CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

COUR EUROPÉENNE DES DROITS DE L'HOMME
EUROPEAN COURT OF HUMAN RIGHTS

FIRST SECTION

DECISION

AS TO THE ADMISSIBILITY OF

Application no. 27140/03
by EM LINIJA D.O.O.
against Croatia

The European Court of Human Rights (First Section), sitting on 22 November 2007 as a Chamber composed of:

Mr C.L. ROZAKIS, *President*,
Mr L. LOUCAIDES,
Mr A. KOVLER,
Mrs E. STEINER,
Mr S.E. JEBENS,
Mr G. MALINVERNI, *judges*,
Mr I. GRBIN, ad hoc *judge*,

and Mr S. NIELSEN, *Section Registrar*,

Having regard to the above application lodged on 8 July 2003,

Having regard to the observations submitted by the respondent Government and the observations in reply submitted by the applicant,

Having deliberated, decides as follows:

THE FACTS

The applicant, EM Linija d.o.o., is a limited liability company with its seat in Zagreb. It is represented before the Court by Mr B. Knežević, a lawyer practising in Zagreb. The Croatian Government ("the Government") are represented by their Agent, Ms Š. Stažnik.

A. The circumstances of the case

The facts of the case, as submitted by the parties, may be summarised as follows.

The applicant's registered activities are providing services, in particular, giving psychological and educational counselling over the phone.

On 3 March 1997 the Telecommunication Council (*Vijeće za telekomunikacije*; "the Council") awarded the applicant concession for providing certain telecommunication services. The Council is a body of public law, whose organisation is regulated by the Telecommunications Act.

On 8 May 1997 the applicant concluded a contract with HPT (*Hrvatska pošta i telekomunikacije*), the public telecommunications company, regulating the telephone lines to be given as well as the nature of the services to be provided by the applicant.

Subsequently, on 30 June 1997 the applicant concluded a concession agreement to use the telecommunication network ("the Agreement") with the competent Ministry. The relevant provisions of the Agreement read as follows:

> "2.1. On the basis of this Agreement, the concessionaire shall acquire the right to perform services with terminal equipment connected to 6 (six) phone lines of the public company HPT..., for... counselling services and in accordance with the contract on the manner of rendering services stipulated between the concessionaire and HPT no. T-3-1092/97 on 8 May 1997 (hereinafter: the contract).
>
> 2.2. The signed and certified contract as defined in paragraph 2.1. of this section is appended to this Agreement and constitutes its integral part. ...
>
> 4.1. The enjoyment of the concession begins on 4 July 1997 and lasts for a period of five years.
>
> 4.2. The concession may terminate prior to the expiration of the time period set out ... in cases set forth in this Agreement and the Telecommunications Act.
>
> 5.1. The concessionaire shall provide services in line with the Telecommunications Act and the Rules on General Terms for Performance of Telecommunication Services ...
>
> 6.1. The concessionaire shall not use the phone lines, which are the object of this concession, for any other purpose than that set out in this Agreement.
>
> 7.1. Pursuant to section 2, paragraph 1, table 4 of the Rules on the Amount of Compensation for Concession in Public Telecommunications and the manner of

payment..., the concessionaire shall pay a yearly fee in the amount of 25,000 Croatian kunas.

7.2. The fee for the concession shall be payable to the state budget, one year in advance, at the time of (prior to) stipulation of this Agreement. ...

7.3. Should the concessionaire not pay the yearly concession fee within the time-limit prescribed in paragraph 7.1. of this section, or within an additional time-limit set out in a warning letter, along with pertaining interest, this Agreement shall cease to be valid and the concessionaire shall not be allowed to pursue its activities...

8.1. Other than for the reasons enumerated in section 14 (10) of the Telecommunications Act on the basis of which concession may be withdrawn, the concessor may withdraw the concession for the following reasons: a) if the concessionaire does not start using the concession within the time-limit set in section 4 of this Agreement; b) if the concessionaire provides services contrary to the Telecommunications Act and the Rules on General Terms for Performance of Telecommunication Services; c) if the concessionaire provides services contrary to the provisions of the contract mentioned in section 2 (1) of this Agreement; d) if the concessionaire does not pay the annual concession fee within the time-limit set forth in the warning letter, in line with section 7, paragraph 7.3. of this Agreement.

8.2. The decision on the withdrawal of the concession shall be adopted by the concessor following the proposal of the Ministry.

8.3. By withdrawal of the concession, all rights of the concessionaire acquired by virtue of this Agreement shall be terminated, including the right to undertake the concessionary activities.

8.4. Should the concession be withdrawn, the concessionaire shall have no entitlement to damages from the concessor.

9.1. Concession as defined by this Agreement shall cease to exist: a) with the expiration of the time limit for which it has been granted; b) if the concessor terminates the concession; c) if the concessionaire ceases to exist as a legal person ...; d) by termination of the contract referred to in section 2, para.. 2.1. of this Agreement; e) if the concessor withdraws the concession.

9.2. The decision on the termination of the concession shall be adopted by the concessor on a proposal by the Minister.

9.3. By termination of the concession, all rights of the concessionaire acquired by virtue of this Agreement shall be terminated, without any right to damages.

10.1. In performing the awarded concession for telecommunication services via terminal equipment connected to the public telecommunications network, the concessionaire is particularly obliged to respect the provisions of the Telecommunications Act and regulations adopted on the basis of that Act, as well as other applicable regulations..."

By a letter of 15 October 1997 HPT warned the applicant that it was not complying with the provisions of the Agreement.

On 21 October 1997 the competent Ministry carried out an inspection of the applicant's premises. The inspection showed that, along with the contracted services, the applicant was also providing other types of services not stipulated in the Agreement. In the period between 15 October 1997 and 3 November 1998, the Ministry carried out another 16 inspections,

establishing that the applicant was providing entertainment services instead of the contracted advisory services.

Following the proposal by the competent Ministry, on 16 November 1998 the Council unilaterally withdrew the applicant's concession for failure to perform its services in accordance with the contract concluded with HPT, in particular for providing amusement rather than counselling services as set out in the concession. The Council based its decision of section 8 (1) c of the Agreement.

Consequently, on 18 November 1998 the competent Ministry informed the applicant that the Agreement had been terminated on the basis of the Council's decision.

On 9 December 1998 the applicant brought an administrative action in the Administrative Court (*Upravni sud Republike Hrvatske*) challenging the Council's decision. The applicant argued, in particular, that section 14 (10 (2)) of the Telecommunications Act prescribed an exhaustive list of reasons for withdrawing a concession, one of them being providing services contrary to the "applicable regulations". Moreover, there had to be a final court decision finding that the services had been performed in that way. That being so, and given the public-law nature of concession agreements, the concession could not have been withdrawn for other reasons, in particular those stipulated in section 8 of the Agreement, as the parties' dispositions and their freedom of contract could not override the peremptory provisions of the Telecommunications Act.

On 27 November 2000 the applicant filed a complaint with the Constitutional Court (*Ustavni sud Republike Hrvatske*), the relevant part of which reads as follows:

> "I. The complainant was awarded concession "for providing telecommunication services via terminal equipment connected to public communications network" by a decision of the Telecommunications Council of 3 March 1997. In particular, the plaintiff was granted to provide services "psychological counselling" and "educational advice". By a decision of 16 November 1998, published in..., the concessor has unilaterally and permanently withdrawn the concession for providing telecommunication services. The decision was enforced immediately so that the technical personnel of HPT manually switched off the phone lines by which the plaintiff was performing concession activities, and all agreements concluded between the plaintiff on one side and the Ministry and HPT on the other side, were terminated... The plaintiff has brought an action in the Administrative Court on 9 December 1998 against the above decision. The case is registered under the no... By a submission of 22 February 2000 the plaintiff requested the Administrative Court to speed up the proceedings or to inform him of the reasons for not deciding his action.
>
> II. Until the date of filing of this constitutional complaint, the Administrative Court has not decided the action...The plaintiff was awarded concession for a period of five years and the Administrative Court has not even after two years from bringing the action decided on the disputed withdrawal of the concession. We consider that this exceeded a 'reasonable time' for deciding the action.

III. The impugned decision of the Telecommunications Council violated the constitutional principle enshrined in Article 19 para. 1 of the Croatian Constitution, which provides that "all decisions of state administration and other bodies invested with public authority need to be based on law." In the present case, the Telecommunications Council had no legal basis to give a decision on the merits to withdraw the concession. Section 14 para. 10 point 2 of the Telecommunications Act provides the possibility of withdrawing the concession if it is established that concession activity is intentionally, severely or repeatedly being performed in a way which is incompatible with regulations, which fact was previously established by a judgment of the competent court. Accordingly, by virtue of the Telecommunications Act, the Telecommunications Council is entitled only to request the competent court to establish that the concessionaire is "intentionally, severely or repeatedly" performing the concession activities contrary to the applicable regulations. The Telecommunications Council had therefore, by its own decision on permanent withdrawal of the concession, violated the plaintiff's right to judicial review and protection of rights acquired by the concession.

IV. For the above reasons, the plaintiff is requesting the Constitutional Court to accept its constitutional complaint... and to: quash the Telecommunications Council's decision of 16 November 1998 permanently withdrawing the plaintiff's concession...; to quash the 'order' of the State Inspectorate...; to declare null and void the unilateral termination of the Agreement... concluded on 30 June 1997...; to declare null and void the unilateral termination of the contract concluded on 8 May 1997...; and secondarily to order the Administrative Court to adopt a judgment in the plaintiff's case within two months..."

On 3 May 2001 the Administrative Court dismissed the applicant's action. The relevant part of that judgment reads as follows:

"Under the provision of Article 13, Paras. 1 and 9, of the Telecommunications Act (*Narodne novine*, no. 53/94), the Telecommunications Council is competent to grant concessions for carrying out activities in public telecommunications. The Council's decisions in connection with concessions are published in *Narodne novine*. The manner of granting concessions and rendering of the Decision on the withdrawal of a concession is determined in Article 14. Under the provisions of Article 14, para. 10 of the Act, the Telecommunications Council may render a decision to withdraw a concession for a limited time or permanently, if it is established: 1) that the concessionary was granted the concession on the basis of inaccurately presented data, 2) that the activity for which the concession was granted is intentionally, ruthlessly or repeatedly carried out in a manner contrary to legislation, about which there is a decision of the competent court and 3) that the concessionaire who is broadcasting radio or television programs does not comply with the prescribed or stipulated program criteria, even after a warning by the Council. The provisions of Article 74, para. 4 of the Act prescribe that other providers or services, legal or physical persons may also provide special telecommunications services and corresponding services from Paragraph 4 of this Article, with a concession from the Telecommunications council, in accordance with this Act and a contract concluded with the owner of public telecommunications from Paragraph 1, point 3 of this Article.

The Agreement on the Realization of the Concession of the Provision of Telecommunication Services through Terminal Equipment Linked to the Public Telecommunications Network no. U-004 of 30 June 1997 concluded between the Ministry of Maritime Affairs, Traffic and Communications and the plaintiff is enclosed in the case file. Article 2 of the Agreement stipulates that the concessionaire

acquires the right to provide services with terminal equipment connected to 6 HPT phone lines, for the group of services called 'counselling services' and in accordance with the agreement on the manner of the provisions of services concluded between the concessionaire and HTP number T-3-1092/97 of 8 May 1997. Article 8 stipulates, *inter alia*, that the concessor has the right to withdraw the concession for the reasons mentioned, if, *inter alia*, the concessionaire is providing services contrary to the agreement from Article 2 of this Agreement.

The minutes on the inspection of the provision of services with added value through terminal equipment connected to public telecommunications, and several letters by the concessionaires who are providing telecommunications services are enclosed with the case file, in which they present their objections against the manner of the provision of services by the plaintiff, on the grounds of unfair competition. A warning sent by the HPT to the plaintiff because of non-compliance with all the points of the agreement of 15 October 1997 is also enclosed with the case file.

It follows from the minutes of the inspection conducted and facts established of 21 October 1997 that the inspection was carried out on the premises of the plaintiff at the address Medimurska 15, in the presence of Ivica Modrušan the responsible person, who signed the minutes mentioned. It follows from the remaining minutes on the inspection that in addition to the services contracted, the plaintiff was also providing other types of services, which are not contained in the agreement contracted.

Given the facts of the case established as stated, the court finds it to be established as undisputed that the plaintiff was providing services contrary to the provisions of the agreement and the concession granted.

The provision of Article 74, para. 4 of the Telecommunications Act prescribes that services provided by legal and physical persons, with a concession from the Telecommunications Council, must be in accordance with the Telecommunications Act, and in accordance with the agreement concluded with the owner of public telecommunications. It was established in the proceedings as undisputed that the plaintiff, as the concessionaire, did not comply with the obligations stipulated. Thereby, and in accordance with the legislation mentioned, the conditions were met for the withdrawal of the concession.

The plaintiff's complaints from the law suit which relate to the facts of the case established and the proceedings conducted do not have any influence to the contrary in these proceedings. The plaintiff's claim for damages cannot be subject to consideration in these proceedings, but the plaintiff may institute such proceedings by a law suit for damages with the competent court.

The court finds that the law was not violated to the detriment of the plaintiff by the disputed ruling."

Subsequently, the applicant withdrew the constitutional complaint in its part concerning the length of proceedings before the Administrative Court. It reiterated its arguments concerning the unlawfulness of the Council's decision stated on 27 November 2000 and extended its assertions so as to include the Administrative Court's judgment.

On 13 December 2002 the Constitutional Court decided not to take into consideration the applicant's constitutional complaint. The decision of the Constitutional Court reads as follows:

"The constitutional complaint lodged against the Telecommunications' Council decision of 16 November 1998 and the Administrative Court's judgment... of 3 May 2001, is not taken into consideration...

The constitutional complaint does not indicate a violation of a constitutional right.

Section 62, para. 1 of the Constitutional Court Act provides: 'Everyone may lodge a constitutional complaint with the Constitutional Court if he or she deems that the individual act of a state body, a body of local and regional self-government, or a legal person invested with public authority, which decided about his or her rights and obligations, or about suspicion or accusation for a criminal act, has violated his or her right to local and regional self government guaranteed by the Constitution (hereinafter: constitutional right)...'

Accordingly, only those human rights and basic freedoms guaranteed in individual provisions of the Constitution of the Republic of Croatia shall be considered constitutional rights.

Pursuant to section 71, para. 1 of the Constitutional Court Act, the Constitutional Court shall examine alleged violations only of those constitutional rights indicated in the constitutional complaint.

The complainant [in the present case] relied on Article 19 § 1 of the Constitution, which provides that all decisions of state administration and other bodies invested with public authority shall be based on law. This provision does not contain a constitutional right within the meaning of section 62, para. 1 of the Constitutional Court Act, but enshrines the principle of lawfulness in the work of the administration.

Given that section 71, para. 2 of the Constitutional Court Act provides that a constitutional complaint not concerning violations of constitutional rights shall not be taken in consideration, the Committee of three judges of the Constitutional Court did not accept the examination of the complainant's constitutional complaint because it does not indicate a violation of any of the constitutional rights."

B. Relevant domestic law

Article 19 of the Constitution (*Ustav Republike Hrvatske*, Official Gazette no. 41/2001 of 7 May 2001) is a provision under the first section of the third chapter of the Constitution entitled "Protection of Human Rights and Freedoms – General Provisions". Article 19 reads as follows:

"1. Decisions of the state administration and other bodies invested with public authority shall be based on law.

2. Judicial review of the decisions given by administrative authorities or other bodies invested with public authority shall be guaranteed."

Article 29 § 1 of the Constitution prescribes that everyone is entitled to have an independent and impartial tribunal established by law decide fairly and within a reasonable time on his or her rights and obligations, or where he or she is being suspected or accused of a criminal offence.

The relevant parts of the Constitutional Act on the Constitutional Court (*Ustavni zakon o Ustavnom sudu*, Official Gazette nos. 99/1999 and 29/2002; "the Constitutional Court Act") read as follows:

Section 19 (2)

"If a submission is incomprehensible or does not contain all the prerequisites for proceeding upon it, the Constitutional Court shall return the submission to the party for correction or a supplement, indicating a time-limit for its resubmission.

Section 62 (1)

Everyone may lodge a constitutional complaint with the Constitutional Court if he or she deems that the individual act of a state body, a body of local and regional self-government, or a legal person invested with public authority, which decided about his or her rights and obligations, or about suspicion or accusation for a criminal act, has violated his or her human rights or fundamental freedoms guaranteed by the Constitution, or his or her right to local and regional self-government guaranteed by the Constitution (hereinafter: constitutional right)...

Section 65 (1)

The constitutional complaint shall contain ... an indication of the constitutional right alleged to have been violated, with the indication of the relevant constitutional provision guaranteeing that right...

Section 71

1. The Chamber or the respective formation of the Constitutional Court shall examine only the violations of constitutional rights which are stated in the constitutional complaint.

2. A constitutional complaint shall not be examined in cases when it does not concern the violation of a constitutional right."

The relevant part of the Telecommunications Act (*Zakon o telekomunikacijama*, Official Gazette no. 53/1994 of 8 July 1994), as in force at the material time, read as follows:

Section 13

"1. Awarding concessions for providing services in the area of public telecommunications is within the jurisdiction of the Telecommunications Council...

4. Members of the Council are appointed by the... Parliament, on previous proposal by the Government...

Section 14

1. The Telecommunications Council publicly collects offers or organises tenders with a view to awarding concessions for providing services in the public telecommunications...

5. Concession may be given to a legal person, which... meets the... requirements for providing services in the public telecommunications...

8. Once the... Council awards concession, the [competent] Ministry shall conclude an agreement for realisation of the concession...

10. The Telecommunications Council may decide to withdraw a concession... if it is established:

...2. that the concession service is intentionally, severely or repeatedly being performed in a way which is incompatible with [the applicable] regulations, which fact was previously established by a judgment of the competent court..."

COMPLAINTS

The applicant complained, under Article 6 § 1 of the Convention, that it had been denied proper access to a court. It relied in this respect on the fact that the Constitutional Court had decided not to consider the constitutional complaint lodged.

The applicant furthermore complained, under the same provision, that the proceedings leading to the withdrawal of its concession were unfair. In this respect the applicant maintained that the withdrawal was unlawful and that neither the Administrative Court nor the Constitutional Court had replied to its arguments on that point.

THE LAW

The applicant relied on Article 6 § 1 of the Convention which in its relevant part reads as follows:

"In the determination of his civil rights and obligations ..., everyone is entitled to a fair ... hearing ... by [a] ... tribunal..."

A. The parties' submissions

The Government submitted that the Court should only consider the relevant decisions in so far as they were taken subsequent to 5 November 1997, the date on which Croatia ratified the Convention. Furthermore they maintained that in respect of the applicant's complaint of an unfair hearing it had not exhausted domestic remedies as it had not lodged a complaint with the Constitutional Court with reference to Article 29 § 1 of the Constitution which guarantees to everyone the right to a fair trial.

In the alternative the Government maintained that the proceedings before the national authorities did not disclose any appearance of unfairness. The facts were not in dispute and the decision to withdraw the concession was based on the clear provisions of the Act and the Agreement. In this respect the Government also drew attention to the established case-law according to

which it was primarily for the national courts to assess the facts and to apply domestic law provided they did so without arbitrariness. As to the question of access to court the Government submitted in addition to the arguments in respect of non-exhaustion of domestic remedies, that such access was indeed provided whereas the applicant had merely failed to comply with the applicable rules for lodging a complaint with the Constitutional Court. Furthermore, the requirements of admissibility as set out in domestic law were not such that a refusal of the Constitutional Court to consider a case on its merits would amount to a denial of access to court within the meaning of Article 6 of the Convention.

The applicant contested the argument of non-exhaustion. Indeed it had brought its grievance before the Constitutional Court which, however, had refused to deal with it. This was actually the basis for the complaint related to the access to court. Had the Constitutional Court deemed the complaint incomplete or unclear it should have returned it for corrections or requested a supplement instead of just rejecting the case. As to the fairness of the proceedings, the applicant maintained that the concession could not have been withdrawn without a court having established the alleged misconduct. As this was not the case, and since the domestic courts had not addressed this argument, the decision to withdraw the concession was arbitrary and the proceedings unfair.

B. The Court's assessment

1. In the circumstances of the present case, and having regard also to the Government's allegation of non-exhaustion of domestic remedies, the Court finds it pertinent first to consider the issue of access to court. In this respect the Court recalls that this notion provides that, for the determination of his civil rights and obligations, an applicant must be able to present the case to a tribunal which is competent to examine and decide on the dispute at hand.

In the present case it is undisputed that the applicant could bring the dispute before the Administrative Court and that this court in fact determined the dispute concerning the withdrawal of the applicant's concession. Although the applicant maintains (cf. below) that the proceedings before the Administrative Court were not fair, there are no grounds for concluding that the applicant's access to this tribunal was in any way obstructed. Nor does the applicant dispute that, under domestic law, it could lodge a complaint with the Constitutional Court which could examine the matter from a constitutional point of view. What lies at the heart of the applicant's grievance is the fact that the Constitutional Court refused to consider the merits of the complaint as it did not consider that the formal requirements for doing so had been complied with.

In this respect the Court recalls that the right of access to a tribunal is not an absolute one; it is subject to limitations permitted by implication, in

particular where the conditions of admissibility of an appeal are concerned, since by its very nature it calls for regulation by a State, which enjoys a certain margin of appreciation in this regard. These limitations must not restrict or reduce a person's access in such a way or to such an extent that the very essence of the right is impaired and they will not be compatible with Article 6 § 1 if they do not pursue a legitimate aim or if there is not a reasonable relationship of proportionality between the means employed and the aim sought to be achieved (see, among other authorities, *Levages Prestation Services v. France*, judgment of 23 October 1996, Reports of Judgments and Decisions 1996-V, p. 1543 § 40) Further, the Court recalls that the conditions of admissibility of an appeal on points of law or a constitutional complaint may be stricter than for an ordinary appeal (see, among other authorities, *Brualla Gómez de la Torre v. Spain*, judgment of 19 December 1997, *Reports of Judgments and Decisions* 1997-VIII, p. 2956, § 37, and *Mohr v. Luxembourg* (dec.), no. 29236/99, 20 April 1999).

In the present case the Court observes that the Constitutional Court Act sets out the conditions for lodging a constitutional complaint (see, in particular, sections 62 (1), 65 (1) and 71 referred to above). The Court does not consider that these requirements are such that an issue of lack of access to the Constitutional Court could arise. In particular the Court is satisfied that the provisions of the Act do not impair the very essence of the right of access but are legitimate and reasonable having regard to the special nature of the Constitutional Court's role, namely to review whether the decisions of the domestic courts violated any of the individual constitutional rights.

The Court recalls that the Constitutional Court in its decision of 13 December 2002 held that the requirements of the Constitutional Court Act had not been complied with, in particular since the applicant's constitutional complaint did not contain an indication of the constitutional aspect alleged to have been violated, with an indication of the relevant constitutional provision guaranteeing that right as required by section 65 (1) of the Constitutional Court Act. In the circumstances of the present case the Court does not see any reason to conclude that in reaching this conclusion the Constitutional Court went beyond its power conferred to it or otherwise went beyond its discretion in this respect. Nor does the Court find any reason to believe that the decision was arbitrary.

Thus, the Court considers that the present case does not disclose any appearance of a violation of the applicant's right of access to court within the meaning of Article 6 § 1 of the Convention. It follows that this part of the application is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

2. Having regard to the above conclusion the question arises, as suggested by the Government, whether the applicant can be said to have properly exhausted the domestic remedies at his disposal as regards the remainder of his complaint. However, the Court does not find it necessary

to examine this issue. Even assuming this to be the case the Court considers that the remainder of the application is inadmissible for the following reasons.

The Court recalls that the applicant complained that the withdrawal of the concession was unlawful and the proceedings unfair as the Administrative Court, in its view, failed to address the question of unlawfulness. With regard to the judicial decision of which the applicant complains, the Court recalls that, in accordance with Article 19 of the Convention, its only task is to ensure the observance of the obligations undertaken by the parties in the Convention. In particular, it is not competent to deal with an application alleging that errors of law or fact have been committed by the domestic courts, except when it considers that such errors might have involved a possible violation of any of the rights and freedoms set out in the Convention (see *Garcia Ruiz v. Spain* [GC], no. 30544/96, § 28, ECHR 1999-I). In the latter respect the applicant has relied on Article 6 § 1 of the Convention, maintaining that the proceedings were unfair.

The Court observes that the applicant does not argue that it was in any way prevented from presenting its case to the Administrative Court or that any other procedural defect occurred during these proceedings. It remains undisputed that the Administrative Court had before it all the relevant material and that the applicant had every opportunity to submit what, in its view, was of relevance for the outcome of the case.

In the Court's view the Administrative Court considered all the material in its possession, including the results of numerous inspections, conducted prior to the withdrawal of the concession, as well as the relevant legal provisions, and based its decision on an evaluation of all this material and evidence. The Court finds no reason to conclude that the Administrative Court overlooked important aspects of the case or in any arbitrary manner disregarded evidence presented by the applicant. In this respect the Court also points out that although the Convention obliges the courts to give reasons for their judgments, this obligation cannot be understood as requiring a detailed answer to any argument put forward (see *Van de Hurk v. the Netherlands*, judgment of 19 April 1994, Series A no. 288, p. 20, § 61). Thus, the mere fact that the Administrative Court did not put such emphasis on a particular argument concerning the ground for withdrawing a concession according to the Telecommunications Act, which the applicant might have preferred, is not decisive. It cannot, in the Court's view, lead to the conclusion that the proceedings, in which the question of the withdrawal of the applicant's concession was determined, were unfair.

In sum, the Court finds that the circumstances of this case do not disclose any appearance of a violation of the applicant's right to a fair hearing as guaranteed by Article 6 § 1 of the Convention.

It follows that this part of the application is manifestly ill-founded and must be rejected pursuant to Article 35 §§ 3 and 4 of the Convention.

For these reasons, the Court by a majority

Declares the application inadmissible.

Søren NIELSEN
Registrar

Christos ROZAKIS
President