



REPUBLIC TELECOMMUNICATION AGENCY

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STATUTE OF THE REPUBLIC TELECOMMUNICATION AGENCY

Pursuant to Article 17, Paragraph 1 of the Telecommunications Law ("Official Gazette of RoS" no. 44/03),

the Managing Board of the Republic Telecommunication Agency, in the session held on 15 June 2005 adopted the

STATUTE OF THE REPUBLIC TELECOMMUNICATION AGENCY

BASIC PROVISIONS

Article 1

This Statute defines the name, powers, representation, bodies, internal organization and the operating mode of the Republic Telecommunication Agency (hereinafter: the Agency).

Article 2

The Agency was established by the Telecommunications Law (hereinafter: the Law) as an autonomous and independent public organization exercising its authorities for the purpose of establishing conditions for efficient implementation and promotion of the telecommunications policy in the Republic of Serbia

Article 3

The Agency shall have the status of a legal person.

Article 4

The Agency shall act under the name of:
"Republic of Serbia – Republic Telecommunication Agency".
The Agency shall be based in Belgrade.

Article 5

The Agency shall have seal and signet.

Article 6

The Agency seal shall be round, with a 30 mm diameter.
The Agency seal shall bear the Republic of Serbia coat of arms and the following text:
"Republic of Serbia, Republic Telecommunication Agency – Belgrade".
The text on the seal shall be written in concentric circles around the Republic of Serbia coat of arms.
The seal ordinal number shall be written in Roman numerals under the Republic of Serbia coat of arms.
The text of the Agency seal shall be written in Serbian language, in Cyrillic.

The Agency seal used in the organizational units of the Agency, which are outside the registered Agency seat, in addition to the text cited in Paragraph 2 of this Article shall also contain the name of the place where the organisational unit is situated.

Article 7

The Agency signet shall be rectangular, size 55x30 mm.

The Agency signet shall contain the following text: “Republic of Serbia, Republic Telecommunications Agency – Belgrade”. The name and the seat of the Agency shall be written horizontally, and between the two, empty space shall be left for the act number and the date of its registration to be filled in.

The Agency signet used in the organizational units of the Agency, which are outside the registered Agency seat, in addition to the text cited in Paragraph 2 of this Article shall also contain the name of the place where the organisational unit is situated.

The Agency signet text shall be written in Serbian language, in Cyrillic.

Article 8

The usage, seal number, manner of keeping and destroying of the seal shall be determined by a special decision of the Agency Managing Board.

Article 9

The Agency shall have a logo.

The visual appearance of the Agency logo shall be decided on by the Managing Board, following the suggestion of the Commission appointed by the Chairperson of the Managing Board, preceded by a public contest.

Article 10

The Agency shall have its own account with a business bank.

AGENCY ACTIVITIES

Article 11

The Agency has the responsibility to:

- (1) regulate activities in the telecommunications sector, in particular where there is one or more public telecom operators with significant market power according to the standards defined by the law;
- (2) monitor telecommunication activities;
- (3) promote interconnection between telecommunications networks or operators on a non-discriminatory basis, and if telecommunications operators cannot agree on interconnection conditions, it shall prescribe those conditions, bearing in mind that they should be non-discriminatory and based on costs;
- (4) resolve disputes between telecom operators concerning interconnection, special conditions for network access and/or leased lines;

- (5) define the conditions for radio frequency spectrum usage and draft proposals for the Radio Frequency Allocation Plan and for the Radio Frequency Assignment Plan, in accordance with regulations, as well as to monitor the usage of radio frequency spectrum;
- (6) assign radio frequencies in accordance with the Law;
- (7) grant licenses to telecommunications operators for specific telecommunications activities, licenses for telecommunications networks, systems and equipment, and licenses for radio stations, in accordance with the Law;
- (8) prepare and conduct public tenders for individual licenses in accordance with this Law and the Ministry's resolution on the number, timing and minimum conditions for granting such licenses;
- (9) supervise compliance by the telecommunications operators with the terms and conditions contained in the licenses granted and take measures and impose penalties in accordance with the Law, in case they violate the terms and conditions contained in their license or the provisions of the Law;
- (10) define a special tariff regime and monitor the implementation of tariff policy in the way defined by the Law, in cases when there is only one public telecommunications operator for particular telecommunication services, when a public telecommunications operator has a significant market share or, when a public telecommunications operator subsidizes or co-finances other telecommunication network or service of its own with income from telecommunication network or service in which it is a sole operator or in which exploitation, or providing it has a significant market share;
- (11) manage the fund for compensation of universal service costs, established in accordance with the Law;
- (12) prepare, adopt and monitor the implementation of the Numbering Plan and assign numbers to public telecom operators on a non-discriminatory basis, bearing in mind rational usage of the numbers contained in this Plan;
- (13) decide upon users' complaints in cases stipulated by the Law and the general by-laws of the Agency
- (14) resolve disputes, in cases stipulated by the Law or the Agency's by-laws, between users and telecommunications operators and between telecommunications operators;
- (15) create and maintain database of significance for telecommunication sector and publish information from the field of telecommunications on a regular basis;
- (16) coordinate the activities with the authorities or organizations in charge of broadcasting, in accordance with the Law;
- (17) monitor developments in field of telecommunication, gather information from telecom operators and provide information to users, operators and international organizations;
- (18) adopt technical regulations in the field of telecommunication;
- (19) monitor and ensure implementation of national and international standards and technical regulations;
- (20) ensure the transparency of its work, including the possibility for all interested parties to give their remarks and comments regarding measures taken and decisions made;

Article 12

The Agency is authorized to prevent anti-competitive or monopolistic activities and behaviour of public telecommunications operators, unless they are subject to the procedures conducted by the anti-monopoly government authority, in accordance with the Law.

The authorizations of the Agency referred to in paragraph 1 of this Article include the following:

- (1) to determine whether a public telecommunications operator has significant market power, following the internationally recognized guidelines for market analysis and market share calculation;
- (2) to explicitly prohibit or restrict any anti-competitive or monopolistic activity or behavior in a license granted to a public telecommunications operator;
- (3) to define a special tariff regime for the public telecommunication services over which a public telecommunications operator has a monopoly or in which it has a significant market power, or if, in the opinion of the Agency, the public telecommunications service is not open for full competition of prices;
- (4) to define a special tariff regime if a public telecommunications operator having a monopoly or significant market power cross-subsidizes a competitive network or service with the revenues generated from the network or the service over which the operator has a monopoly or significant market power;
- (5) to order a public telecommunications operator having a monopoly or significant market power to provide interconnection to other telecommunications operators;
- (6) to define conditions for interconnection contracts between the public telecommunications operators having a monopoly or significant market power and other public telecommunications operators, if a public telecommunications operator, having a monopoly or significant market share does not accept interconnection request from other operator, even if that request represents offer given under standard conditions, or if it does not answer to that request in reasonable time period;
- (7) to order a public telecommunications operator having a monopoly or significant market power in providing of services to allow another public telecommunications operator to access its network in order to provide value added public telecommunications services;
- (8) to order a public telecommunications operator having a monopoly or significant market power to supply leased lines to another telecommunications operator based on a reasonable request and available network capacity; and
- (9) to control any merger, acquisition, take-over or any other change with regard to the form of organization of telecommunications companies which may result in the establishment of a monopoly or a company with a significant market power.

Article 13

The Agency performs the following activities in the field of radiocommunications:

- (1) manages the radio frequency spectrum in the Republic;
- (2) issues radio station licence;
- (3) performs technical inspection of radio stations;
- (4) keeps records on data from the field of radiocommunications;
- (5) co-operates, independently or through responsible authorities, with international organizations and administrations of other countries in charge of radio frequency spectrum management.

Article 14

The Agency performs other activities in accordance with the Law, necessary for carrying out its duties.

Article 15

The Agency can close contracts and perform other activities in the scope of the duties referred to in Article 11 of this Statute.

In exercising its authority the Agency has legal accountability.

THE MANAGING BOARD

Article 16

The body managing the Agency is the Managing Board.

Article 17

The Managing Board shall have the Chairperson and four members of the Managing Board.

The Managing Board shall also have the Deputy Chairperson of the Managing Board who is appointed by the Managing Board from among its members.

The Chairperson and the members of the Managing Board shall be appointed and relieved from office by the National Assembly of the Republic of Serbia, at the proposal of the Government.

The Chairperson and members of the Managing Board of Agency shall be appointed to a term of five years, and the first term of office of the Chairperson shall be five years, of two of the members four years, and of the other two members three years. The Chairperson and members of the Managing Board shall not be eligible to hold office in excess of 2 consecutive terms.

The Chairperson or a member of the Managing Board shall be appointed not later than 60 (sixty) days before the expiration of the term of office of their predecessors.

If the appointment has not been completed before the expiration of the term of office of the outgoing Chairperson or a member of the Managing Board, the Chairperson and the members of the Managing Board whose terms have expired shall continue to hold their office until the procedure for the appointment of a new Chairperson or member has been completed.

Article 18

The Managing Board:

- (1) shall adopt the Statute of the Agency which shall be approved by the Government of the Republic of Serbia;
- (2) shall appoint the Deputy Chairperson of the Managing Board from among its members;
- (3) shall design the work plan of the Managing Board;
- (4) shall adopt the Operating Regulation of the Managing Board, as well as other general by-laws of the Agency;
- (5) shall adopt the Agency Financial Plan which shall then be approved by the Government;
- (6) shall adopt revenue and expenditure annual accounts;
- (7) shall make all decisions within the authority of the Agency;
- (8) shall adopt annual reports on the Agency activities;
- (9) shall submit the annual report on the Agency activities to the Government and the National Assembly;
- (10) shall engage and dismiss an certified independent auditor and set the fee for his/her work;

- (11) shall adopt other general by-laws of the Agency; and
- (12) shall performs other activities stipulated under the Law.

Article 19

For the purpose of performing specific activities falling within responsibility of the Agency, the Managing Board may engage other legal and physical domestic or foreign persons.

Mutual rights and obligations of the Agency and other legal and physical domestic or foreign persons, referred to in Paragraph 1 of this Article, shall be regulated by a special contract.

Article 20

The Managing Board shall have its Chairperson.

The Chairperson shall be an employee of the Agency during his/her term of office.

The Chairperson of the Managing Board shall:

- (1) represent the Agency;
- (2) organize and manage the activities of the Managing Board;
- (3) convene and chair the sessions of the Managing Board;
- (4) sign the decisions of the Managing Board and ensure the implementation thereof;
- (5) be responsible for the implementation of the Statute and of the other general by-laws of the Agency;
- (6) exercise the powers of a director pertaining to the labor-related rights, duties and responsibilities of the Agency employees;
- (7) have legal accountability related to the Agency activities and to the utilisation and handling of the Agency possessions; and
- (8) perform other duties as stipulated by the Law and the Statute and other general by-laws of the Agency;

Article 21

The work of the Managing Board shall be transparent.

The Managing Board of the Agency shall make decisions in sessions, which shall be held as needed and at least once a month.

The sessions of the Agency Managing Board shall be convened and chaired by the Chairperson of the Agency Managing Board, and, in his/her absence, by the Deputy Chairperson of the Agency Managing Board.

The Managing Board of the Agency can reach decisions only if more than half of the members of the Agency Managing Board are present in the session.

The Managing Board of the Agency shall make decisions by the majority of votes of the total number of the members of the Agency Managing Board.

The convocation, working mode and decision-making of the Agency Managing Board shall be more closely regulated by the Operating Regulation of the Agency Managing Board.

Article 22

The term of office of the Chairperson and members of the Managing Board may be terminated in the following cases:

- 1) expiry of the term to which they have been appointed;

- 2) relief from office for the reasons stipulated herein;
- 3) resignation submitted to the National Assembly in the written form, in which case the term of office shall terminate on the date of submission of the resignation;
- 4) death.

Article 23

At the proposal of the Managing Board or the Government, the National Assembly may relieve the Chairperson or a member of the Managing Board from office, but only in the following case, if:

1. an illness or any other reason makes him/her unable to perform his/her duties for a period exceeding six consecutive months;
2. under a final court decision, he/she is sentenced to a term in prison exceeding six consecutive months or for a criminal act of abuse of official powers, fraud, corruption, theft or other similar criminal act, which has made him/her unworthy of performing their respective functions;
3. it is established that, in the process of determining the candidates to be proposed for the Managing Board, any such candidate provided incorrect data or omitted to provide data that was relevant important to his/her candidature;
4. without reasonable cause, he/she refuses or fails to perform the duties of the Chairperson or a member of the Managing Board for a period of minimum three consecutive months, or for a period of minimum six months with interruptions in the course of 12 months;
5. it is established that during his/her term of office he/she has violated the rules on conflict of interest stipulated by the Law.

Article 24

The Chairperson and the members of the Managing Board, or any member of their families or next-of-kin in a direct line of kinship, irrespective of the degree of descent, or any relative on parents' side inclusive of the second degree of descent, any spouse or an in-law inclusive of the first degree of descent, shall not, either directly or through a third party, have any equity interest, be it as a stakeholder, shareholder, employee, or person hired on contract or similar, in the companies and organizations which render telecommunications services, operate telecommunications networks, or provide telecommunications equipment, nor shall they be in any other way associated with such a company or organization.

Article 25

The Managing Board of the Agency shall perform its function in the interest of the Agency, and in performing the activities it is required to act with the attention of a good businessperson.

The Members of the Managing Board of the Agency referred to in Paragraph 1 of this Article are required to base their assessment on information and opinions of persons qualified for a specific field and believed to be conscientious and competent.

The member of the Managing Board of the Agency that acts in accordance with paragraphs 1 and 2 of this Article shall not be held responsible for damage which may occur from such assessment.

The members of the Managing Board of the Agency are shall not be held responsible in terms of the provisions of the previous paragraph, in case they stated a different opinion which was recorded in the minutes from the session in which the decision was made.

AGENCY REPRESENTATION

Article 26

The Agency shall be represented and acted for by the Chairperson of the Managing Board, and in case of his/her unavailability, the Agency shall be represented by the Deputy Chairperson of the Managing Board.

Article 27

The Chairperson of the Managing Board, or the Deputy Chairperson of the Managing Board when acting as the Chairperson, may, in part or in whole, delegate the function of the Agency representation to another member of the Managing Board only upon the decision of the Managing Board.

INTERNAL ORGANIZATION

Article 28

The Rules on internal organization and systematization of work positions shall define more specifically the internal organization, work positions, conditions for creation of work positions and distribution of employees within the Agency.

Article 29

Activities and tasks within the scope of work of the Agency shall be carried out within organisational units.

The organisational unit shall be run by a manager appointed and relieved from duty by the Chairperson of the Managing Board.

For his/her work the manager shall be directly answerable to the Chairperson of the Managing Board.

Article 30

The activities of the Agency may also be performed outside the Agency seat through organisational units, if such units are formed, and the Rules on internal organization and systematization of work positions shall regulate the work positions and tasks thereof.

RIGHTS, DUTIES AND RESPONSIBILITIES OF THE EMPLOYEES

Article 31

The Agency employees have rights, duties and responsibilities in accordance with regulations governing labour relations, with this Statute and with other general by-laws of the Agency.

Article 32

The Agency employees have to act in accordance with the Agency Code of Conduct (hereinafter: Code of Conduct).

Action which is not in accordance with the provisions of the Code of Conduct shall be considered a serious breach of employees' duties towards the Agency.

Article 33

The employment with the Agency shall be taken up through a public announcement.

The decision on the selection of candidates, preceded by the approval by the members of the Managing Board, shall be reached by the Chairperson of the Managing Board, or the acting as the Chairperson of the Managing Board in accordance with this Statute.

Article 34

The salary of the president of the Managing Board and the salaries of the Agency employees shall not be subject to the regulations on salaries of the employees of the government authorities and public services.

The Managing Board members shall be entitled to remuneration for their work in the Managing Board which shall not be lower than the salary of a judge of the Supreme Court of Serbia.

The salaries of the employees and remuneration for work of the members of the Managing Board shall be regulated by the general by-laws adopted by the Managing Board.

GENERAL PROVISIONS

Article 35

The general by-laws of the Agency are the Statute, Rules and other general by-laws.

Article 36

Amendments to this Statute and other general by-laws shall be made through a procedure and in manner stipulated for their approval.

The authentic interpretation of the Statute, in whole or of its single provisions, shall be rendered by the Agency Managing Board.

TRANSPARENCY OF THE AGENCY WORK AND BUSINESS SECRET

Article 37

The work of the Agency shall be transparent.

The transparency of the Agency work shall be achieved through the transparency of the work of the Managing Board, by publishing on the website of the Agency information such as:

(1) annual report (including financial statements) for each year;

- (2) financial plan for each year;
- (3) information pertaining to allocation and assignment of radio frequencies;
- (4) information pertaining to public tenders for licenses, including the main terms and conditions of such public tenders;
- (5) information about the licenses granted in accordance with this Law;
- (6) decisions taken in accordance with this Law pertaining to the granted licenses and concluded interconnection contracts;
- (7) information and/or decisions pertaining to special tariff regimes and/or tariff policy, including changes in tariffs for regulated services; and
- (8) decisions taken in accordance with this Law pertaining to the Numbering Plan.
- (9) general by-laws of the Agency.

In addition to the documents and information referred to in Paragraph 2 of this Article, the Agency shall publish on its website the following information related to radiocommunications:

- (1) The Radio Frequency Bands Allocation Plan and Radio Frequencies Assignment Plans;
- (2) envisaged modifications in the allocation of radio frequency bands for the next two years;
- (3) list of services operating in the radio frequency bands allocated for the purposes other than those specified in the Allocation Plan for such radio frequency bands;
- (4) radio frequency bands expected to be allocated for new services.

The Agency may also publish other information and documents in the appropriate manner, unless they are considered business and professional secret.

Article 38

The transparency of work of the Agency may also be achieved through public debates, discussions and consultations on relevant issues within Agency authorities.

Article 39

The Agency shall create and maintain a database of its registers, a database of all its decisions, including complaints relating to those decisions, as well as any and other information of importance for the telecommunications sector.

The data bases referred to in Paragraph 1 of this Article shall have the status of public documents.

The Agency shall regulate the contents and the mode of storing of data bases and records referred to in Paragraph 1 of this Article.

Article 40

Upon the request from the Agency, a public telecommunications operator is required to submit all necessary data and information, including financial data and information, which are necessary for performing the activities within the authority of the Agency.

The Agency is required to keep all information referred to in Paragraph 1 of this Article as business secret, in accordance with the provisions of the Law and other regulations.

ENVIRONMENT PROTECTION

Article 41

The activity of the Agency shall be performed in a way which does not harm the environment.

Measures and means required for the environment protection shall be defined by a general by-law.

FINAL PROVISION

Article 42

This Statute shall be published in the “Official Gazette of the Republic of Serbia” upon the approval of the Government of the Republic of Serbia and shall come into effect on the eight day following that of its publication.

Belgrade, 15 June 2005

Chairman of the Managing Board

Prof. Dr. Jovan Radunović