

XII. ADMINISTRATIVE PENALTY ACTIVITY

I. In 2003 the administrative penalty activity of CRC was directed towards post license control on the observation of the terms and conditions set in the individual licenses of the telecommunications operators, as well as in some degree towards the discontinuation of any illegal telecommunications activities.

Specific feature in the administrative penal proceedings, which can be seen also in the first half-year of 2004, is the parallel application of the provisions of Telecommunications Act (abrogated) and the Telecommunications Act (promulgated in the State Gazette, issue 88/2003). This results from the administrative penal proceedings principle of application of the current act effective at the moment of the offence. In accordance with the Administrative Offences and Sanctions Act, exceptions to this principle are violations under Article 146 of the Telecommunications Act (abrogated) for which Article 240 of the Telecommunications Act (State Gazette, issue 88/2003) provides more favorable sanctions for the offender.

In 2003, the trend from the previous year regarding the decrease in sanctions for violations under Article 136 of the abrogated Telecommunications Act, and Article 240 of the Telecommunications Act (State Gazette No 88/2003) respectively, remained the same; this Article is related to damaging and disconnecting telecommunications cables and facilities, as well as the increase in administrative violations related to infringements of terms and conditions of the granted licenses and conduction of telecommunication activities without any license. The greater amount of the sanction, set in the Act, determines the continuing practice of high number of appeals against the administrative penal acts related to these offences.

Regarding the above, a total of 281 *administrative penal acts* were issued in 2003 for administrative violations under the Telecommunications Act (abrogated) and the Telecommunications Act (State Gazette, issue 88/2003). Most of them referred to the violations in Article 128, para 1 of the Telecommunications Act (abrogated), and Article 234, para 1 of the Telecommunications Act (State Gazette, issue 88/2003), respectively, and also Article 127, para 2 of the Telecommunications Act (abrogated), and Article 233, para 5 of the Telecommunications Act (State Gazette, issue 88/2003). Specific for the transition period are the offences under § 8, para 3 of the Telecommunications Act (State Gazette, issue 88/2003), Article 136 of the Telecommunications Act (abrogated), and Article 240 of the Telecommunications Act (State Gazette, issue 88/2003).

One hundred and nine of the above administrative penal acts *were appealed*, as most of the lawsuits are still pending at different instances before the respective Bulgarian regional and district courts.

Resolutions on ceasing the administrative penal proceedings issued by the Chairman of CRC for 2003 amount to 67.

II. The Commission prepared its written defenses and in this relation each of its experts appeared approximately two times before the respective regional and district courts throughout the country. Such procedural representation is made on legal actions instituted on the appealed administrative punishment acts issued by the CRC Chairman.

All the files of contested administrative penal acts, issued on the grounds of violations of the Telecommunications Act, were prepared and sent to the respective courts.

Appeals to the respective cassation courts were made against the decisions by which the respective court of first instance repealed the administrative punishment acts.

New element of the procedural representation is the initiation of civil and labor proceedings, on which CRC is a litigant. At the moment, 5 lawsuits were brought before different courts, as all of them are pending.