[HR] Rulebook on Content and Process of Public Tenders for Radio and/or Television Concessions

IRIS 2007-10:1/26

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Following the entry into force of the *Izmjene i dopune Zakona o elektroničkim medijima* (Law Amending the Act on Electronic Media, see IRIS 2007-6: 13 and IRIS 2007-9: 15) on 7 August 2007, the Council for Electronic Media is obliged to adopt secondary legislation for the implementation of the new regulations. In order to enable the Council to launch tenders for concessions for radio and television the adoption of a Rulebook on the Content and Process of a Public Tender for Radio and/or Television Concessions was necessary.

The new Rulebook prescribes that the Council launch tenders on the technical basis set up by the *Hrvatska Agencija za telekomunikacije* (Croatian Agency for Telecommunication). The public tender may include any free radio frequency or radio frequencies under special conditions, e.g. free broadcasting capacities for digital radio and television within a multiplex. A concession can be granted for a period of eight years or up to a maximum of fifteen years.

The criteria for the granting of a concession for the performance of radio and television activities are as follows:

- the broadcaster’s compliance with programme requirements according to the Act on Electronic Media, principally the volume of own production, European audiovisual works and independent producers’ works;

- the quality and diversity of programme content;

- the fulfilment of special technical, spatial, financial (the level of recourses and financial guarantees) and personnel conditions;

- the compliance with further provisions of the Act on Electronic Media, and with legislation regulating tax, and other liabilities of legal and natural persons paid to the State Budget and the budgets of local and regional government units, as well as to the legal entities owned by those units.

Both the content of a decision to announce a public tender, and the public tender procedure have been prescribed. Accordingly, the deadline for the submission of a request for the tender documentation to the Council may not be longer than 30 days from the date of publishing of the Decision to announce the public tender.

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The deadline for the submission of a bid to the Council may not be longer than 60 days after the date of publishing the Decision to announce the public tender. The final deadline for the Council to reach its decision on the concession up for tender may not be longer than 30 days from the date of the public launch of the bids.

Regarding written requests for the explanation of tender documents, which participants in the procedure may submit to the Council up to 10 days before the expiry of the tender deadline, the Council is obliged to reply within a seven day period starting from the date of receiving the written claim. The Council is obliged to deliver this response to all participants in the tender without identifying the party who submitted the request.

After the closure of the tender the Council decides on the most favourable offer by examining, comparing and evaluating all offers, and then grants the respective concession. In its decision the Council determines the date within which the applicant is obliged to submit a request to the Croatian Agency for Telecommunications for a technical examination on the basis of which spatial and technical conditions shall be determined. If this time period is not adhered to, it is considered as a withdrawal of the applicant from the given concession. In this case, the Council can grant the concession to another applicant who has participated in the same tender or it can cancel the tender.

The Croatian Agency for Telecommunications is obliged to process requested technical inspections within a period of thirty days. If it is not capable of doing so, it is obliged to inform the Council in written form.

The Council decision on the granting of a concession can only be appealed by an administrative procedure.

Izmjene i dopune Zakona o elektroničkim medijima, Narodne novine 122/03 & 79/07

http://www.nn.hr/

Law on Electronic Media, Official Gazette No. 122/03 and 79/07

Pravilnik o sadržaju i postupku javnog natječaja za davanje koncesije za obavljanje djelatnosti radija i/ili televizije, Narodne novine 98/07

http://www.nn.hr/

Rulebook on content and process of public tender for the concession giving for radio and/or television, Official Gazette No. 98/07

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