

Pursuant to Article 7, paragraph 7 and Article 9 paragraph 3 of the Law on Electronic Communications and Postal Services (“Official Gazette of Montenegro”, No.50/08) and Article 69 of the Law on Postal Services (“Official Gazette of Montenegro”, No.46/05), the Council of the Agency for Electronic Communications and Postal Services, at its session held on 27 February 2009, adopts the following

S T A T U T E

I GENERAL PROVISIONS

Content of the Statute

Article 1

This Statute regulates in more detail the internal organization, competencies and the scope of operations of the bodies and specialized services of the Agency for Electronic Communications and Postal Services (hereinafter called „the Agency”); the adoption of general acts and other issues vital for the Agency’s operations stipulated by the Law on Electronic Communications and the laws regulating the field of postal affairs.

Independence of the Agency

Article 2

The Agency is a regulatory authority with responsibilities stipulated by the Law on Electronic Communications and the Law on Postal Services.

The Agency is functionally independent of legal and physical entities that provide electronic communications networks, equipment or services, and of the entities providing postal services.

Name and Head Office

Article 3

The Agency performs its operations under the name of the Agency for Electronic Communications and Postal Services.

The head office of the Agency is in Podgorica.

The abbreviated name of the Agency is EKIP.

The Agency is entered in the Central registry of the Commercial Court of Podgorica.

Transparency of operation

Article 4

The Agency’s operation is public.

Public authorities
Article 5

The Agency is a legal entity which exercises public authorities in compliance with the Law.

Importance of the Statute
Article 6

This Statute is the basic general act of the Agency.

Compliance of Other Acts with the Statute
Article 7

All other acts of the Agency shall be in compliance with this Statute.

Stamp and Seal
Article 8

The Agency has a stamp and a seal, which contain the name and seat of the Agency and other elements in conformity with regulations.

The Agency's stamp is round in shape. It contains the coat of arms of Montenegro, the name "Montenegro" and the name and seat of the company: Agency for Electronic Communications and Postal Services – Podgorica. The stamp is 30 mm in diameter. The wording of the stamp is written in concentric circles around the coat of arms of Montenegro.

The seal of the Agency is rectangular in shape. It contains the name "Montenegro" and the name and seat of the company: Agency for Electronic Communications and Postal Services – Podgorica. The name and seat of the Agency are written horizontally, and vacant space is left for writing the number of the act and the date when it is entered. The dimensions of the seal are 23x59mm.

The manner of use, keeping and destruction of the stamp and seal shall be determined by a separate decision of the Agency Council.

Logo
Article 9

The Agency has its logo whose visual image is determined by the Agency Council.

II INTERNAL ORGANIZATION

Organizational units Article 10

The Agency shall be organized in such a way to ensure the addressing of legal, economic, technical-technological and administrative matters in the field of electronic communications and postal services.

The activities in the Agency are organized within organizational units, in the following way:

- organizational unit for legal matters;
- organizational unit for economic matters;
- organizational unit for technical-technological matters.

Organizational units referred to in paragraph 2 hereof are structured in such a way to enable dealing with legal, economic and technical-technological aspects of electronic communications, radio-frequency spectrum and postal services.

Common Services Article 11

Common services are also organized in the Agency for the purpose of carrying out administrative, accounting, translation and database-related tasks for all organizational units referred to in Article 10 of this Statute.

III COMPETENCIES OF THE AGENCY

Competencies of the Agency Article 12

According to Article 8 of the Law on Electronic Communications, the Agency shall:

- 1) prepare inputs for the development of regulatory acts adopted by the relevant Ministry for electronic communications and postal affairs (hereinafter called “the Ministry”);
- 2) adopt procedures and rules for the implementation of the Law and bylaws.
- 3) prepare inputs for the development of regulation adopted by the Ministry;
- 4) prepare inputs for the development of Radio Frequencies Allocation Plan, which is adopted by the Government, and controls the implementation thereof.
- 5) adopt Addressing Plans and Numbering Plans, and control their implementation;

- 6) adopt Radio Frequencies Allotment Plan and control the implementation thereof;
- 7) perform permanent monitoring of radio frequency spectrum;
- 8) conduct coordination of the use of radio frequencies with the administrations of neighboring countries;
- 9) encourage rational use of electronic communications infrastructure;
- 10) resolve questions and disputes, review initiatives and adopt procedures and rules from the interest protection and users right domain;
- 11) conduct public tender procedures and assign limited resources (radio frequencies, numbering and addresses) on non-discriminatory basis, to electronic communications network operators and electronic communications service providers;
- 12) issue authorizations for frequencies, numbering and addresses;
- 13) keep registries;
- 14) with prior consent from the Government, determine the amount of fees paid to the Agency by electronic communications network operators and service providers, based on actual expenses of the Agency and established criteria prescribed by the Ministry;
- 15) resolve disputes arising among entities in the market of electronic communications, by cooperating with institutions competent for the protection of competition and for user protection;
- 16) conduct the procedure for designation of the operator of Universal Service prescribed by the Law, monitor the development of the Universal Service, administer and manage the collection of fees from other operators on the basis thereof;
- 17) maintain and regularly update electronic database on electronic communications sector, providing access to any information not having regulatory restrictions with regard to secrecy and confidentiality;
- 18) supervise the market, designate the operators with significant market power (SMP) and take preventive measures to prevent negative affects of operators' significant market power;
- 19) supervise the activities of operators in electronic communications sector, in terms of compliance with the Law, bylaws and applicable technical regulations and standards;
- 20) supervise the fulfillment of obligations imposed on operators of electronic communications networks and/or electronic communications services, in a state of emergency;
- 21) develop cooperation with regulatory bodies of other countries, and within its competences, and with prior consent of the Ministry, perform other types of activities in international organizations in the field of electronic communications;
- 22) conduct the survey of the market and public opinion and open consultation procedures, providing the possibility to all interested parties to make comments and remarks on initiatives, measures, decisions and enactments that it prepares, proposes or adopts;

- 23) organize professional counseling sessions on particular issues from the field of electronic communications;
- 24) prepare the program of activities and financial plan for the following calendar year and submits it to the Government for approval;
- 25) prepare and submit to the Government the Annual Report with basic indicators of the dynamics of development of electronic communications market for the previous year, including the financial report;

According to Article 62 of the Law on Postal Services, the Agency shall:

1. issue and revoke the licences and decisions for carrying out postal services;
2. monitor the prices in terms of their fairness and affordability, and take measures for preventing any irregularity related to prices;
3. give approval on the conditions and prices of the access to the network of the universal service postal operator;
4. give approval on special requirements for carrying out postal services;
5. monitor the development of postal services;
6. keep the registries of postal operators,
7. perform other duties in accordance with the Law on Postal Services.
8. supervise the implementation of the Law on the Prevention of Money Laundering and Terrorist Financing (“Official Gazette of Montenegro”, No.04/08) and the regulations adopted thereupon in relation with postal operators.

In addition to the activities referred to in paragraphs 1 and 2 hereof, the Agency shall also:

1. supervise the implementation of the Law on Electronic Communications in relation with the operators registered for carrying out electronic communications;
2. carry out other tasks in compliance with the Law on Electronic Communications and the law on Postal Services.

The Agency shall perform regulatory and other activities referred to in paragraphs 1, 2 and 3 hereof as public authorities.

IV COMPETENCIES OF THE AGENCY’ BODIES

Bodies of the Agency Article 13

The bodies of the Agency are: the Council of the Agency and the Executive Director of the Agency.

Council of the Agency

Article 14

The Council of the Agency has the President, who is engaged as professional employee of the Agency, and four members of the Council who could be part time or professionally engaged employees of the Agency. President of the Council organizes the sessions and presides over the activities of the Council. In his absence, a member of the Council authorized by the Council on the first session shall replace him. Regular sessions shall be held at least once a month, and others as per need. Council shall be responsible to the Government.

According to Article 9, paragraph 3 of the Law on Electronic Communications, the Agency Council shall carry out the following activities:

1. adopt the Statute of the Agency;
2. adopt the procedures, rules and decisions that are based on regulatory rules (on significant market power, tariffs, collocation, interconnection, universal service and fees based thereon; on the procedures for public tenders, disputes among the market entities, etc.);
3. adopt the Work Program and Financial Plan of the Agency, and supervise their implementation;
4. adopt annual financial statements of the Agency and submit to the Government the annual report, including the financial report;
5. adopt the Radio Frequency Allotment Plan;
6. adopt the Addressing Plans and the Numbering Plans;

In addition to the activities referred to in paragraph 2 hereof, the Agency Council shall also:

1. adopt the Rules of Procedure for the Council work;
2. issue and revoke the licences and decisions for carrying out postal services, gives approval on the requirements and fees for access to the network of the universal service postal operator, and gives approval on special requirements for carrying out postal services;
3. give approval on the Agency's annual operational plan;
4. take decisions in relation with the management of revenues and expenditures in compliance with the Agency's Financial Plan and Work Program;
5. give approval to the Executive Director to administer the Agency' financial resources exceeding 5,000 Euros;
6. prepare inputs for the regulations adopted by the relevant Ministry for electronic communications and postal affairs;
7. adopt other general acts of the Agency;
8. issue and revoke licences and decisions for carrying out postal services;
9. monitor the prices in terms of their equality and affordability, and take measures for the prevention of any irregularities related to prices;

10. give approval on the requirements and fees for the access to the network of the universal postal service operator;
11. give approval on special requirements for carrying out postal services;
12. monitor the development of postal services;
13. carry out other activities in compliance with the Law on Electronic Communications, the Law on Postal Services and this Statute.

The annual operational plan referred to in paragraph 2, point 3 hereof shall work out in more detail the obligations specified in the Agency's Work Program in terms of indicating the staff assigned with particular tasks from the Work Program, setting deadlines and determining whether it is necessary to conduct public consultation procedures for particular issues.

The Possibility of Publishing Expert and Research Papers **Article 15**

The Members of the Council have a right to publish expert and research papers and to take part in the work of professional gatherings and scientific events.

Acting in Good Faith, with Due Care, Competence and Diligence

Article 16

In performing their duties prescribed by the Law on Electronic Communications, the Law on Postal Services and this Statute, the Members of the Council are obliged to act with due care, in good faith and in accordance with the rules of their profession.

Summoning the Sessions **Article 17**

The President of the Council shall summon the Council sessions upon his own initiative, at the request of a Member of the Council or the Executive Director of the Agency.

The present majority **Article 18**

The Council of the Agency shall take valid decisions if the majority of the total number of its members attends the session.

Taking Valid Decisions by the Council **Article 19**

The Council shall take valid decisions by the majority of the total number of members.

**Presence of the Executive Director and Drafter of the Documents to the Council
Sessions
Article 20**

The Executive Director and those employees of the Agency who are drafters of the documents reviewed at the Council sessions shall attend the Council sessions, with no right of decision making.

**Notification of the Grounds for Dismissal
Article 21**

The Council of the Agency shall notify the Government of Montenegro of the grounds for a dismissal of the member of the Council before the expiration of his term of office for which he was appointed.

**Duties of the President of the Council
Article 22**

The President of the Agency's Council shall in particular perform the following activities:

1. preside over the sessions of the Agency's Council;
2. sign decisions and other acts of the Agency's Council;
3. propose measures for the improvement of the work of the Agency's Council;
4. carry out other tasks stipulated by the Law on Electronic Communications, the Law on Postal Services and the Council's decisions.

**Executive Director of the Agency
Article 23**

The Executive Director of the Agency shall represent and act on behalf of the Agency, and be responsible for lawful performance of activities by the Agency, and organize and manage business operations of specialized services of the Agency.

**Responsibility of the Executive Director to the Council
Article 24**

The Executive Director shall be responsible to the Council of the Agency.

Term of Office of the Executive Director
Article 25

The Executive Director shall be appointed by the Council, for a term of office of four years.

Recruitment Commission
Article 26

The public recruitment procedure for the selection of the Executive Council shall be conducted by a Commission appointed by the President of the Agency Council.

Suitable Application of the Provisions Also Referring to the Council
Article 27

The provisions of Article 15 of the Statute shall also apply to the Executive Director of the Agency.

Duties of the Executive Director
Article 28

According to Article 9, paragraph 4 of the Law on Electronic Communications, the Executive Director of the Agency shall:

1. represent and act on behalf of the Agency;
2. organize the work and manage the operations of the specialized services of the Agency;
3. be responsible for the lawful work of the Agency;
4. be responsible to the Agency Council for his work.

In addition to tasks referred to in paragraph 1 hereof, the Executive Director of the Agency shall:

1. take care of the executions of the Agency Council's decisions;
2. propose to the Council the Agency's work program along with the financial plan, and take care of their execution;
3. submit to the Council for approval the annual Operational Plan;
4. propose to the Council the annual report on the Agency's operation and financial calculation for the previous year;
5. propose to the Council general acts of the Agency and take care of the preparation of the acts and other documents subject to decision-making by the Agency Council;
6. propose to the Council inputs for the regulations adopted by the relevant Ministry for electronic communications activities and postal services;
7. propose to the Council the acts from Article 14, paragraph 2, points 2 and 3 of the Statute and other acts which are passed by the Agency according to the Law on Electronic Communications and the Law on Postal Services;

8. propose to the Council the Radio Frequency Allotment Plan;
9. propose to the Council the Addressing Plan;
10. propose to the Council the Numbering Plan;
11. conclude the employment contracts with employees and decide on the rights of employees in compliance with the law;
12. conclude investment agreements and monitor their implementation in accordance with the Agency's financial plan and work program, and on the basis of the Council's decisions;
13. be the authority for financial and office supply transactions of the Agency;
14. decide on allocation and utilization of financial resources of the Agency up to 5,000 Euros; for administering financial resources where individual items exceed 5,000 Euros the Executive Director shall need a prior consent of the Council;
15. submit to the Agency Council monthly reports on the Agency's income and expenses, and at the request of the Council, ensures the availability of necessary documents;
16. perform other tasks in compliance with the Law on Electronic Communications, Law on Postal Services, this Statute and the decisions of the Council.

If the Executive Director finds that a decision or another act of the Agency Council is contrary to the law, he is obliged to warn the Council about it. If the Council after the warning of the Executive Director of the Agency takes the decision or other document contrary to the law, the Executive Director may temporarily suspend the execution of the decision or the act, provided that he will be bound to advise the Ministry thereabout in the period of 10 days from the date of the suspension.

The suspension referred to in paragraph 3 of this Article can last for 20 days at the latest.

Repeated Recruitment Procedure **Article 29**

If no candidate applies for the post of the Executive Director or none of the applied candidates is selected, the recruitment procedure shall be repeated.

Until the appointment of the Executive Director of the Agency following the repeated recruitment procedure, the Council shall appoint the acting Executive Director.

Expert Advisory Bodies **Article 30**

The Agency may form expert advisory bodies, working groups consisting of the Agency staff members and external staff, and engage expert consultants to review the issues from the scope of the Agency's competencies, and to provide professional assistance in the Agency's operations.

V SOURCES OF FINANCING, FINANCIAL PLAN AND ACCOUNTING

Sources of Financing

Article 31

The Agency's sources of financing in the field of electronic communications are:

1. Registration fees;
2. Fees for performing activities related to regulation and supervision of the market;
3. Fees for authorizations for the use radio frequencies, numbering and addresses;
4. Fees defined in the Laws regulating the fields that fall within the competencies of the Agency.

The Agency's sources of financing in the field of postal services are:

1. one-off and annual licence fees;
2. one-off and annual fees for the decisions on the fulfillment of the requirements for carrying out postal services.

The proceeds from the fees referred to in paragraph 2 hereof shall be paid to a separate account of the Agency (compensation fund).

Annual Financial Plan of the Agency

Article 32

Annual financial plan of the Agency shall contain the projection of the total revenues and expenditures, including reserves for unforeseen expenses, separated into categories according to the fields of regulation and supervision of the market, the use of resources of radio frequency spectrum, numbering, addresses and postal affairs.

The Agency shall submit its financial plan along with the Work Program for the following calendar year, to the Government no later than 1st November of the current year. The Financial Plan and the Work Program of the Agency shall be submitted to the Parliament for adoption as a separate part of the Budget of Montenegro no later than 1st December of the current year.

The Financial Plan along with the Work Program shall be published in the way determined by the Statute of the Agency.

Compensation Fund

Article 33

The proceeds from Article 31, paragraph 2 of the Statute shall be used for:

1. financing of the Agency as the regulatory authority for postal affairs;

2. covering of losses that the universal postal service operator may incur when providing universal postal service.

Operating cost of the Agency as a regulatory authority for postal affairs consists of the labour cost of those employees assigned with the tasks related to postal affairs, determined on the basis of the accounting evidence, and of associated proportionate part of the labour cost of common services and other cost. The proportionate part of labour cost of common services and other cost are determined as a ratio of employees assigned with postal affairs and employees assigned with the electronic communications activities.

Operating costs of the Agency as a regulatory authority for postal affairs are compensated from the compensation fund and the amount for these purposes cannot exceed 70% of the total revenues of the Agency generated from the regulation of postal services.

The remaining portion shall be used for covering of the loss that universal postal service operator may incur when providing universal postal service.

Property Accountability Article 34

The Agency shall be accountable for its obligations by its whole property.

Gyro Account Article 35

The financial resources of the Agency are kept at the gyro account of the Agency, in compliance with the regulations on payment operations.

Keeping Business Books Article 36

The Agency shall keep business books in accordance with the relevant regulations for that field and submit the financial report in compliance with the Law on Electronic Communications and the Law on Postal Services.

VI ACTIVITIES REPORT, REGISTRIES AND DATABASE

Activities Report of the Agency Article 37

The Agency shall prepare the Report of Activities and Financial Report for the previous year until the end of the second quarter.

These reports referred to in paragraph 1 hereof shall be adopted by the Council of the Agency with the prior consent of the Government.

The Activities Report shall contain the information on:

1. dynamics of development of competition in the market of electronic communications and application of tariff policy principles;
2. degree of universal service development, with an evaluation of user satisfaction with this service;
3. assigned limited resources (radio frequencies, numbering and addresses), with an evaluation of the efficiency of their utilization;
4. degree of development of electronic communications sector in Montenegro for the current year, with an overview of the scope, type and quality of services provided by operators and providers to end-users;
5. planned and executed Agency's tasks for the current year.

Financial Report contains financial indicators of the Agency's operation. Audit of the Financial Report shall be performed by independent auditors.

The Activities Report, Financial Report and Auditor's Report shall be published on the Agency's website.

Agency's Registries Article 38

The Agency shall keep a registry of operators, registry of assigned radio frequencies, registry of assigned numbering and addresses in accordance with the regulations prescribed by the relevant Ministry for electronic communications and postal affairs that regulate the content and manner of keeping the registries.

Information in the Agency's registries is stored for another 5 years after the completion of functioning of the operator which provides public communications services, or provides public communications networks or functional communications networks.

Database Article 39

The Agency shall keep and regularly update the database on the authorization holders for electronic communications and postal affairs in accordance with the law, with all the elements that such a database should contain.

The Agency shall keep and regularly update the database on radio frequency spectrum, in accordance with the Law on Electronic Communications.

The way in which the information from the database is used shall be regulated by a separate act.

VII TRANSPARENCY OF THE AGENCY'S OPERATION

Publishing Acts and Data

Article 40

The Agency will publish the following acts and data on its website:

1. Statute and other general acts that the Agency adopts;
2. decisions and other administrative acts of the Agency;
3. public invitations and invitations to public discussions;
4. expert opinions and explanations regarding the implementation of the Law on Electronic Communications and the Law on Postal Services;
5. statistical and other indicators of the development of electronic telecommunications market and postal market;
6. Annual Report and Financial Plan of the Agency along with the Work Program;
7. decision of the Government of Montenegro on the appointment of the Council members;
8. information about the President and Council Members, Executive Director and other staff members of the Agency;
9. notification of the investors prior to initiating construction of a road, which shall contain the beginning and end dates of construction works, and the route of the road;
10. decisions related to the obligation of price monitoring and operators' cost accounting in relation with that issue;
11. Radio Frequency Allotment Plan;
12. decisions following the completed tender procedures for the assignment of radio frequencies;
13. data on the assigned numbering from the Numbering Plan and addresses from the Addressing Plan.

The Agency shall publish in the Official Gazette of Montenegro the following documents:

1. regulatory acts of the Agency;
2. Radio Frequency Allotment Plan;
3. decisions following the completed tender procedures.

Publishing of Decisions of the Ministry and Courts

Article 41

The decisions of the Ministry taken upon the appeals on the Agency's decisions, or in the procedure of administrative supervision over the Agency, as well as the court decisions regarding the competencies of the Agency shall be published on the Agency's website or in another way, as appropriate.

Collaboration with Media
Article 42

The publicity of the Agency's work is also ensured through collaboration with media and notification to other bodies and institutions of the Agency's work and operation.

Public Consultations
Article 43

Prior to the adoption of general acts or in preparation of inputs for general acts adopted by the relevant Ministry for electronic communications and postal affairs, the Agency may organize public consultation processes in accordance with a separate act determining the procedures for public consultation processes.

VIII SECRECY OF DATA

Keeping the Secrecy of Data
Article 44

The President and members of the Agency's Council, the Executive Director of the Agency and the employees from specialized services of the Agency, as well as other legal and physical entities that the Agency has assigned with performing specified duties, are obliged to keep the secrecy of the data classified as confidential by an act of the relevant body, or a business secret, regardless of how such information has become known to them, during and after the cease of the function or employment, as long as the data is under the secrecy regime or until they are released from the obligation by a decision of the body or the data possessor.

The data or business secret referred to in paragraph 1 hereof is the following:

1. any information classified as business secret in compliance with a special law or other regulations;
2. any information classified as business secret in accordance with a general act or other act of the data possessor;
3. any information classified as business secret in accordance with a general act of the Agency.

As an exception to the provisions referred to in paragraph 2 hereof, data or acts which are in any way publicly available or are published under special regulations or decisions of the data possessor shall not be considered business secret.

IX PROTECTION AT WORK

Protection at Work
Article 45

Protection at work and the protection of people and property are to be ensured in the Agency, in accordance with the law regulating the protection at work.

X TRANSITIONAL AND FINAL PROVISIONS

Modification of the Statute Article 46

This Statute can be modified in the manner and under the procedure determined for its adoption.

Interpretation of the Statute Article 47

In case of any inconsistencies in the implementation of the provisions laid down by the Statute, the Council of the Agency shall be responsible for its interpretation.

Termination of the Previous Statute Article 48

The Statute of the Agency for Telecommunications and Postal Services, No.01-71/4 from 24.04.2006 shall cease to be valid on the day of the entry of this Statute into force.

Publication of the Statute Article 49

This Statute shall be published on the notice board and on the website of the Agency with prior consent of the Government of Montenegro.

Entering into Force Article 50

This Statute enters into force on the eight day from the date of its placing on the Agency's website.

No.: 01-3637/2
Podgorica, 27.02.2009

Council of the Agency for Electronic Communications and Postal Services

Dr Šaleta Đurović
President

