

Nelson settlement, sub investigation Vanguard

Settlement pursuant to Article 74 of the Dutch Criminal Code (DCC)

Netherlands Public Prosecution Service numbers (*Parketnummers*): 10/997250-17, 10/997251-20, 10/997252-20

Date of dispatch: 26-4-2021

The public prosecutor, in this matter acting on behalf of the National Office for Serious Fraud, Environmental Crime and Asset Confiscation (*Functioneel Parket*) in Amsterdam, T.R. van Roomen, hereby issues to:

Name: Econosto Mideast B.V.
Registered seat: Rotterdam
Visitors' address: Cypresbaan 63 (2908 LT) Capelle aan den IJssel [NL]
Chamber of Commerce number: 24157531
Netherlands Public Prosecution Service number: 10/997250-17

hereinafter referred to as: EME

Name: Econosto N.V.
Registered seat: Rotterdam
Visitors' address: Cypresbaan 63 (2908 LT) Capelle aan den IJssel [NL]
Chamber of Commerce number: 24001525
Netherlands Public Prosecution Service number: 10/997251-20

hereinafter referred to as: Econosto

Name: ERIKS N.V.
Registered seat: Alkmaar
Visitors' address: Mariaplaats 21 (3511 LK) Utrecht [NL]
Chamber of Commerce number: 37013289
Netherlands Public Prosecution Service number: 10/997252-20

hereinafter referred to as: ERIKS

which companies are suspected of criminal offences as further specified hereinbelow in the criminal investigation Nelson, sub investigation Vanguard, with the Netherlands Public Prosecution Service numbers referred to hereinabove,

the offer to arrive at a settlement as intended in Article 74 of the Dutch Criminal Code (DCC), whereby the following will be taken into account:

- a. under the name Nelson, sub investigation Vanguard, the Netherlands Public Prosecution Service initiated a criminal investigation against among others Econosto Mideast B.V. (Netherlands Public Prosecution Service number 10/997250-17), Econosto N.V. (Netherlands Public Prosecution Service number 10/997251-20) and ERIKS N.V. (Netherlands Public Prosecution Service number 10/997252-20);
- b. a summary of the relevant facts from the criminal investigation Nelson, sub investigation Vanguard has been laid down in part I of a statement of facts which is attached to this settlement as Annex 1. This settlement agreement must be considered in conjunction with the statement of facts which forms an integral part of this agreement;
- c. EME is suspected
 - 1) in the period between 1 January 2009 and 15 November 2015 in Iran, Qatar, Pakistan, Iraq, Bahrein, Jordan and Egypt of committing the offence of commercial bribery (Article 328ter(2) of the Dutch Criminal Code); and
 - 2) in the period between 1 January 2005 and 30 November 2015, in the Netherlands and Dubai, of repeatedly committing the offence of falsification of documents (Article 225 DDC); and
 - 3) in the period between 1 January 2009 and 22 October 2016 in Dubai, Qatar and Iran, of repeatedly committing a violation of the Sanctions Act 1977 in conjunction with Article 1 of the Economic Offences Act.

- d. Econosto and ERIKS are suspected
 - 1) as concerns Econosto, in the period between 1 January 2005 and 30 November 2015, and as concerns ERIKS, in the period between 28 August 2008 and 30 November 2015, in the Netherlands and Dubai, of repeatedly committing the offence of forgery of documents (Article 225 DCC).
- e. the parties have set the unlawfully obtained gains at an amount of EUR 29.158.000;
- f. On behalf of EME, Econosto and ERIKS, SHV Holding N.V. itself reported the facts that form the basis for the Nelson investigation of the Netherlands Public Prosecution Service. Moreover, remediation and compliance measures have been taken, and the parties cooperated with the criminal investigation, as described in part II of the statement of facts referred to above which is attached to this settlement agreement as Annex 1;
- g. in part against this background, the Public Prosecution Service has decided to offer EME, Econosto and ERIKS a settlement pursuant to Article 74 DCC, under the terms and arrangements stated below, which offer has been accepted by EME, Econosto and ERIKS.

1. SETTLEMENT OFFER

The public prosecutor offers to not prosecute EME, Econosto and ERIKS nor to issue any claim against them for confiscation of unlawfully obtained gains in the matter of the body of facts investigated in the criminal investigation Vanguard (Netherlands Public Prosecution Service numbers 10/997250-17, 10/997251-20 and 10/997252-20) in the manner and subject to the conditions specified hereinbelow:

- A. payment to the State of the Netherlands of an amount of EUR 10.953.000 (in words: ten million nine hundred and fifty-three thousand euro) pursuant to Article 74(2)(a) DCC;
- B. payment to the State of the Netherlands of an amount of EUR 29.158.000 (in words: twenty-nine million one hundred and fifty-eight thousand euro) pursuant to Article 74(2)(d) DCC.

The amounts stated under A. and B., together representing a total amount of EUR 40.111.000, will be paid in a single transfer on behalf of EME, Econosto and ERIKS into bank account number NL17 INGB 0705 0049 29 in the name of National Office for Serious Fraud, Environmental Crime and Asset Confiscation Netherlands Public Prosecution Service, quoting 'transactie Nelson/deelonderzoek Vanguard/parketnummers 10/997250-17, 10/997251-20, 10/997252-20' as a reference. The payment must be received by the Netherlands Public Prosecution Service at the latest within three weeks following the Date of Dispatch.

2. FURTHER STIPULATIONS

2.1 Press release

The Netherlands Public Prosecution Service will publish a press release as appearing in Annex 2, together with a statement of facts (as appearing in Annex 1) on the out-of-court settlement in this case.

In their press statements, EME, Econosto and ERIKS will acknowledge the statement of facts, part I of Annex 1, and will not contradict the Netherlands Public Prosecution Service's press release and part II of Annex 1.

2.2 No (compensation) payment

EME, Econosto and ERIKS waive the possibility of submitting a request for or demanding compensation or payment of costs, which will also include costs of legal aid and interest payments, against the Dutch State in any form or on any grounds whatsoever based on or relating to the criminal investigation Nelson, sub investigation Vanguard as designated by the Netherlands Public Prosecution Service numbers referred to hereinabove, and all consequences arising therefrom, or which may still arise therefrom, of any nature whatsoever. This means among others - but not exclusively - that EME, Econosto and ERIKS will submit no requests as intended in Article 529, 530, 533, 6:3:7 or 6:4:18 of the Dutch Code of Criminal Procedure (DCCP).

2.3 Other provisions

This settlement does not concern any offences committed by natural persons as investigated and/or to be investigated in the investigation Nelson, sub investigation Vanguard.

This settlement is subject to Dutch law. The district court of The Hague has exclusive jurisdiction to hear any disputes in connection with this settlement.

3. SIGNING AND RETURN OF THE SETTLEMENT AGREEMENT

This offer is valid up to one week after the Date of Dispatch referred to hereinabove. A copy of this settlement agreement initialled and signed by EME, Econosto and ERIKS as approved must have been received by the public prosecutor within one week following the Date of Dispatch.

4. COMPLIANCE WITH THE TERMS

Only by complying with all of the terms of the settlement agreement do EME, Econosto and ERIKS approve the contents of this settlement agreement, and the settlement agreement will be established. Only in that case does the right to criminal prosecution expire. If the terms of the settlement agreement are not complied with, not complied with fully and/or not complied with in time, this settlement agreement in respect of EME, Econosto and ERIKS will expire, without any further act being required to that end.

This settlement agreement will also expire - without any further act being required to that end - in the event that the Netherlands Public Prosecution Service has to prosecute EME, Econosto and/or ERIKS following an order from the Court of Appeal on the account of a complaint pursuant to Article 12 of the Dutch Code of Criminal Procedure. If at that moment the terms of the settlement agreement had already been complied with, the parties will enter into negotiations concerning the settlement of the expired settlement agreement. In as much as an amount has been paid to the Dutch State by EME, Econosto and/or ERIKS as intended in Article 1.(A and/or B), the Dutch State will repay that amount, without delay, in accordance with Article 74b(2) DCC, to the party that paid the amount, subject to the proviso that there will be no compensation of interest in connection with such a payment.

This settlement agreement may not be annulled or terminated by any of the parties, even if circumstances become known that were not known or could not have been known at the time that this settlement agreement was concluded. This stipulation shall be without prejudice to termination by operation of law in the event of a prosecution order pursuant to Article 12 DCCP.

5. DECLARATION

EME, Econosto and ERIKS declare that they have read this settlement agreement, that it completely understands its contents, they have been given the opportunity to seek independent legal advice and that they will sign this settlement agreement voluntarily.

This offer will be drawn up in four copies and signed,

Place: Amsterdam

Date: 26 April 2021

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The State of the Netherlands (the Netherlands Public Prosecution Service),
On their behalf: T.R. van Roomen, Public Prosecutor

As approved:

Place:

Date:

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Econosto Mideast B.V.

Econosto N.V.

ERIKS N.V.

on their behalf: S. Breedveld, CEO ERIKS B.V.