



U-I-114/11-14

10 June 2011

### **Concurring Opinion of Judge Dr. Mitja Deisinger**

1. The Decision formally legally established the Municipality of Ankaran, while the remaining procedure of constituting this Municipality will be handled by the competent authorities (para. 17 of the reasoning of Decision No. U-I-114/11). In the framework of the regular local elections in 2014, which will be called by the National Assembly of the Republic of Slovenia, also the election to the municipal council and the regular election of the mayor of the Municipality of Ankaran will be held.

2. According to point 1 of the operative provisions, the Municipality of Ankaran encompasses the Ankaran settlement. In accordance with the regulation in Article 5 of the Act Regulating the Designation of Areas and Naming and Marking Settlements, Streets, and Buildings (Official Gazette RS, No. 25/08 – ARDANMSSB), from the day a proposal for a change in the territory of a municipality is submitted the territories or names of settlements in the municipality or municipalities that are to be changed may not be altered. Such entails that in the period from the establishment of the Municipality of Ankaran by this Decision until the constitution of the Municipality of Ankaran at the local elections in 2014 the Urban Municipality of Koper may not change the territory of the Ankaran settlement.

3. The establishment of the Municipality of Ankaran is not going to threaten the functioning and development of the Freight Port of Koper. The Decree on the Administration of the Freight Port of Koper, Port Operations, and on Granting Concession for the Administration, Management, Development, and Regular Maintenance of its Infrastructure (Official Gazette RS, Nos. 71/08, and 32/11 – hereinafter referred to as the Decree), which was adopted by the Government of the Republic of Slovenia, determines the area of the Freight Port of Koper. According to the first paragraph of Article 4 of the Decree, the port is managed by the Republic of Slovenia. In accordance with the second paragraph of Article 15 of the Decree, the concessionaire pays the concession fees in a ratio of 50:50 to the port manager and the municipality or municipalities in the territory of which the land part of the port is located. The payment of the concession fees is thus determined by the Government by the Decree.

By the Decree on the Provisional Implementation Measures for the Protection of Spatial Planning and Management based on the Programme for Drawing-up a Detailed Plan of National Importance for Comprehensive Spatial Arrangement of the International Port of Koper (Official Gazette RS, No.

43/11), the Government defined the protected area. The Port is a part of the public economic infrastructure of national and international importance and will become state property following the entry into force of the National Spatial Plan – hereinafter referred to as the NSP. The Government has already prepared a [Draft] Decree on the National Spatial Plan for Comprehensive Spatial Arrangement of the International Port of Koper (EVA 2011–2511–0079, dated 23 May 2011). It is important that the SPN will also contain all territorial and protective aspects in order for all impacts on the environment to remain within the limits determined by regulations.

4. I fully agree with the reasons for the Constitutional Court Decision that are additionally clarified in the separate opinion of Judge Dr. Ernest Petrič.

Dr. Mitja Deisinger  
Judge