

**STATUTE OF THE REGULATORY AGENCY FOR
ELECTRONIC COMMUNICATIONS AND POSTAL SERVICES**

(Official Gazette of RS, nos. 125/2014 and 30/2016)

Explanatory provision

Article 1

The Statute shall regulate the issues of relevance to business activities, organization and operation of the Regulatory Agency for Electronic Communications and Postal Services, in particular, the seat, the tasks and the manner of performing thereof, work resources and the manner of financing, management and scope of work of the bodies, representation, internal organization, procedure and manner of establishing cooperation with other entities, work transparency and other issues.

Establishment of the Agency

Article 2

The Regulatory Agency for Electronic Communications and Postal Services (hereinafter: the Agency) established under the Law on electronic Communication (*Official Gazette of the Republic of Serbia*) is an autonomous regulatory organization with the status of a legal entity which exercises public authorities in order to effectively implement the established electronic communications policy, promote competition of the electronic communications networks and services, enhance their capacity and/or quality, contribute to the development of electronic communications market and protect the interests of users of electronic communications services, pursuant to provisions of the Law and the by-laws adopted pursuant thereto, as well as the regulatory and other activities pursuant to the separate law regulating postal services.

Name, Seat and Status

Article 3

The seat of the Agency shall be in Belgrade, 2 Palmotićeve Street.

Article 4

The Agency shall have the status of a legal entity.

Seal and Signet

Article 5

The Agency shall have a seal and a signet.

Article 6

The Agency seal shall be round, with a 32 mm diameter.

The Agency seal shall bear the small coat of arms of the Republic of Serbia and the following text: “Republic of Serbia, Regulatory Agency for Electronic Communications and Postal Services – Belgrade”.

The text on the seal shall be written in concentric circles around the small coat of arms of the Republic of Serbia.

The seal ordinal number shall be written in Roman numerals under the small coat of arms of the Republic of Serbia.

The text of the Agency seal shall be written in Serbian language, in Cyrillic.

Article 7

The Agency signet shall be rectangular, 60x30 mm in size.

The Agency signet shall contain the following text: “Republic of Serbia, Republic Agency for Electronic Communications – 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 bear the name of the place where the organizational unit is situated.

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

Article 8

The usage, seal and signet number and the manner of keeping and destroying the seal and signet shall be determined by means of a general act passed by the Managing Board of the Agency.

Logo

Article 9

The Agency shall have a logo.

The logo shall also bear the shorter name of the Agency: RATEL.

Legal status

Article 10

The Agency shall be functionally and financially independent of other state authorities, as well as other organizations and entities performing activities in the field of electronic communications and postal services.

Unless otherwise stipulated by the Law, the Agency shall operate in accordance with the provisions pertaining to public agencies.

The relevant Ministry in charge of the electronic communications and postal services shall supervise the lawfulness and functionality of the Agency in performing the entrusted tasks.

The Agency may form an advisory council as an advisory body for the purpose of considering and endorsing positions regarding the most complex issues from the field of electronic communications and postal services.

The members of the advisory council shall be elected by the Managing Board among the eminent experts from the field of electronic communications and postal services.

The advisory council shall have their rules of procedure.

For the purpose of performing specific specialist tasks which fall within its competencies, the Agency may engage other national or foreign legal and natural entities.

Article 11

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

Competencies of the Agency

Article 12

The Agency shall have the competencies to:

- 1) adopt by-laws;
- 2) decide on the rights and obligations of operators and users;
- 3) co-operate with entities and organizations in charge of the sector of broadcasting, competition protection, user protection, personal data protection and other entities and organizations concerning the issues of relevance to the field of electronic communications and postal services;
- 4) co-operate with the responsible regulatory and expert authorities of the European Union Member States and other states in order to harmonize the practice of implementation of the regulation pertaining to electronic communications and postal services and to encourage the development of cross-border electronic communications networks and services;
- 5) participate in the work of international organizations and institutions in the field of electronic communications acting as the national regulatory authority for electronic communications and postal services;
- 6) perform regulatory affairs in the field of postal services, pursuant to the separate law regulating postal services;
- 7) perform other tasks in accordance with the Law;

The Agency shall perform the tasks referred to in paragraph 1 hereof as entrusted tasks, impartially and transparently.

Article 13

The Agency may close contracts and perform other activities within the scope of competencies referred to in Article 12 hereof

In exercising the tasks within its authority, in terms of legal operations the Agency shall perform the activities in its own name and on its own behalf.

Bodies of the Agency

Article 14

The bodies of the Agency shall be the Managing Board and Director.

Managing Board

Article 15

The Managing Board of the Agency shall consist of five members, including the Chairperson and the Deputy Chairperson.

Pursuant to the Law, the Chairperson, the Deputy Chairperson and the members of the Managing Board shall be appointed and relieved from the office by the National Assembly upon the proposal of the Government, based on the public call for appointment carried out pursuant to the Law.

The members of the Managing Board shall be appointed to a term of five years. The same person shall not be eligible to hold office in excess of two consecutive terms.

Scope of Competencies of the Managing Board

Article 16

In accordance with the Law, the Managing Board of the Agency shall:

1) adopt the annual work plan of the Agency, which shall be in accordance with the strategic acts and action plans set within the field of electronic communications and postal services, no later than 15 December of the current year for the following year;

2) adopt, based on the two-thirds majority, the Statute of the Agency which shall be subject to approval by the Government;

3) adopt the Rules of Procedure of the Managing Board;

4) adopt rulebooks, instructions, decisions and all other acts, which regulate the issues within the scope of competencies of the Agency in a general manner, as well as all other acts stipulated under the Law and/or separate law regulating postal services;

5) perform work set out under the separate law regulating postal services;

6) adopt the financial plan of the Agency no later than 15 November of the current year for the following year, which shall be in accordance with the Law and subject to approval by the Government;

7) adopt the financial report of the Agency which shall be submitted to the Government together with the report of the chartered auditor;

8) adopt the annual report on the activities of the Agency, containing the elements set under the Law and pertaining to the preceding year, which shall be submitted to the National Assembly no later than the end of June of the current year;

9) engage and dismiss independent chartered and determine the fee for his/her services;

10) approve the act regulating the internal organization and job classification within the Agency, to be adopted by the Director of the Agency, as well as general acts adopted by the Director of the Agency pursuant to Article 17, paragraph 7 of the Law;

11) appoint or relieve from office the Director of the Agency, based on the public call for the appointment carried out in accordance with the provisions stipulated under the Law;

12) perform other tasks which are outside the scope of Director's competencies, in accordance with the Law, and/or separate law regulating postal services and this Statute.

Work of the Managing Board

Article 17

The work of the Managing Board shall be transparent.

The Managing Board shall adopt decisions in sessions which shall be held as necessary.

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

The Managing Board can reach decisions only if at least three members of the Managing Board are present in the session.

The Managing Board shall adopt decisions by the majority of votes of the total number of the members of the Agency Managing Board, unless otherwise stipulated under the Law or the Statute.

The convocation, the manner of work and the decision-making of the Managing Board shall be regulated in detail under the Rules of Procedure of the Managing Board.

The Rules of Procedure shall stipulate, in particular, the manner of work of the Managing Board, preparation and convocation of sessions, chairing the sessions, course of the sessions, adoption of by-laws, maintenance of order at the sessions, postponement, suspension and conclusion of the sessions, as well as the contents of the session minutes.

Publishing General By-laws

Article 18

The Managing Board shall adopt rulebooks, decisions and other acts which shall regulate, in a general manner, the issues which fall within the competencies of the Agency.

Before publishing general by-laws, the Agency shall be required to obtain the opinion the relevant ministry on the constitutionality and lawfulness of the by-laws, whereas the relevant ministry shall be required to provide a proposal, accompanied by reasoning, on aligning the by-law with the Constitution, law, other regulation or general act of the National Assembly and the Government, in accordance with the law regulating state administration.

Remuneration for the Work on the Managing Board

Article 19

Members of the Managing Board shall be entitled to monthly remuneration for their work on the Managing Board which may not exceed a single total average income per employee, before taxes and contributions, increased for projected inflation in the Republic of Serbia.

The Chairperson and the Deputy Chairperson of the Managing Board shall be entitled to a remuneration which may not exceed average net income, referred to in paragraph 1 hereof, increased by 50% and 20% respectively.

The means for the remuneration referred to in paragraphs 1 and 2 hereof shall be allocated in the financial plan of the Agency.

Appointment and Relief from Office of Members of the Managing Board

Article 20

Members of the Managing Board shall be appointed and relieved from office, i.e. the termination of the term of office shall be conducted, according to the manner, conditions and procedure stipulated under the Law.

Director of the Agency

Article 21

The Director shall be responsible for the lawfulness of the work of the Agency, he/she shall represent and act on behalf of the Agency, manage the activities and business operations of the Agency, decide on the rights, obligations and responsibilities of the Agency's employees, prepare and implement decisions of the Managing Board, ensure the transparency of work of the Agency and perform other tasks stipulated under the Law or this Statute.

The Director of the Agency shall be appointed by the Managing Board based on the carried out public call and in accordance with the Law.

Director of the Agency shall be appointed to a term of five years and may be reappointed.

Director of the Agency shall be permanently employed by the Agency during his/her term of office.

Director of the Agency shall be held responsible for his/her work by the Managing Board and shall submit annual and periodical reports to the Managing Board.

The Director shall adopt a general act regulating the internal organization and job classification in the Agency, subject to approval by the Managing Board.

The Director shall adopt, pursuant to general labour regulations, a general acts regulating in detail the rights and obligations of the Agency employees, other issues pertaining to labour relations and issues pertaining to stipulation of procedures and technical rules to be followed by the employees when performing specific tasks in the Agency.

Requirements for the Appointment of the Director

Article 22

A person to be appointed as the Director of the Agency shall meet the same requirements as those set for the appointment of the members of the Managing Board of the Agency and shall have at least five years of working experience in one or more areas falling within the scope of the activities of the Agency.

Procedure for the Appointment of the Director

Article 23

The Managing Board shall announce the public call for the appointment of the Director referred to in Article 17, paragraph 2 of the Law and shall have the announcement published in the *Official Gazette of the Republic of Serbia* and on the Agency's website.

The announcement of the public call for the appointment shall include the following:

- 1) requirements the candidate has to meet in order to be appointed, as stipulated under the provision of Article 18 of the Law;
- 2) evidence to be provided in support of the application;
- 3) deadline for the submission of application;
- 4) the manner of submission of application;
- 5) timeframe for notification of the candidates about the commencement of the election process;
- 6) information about the election process;
- 7) name of a person designated to give information about the public call for appointment;
- 8) other information of relevance for the appointment procedure.

The application for the participation in the appointment procedure shall be submitted to the Agency within 30 days from the announcement of the public call in the *Official Gazette of the Republic of Serbia*.

The Managing Board shall compose a list of candidates who meet the requirements for the appointment within 30 days following the expiry of the deadline referred to in paragraph 3 hereof.

The Managing Board shall appoint the Director from the list referred to in paragraph 4 hereof.

The Managing Board shall forward a decision on the appointment of the Director to all candidates who have applied to the public call for appointment.

If none of the candidates meet the requirements set out in the public call for the appointment, the entire procedure for the appointment of the Director shall be repeated.

Termination of the Director's Term of Office

Article 24

The term of office of the Director may be terminated in the following cases:

- 1) expiry of the term to which he/she has been appointed;
- 3) cancellation of employment contract, pursuant to the law governing labour relations;
- 4) dismissal for reasons prescribed by the Law;
- 5) death.

Relief from Director's Office before the Expiry of the Term of Office

Article 25

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The Managing Board shall relieve the Director before the expiry of his/her term of office if:

- 1) it is established that, in the application for the appointment, he/she provided incorrect data or omitted to provide data on circumstances which are relevant for his/her appointment;
- 2) it is established that during the term of his/her office, he/she has violated the rules pertinent to the conflict of interest and incompatibility of functions, as stipulated by the law regulating the prevention of conflict of interests while serving public offices;
- 3) due to illness or any other reason he/she becomes unable to perform his/her duties for a period exceeding six consecutive months;
- 4) he/she fails to submit the work report to the Managing Board in a timely manner, as stipulated under the Law;
- 5) if he/she administers the Agency's funds contrary to the adopted financial plan;
- 6) he/she makes it difficult or impossible for the Agency to perform its activities due to negligent or incorrect work, causes a major damage to the Agency, acts contrary to the Law and/or separate Law regulating postal services or the by-laws adopted pursuant thereto, or if his/her neglect and/or negligence in performing the duties should lead or are likely to lead to major hindrances to Agency's work.
- 7) he/she has been deprived of legal capacity;
- 8) he/she has been sentenced by a final court decision to a prison term exceeding six months or charged with a criminal offence of abusing official powers, fraud, theft, forgery or other similar criminal offence, such as to make him/her unworthy of serving the office.

Article 26

Director of the Agency shall represent the Agency in legal affairs.

Article 27

Director of the Agency may transfer some tasks which fall within his/her competencies to other employees of the Agency, by means of special authorization.

Decisions on the Rights and Obligations of Operators and Users

Article 28

Pursuant to the Law and/or special law regulating postal services, at the request of interested parties or as per duty, the Agency shall adopt a decision on the rights and duties of operators and postal operators and users referred to in the Law and in the separate law.

The decision referred to in paragraph 1 hereof shall be passed by the Director of the Agency.

Provisions of the Law regulating general administrative procedure, provisions of the Law and/or separate law regulating postal services and general by-laws and the Agency, shall be applied to the decision-making procedure on the rights and obligations referred to in paragraph 1 hereof.

The decision from paragraph 2 hereof shall be final and administrative litigation may be initiated against it.

The litigation shall not postpone the execution of the decision referred to in paragraph 2 hereof.

Transparency of the Work of the Agency

Article 29

The work of the Agency shall be transparent.

In addition to the obligation to make publically available the adopted by-laws, pursuant to the law regulating state administration, according to the provisions regulating personal data protection and confidential data protection, taking into account business confidentiality, the Agency shall be required to make publicly available the adopted by-laws and other complete and updated data and information from within its scope of activities, in particular: free of charge and

- 1) provisions for the implementation of the Law and other general by-laws;
- 2) minutes from sessions and decisions of the Managing Board;
- 3) registers, records and databases, in accordance with the Law and by-laws of the Agency;
- 4) comparative reviews of the quality and prices of the publicly available services and other data relevant to the protection and promotion of consumer and/or end-user rights;
- 5) expert opinions, studies and analyses commissioned by the Agency;
- 6) statistical data and other indicators of the development of the electronic communications market;
- 7) excerpts from the financial plan, financial report and the annual report of the Agency;
- 8) programme of public consultations as well as the opinions on the subject-matter of public consultations;
- 9) other data and information related to the activities and business operation of the Agency.

In making the data and information referred to in paragraph 2 of this Article publicly available, the Agency shall adhere to the provisions on the protection of personal data, confidential data and business confidentiality.

Article 30

The transparency of the work of the Agency shall be achieved through public consultations held in the process of adoption of general by-laws which fall within the competencies of the Agency, with the aim of obtaining opinions from expert and general public, and in accordance with the Law, the law regulating postal services and by-laws adopted by the Agency.

Article 31

The Agency shall be entitled to seek from operators the data and information deemed necessary for performance of the tasks which fall within its competencies.

The Agency shall keep the data referred to in paragraph hereof as business confidentiality, pursuant to the law and/or separate laws regulating postal services and other rules.

Operational Assets of the Agency

Article 32

Operational Assets of the Agency shall be provided from the revenues generated from the fees for the use of numbering resources, fees for the use of radio-frequencies, fees for performing electronic communications activities, annual fee for performing postal services and, also, from the revenues generated by the Agency by providing services within the scope of its activities, charged according to the Law and/or separate law regulating postal services which shall be in accordance with this Law.

Financial Plan of the Agency

Article 33

The Agency shall be financed in accordance with the financial plan.

The financial plan shall specify the total revenues and total expenditures of the Agency, including contingency reserves, and the elements for determining cost pertinent to earnings.

Total revenues of the Agency envisaged in the financial plan may not exceed the costs necessary for the successful performance of its responsibilities, whereas unforeseen expenditures shall not exceed 2% of the planned expenditures.

The financial plan shall be adopted by the Managing Board of the Agency not later than 15 November of the current year for the following year.

The financial plan shall be subject to Government approval.

In cases the Government does not approve the financial plan referred to in paragraph 4 hereof prior to the beginning of the year for which the financial plan is adopted, the expenditures of the Agency for each following quarter shall not exceed one quarter of the total amount of assets used in accordance with the financial plan for the previous year, until the approval referred to in paragraph 5 hereof is obtained.

Internal organization

Article 34

Rules on the internal organization and job classification shall specify in greater detail the internal organization, work positions, requirements necessary for employment and distribution of employees within the Agency.

The Rules referred to in paragraph 1 hereof shall be adopted by the Director, subject to the approval by the Managing Board.

Article 35

Activities and tasks which fall within the scope of work of the Agency shall be carried out within organizational units.

An organizational unit shall be managed by the unit head appointed and relieved from duty by the Director of the Agency.

The unit head shall answer directly to the Director of the Agency for his/her work.

Article 36

The activities of the Agency may also be performed outside the Agency seat through organizational units, while the work and tasks of such units shall be regulated by the general act regulating internal organization and job classification.

Rights, Duties and Responsibilities of the Employees

Article 37

In accordance with the Law and the Statute, the general regulations governing labour relations, as well as the provisions of general by-laws of the Agency, shall be applied to the rights, duties and responsibilities of the Agency employees.

Employment

Article 38

The employment with the Agency shall be taken up following the completed procedure, based on the public announcement of job vacancies, pursuant to the law.

Cooperation

Article 39

The Agency shall establish cooperation with entities and organizations in charge of broadcasting, protection of competition, user protection and protection of personal data, and with other entities and organizations responsible for issues of relevance for the field of electronic communications and postal services.

The Agency shall establish cooperation with the relevant regulatory and expert bodies of the European Union Member States and of other states, for the purpose of harmonizing the practice electronic communications regulation implementation and promoting the development of cross-border electronic communications networks and services.

The Agency shall participate in the work of international organizations and institutions in the field of electronic communications and postal services in the capacity of the national regulatory authority for electronic communications and postal services.

Amendments to the Statute and other General By-laws

Article 40

Amendments to this Statute and other general by-laws shall be made pursuant to the procedure stipulated for the adoption thereof.

The authentic interpretation of the Statute, either as a whole or of the single provisions thereof, shall be issued by the Managing Board of the Agency.

Business confidentiality

Article 41

Documents and information pertaining to the work of the Agency shall be treated as confidential if disclosing thereof would harm the reputation and/or interests of the Agency, the

activities it performs or the entities the Agency cooperates with in performing the tasks that fall within the scope of its competencies.

Director of the Agency shall pass an act which shall specify in greater detail the documents and information to be considered confidential and the manner of handling such documents and information.

Members of the Managing Board, employees of the Agency and any person engaged to carry out work of the Agency shall treat information as confidential pursuant to the Agency act.

The Agency shall protect the confidentiality of business, commercial and other information considered to be confidential, submitted to the Agency for the purpose of performing the tasks that fall within the scope of its competencies or made available thereto for the purpose of performing specific tasks.

Environment Protection

Article 42

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

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

Transitional and Final Provisions

Article 43

The Republic Agency for Electronic Communications, established by the Law shall continue to work under the name of the Regulatory Agency for Electronic Communications and Postal Services, in accordance with the Law and this Statute.

The employees of the Republic Agency for Electronic Communications shall continue to work as the employees of the Regulatory Agency for Electronic Communications and Postal Services.

The Regulatory Agency for Electronic Communications and Postal Services shall take over from the Republic Agency for Postal Services all employees and appointed officials, as well as rights, obligations, files, assignments, equipment, work assets and archive for performing the work in the field of postal services, no later than three months following the entry into force of the law stipulating the cessation of work of the republic Agency for Postal Services.

The employees and appointed officials of the Republic Agency for Postal Services shall be assigned to appropriate posts in the Regulatory Agency for Electronic Communications and Postal Services by closing employment contracts, following the entry into force of the Rules on the internal organization and job classification in the Agency.

Article 44

The Regulatory Agency for Electronic Communications and Postal Services shall continue use the same logo as the one which was used by the Republic Agency for Electronic Communications bearing the following text: “Republic of Serbia - RATEL – Regulatory Agency for Electronic Communications and Postal Services” .

The Managing Board shall adopt the Rules of Procedure of the Managing Board no later than 30 days from the day this Statute comes into force.

Until the Rules of Procedure are adopted by the Managing Board of the Regulatory Agency for Electronic Communications and Postal Services, the Rules of Procedure adopted by the Managing Board of the Republic Agency for Electronic Communications shall be applied.

Article 45

The Statute of the Republic Agency for Electronic Communications (*Official Gazette of the Republic of Serbia*, no. 59/10) shall cease to be valid on the day this Statute shall come into force.

Article 46

Upon the approval of the Government of the Republic of Serbia, this Statute shall be published in the ‘*Official Gazette of the Republic of Serbia*’ and shall come into effect on the eighth day following the day of its publication.