia, where his parents owned a small farm. He attended the University of Kragujevac, studying finance and earning a degree in economics. After completing college, Mišković went to work for the Jugobanka bank in Krusevac, becoming its youngest finance director at 29. Soon afterwards, he went to work for the largest chemical factory in what was then Yugoslavia – the ZUPA company, also in Krusevac. He became chief financial officer and, by 1982, chief executive officer.

During the final years of the former Yugoslavia, Mišković was named Deputy Prime Minister, with the task of starting the process of privatizing the economy under Slobodan Milosevic. He resigned after six months, disagreeing with how Milosevic was carrying out the privatizations. Mišković believed that Serbian companies should be looking for international partners that would help put in place best-in-class business practices and import the newest technologies.

In 1991, he founded a company – then called Delta 2M – with modest start-up capital and five employees. The business began by selling consumer goods such as toys, chocolate and roller-skates. At that time, the Serbian economy was

dominated by state-owned enterprises. Delta was one of the first private companies created in Serbia, and the business climate wasn't conducive to its growth. Yet Delta survived and thrived in an era of ethnic conflict, international isolation, difficult democratic reforms, and rampant corruption. Over the years, the enterprise evolved into Delta Holding – a family of companies, including a bank, insurance company, investment fund, retail chains, real estate and development, distribution, and agricultural companies.

Delta Holding's real estate investments include shopping malls, business towers and residential complexes, and the firm is known throughout the region for bringing some of the top international brands to Serbia, including Nike, Fiat, Honda, BMW, Renault, Johnson Wax and Unilever. Yet another subsidiary is the largest insurance company in Serbia, also managing pension funds. Other ventures have included trade, retail and wholesale in the sport and fashion industry.

Even after selling its retail grocery units, Delta Holding remains among the three largest companies in Serbia, and among the five largest in the Adriatic area. In a country with 22 percent unemployment, Delta has more than 7,000 employees, almost half of whom are women.

In 2007, he established the Delta Foundation to integrate Delta Holding's humanitarian efforts. So far, the Foundation has conducted at least 300 projects, helping more than 65,000 people at a cost of at least €5.5 million. The major focus has been on orphans and people with disabilities. Among the ventures in 2011 alone were: a daycare center for children with disabilities in Belgrade, assistance to earthquake victims in the city of Kraljevo, and programs for hearing-disabled children in Belgrade.

About PZP Nis

The Serbian road construction company PZP Niš was privatized in February 2003. The company was sold by the state to Serbian businessman Milo Đurašković. In 2005, Miroslav supported PZP Niš in acquiring ownership of PZP Beograd, another Serbian road construction company that was then being privatized. Miroslav did this by arranging for a company owned by him, Hemslade Trading Ltd. (incorporated in Cyprus), to loan €23 million to PZP Niš to finance the acquisition of PZP Beograd. The loan agreement provided for interest to be paid at the rate of EURIBOR plus 3%, which in the Serbian market was a relatively low interest rate in 2005. Consistent with the requirements of Serbian law, this cross border loan agreement was registered with and approved by the National Bank of Serbia before the funds were disbursed.¹

The loan was repaid in 2008. The total repayment was €26.366 million, representing €23 million in principal and €3.366 million in interest. This interest

payment was the amount owed under the loan agreement, calculated at EURIBOR (€1.799 million during the period of the loan) plus 3% (€1.567 million during that same period—for a total of €3.366 million).

The criminal indictment asserts that this loan repayment resulted in an unlawful gain to Hemslade Trading Ltd. of €217,000.ⁱⁱⁱ They have not explained the basis of their evident belief that the interest payment should have been €217,000 less than the €3.366 million actually paid (or €3.149 million), and Miroslav's lawyers and accounts have been unable to construct an interest calculation or an interpretation of Serbian law that would have resulted in an interest payment of €3.149.ⁱⁱⁱ

When initially arrested, both Miroslav and Marko were alleged to have violated Serbia's law prohibiting "abuse of office."^{iv} For many decades this law applied to both owners and managers of businesses.

The application of this law to businessmen is a relic of communist Yugoslavia. During the communist era, all commercial enterprises were state-owned, so it was not illogical to treat businessmen as state officials. In today's capitalist economy, however, it is anachronistic to treat businessmen in this manner. Accordingly, as part of the effort to conform Serbian law to European standards in preparation for admission to the European Union, the Group of States against Corruption (GRECO) recommended that this law be changed to limit its application to government officials only.^v

In response to this recommendation, the Serbian parliament last year amended the law to refine its application. Under legislation enacted on January 1, 2013, the "Abuse of Office" law was amended, and a new criminal offense entitled "Abuse of Position by a Responsible Person" was created, effective April 15, 2013.^{vi}

Under this legislation, the definition of a "responsible person" was expressly limited to persons "entrusted with management, supervision, performance or other activities within the company's operations".^{vii} In a departure from the previous law, owners of businesses were omitted from the definition. The logic of this change was that the new law is intended to protect business owners from misconduct by their managers and employees.

A defendant must fall within the definition of a "responsible person" in order to face criminal liability under the new criminal offense. It therefore is critically important that neither Miroslav nor Marko was ever personally involved in the management of PZP Niš or its subsidiaries. Both were involved only as financial investors, and in both cases their investments were indirect—through other companies that they owned directly or indirectly—were not made by them in a

personal capacity, and never gave them control of a majority of the shares of the companies.^{viii}

Under settled principles of Serbian law, criminal defendants are entitled to the benefit of amendments to the criminal code enacted prior to their conviction.^{ix} Because both Miroslav and Marko were only investors—and therefore at most minority “owners”—and were never involved in the management, supervision, or performance of the operations of PZP Niš and its subsidiaries, they cannot properly be charged with “abuse of office by a responsible person” as a result of their involvement with these companies. Nevertheless, both Miroslav and Marko were indicted for “abuse of position by a responsible person.”^x

ⁱ National Bank of Serbia registration number 613106, dated May 30, 2005.

ⁱⁱ Indictment, dated May 9, 2013.

ⁱⁱⁱ In addition to arranging financing through Hemslade Trading Ltd. for the acquisition of PZP Belgrade by PZP Niš, Miroslav’s company, Delta M, originally took a 48% stake in PZP Belgrade, with PZP Niš taking a 51% stake. Four months after the privatization, all but 1% of Delta M’s stake in PZP Belgrade was transferred to PZP Niš. Miroslav has not been accused of any criminal wrongdoing in connection with this investment.

^{iv} Article 359, item 3 with reference to item 1, of Criminal Code of the Republic of Serbia.

^v Report of Group of States against Corruption (GRECO) in respect of Republic of Serbia during the third level of evaluation.

^{vi} Act of Amendments and Supplements of the Criminal Code of Republic of Serbia.

^{vii} Article 12 of the Act of Amendments and Supplements of the Criminal Code of Republic of Serbia.

^{viii} In addition to the fact that Miroslav and Marko cannot be considered “responsible persons” under Serbia’s new law prohibiting “abuse of position by a responsible person,” there are other reasons why they cannot properly be charged under that law. Even under the previous law which did apply to owners of companies, the law was applied only to the direct owners of companies, not the indirect owners. Miroslav and Marko never invested directly in PZP Niš or PZP Belgrade. Rather, they invested indirectly through other companies that they owned. Further, the law was only applied to owners of Serbian (and Yugoslav) companies, not owners of foreign companies. The companies through which Miroslav and Marko invested were foreign companies, incorporated in Cyprus and the Netherlands Antilles.

^{ix} Article V of the Criminal Code of the Republic of Serbia.

^x Indictment, dated May 9, 2013.

RELEASE IN FULL

May 20, 2016

KEY FACTS ABOUT THE MISKOVIC CASE

- Serbia's prosecution of one of the country's most successful businessmen—Miroslav Miskovic, President of Delta Holding—has all the characteristics of President Putin's prosecution of Mikhail Khodorkovsky.
- The 2014 State Department human rights report on Serbia identified a number of irregularities in the case, including intimidation of the presiding judge and unlawful detention of Mr. Miskovic.
- The 2015 State Department human rights report on Serbia cited the subsequent demotion and removal of the presiding judge in the Miskovic case as evidence that Serbia's "courts remained susceptible to corruption and political influence."
- Mr. Miskovic, who was held in prison for seven months before being charged with any crime, was eventually indicted for two alleged criminal offenses: "abuse of office", and "assisting tax evasion".
- The first of these (arising under Article 234 of the Serbian Criminal Code) is a communist-era crime that makes no sense in a free market society—so much so that the European Union has demanded that it be expunged from Serbian law as a precondition to Serbia's admission to the EU.
- The 2015 State Department human rights report on Serbia also criticizes Article 234, citing "overuse of the vague 'abuse of office' charge for alleged private sector corruption schemes" as an example of "corruption and lack of transparency in government."
- The second charge involves an allegation that Mr. Miskovic's son Marko failed to pay capital gains tax on a stock transaction, and Mr. Miskovic "assisted" this tax evasion due to his strong influence over his son.
- On March 25, Marko was convicted of tax evasion, despite the fact that he had been advised that the transaction in question was not taxable. This advice was provided in writing at the time of the transaction not only by KPMG and other reputable accounting firms, but also by officials of the Serbian Ministry of Finance.

- Marko was, however, acquitted of the “abuse of office” charge. The proceedings related to Mr. Miskovic were postponed due to Mr. Miskovic’s critical health situation, which required treatment and hospitalization.
- To convict Mr. Miskovic’s son, the judge in the case resorted to the unprecedented procedure of formally requesting the advice of the Serbian parliament on whether in their opinion the transaction was taxable at the time it was made.
- The Serbian parliament (controlled by the government) responded by drafting and then formally voting to approve an “authentic interpretation” affirming that the transaction was, in their opinion, taxable notwithstanding the written advice provided to the taxpayer by the Ministry of Finance.
- On the strength of this parliamentary action, Marko Miskovic was sentenced to 42 months in prison. The same judge is expected to render a verdict on the charges against Mr. Miskovic in the very near future.
- Given that Marko was found guilty of tax evasion, it seems likely that Mr. Miskovic will be found guilty of “assisting” that tax evasion, notwithstanding that the evidence presented at trial of his “control” over his son’s actions was non-existent.
- He may also be found guilty of the abuse of position charge, notwithstanding that the other defendants were acquitted of that charge and that Serbia is under enormous pressure to eliminate this as a criminal offense.
- All of this is taking place in the context of a recent national election and political controversy ahead of the formation of a new Government led by Prime Minister Vucic, who has repeatedly claimed credit for bringing one of the country’s most prominent and successful (but politically unpopular) businessman to justice, and publicly stated that the acquittal of Miskovic would be a “personal defeat” for him.

From: Veidenheimer, Paul S
Sent: Tuesday, May 24, 2016 4:28 PM
To: Hooke, Kathleen H
Subject: RE: Documents for meeting with Jon Finer

Sure. I will let you know if there is anything useful.

SBU
This email is UNCLASSIFIED.

RELEASE IN FULL

From: Hooke, Kathleen H
Sent: Tuesday, May 24, 2016 4:27 PM
To: Veidenheimer, Paul S
Subject: RE: Documents for meeting with Jon Finer

Ok, thanks. If there is nothing, that's fine. Just want to be sure we aren't missing something he should be aware of.

SBU
This email is UNCLASSIFIED.

From: Veidenheimer, Paul S
Sent: Tuesday, May 24, 2016 4:21 PM
To: Hooke, Kathleen H
Subject: RE: Documents for meeting with Jon Finer

I am not familiar with it. Will check with desk to see if they have anything further.

Paul

SBU
This email is UNCLASSIFIED.

From: Hooke, Kathleen H
Sent: Tuesday, May 24, 2016 4:08 PM
To: Veidenheimer, Paul S
Subject: FW: Documents for meeting with Jon Finer

Paul, Is there anything about this case that we should tell Jon Finer before a meeting he has on this tomorrow. See below. Thanks, Kathleen

SBU

This email is UNCLASSIFIED.

From: Visek, Richard C
Sent: Tuesday, May 24, 2016 2:52 PM
To: Rubin, Joshua A; Heffern, John A; Hooke, Kathleen H
Subject: RE: Documents for meeting with Jon Finer

+ Kathleen

SBU
This email is UNCLASSIFIED.

From: Rubin, Joshua A
Sent: Tuesday, May 24, 2016 2:50 PM
To: Visek, Richard C; Heffern, John A
Subject: FW: Documents for meeting with Jon Finer

Rich, John:

Vin Roberti and Tony Podesta have asked to meet with Jon Finer tomorrow about the attached case. Is there anything you or your teams know of that Jon needs to know before the meeting? I've pasted the "key facts" document below to give you a sense.

Thanks very much,

KEY FACTS ABOUT THE MISKOVIC CASE

- Serbia's prosecution of one of the country's most successful businessmen—Miroslav Miskovic, President of Delta Holding—has all the characteristics of President Putin's prosecution of Mikhail Khodorkovsky.
- The 2014 State Department human rights report on Serbia identified a number of irregularities in the case, including intimidation of the presiding judge and unlawful detention of Mr. Miskovic.
- The 2015 State Department human rights report on Serbia cited the subsequent demotion and removal of the presiding judge in the Miskovic case as evidence that Serbia's "courts remained susceptible to corruption and political influence."
- Mr. Miskovic, who was held in prison for seven months before being charged with any crime, was eventually indicted for two alleged criminal offenses: "abuse of office", and "assisting tax evasion".
- The first of these (arising under Article 234 of the Serbian Criminal Code) is a communist-era crime that makes no sense in a free market society—so much so that the European Union has demanded that it be expunged from Serbian law as a precondition to Serbia's admission to the EU.

- The 2015 State Department human rights report on Serbia also criticizes Article 234, citing “overuse of the vague ‘abuse of office’ charge for alleged private sector corruption schemes” as an example of “corruption and lack of transparency in government.”
- The second charge involves an allegation that Mr. Miskovic’s son Marko failed to pay capital gains tax on a stock transaction, and Mr. Miskovic “assisted” this tax evasion due to his strong influence over his son.
- On March 25, Marko was convicted of tax evasion, despite the fact that he had been advised that the transaction in question was not taxable. This advice was provided in writing at the time of the transaction not only by KPMG and other reputable accounting firms, but also by officials of the Serbian Ministry of Finance.
- Marko was, however, acquitted of the “abuse of office” charge. The proceedings related to Mr. Miskovic were postponed due to Mr. Miskovic’s critical health situation, which required treatment and hospitalization.
- To convict Mr. Miskovic’s son, the judge in the case resorted to the unprecedented procedure of formally requesting the advice of the Serbian parliament on whether in their opinion the transaction was taxable at the time it was made.
- The Serbian parliament (controlled by the government) responded by drafting and then formally voting to approve an “authentic interpretation” affirming that the transaction was, in their opinion, taxable notwithstanding the written advice provided to the taxpayer by the Ministry of Finance.
- On the strength of this parliamentary action, Marko Miskovic was sentenced to 42 months in prison. The same judge is expected to render a verdict on the charges against Mr. Miskovic in the very near future.
- Given that Marko was found guilty of tax evasion, it seems likely that Mr. Miskovic will be found guilty of “assisting” that tax evasion, notwithstanding that the evidence presented at trial of his “control” over his son’s actions was non-existent.
- He may also be found guilty of the abuse of position charge, notwithstanding that the other defendants were acquitted of that charge and that Serbia is under enormous pressure to eliminate this as a criminal offense.
- All of this is taking place in the context of a recent national election and political controversy ahead of the formation of a new Government led by Prime Minister Vucic, who has repeatedly claimed credit for bringing one of the country’s most prominent and successful (but politically unpopular) businessman to justice, and publicly stated that the acquittal of Miskovic would be a “personal defeat” for him.