

## **Telecommunications Law extracts**

### **I. BASIC PROVISIONS**

#### **Article 1**

This Law regulates the conditions and the manner for performing the activity in the field of communication, construction, maintenance and the use of the telecommunication network and devices, the relationship between the provider and the user of the telecommunication services, competition in the field of communication, provision of universal services, granting concession and performance of the telecommunication services by concession, management, use and control of radio frequency spectrum, production, import, sale, use and control of radio frequency spectra, production, import, sale, use and maintenance of radio stations, terminal equipment and other questions concerning the telecommunications. The performance of the activity in the field of telecommunications, should:

1. improve the efficiency, development in the field of telecommunication, and thus to stimulate the growth of the economy in the Republic of Macedonia;
2. enable the citizens of Macedonia to obtain a non-discriminatory access to more modern, efficient and higher quality telecommunication services, devices and equipment at reasonable prices, based on the expenses;
3. determine the regulative and economic base for introduction of market competition in the telecommunication field;
4. coordinate telecommunication field according to the international standards, best experience and operating norms, and
5. provide rightful, efficient and independent application of the rules.

#### **Article 3**

The public telecommunication services and the use of the radio frequency spectra are of public interests for the Republic of Macedonia.

The Board of Telecommunications can limit the access to the telecommunication networks or services in order to protect the safety of public telecommunication networks, and provision of mutual operation of the telecommunication sectors and the protection of data, only for justified reasons, and in accordance to the existing laws and rules.

#### **Article 4**

The telecommunications can be either for public or private needs.

The activities and the operations in the field of telecommunications are performed by permits, according to this Law. Certain activities or operations in the field of telecommunications are performed by means of concession.

#### **Article 5**

The plan for the development of the telecommunications in the Republic of Macedonia is brought by the Government of the Republic of Macedonia within the frames of macroeconomic policy of the Republic, upon the proposal of the Ministry of Transport and Communications.

By the Plan from Paragraph 1 of this Article 1, and according to the provisions of this Law, the strategy for liberalization is determined in the field of telecommunications, including the temporary steps for progressive introduction of competition.

In preparing the Plan from Paragraph 1 of this Article, the Ministry of Transport and Communications should pay attention to:

1. the level at which the tariffs of the existing PTC (Public Telecommunications Company) reflect the expenses of the operation of the telecommunication networks and provide telecommunication service;
2. the obligation of the existing PTC to develop the fixed public telecommunication network;
3. the principals and the policy of the European Union, the World Trade Organization and the international obligations of the Republic of Macedonia.

#### **Article 6**

The terms and conditions for construction, maintenance and the use of broadcasting network, as well as the relationship between the providers and the users of the telecommunication services in the broadcasting are regulated by this Law and the Law for regulating the broadcasting activity.

## **II. GENERAL PROVISIONS**

#### **Article 7**

The public communications in the domestic and international telecommunication traffic are accessible for every user, in accordance with indiscriminately, objective and clear terms and conditions. Exceptions are cases where limits exist concerning the capacity of the provider of the services.

The user of Paragraph 1 of this Article has the right to receive continuous, efficient and regular service and has the right to compensation by the operator of the public communication or by the provider of the public telecommunication service for every deficiency in the quality of the received public telecommunication service. The complaints, requests and the objections concerning the telecommunication services submitted by the user, have to be considered and solved efficiently. The fee for the telecommunication service has to be invoiced to the user in a manner easy to understand.

The user who receives the radio and television signals through the public communication networks intended for the broadcast and transmission of the radio and television signals, has a right to a qualitative reception of the broadcasting programs within the technically available parameters of the networks.

The user is obliged to pay for the received public telecommunication services. The user is obliged to take care and to use correctly the telecommunication equipment which is provided by the public telecommunication operator or by the provider of the public telecommunication services, and must not change the equipment, or to undertake any other action to avoid the payment of the received public telecommunication services.

#### **Article 8**

The owners and the operators of the telecommunication networks and devices must not unjustifiably interrupt the functioning of the telecommunication networks and devices of other owners and operators.

The owners and the operators of the telecommunication networks and devices and the providers of the telecommunication services must not do something that would limit or cause damage to the competition.

#### **Article 9**

It is forbidden to purposely transmit or pass messages that violate the constitution of the Republic of Macedonia, stimulate war aggression or which cause national, racial or religious hatred and intolerance.

#### **Article 10**

The owners and the operators of the telecommunication networks and devices and the providers of the telecommunication services must, within the technical possibilities, ensure the non-violation of the privacy of messages, especially non-violation of messages that are transmitted during emergencies.

The protection of the privacy from Paragraph 1 of this Article does not refer to messages of international character for which the Republic of Macedonia concluded contracts, and according to the regulations of the Republic of Macedonia, there is a withdrawal from this obligation.

Individuals who have access to the content of the messages transmitted through the telecommunication networks and devices from Paragraph 1 of this Article, are forbidden to announce the message to unauthorized personnel.

#### **Article 11**

The owners and the operators of the telecommunication networks and devices and the providers of the telecommunication services must give priority to messages which refer to the security and defense of the country and human lives, and to the protection of the property.

#### **Article 12**

In apartment buildings with more than six apartments and business buildings, the investor is obliged to install internal telecommunication installation.

#### **Article 13**

The owners and the operators of the telecommunication networks and devices and the providers of the telecommunication services are obliged to keep records, certain technical and other data of their telecommunication system which are important for the safety and protection of the country, and those data, upon request, must be submitted to the Ministry of Defense in a manner determined by the Government of the Republic of Macedonia.

#### **Article 14**

The Government of the Republic of Macedonia shall determine the conditions and manner for using the telecommunication networks and devices during war situation or emergencies

#### **Article 15**

For the sake of correct and continuous functioning, the owners and operators of the telecommunication networks and devices are obliged, in normal, war or emergency situation, to maintain the same in operating condition.

In case of breakdown of the telecommunication networks and devices, the public telecommunication operators must inform the Board of Telecommunications of the breakdown in the domestic or international telecommunication networks and devices immediately, at the latest within two hours of the breakdown, i.e. within one hour of the breakdown of the broadcasting transmitters.

### **VI. RADIO COMMUNICATIONS**

#### **Article 33**

The radio frequencies and the radio stations that are used to establish radio communications, can be used in accordance with this Law, the concluded international contracts by the Republic of Macedonia, and in accordance with the regulations passed on the basis of this Law.

The regulations for awarding the radio frequencies and the technical conditions for using the radio frequencies and radio stations are passed by the Minister of Transport and Communications upon the proposal of the Board.

#### **Article 34**

The use of the radio frequencies is determined by the Application Plan for radio frequency ranges and by the Plan for distribution of radio frequencies.

The right to use the radio frequencies is obtained through the work permits for radio stations. The permits can be issued to domestic and foreign legal and physical entities.

For the right to use the radio frequencies from Paragraph 2 of this Article, the users must pay an annual fee according to Article 61 of this Law.

The government bodies and radio amateurs are released from the payment of the fees from Paragraph 3 of this Article.

### **Article 35**

The application plan of the radio frequency ranges determine:

1. the limits of radio frequency ranges which are intended for certain radio services and categories of services; and
2. The basic conditions for distribution and use of radio frequencies.

### **Article 36**

The plans for distribution of radio frequencies determine:

1. the conditions for distribution of radio frequencies from the intended radio frequency range;
2. distribution of radio frequencies according to locations, regions, whether for one radio service or for more; and
3. mutual use of the same frequency for the same zone of radio covering by many users.

The plans for distribution from Paragraph 1 of this Article are determined on the basis of the application plan from Article 35 of this Law.

### **Article 37**

The Plans from Article 35 and 36 of this Law are passed by the Minister of Transport and Communications, upon the proposal of the Board.

The Plans from Paragraph 1 of this Article must be in accordance with the international regulations for radio frequencies and with international contracts concluded or joined by the Republic of Macedonia.

### **Article 38**

A radio station can be purchased, imported or founded on the basis of a permit for purchasing and founding of the radio station. A radio station from Paragraph 1 of this Article can be imported into the Republic of Macedonia on the basis of previously obtained permit from Article 47 of this Law.

Legal and physical entities importing radio stations into the Republic of Macedonia, must declare the same to customs services at the border. The customs service seals the permit for purchasing, and thus the import of the radio station is legalized.

Exception to Paragraph 3 of this Article is a company or any other legal entity that imports the radio station for selling purposes, registered for such activity, can import radio stations only on the basis of a permit issued by the Board.

For the imported radio stations from Paragraph 4 of this Article, the companies and other legal entities must keep records for the radio stations on the basis of the Rules of Procedure for the radio stations and the manner of keeping records, determined by the Minister of Transport and Communications.

For radio stations in determined radio nets (tracking systems and systems for transmitting messages - beeping system), a mutual permit for the import and founding of the radio station is issued. For radio stations for aviation, marine and locomotive, only one permit for purchasing and founding is issued.

A permit to purchase and found an amateur radio station can be issued to a member of the Radio Amateur Association of Macedonia, if there is a radio amateur permit, and with a prior opinion of the Ministry of the Interior and the Ministry of Defense. A permit for purchasing and founding a CB radio station is issued to the citizens of the Republic of Macedonia.

#### **Article 39**

For radio stations whose quality is being tested and examined, a temporary permit is issued by the Board. The duration of the permit of the radio station from Paragraph 1 of this Article cannot be longer than 60 days.

#### **Article 40**

Referring to the provisions of Article 38 of this Law, a permit for purchasing and founding radio stations can not be issued to:

1. radio and television receivers that operate in the frequency region intended for a direct reception of the radio and TV programs;
2. radio stations for remote control of toys and equipment which operate on radio frequency ranges intended for citizens; and
3. radio receivers from the systems for transmitting messages and calling people.

#### **Article 41**

Certain types of radio stations on the territory of the Republic of Macedonia can be used by diplomatic and consular representatives, under conditions of reciprocity.

The Minister of Transport and Communications, in accordance with the Ministers of the Interior and of Foreign Affairs, determines the types of radio stations that can be used by diplomatic and consular offices.

#### **Article 42**

The radio frequencies and the certain types of radio stations can be used by foreign legal individuals who in the Republic of Macedonia perform business-technical, informative, scientific, cultural, sport or other type of cooperation with bodies and organizations in the country on the basis of a permit for operating the radio station. The foreign citizens who temporarily reside in the Republic of Macedonia, up to three months, or cross the territory of the Republic of Macedonia, may use radio frequencies and certain types of radio stations, with a permit issued in their country, translated into one of the languages for issuing CEPT documents, on the basis of an approval by the Board, and on the basis of reciprocity and recommendations of CEPT, in accordance with this Law.

#### **Article 43**

A request for a permit for purchasing and founding of a radio station, a permit for operating a radio station or a temporary permit for radio station is submitted to the Board.

Along with the request for purchasing and founding of a radio station for performing public telecommunication services, it is necessary to submit a decision for concession for those services.

The request for permit from Paragraph 1 of this Article for a radio amateur station is submitted through the Radio Amateur Association of the Republic of Macedonia.

The issued permits from Paragraph 1 of this Article cannot be transferred or given to another legal or physical entity without prior approval of the Board.

#### **Article 44**

The request for issuing permits for purchasing and founding of a radio station must include technical information and drawings, determined by the Board.

#### **Article 45**

A radio station can start operating only after the performed technical inspection and obtained of the working permit. The Board carries out the technical inspection of Paragraph 1 of this Article. The manner and the procedure for the technical inspection are determined by the Board.

#### **Article 46**

The technical inspection from Paragraph 1 of Article 45 of this Law is payable. The technical inspection of the amateur radio stations is free of charge.

The fee for the technical inspection of Paragraph 1 of this Article is determined by the Minister of Transport and Communications, upon the proposal of the Board.

#### **Article 47**

A permit for purchasing and founding, a work permit or a temporary permit for radio station, is issued by the Board.

A complaint against the denial to the request for permits from Paragraph 1 of this Article can be submitted to the Commission of the Government of the Republic of Macedonia, for a second-degree decision.

#### **Article 48**

A permit for purchasing and founding of a radio station is issued for a period of one year, with a possibility to prolong for another.

The permit for operating a radio station is issued for a period of five years. The duration period of the work permit can be prolonged for another five years, by a manner and procedure set forth in this Law, if the Board is of an opinion that the owner of the permit fulfills the conditions for permits for radio stations or concessions.

The work permit for aviation, marine or locomotive is issued permanently, until those traffic means can operate.

#### **Article 49**

The radio station can start operating at the latest within one year from the date of issuing the permit for purchasing and founding of the radio station.

#### **Article 50**

The work permit for the radio station terminates when:

1. the due term is over;
2. the permit is changed;
3. the due term for the start of the operation of radio station is over;
4. the owner of the radio station ceases to exist;
5. the need of the radio station is terminated;
6. the deprivation of the right to use the radio station;
7. the expropriation of the radio station is performed without prior approval of the Board, or disposing the same; and
8. the concession for performing public telecommunication service determined in the concession contract is over.

#### **Article 51**

The owner of the radio station, during its use, must obey the conditions set forth in the permit, conditions determined by this Law, and the regulations passed on the basis of this Law.

The owner of the radio station must provide safe operation of the radio station that is not to cause interruption in the operation of other radio stations, or any other telecommunication networks and devices.

#### **Article 52**

If, during the operation of the radio station, a change occurs in the Plan for application of the radio frequency ranges and in the Plans for distribution of radio frequencies, in the regulations governing the conditions for use of radio frequencies, the owner of the radio station is obliged, upon the request of the Board, to adjust the operation of the radio station to the newly occurred situation.

#### **Article 53**

During the operation, the radio station must be identified according to the regulation for identification of radio stations.

The provisions of Paragraph 1 of this Article do not refer to radio stations for public mobile telecommunication network, radio relay networks, radio stations which transmit certain signals for hazards (dangers) and other radio stations determined by the regulation for identification of the radio stations.

The regulation of Paragraph 1 of this Article is passed by the Minister of Transport and Communications, upon the proposal of the Board.

#### **Article 54**

The Board tests and controls the radio frequency spectra, searches out for operation of radio stations without permit, measures radio stations which cause interruptions, and carries out other necessary measurements for management and control of the radio frequency spectra.

### **XI. SUPERVISION**

#### **Article 75**

The inspection supervision over the enforcement of this Law and regulations passed on the basis of this Law, international contracts concluded or joined by the Republic of Macedonia, concerning the telecommunications, is carried out by the Board within its authority, by its telecommunication inspectors.

#### **Article 76**

In performing the supervision from Article 75 of this Law, the telecommunication inspector, may propose to the Director of the Board to:

1. forbid the use of telecommunication equipment which is installed or built in the public telecommunication network, if there is no proof that the technical norms and conditions are satisfied, or if it is not marked with a special mark;
2. forbid the use of electric or other technical equipment, if there is not proof for conducted tests against electromagnetic disturbances, or if it is not marked with a special mark;
3. forbid the performance of public telecommunication activity, if there is no concession, or if there is no contract for allowing concession;
4. forbid the operation of a radio station, if there is no permit for operating the radio station;
5. forbid temporary operation of a radio station, if the operation of the radio station disobeys the determined conditions and work regulations, or makes harmful interruptions, until all the faults are removed;
6. forbid construction of objects in the protection zone of the radio corridor of a radio station;
7. temporary forbid construction close to telecommunication networks and devices, if a prior approval is not obtained from the owner of these networks and devices, until the approval is obtained;

8. order removal of faults of the electric and other equipment that causes electromagnetic disturbances in the operation of the telecommunication networks and devices;
9. order removal of deficiencies in the construction, maintenance or use of the telecommunication networks and devices, in giving services or performing concessionary activity, if the Law is not obeyed, the regulations passed on the basis of the Law and technical conditions and norms;
10. order to carry out a control of the equipment and apparatus that serve to the owner of the telecommunication network and devices for control and measurement of the quality and volume of the telecommunication services;
11. upon the request of the inspector from Paragraph 1 of this Article, expert organizations authorized by the Minister of Transport and Telecommunications shall perform necessary measurements and tests of the telecommunication networks and devices and radio stations. If the owner of the telecommunication means does not act according to the decision for forbiddance to operate the telecommunication means, or if by its operation disturbs the operation of other telecommunication networks and devices, the telecommunication inspector shall close the working premises or the telecommunication means whose operation is not in accordance with the provisions of this Law.

The closing of Paragraph 2 of this Article is denoted by a seal. The content and the form of the seal are determined by the Minister of Transport and Communications.

After the removal of the stated faults and irregularities due to which the sealing of the working premises or the telecommunication means was performed, and upon the request of the owner, the telecommunication inspector removes the seal from the working premises or the telecommunication means.

#### **Article 77**

The owner and the operator of the telecommunication networks and devices, of radio station, is obliged to provide an entrance to the telecommunication inspector to the working premises where the telecommunication equipment and the technical devices are located, to give him necessary reports and documents, and upon the request of the inspector, to submit necessary data and material for performance of the supervision.

#### **Article 78**

The telecommunication inspector can be a person with a degree in Electrical Engineering, major in electronics and telecommunications, with at least three years of experience in the field.

#### **Article 79**

In performing the inspection, the telecommunication inspector must have an ID card to confirm the role of the inspector, and the card must be shown upon request. The form and the manner for issuing ID card are determined by the Minister of Transport and Communications.

#### **Article 80**

The Director of the Board, upon the proposal of the inspector, in performing the inspection supervision passes a decision within the authorizations determined by this Law.

Against the decision from Paragraph 1 of this Article, a complaint can be submitted to the Commission of the Government of the Republic of Macedonia within 8 days following the reception of the decision. The complaint does not postpone the enforcement of the decision.

### **XII. PENALTY PROVISIONS**

#### **Article 81**

With a fine varying from 50,000 to 250,000 denars, a company or legal entity shall be punished, if:

1. in apartment buildings with more than six apartments and in administrative buildings the investor does not build in internal telecommunication installation (Article 12);

2. does not allow mutual connection within the period determined in Paragraph 1 of Article 20;
3. until December 31, 2005, gives, organizes, advertises, promotes, or in any other way participates in organizing call back services and provides fixed vocal telephone services, telegraph, telex or public booth services and hired line services, according to Article 22 of this Law;
4. builds, possesses and operates a public telecommunication network and provides public telecommunication services without having concession, according to Articles 22 and 23 of this Law;
5. performs public telecommunication services for a third party (Article 30);
6. connects the telecommunication network for its own needs to the public telecommunication network without prior fulfilling the technical and exploitation conditions, or without prior permit from the owner of the public telecommunication network (Article 31);
7. fails to provide sufficient continuous electric charge to the objects and telecommunication means (Article 63);
8. the electroenergetic plants for transmission, distribution and use of the electricity which are located nearby the telecommunication services and means, are constructed, used and maintained in such a manner that they interrupt the functioning of the telecommunication networks and means, and endanger the life and health of the people who perform those activities (Article 70);
9. in building telecommunication networks and devices, all the precautions are not taken into consideration in order to protect the property of the owners, the safety of the citizens, and all the measures for safe trafficking is not properly considered (Article 71, Paragraph 2), and
10. does not allow the telecommunication inspector to seal the working premises or the telecommunication means (Article 76, Paragraph 2).

With a fine varying from 5,000 to 30,000 denars the person in charge of the company or any other legal entity shall be punished for the violation from Paragraph 1 of this Article.

## **Article 82**

With a fine varying from 50,000 to 250,000 denars, a company or legal entity shall be punished, if:

1. with its own telecommunication network or devices interrupts the functioning of other telecommunication networks and devices (Article 8);
2. transmits or passes messages which violate the constitution, call for war aggression, or causes national, racial or religious hatred or intolerance (Article 9);
3. fails to provide secrecy of the messages, specially secrecy of messages being transmitted in emergency situation, or if the content of the message is transmitted to unauthorized personnel (Article 10);
4. fails to give priority in transmitting messages referring to the safety and defense of the country and human lives, and violation of larger part of property (Article 11);
5. fails to submit certain technical and other data for its telecommunication system, important for the safety and defense of the country, and does not submit the same to the authorities in charge (Article 13);
6. in cases of interruption of the public telecommunication networks and devices, fails to inform the Board on time or within the terms determined by Article 15 of this Law;
7. imports a radio station in the Republic of Macedonia without prior obtaining a permit or approval (Article 38);
8. uses a radio station with a temporary permit for radio station after the due term determined by Article 39 of this Law;
9. the permit for purchasing and founding, the work permit or the temporary permit for the radio station, is transferred or retreated to another legal or physical entity without prior approval by the Board (Article 43, Paragraph 4);
10. starts to operate a radio station without performed technical survey and uses radio station without the work permit for radio station (Article 45);
11. while operating the radio station, fails to confirm to the assigned conditions, or if fails to secure safe operation of the radio station and causes interruptions to other radio stations, or to other telecommunication networks and means (Article 51);
12. upon the request of the Board, fails to adjust the operation of the radio station to the occurred changes regulated by Article 52 of this Law;
13. the radio station during its operation, is not identified (Article 53, Paragraph 1);

14. from the owner of the telecommunication networks and devices fails to obtain a prior approval nearby its networks and devices, certain construction works can be performed or new buildings can be built (Article 62, Paragraph 2);
15. in the safety zone of the radio station, in the airspace from one to another radio station, builds other radio station or objects and plants which by their location, construction and functioning can prevent the spreading of radio waves or can cause interruptions in the radio connections (Article 66);
16. nearby the above ground and underground telecommunication networks and means, in the directions of the radio corridors, plants seedlings which can damage or prevent the operation of those networks and means (Article 67, Paragraph 1);
17. fails to provide protection of the telecommunication networks and devices in accordance with technical conditions for construction of those networks and devices in building or reconstructing the investment object (Article 68, Paragraph 1);
18. the electric or other technical equipment causes electromagnetic disturbances to the operation of the telecommunication network or devices, or in the reception of the radio and television programs (Article 69, Paragraph 1);
19. fails to allow the telecommunication inspector to enter the premises where the telecommunication equipment and technical means are located, and does not give the necessary reports and documentation (Article 77), and
20. fails to follow the instructions stated in the decision of the telecommunication inspector (Article 80).

For violating Paragraph 1 of this Article, the company or entity shall be fined from 5,000 to 30,000 denars, and the person in charge of the company or any other legal entity may receive, as a security measure, a prohibition to perform managing activity with a duration from three months to a year.

Besides the penalty of Paragraph 1 of this Article, a security measure can be passed for taking the objects with which the violation was performed, and the prohibition may last from three months to a year.

### **XIII. TRANSITIONAL AND FINAL PROVISIONS**

#### **Article 91**

The concession for performing the radio broadcasting activity shall be granted under terms and conditions determined by this Law and the Broadcasting Activity Law (Official Gazette of the Republic of Macedonia No. 20/97).

The inspection supervision from Article 82 of the Broadcasting Activity Law shall be performed by the Board of Telecommunications, and until its formation, by the Republic's Inspectorate for Transport and Communications as a constituent body of the Ministry of Transport and Communications.