

Handwritten indication: 202307-5110-EURONAT-Notice-Termination

(logo) **GRAYAN ET  
L'HÔPITAL**

The Chief Executive Officer  
of the Company EURONAT,  
Route de Dépée,  
33 590 GRAYAN-ET-L'HÔPITAL,  
05.56.09.33.33

Grayan-et-l'Hôpital, 24 July 2023

Sent by email and by registered letter with acknowledgement of receipt: No. 1A 198 333 600 38

Re: Formal notice served pursuant to the terms of article "IX. TERMINATION" of the building lease dated 18 June 1975.

Dear Sir,

I am writing to you in the framework of the performance of the building lease signed between the Municipality (Commune) of Grayan-et-l'Hôpital and the Company Euronat.

Pursuant to the terms of the first subsection of article IX referred to hereinabove, *"This lease may be terminated as of right for failure to pay its price or to perform any of the charges and conditions of the lease, whether they arise from contractual or legal provisions, if the LESSOR sees fit, three (3) months after a simple summons to pay or a formal notice to perform has remained without effect.*

*However, should the LESSEE have granted mortgage security or other rights in rem to third parties, no amicable or judicial termination of this lease may, on pain of the termination not being binding, take place at the request of the LESSOR prior to expiry of a period of three months from the date on which notice of the summons to pay or the formal notice to perform has been served on the holder of the said rights in rem.*

*If within three months of the said notice, the said holders have not served notice on the LESSOR of their outright substitution regarding the obligations of the LESSEE, the LESSOR may terminate the lease".*

As you know, the Regional Court of Audit (*Chambre Régionale des Comptes*) of the Nouvelle Aquitaine Region (hereinafter referred to as the "CRC"), in a report of final observations dated 6 December 2022, was highly critical of the performance of the building lease.

In March 2023, the Municipality appointed a team of judicial officers and chartered surveyors to count and measure, one by one, the bungalows, accommodation units, mobile homes and stationary caravans on the Euronat site.



The observations made show a number of corroborative elements set out below which, in the view of the Municipality, call into question the compliance of the Company Euronat with the building lease and have led us to serve this formal notice pursuant to the terms of Article IX of the building lease.

- **Firstly, regarding the number of accommodation units allowed**, the lease stipulates the following:

*“It is formally agreed between the parties that in order to achieve the accommodation capacity indicated in the aforementioned prefectural orders, it is necessary to build one thousand two hundred bungalows or housing units and five hundred camping and caravanning spaces.*

*Any excess over these standards must be authorised by the LESSOR) (see Building lease, Article I “Building commitments”, page 5; emphasis added).*

This lease therefore falls within the scope of required compliance with the prefectural orders of March 1973.

Moreover, and as a reminder, in a letter dated 28 May 1984, the Prefect stipulated that *“in accordance with the initial authorisation, 1,200 bungalows will be built, it being understood (...) that the existing mobile homes will be considered to be bungalows.”*

On the one hand, this means that the limit of 1,200 housing units includes the mobile homes and, on the other hand, this confirms that the number of 1,200 bungalows (and/or mobile homes) is a maximum figure.

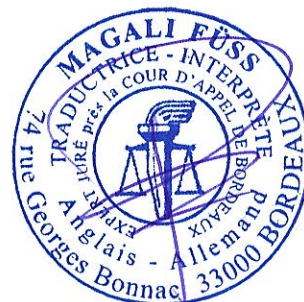
Regarding this point, the Municipality has compiled the following information:

- In a report filed by a court-appointed expert in 2017, which was made available to you, the expert states that the parties to the dispute (holders of rights of use and Euronat) agreed on a number of bungalows existing in 2016 of **1,283**.
- In their summary report dated 6 July 2023, the judicial officers and chartered surveyors who visited the site in March 2023 noted the presence of **1,754** “accommodation units” (19 for zone A, 312 for zone C and 1,423 for zone H), not counting the 287 stationary caravans, which brings the total number of accommodation units to 2,041.

This very substantial excess compared to the limit of 1,200 housing units authorised by the lease calls for a response from you, failing which the Municipality can only consider that there has been an established breach of the lease. To allow you to make your observations with full knowledge of the facts, we are attaching the summary report of the judicial officers appointed by the Municipality herewith.

This breach is further aggravated by the fact that, for the purposes of calculating the variable fee, the Company Euronat has deliberately declared an incorrect number of existing accommodation units every year since 2010.

- **Secondly, with regard to the number of authorised mobile homes being exceeded**, the report of the CRC shows that a municipal order dated 17 August 2007 set *“the number (. . .) of mobile homes at 273”* (see report, page 59), it being specified that the said order relaxes the conditions under which the lease is to be performed without a town council deliberation.





However, still according to the CRC, you do not dispute the fact that there are 350 mobile homes in the Euronat centre (see report, page 59). This led the Court of Audit to consider that *“the number of mobile homes (350) is higher than the authorised number (273), which has consequences pertaining to compliance with the contract”* (see report, page 60) and to conclude that this failure to comply with provisions *“could (...) provide grounds for termination of the lease”* (see report, page 61).

In addition, the summary report by the judicial officers and chartered surveyors shows that there are 413 mobile homes on the site.

Once again, we feel that these factors, which are likely to constitute a breach of the lease, call for an explanation on your part.

- **Thirdly, the maximum capacity of the Euronat centre** was initially set at 5,000 people.

Article 1 of the building lease, which quotes the provisions of the two prefectural orders of 19 March 1973, stipulates that the *“planned facilities will be designed to accommodate a maximum of 1,500 users”* for the campsite (first order) and *“the planned bungalows will be designed to accommodate a maximum of 3,500 users”* (second order) (see Lease, page 5, emphasis added).

However, as you know, in their dispute with the Company Euronat, some holders of rights of use have argued that the *“maximum capacity of 5,000 people”* has been exceeded:

- On the one hand, in the said dispute, they produced a letter from EURONAT dated May 2007 stating that *“the current number of beds is around 8,000”*.
- On the other hand, they estimated that by 2021 there would be 13,500 users at the centre.

In its report, the CRC estimated the population of the Euronat naturist centre at 15,000 (see page 4 of the report), which is significantly higher than the maximum capacity of 5,000 beds.

Furthermore, if we were to take from the Prefect’s letter of 28 May 1984 the introduction of a (new) capacity limit of 1,200 bungalows with a maximum size of 40 sqm (i.e. 48,000 sqm) instead of the initial authorisation of 5,000 beds, the resulting excess would be almost as high.

In fact, in their summary report of June 2023, the chartered surveyors appointed by the Municipality in March 2023 measured the surface area of the accommodation at 100,573 sqm, corresponding to the surface area of the bungalows/hard-standing housing units, mobile homes and stationary caravans.

Therefore, from whatever point of view, the Company EURONAT must be required to explain this point in response to the present letter.

- **Finally, with regard to the units for the calculation of the variable portion of rents**, you are well aware that litigation on the initiative of Euronat is already pending before the Bordeaux Judicial Court.

In that regard, the writs of execution challenged by Euronat do not exhaust the issue, as they only apply, as a precautionary measure, the clause establishing a minimum amount for the variable portion of the rent, as inserted in the lease by amendment no. 3 of 1985.





(translated from the French)

However, in addition to this minimum amount clause, the variable part of the rent to be paid by the LESSEE is calculated by multiplying the number of “bungalows or fixed accommodation units built” by an updated unit rate (see lease, paragraph entitled “component of the RENT”). It is stipulated that this additional fee “shall (...) apply only one year after completion of the construction of the bungalows and accommodation units in question” (see lease, page 11).

Consequently, the onus was on the LESSEE to declare the number of completed buildings to the LESSOR as and when they were completed. This is what the Company EURONAT appears to have done by updating its table declaring the number of accommodation units, as mentioned by the CRC: “the fee has always been calculated on the basis of the number of accommodation units declared by the lessee” (see report, page 56).

In fact, as explained hereinabove, we have good reason to believe that every year since 2010 the Company Euronat has declared a deliberately erroneous number of existing accommodation units for the purposes of calculating the fee (for example, 999 units appear in the declaration table for 2016, whereas for the same year the company admitted the existence of 1,283 bungalows to the expert PELLE).

This is in line with the surveys and findings of the judicial officers and chartered surveyors who visited the site in March 2023 and who counted 1,460 “buildings” (a concept that can be likened to bungalows and mobile homes) and 1,754 housing units in 2023. These figures should be compared with the 1,006 units of the Bungalow fee declared by the Company Euronat for 2020, even though the Municipality has neither authorised nor received any applications for permits or prior declarations for the construction (between 2020 and 2023) of 454 or 748 additional bungalows or mobile homes.

It is clear that the Company Euronat must explain itself on this point, which is likely to constitute a failure to perform the lease in good faith and ultimately a failure to pay the price of the rent.

\* \* \*

We hereby serve formal notice on you to provide us with any explanations you may wish to make regarding the facts set out hereinabove and to comply with your obligations under the lease, within 3 months following the date of receipt of this letter.

Should this formal notice remain unsuccessful or receive no satisfactory response within the stipulated time frame, we reserve the right to terminate the lease entered into on the 18<sup>th</sup> of June 1975 by operation of law and for failure to comply (pursuant to and under the conditions of article “IX. TERMINATION”).

Yours sincerely,

The Mayor,

Florence Legrand  
(signature)

Ink stamp:  
GRAYAN ET L'HOPITAL  
TOWN HALL  
33590 GIRONDE

Attachment: Summary report of the judicial officers and chartered surveyors appointed by the Municipality. 9

I, the undersigned Magali Füss, sworn translator for the Bordeaux Court of Appeal (French-English-German), hereby certify that the above is a true and accurate English translation of the document presented to me in the French language.  
Bordeaux, 7 September 2023  
Translation no. 23/405 - on 4 pages

