



**Republika e Kosovës**  
**Republika Kosovo - Republic of Kosovo**  
*Kuvendi - Skupština - Assembly*

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**Law No. 04/L-109**

**ON ELECTRONIC COMMUNICATIONS**

**Assembly of Republic of Kosovo,**

Based on Article 65 (1) of the Constitution of the Republic of Kosovo,

Approves:

**LAW ON ELECTRONIC COMMUNICATIONS**

**CHAPTER I**  
**GENERAL PROVISIONS**

**Article 1**  
**Purpose**

The purpose of this Law is to regulate electronic communications activities based on the principle of technological neutrality and EU regulatory framework for electronic communications, by promoting competition and efficient infrastructure in electronic communications and to ensure the right and adequate services in the territory of the Republic of Kosovo.

## **Article 2**

### **Scope**

This Law shall regulate social relations pertaining to electronic communications networks and services, associated facilities and services, use of electronic communications resources as well as social relations pertaining to radio equipment, terminal equipment and electromagnetic compatibility, ensure an equivalent level of protection of rights to personal data, and in particular the right to privacy, with respect to the processing of personal data in the electronic communication sector.

## **Article 3**

### **Principles for Regulation of Electronic Communications Activities**

1. The regulation of electronic communications activities shall be based on the principles of effective management and use of limited resources, technological neutrality, functional equivalence, proportionality, minimal necessary regulation, legal certainty in a dynamic market, economic development, ensuring effective competition, consumer rights protection, objectivity of regulatory criteria, conditions and procedures, transparency and non-discrimination.
2. The principle of technological neutrality means that legal norms must be applied taking into account the objectives to be achieved and ensuring, to a reasonable extent, that their application does not encourage or discriminate the use of specific technologies as well as ensuring that the legal norms are applied, as far as possible, disregarding the technologies employed in the provision of electronic communications networks or services related to a specific legal relationship.
3. The principle of functional equivalence means that the application of the legal norms should be as uniform as possible in respect of all electronic communications networks or services with analogous functions.
4. When applying the legal norms regulating electronic communications activities, due account must be taken of the principles referred to in paragraph 1 of this Article. These principles should be harmonized without giving priority to any of them and they should be applied with due regard to the purpose and objectives set out in Article 1 of this Law.

## **Article 4**

### **Definitions**

1. Terms used in this Law shall have the following meanings:
  - 1.1. **Regulatory Authority of Electronic and Postal Communications-** (hereinafter Authority) the regulatory body that implements and supervises the legal framework defined by this Law, and by the Law on Postal Services, as well

as by the development policies for the field of the electronic communications and postal services defined by the Government according to the provisions of the paragraph 1. of the Article 6 of this Law and paragraph 1. of the Article 7 of this Law;

1.2. **General Authorization** – an act of general nature, which consists of the legal framework defined by this Law and the regulations issued by the Authority serving to its implementation, to ensure the right for providing the electronic communications networks or services, and laying down specific obligations that may be applied to all or to specific types of the electronic communications networks and/or services;

1.3. **Associated facilities** – those associated services, physical infrastructures and other facilities or elements associated with an electronic communications network and/or an electronic communications service which enable and/or support the provision of services via that network and/or service or have the potential to do so, and include, inter alia, buildings or entries to buildings, building wiring, antennae, towers and other supporting constructions, ducts, conduits, masts, manholes, and cabinets;

1.4. **Connected line identification** – a function that allows the calling party to identify the networks termination point where the call is terminated based on the number or code assigned to that network termination point;

1.5. **Network integrity** – refers to the ability of the interconnecting systems to preserve and retain their optimum operational states and remain unaffected by interconnection with other networks. Network integrity assurance (QoS, confidentiality and reliability obligations). E.g. data integrity (data is exactly what was sent: nothing added, nothing changed, nothing removed);

1.6. **Harmful interference** – interference which endangers the functioning of a radio navigation service or other safety services or which otherwise seriously degrades, obstructs or repeatedly interrupts radio communications services, which are operating in accordance with this Law and other by-legal acts;

1.7. **Interconnection** – the physical and logical connection of public communication networks used by the same or different entrepreneur in order to allow the users of one entrepreneur to communicate with users of the same or another entrepreneur, or to access services provided by another entrepreneur. Interconnection is a specific type of access implemented between the operators of public communications networks;

1.8. **Communication** – any information exchanged or conveyed between a finite number of parties by means of a publicly available electronic communications service. This does not include any information conveyed as part of a broadcasting service to the public over an electronic communications network except to the

extent that the information can be related to the identifiable subscriber or user receiving the information;

1.9. **Leased lines** – a non-switched electronic communications line connecting termination points in an electronic communications network;

1.10. **Ministry** – the ministry responsible for the field of electronic communications and postal services;

1.11. **Entrepreneur** – any natural and/or legal person or a group of persons linked by virtue of control or dependency who are engaged in an electronic communications activity in the Republic of Kosovo or whose actions have an impact on or intentions, if realized, might have an impact on economic activity in the Republic of Kosovo;

1.12. **Number** – an alpha-numeric range name or address defined in the Numbering Plan that serves for addressing to the electronic communications networks and services;

1.13. **Geographic number** – a number from the national telephone numbering plan where part of its digit structure contains geographic significance used for routing calls to the physical location of the network termination point;

1.14. **Non-geographic number** – a number from the national telephone numbering plan that is not a geographic number. It includes, inter alia, mobile, free phone and premium rate numbers;

1.15. **Provider of universal service** – an entrepreneur that provides the universal service;

1.16. **Operator** – an entrepreneur/legal entity that offers or that is authorized to offer an electronic communications network or associated facilities;

1.17. **Terminal equipment** – equipment, or relevant component thereof, capable of receiving and/or sending information intended to be connected in any way and by any means whatsoever to public communications networks;

1.18. **Subscriber** – any natural person or legal entity who is a party to a contract with a provider of publicly available electronic communications services for the provision of such offered services;

1.19. **Network terminal point** – the physical point at which a subscriber is provided with access to a public communications network. In the case of networks involving switching or routing, the network termination point is identified by means of a specific network address, which may be linked to a subscriber number or name;

1.20. **National Numbering Plan** – the structure of numbers and numbers’ ranges, names or addresses as well as their allocation for ensuring access to the public electronic communications networks and services;

1.21. **National Radio-Frequencies Plan** – the document stipulating frequencies bands for different services and sets the basic conditions for the frequency allocation and assignment, aiming at effective use of the radio-frequencies spectrum and avoidance of interferences;

1.22. **Electronic mail** – any text, voice, sound or image message sent over a public communications network which can be stored in the network or in the recipient’s terminal equipment until it is collected by the recipient;

1.23. **Local loop** – the physical circuit connecting the network termination point to a distribution frame or equivalent facility in the fixed public electronic communications network;

1.24. **Access** – the making available of facilities and/or services to another entrepreneur, under defined conditions, on either an exclusive or non-exclusive basis, for the purpose of providing electronic communications services, including when they are used for the delivery of information society services or broadcast content services. It covers inter alia: access to network elements and associated facilities, which may involve the connection of equipment, by fixed or non-fixed means (in particular this includes access to the local loop and to facilities and services necessary to provide services over the local loop); access to physical infrastructure including buildings, ducts and masts; access to relevant software systems including operational support systems; access to information systems or databases for pre-ordering, provisioning, ordering, maintaining and repair requests, and billing; access to number translation or systems offering equivalent functionality; access to fixed and mobile networks, in particular for roaming; access to conditional access systems for digital television services and access to virtual network services;

1.25. **Radio interference** – the degradation of the performance of equipment and/or device, radio communication or a radio system due to radio disturbances;

1.26. **Electronic communications resources** – radio frequencies (channels), telephone numbers and other electronic communications networks identifiers, such as radio call signs, orbital resources, including the position in a geostationary orbit and other resources necessary to carry out electronic communications activities, use electronic communications networks or radio equipment or terminal equipment and provide electronic communications services;

1.27. **Electronic communications network** – transmission systems and, where applicable, switching or routing equipment and other resources, including network elements which are not active, which permit the conveyance of signals by wire, radio, optical or other electromagnetic means, including satellite networks, fixed (circuit- and packet-switched, including Internet) and mobile terrestrial networks, electricity cable systems, to the extent that they are used for the purpose of transmitting signals, networks used for radio and television broadcasting, and cable television networks, irrespective of the type of information conveyed;

1.28. **Public communications network** – an electronic communications network used wholly or mainly for the provision of electronic communications services available to the public which support the transfer of information between network termination points;

1.29. **Public fixed network** – a network, where the network end-points are placed on a fixed location;

1.30. **Public mobile communication network** – a network, where the network end-points are not placed on a fixed location;

1.31. **Radio-frequencies spectrum** – includes electromagnetic waves in the range of frequencies from 9 KHz up to 3000 GHz, which diffuse in space without the need for special lines;

1.32. **Electronic communications service** – a service normally provided for remuneration, which consists wholly or mainly in the conveyance of signals on electronic communications networks, including telecommunications services and transmission services in networks used for broadcasting or cable television networks, but exclude the services providing, or exercising editorial control over the content transmitted using electronic communication networks or services. It does not include the information society services, which do not consist wholly or mainly in the conveyance of signals on the electronic communications networks;

1.33. **Value added service** – to the extent that it is related to the processing of personal data and the protection of privacy, any service which requires the processing of traffic data or location data other than traffic data beyond what is necessary for the transmission of a communication or the billing thereof;

1.34. **Telephone service available to the public** – a service available to the public for generating and receiving national and international calls and access to emergency numbers through a number of numbers in a telephone numbering plan. This service may include provision of one or more of the following services:

1.34.1. operator's service;

1.34.2. information searching services, telephone directory;

1.34.3. offering of public free phone;

1.34.4. services at special conditions according to Article 75 of this Law;

1.34.5. offering of special terminal equipment of telecommunications for the disabled consumers or those in need;

1.34.6. access to the services with non-geographic numbers.

1.35. **Associated services** – those services associated with an electronic communications network and/or an electronic communications service which enable and/or support the provision of services via that network and/or service or have the potential to do so and include, inter alia, number translation or systems offering equivalent functionality, conditional access systems and electronic programme guides, as well as other services such as identity, location and presence service;

1.36. **Radio-communications services** – the activity of communications that includes transmission, emission and reception of signals through radio waves;

1.37. **Information Society Services** – services provided for remuneration, at a distance, through electronic means and upon individual request of the recipient of the service. “At a distance” means that the service is provided without the two parties being present simultaneously. “Through electronic means” means that the service is sent from the point of origin and received at the final destination by electronic equipment for processing (including digital compression) and data storage. Sending, transmission and receiving is made fully via cable, radio waves, optical means or other electromagnetic means. “Upon individual request of the recipient of the service” means that the services are provided with the transmission of data upon individual request. Information society services include, in particular, the sales of good and services, services of access to information or advertising over the Internet and access to public communications network services, transmission of data, or storing the recipient’s data in the public communications network;

1.38. **Universal service** – a minimum set of public electronic communication services of specified quality which is available at an affordable price to all users in the territory of the Republic of Kosovo, regardless their geographic location;

1.39. **User** – any natural or legal person using or requesting to use a publicly available electronic communications services;

1.40. **End-user** – a user not providing public communication networks or publicly available electronic communications services;

1.41. **Public pay telephone** – a telephone available to the general public, the use of which is paid for by such means as coins, and/or credit cards, and/or pre-payment cards, including cards for use with dialing codes;

1.42. **Traffic data** – any data processed for the purpose of the conveyance of a communication on an electronic communications network or for the billing thereof;

1.43. **Location data** – any data processed in an electronic communications network, indicating the geographic position of the terminal equipment of a user of a publicly available electronic communications service;

1.44. **Radio-television broadcasting** – transmission of radio or television program services via a terrestrial antenna, electronic communications network or satellite in coded or not coded form, aimed at reception by the public;

1.45. **Call** – a connection established by means of a publicly available electronic communications service allowing two-way voice communication.

1.46. **Person** – any natural, legal or public person, including corporations, partnership, trusts, non-aligned organizations, service providers, government or any institution dealing with it.

1.47. **Calls in Emergency Service** – calls in institutions that provide emergency services.

## **CHAPTER II**

### **COMPETENT BODIES IN THE FIELD OF ELECTRONIC COMMUNICATION AND THEIR COMPETENCIES**

#### **Article 5**

##### **Competent bodies in electronic communications field**

1. The competent bodies in the electronic communications field are the Ministry, and the Authority.
2. The Government shall approve the policy and national strategy on electronic communications activities in the Republic of Kosovo drafted according to Article 7 paragraph 1 of this Law.



3. Electronic communications used for the purpose of national defense, national security, maintenance of public order, guarding of state borders, oil spillage response, civil aviation and rail traffic safety, and ensuring stable and reliable operations in the energy system shall be regulated by relevant state institutions within the scope of their competence. The work of these institutions shall be coordinated by a competent state institution.

## **Article 6**

### **Responsibilities of the Government in the Field of Electronic Communications**

1. When formulating the policy and national strategy on electronic communications activities, the Government shall establish political and strategic objectives to ensure the economic development and competitiveness of the electronic communications sector.

2. The Government shall:

2.1. approve the National Radio-Frequencies Plan and shall propose it to the Assembly for approval;

2.2. approve policy and national strategies of the electronic communications sector.

## **Article 7**

### **Ministry's Competencies in the field of electronic communication**

1. The Ministry has the following competences:

1.1. prepares and presents to the Government the proposal for the policy and national strategies on electronic communication field addressing the objectives stated in Article 1 of this Law.

1.2. coordinates and supervises the implementation of the Policy and national strategy of the Government relating to the electronic communication field.

1.3. coordinates and supervises the development of state investment programmes in the field of electronic communications, makes economic, financial and technical assessments of such programmes and exercises control over their implementation;

1.4. prepares and approves sub-legal acts stated in this Law, especially for the development of the electronic communication field;

1.5. represents the Republic of Kosovo in international organizations and institutions in the field of formulation of electronic communications policy and strategy and within the scope of its competence;

1.6. drafts and signs international, bilateral and multilateral agreements in the field of electronic communications on behalf of the Republic of Kosovo within the scope of its competences.

1.7. coordinates the implementation of the obligations related to the electronic communication field arising out of the international treaties and (or) agreements, where the Republic of Kosovo adheres.

1.8. cooperates with the Ministry of Kosovo Security Force, the Ministry of Internal Affairs and Kosovar Intelligence Service for issues of the electronic communication field, which are related to the defense and national security.

1.9. in cases of force majeure, extreme situations or other extraordinary circumstances as well as for the purpose of preparing for universal mobilization or national defense or ensuring national security and public order, give, in accordance with the procedure established by laws and other legal acts, mandatory instructions, tasks and assignments to entrepreneurs providing electronic communications networks and/or services as well as to owners or users of equipment and devices;

1.10. designates certification and inspection bodies as well as testing laboratories responsible for assessing the conformity of equipment and devices in accordance with the procedure established by the Ministry in compliance with applicable legislation;

1.11. performs other functions defined in applicable legislation.

## **Article 8**

### **Regulatory Authority of Electronic and Postal Communications**

1. The Authority of Electronic and Postal Communications is the national regulatory authority in the field of electronic communications and postal services which perform the tasks defined by this Law and by the other applicable legislation and applies the policy and national strategies of electronic communication sector, defined by the Ministry.

2. Authority is a public entity, independent, non-budgetary, legal entity with public authority, which exercises its activity in compliance with legislation in force. Authority in its work and decision-making within its competencies is independent.

3. The sub-legal acts adopted by the Authority, or the non-adoption thereof may be appealed against in the competent court within the established time limit and in accordance with the procedure established by this and other laws.

## **Article 9**

### **Regulatory Objectives**

1. Authority shall perform its functions in compliance with this Law and other legal and by-legal acts, as well as in accordance with the national sector policy and national strategies for the development of the electronic communications, and in compliance with the international agreements in the field of electronic communications, where the Republic of Kosovo adheres.

2. Regulation in the electronic communications field shall respect the principles stated in Article 3 of this Law, new technologies and services, as well as the newly created markets shall be subject of regulation under this law up the measure necessary to prevent the deformation of the competition and to meet the objectives of this Law.

3. Authority shall promote and ensure effective competition in the provision of the electronic communications networks and services, associated facilities and services by:

3.1. ensuring conditions for every category of users of the electronic communications services, including users with special needs, based on the selection to benefit maximally alternative service, qualitative and in compliance with the standards approved by Authority;

3.2. protecting the interests of the electronic communications users, protecting the users' personal data and privacy;

3.3. promoting and ensuring free and effective competition in the electronic communications sector;

3.4. ensuring that the integrity and security of the public electronic communications networks are maintained;

3.5. encouraging efficient investment in the infrastructure of the electronic communications and prompting innovation aiming at achieving the highest quality for their products;

3.6. encouraging efficient use of the radio-frequencies and the numeric space as limited natural resources, so that numbering plans and procedures are applied in a manner that gives equal treatment to all providers of publicly available electronic communications services, in particular ensure that entrepreneurs allocated a range of numbers do not discriminate against other providers of electronic

communications services as regards the number sequences used to give access to their services;

3.7. ensuring non-discrimination and parity in the treatment of entrepreneurs providing electronic communications networks and services;

3.8. ensuring, within the scope of its competence, that the equipment and used devices are in conformity with the mandatory requirements in force in the Republic of Kosovo and ensure the electromagnetic compatibility of the equipment and devices.

## **Article 10**

### **Authority Competencies**

1. Prepares in cooperation with Ministry the National Radio-Frequencies Plan and works for the harmonization of this plan with the international policies on development of the radio-frequencies spectrum.

2. Collects and processes statistical data from the entrepreneurs that perform their activity in the field of electronic communications.

3. Publishes any information necessary for the development of an open and competitive market. The rules of publication of such information, including its scope, shall be established by the Authority, taking account of the legal norms regulating the protection of confidential information, including state, business or commercial secrets or private information about a natural person.

4. Adopts the secondary legislation for this Law, which are under the competence of the Authority pursuant to the provisions of this Law.

5. Adopts decisions concerning the definition of relevant markets, carries out the market analysis and imposition and withdrawal of regulatory obligations to operators with significant market power.

6. Adopts decisions concerning the designation of universal service providers and the definition of their rights and obligations.

7. Monitors and regulates the provision of the public electronic communications networks and services.

8. Resolves disputes, including those related to the issues of joint use of facilities and assets, between entrepreneurs.

9. Resolves disputes between end users and operators of public communication services.

10. Monitors and regulates the joint use of facilities and assets.
11. Adopts the National Numbering Plan, the Plan for Usage of Radio Frequencies (Channels) and radio communication development plans.
12. Manages scarce resources- the radio frequency spectrum and numbering space in electronic communications;
13. Performs tasks related to electromagnetic compatibility, use of equipment and devices, radio monitoring and elimination of radio Interferences;
14. Issues authorizations and other acts in accordance with the provisions of this Law and regulations adopted pursuant to this Law;
15. Adopts decisions concerning the granting, transfer and revocation of individual licenses for use of the radio frequency spectrum on the basis of a public tender and public auction procedures;
16. Contributes to the preparation of proposals of national strategies, policies as referred with paragraphs 1.1. and 1.3. of Article 7 of this Law;
17. Within the scope of its competences cooperates and participates in the work of the administrative and working bodies of international, regional and other organizations and institutions in the field of electronic communications where Republic of Kosovo adheres;
18. On the basis of received authorizations concludes the bilateral and multilateral agreements in the field of electronic communication.
19. The Authority shall publish information related to the implementation of this Law within the scope and subject to the procedure and conditions set forth by the Authority itself.
20. The legal acts adopted by the Authority or the non-adoption thereof may be appealed against in court within the established time limit and in accordance with the procedure established by this and other laws. The filing of an appeal to court concerning a legal act adopted by the Authority shall not suspend the legal act, except for the cases where the court decides otherwise in accordance with procedure established by the law.
21. Performs a computer emergency response centers functions with the aim to deal with threats to public electronic communication systems.
22. Provides consultations concerning the application of this Law and regulations adopted pursuant to this Law.
23. Performs other tasks defined by this Law, other applicable legislation and the Authority's Statute.

## **Article 11**

### **Authority Reporting**

1. Authority is accountable for its work to the Assembly of the Republic of Kosovo.
2. At the end of each year, Authority shall submit to the Assembly within the first half of the following year an annual report on its activities of the previous year.
3. The Annual Report referred to in the paragraph 2. of this Article, in particular, shall contain:
  - 3.1. reporting on Authority work during the previous year;
  - 3.2. annual Program for the work for the coming year;
  - 3.3. reporting on the status of the Universal Service;
  - 3.4. reporting on the implementation of the Authority annual financial indicators.
  - 3.5. data on the status of electronic communications market.
4. Authority Annual Report and Quarterly Reports on Electronic Communications Market shall be available to the public.

## **Article 12**

### **Provision of Information to the Ministry**

Authority shall provide the Ministry, any information that might be deemed by the Ministry as necessary for satisfaction of the development policy objectives and the competences stipulated in this Law, and those of the Law on Postal Service.

## **Article 13**

### **Independent Media Commission (IMC) Competencies**

Independent Media Commissions an independent body that regulates the spectrum of Broadcasting Frequencies in Republic of Kosovo, gives license to public and private broadcaster, defines and applies broadcasting policies and also exercises other competencies defined by the Law on Independent Media Commission.

## **Article 14 Cooperation**

1. Authority shall cooperate with the state bodies and structures, organizations of protecting the users/consumers interest for issues related to the implementation of this Law.
2. The Authority and the Kosovo Competition Authority shall cooperate for issues regarding common interest related to the implementation of the legislation in force on competition in the field of electronic communications and postal service.
3. The Kosovo Competition Authority shall, in so far as it is related to electronic communications activities:
  - 3.1. exchange with the Authority any information required for the performance of functions of the Kosovo Competition Authority and the Authority, including confidential information, ensuring the protection of the information received;
  - 3.2. provide consultation to the Authority on matters concerning the performance of its functions related to the supervision of competition in the field of electronic communications;
  - 3.3. cooperate with and consult the Authority when exercising supervision of competition in the field of electronic communications in accordance with the Law on Competition;
4. The Consumer Rights Protection institution shall:
  - 4.1. provide cooperation on the activities of the Authority in the field of consumer rights protection with respect to their use of electronic communications services;
  - 4.2. provide consultations to the Authority on matters concerning the performance of its functions related to the protection of consumer rights with respect to their use of electronic communications services;
  - 4.3. within the scope of competence established by the Law on General Safety Product, exercise supervision of product safety, including the safety of products related to electronic communications networks and/or services and radio equipment and terminal equipment.
  - 4.4. cooperate with and consult the Authority in the field of consumer rights protection with respect to the use of electronic communications services.
5. The State Non Food Products Inspectorate shall, within the scope of competence established by the Law on Product Safety and the powers conferred upon it by the

Government, protect consumer rights with respect to the use of electronic communications and shall exercise supervision of product safety, including the safety of products related to electronic communications networks and/or services and radio equipment and terminal equipment.

6. The IMC shall:

6.1. when making decisions related to the licensing of broadcasting/re-broadcasting activities, consult the Authority on matters concerning electronic communications;

6.2. during the licensing, notifies in written the Authority for related matters of the coordination of radio frequencies (channels) assigned to broadcast and/or re-broadcast terrestrial radio and television programmes;

7. The State Data Protection Agency shall cooperate with the Authority in the field of protection of personal data and privacy.

8. The Kosovo Customs shall cooperate, within the scope of its competence, with the Authority in the performance of its functions related to the placement on the market of radio equipment, terminal equipment and equipment/devices, and exchange relevant information.

9. The national standards institution shall cooperate with institutions authorized for the formulation of policy and strategy and/or standardization in the field of electronic communications, in the process of standardization related to the provision of electronic communications networks/services, associated facilities and services, including the broadcasting of radio and/or television programmes, also related to technical interfaces and/or the functioning of networks, the interoperability of terminal equipment, including radio and television programme reception equipment, and shall exchange information concerning standardization.

10. To ensure electronic communications needs, national and international security institutions shall cooperate within the scope of their competence with the Authority.

11. When setting the hygiene norms related to electromagnetic radiation norms, the Ministry of Health shall consult the Authority. The Ministry of Health and the Authority shall exchange information on the hygiene norms related to electromagnetic radiation norms. The State Public Health Supervision Service (inspectorate), when performing its functions related to the supervision of electromagnetic radiation norms, shall consult the Authority and shall exchange relevant information with it.

12. The Authority and the Statistical Office of Kosovo shall provide other state and/or municipal institutions on request with the available information required to perform their functions to the extent that it is necessary for the performance of such functions. Having



received confidential information, state and/or municipal institutions must ensure the proper protection thereof.

13. The procedure and conditions of cooperation between the institutions mentioned in this Article, including conditions designed for ensuring proper performance of functions by each of the institutions concerned, the settlement of disputes relating to the collision of competences, and the formation of uniform practices, may be regulated by agreements between such institutions.

### **CHAPTER III GENERAL AUTHORIZATION REGIME**

#### **Article 15**

##### **Basis for the Right to Engage in Electronic Communications Activities**

1. Any entrepreneur shall have the right to offer public electronic communications networks and services in the Republic of Kosovo in compliance with the provisions of this Law without prior individual permission by state institutions.

2. The Authority shall adopt legal acts for establishing the general terms and conditions under which entrepreneurs may engage in electronic communications activities.

3. The entrepreneur, which according the Article 16 of this Law notified to offer electronic communications networks or services in the Republic of Kosovo is entitled:

3.1. to negotiate for interconnection, and, when applicable, to have access from other entrepreneurs of the electronic communications networks and services available to the public in compliance with the provisions of this Law.

3.2. to be designated as provider of universal service for special services under the scheme of universal service or in certain parts of the territory in the Republic of Kosovo.

#### **Article 16 Notification**

1. The Authority shall approve a list of types of electronic communications activities that an entrepreneur must notify the Authority about if it seeks to engage in any of them. The entrepreneur shall have the right to engage in the relevant activity after notifying the Authority thereof in accordance with the procedure and conditions set forth by the Authority.

2. Authority may request the submission of only one notification confirming the intention to commence the provision of electronic communications networks or services and the submission of the minimal information which is required to include the entrepreneur in a register of providers of electronic communications networks and services. This information must be limited to:

2.1. what is necessary for the identification of the provider of electronic communications networks and services:

2.1.1. provider's name and address;

2.1.2. data/info on legal registration of the entrepreneur;

2.2. contact person of the entrepreneur;

2.3. short description on network or service;

2.4. date foreseen for the activity commencement, change or cessation.

3. Entrepreneurs (operators and providers of the service) shall be obliged to report to Authority all changes in the information submitted in the notification within thirty (30) days following their occurrence.

4. Authority shall register the operators or service providers in the electronic database within five (5) working days of the receipt of notification, as well as it shall confirm them in writing for their registration.

5. Within five (5) working days of receipt of an incomplete notification request according to the requirements in paragraphs 2 and 3 of this Article, Authority shall inform the entrepreneur for the need to complete the missing documents. The completion of such document should be done within a time-term not shorter than ten (10) days and not longer than thirty (30) days.

6. Entrepreneurs complying with the provisions of the legal acts adopted by the Authority concerning the general terms and conditions for engaging in electronic communications activities shall have the right to request that the Authority issue a standardized declaration, confirming, where applicable, that the entrepreneur has submitted a notification of the start of its activity and detailing under what circumstances any entrepreneur providing electronic communications networks or services under the provisions of legal acts concerning the terms and conditions for engaging in the relevant electronic communications activity has the right to install an electronic communications infrastructure, negotiate interconnection, and/or obtain access. The declaration shall be issued not later than five (5) working days after the receipt of an appropriate request for confirmation. The procedure and conditions for the issue of such declarations shall be set forth by the Authority.

7. Authority, by means of a regulatory document pursuant to this Law, shall define in details the form and content of the request for notification of the supporting documents and the registration confirmation, this document shall be made public and easily accessible for the public.

8. Authority shall administer in an updated database register for the entrepreneurs, which are notified according to the provision of this Article. Minimally the database shall contain the information specified in paragraph 2 of this Article. Database shall be available to the public, in order to allow the remote access.

9. Before terminating an electronic communications activity included in the list of types of electronic communications activities approved by the Authority, the entrepreneur shall notify the Authority in accordance with the procedure established thereby.

## **Article 17**

### **General Conditions**

1. The general terms and conditions for engaging in electronic communications activities set forth by the Authority shall be objectively justified in relation to the network or service concerned, non-discriminatory, transparent and proportionate. The Authority shall establish only those terms and conditions that are specific to the electronic communications sector and that are not provided for in other legal acts. The legal acts establishing the general terms and conditions for engaging in the electronic communications activities shall specify the criteria and procedures for imposing obligations on entrepreneurs having significant market power on the relevant market and/or entrepreneurs designated to provide universal service, or shall contain a reference to the relevant legal acts.

2. The provisions of sub-legal acts adopted by the Authority establishing the general terms and conditions for engaging in electronic communications activities may be related only to:

2.1. financial contribution for financing universal service;

2.2. interoperability of services and interconnection of networks;

2.3. provision of availability and use of numbers from the Numbering Plan for the end-users, including conditions for this use;

2.4. environment protection, territory planning, access to immobile estates, including their use, collocation or joint use of the equipment, including, if applicable, any financial or technical warranty that might be necessary for performing the activity;

2.5. protection of personal data and privacy;

- 2.6. consumers' protection;
  - 2.7. restrictions in content transmission, in case it violates the legal framework;
  - 2.8. enabling of interception by competent authorities defined in the legislation in force on interception of electronic communications and implementation of other liabilities arising out of this legislation;
  - 2.9. conditions for provision of electronic communications network in state of risk, emergency, war;
  - 2.10. protection of the citizens from harmful affects of electromagnetic radiation dispersed by the electronic communications networks in line with established relevant national laws and regulations;
  - 2.11. obligation to offer access;
  - 2.12. maintenance of public communication networks integrity and prevention of electromagnetic interference through electronic communications networks and services;
  - 2.13. protection of public communications networks from unauthorized access;
  - 2.14. radiofrequencies use, ensuring effective use of the radiofrequencies spectrum and prevention of harmful interferences;
  - 2.15. obligation to satisfy the technical standards and specification of the networks and equipments for constructing the networks and offering the electronic communications services, as well as other services and associated facilities according to the provisions of this Law.
3. Entrepreneurs providing electronic communications networks and/or services shall submit to the Authority, in accordance with the procedure and conditions set forth by the Authority, data and reports on their activity.
4. The provisions of the legal acts of the Authority establishing the general terms conditions for engaging in electronic communications activities may be amended in objectively justified cases and in a proportionate manner. The intended amendments shall be published and interested parties, including users and consumers, shall be allowed a sufficient period of time to express their views on the proposed amendments within a period of time, which shall be no less than twenty eight (28) days except in exceptional circumstances.

## **Article 18**

### **Obligation for providing information**

1. Entrepreneurs of electronic networks and services shall be obliged to provide data and other information requested by the Ministry and Authority, at their request, with the aim to meet their functional duties serving to the implementation of this Law.
2. The sort of data, time-terms and way of their submission are defined by the competent bodies accordingly.
3. The Authority shall have the right to obtain from state institutions, international and other institutions, and municipal institutions, providers of electronic communications networks and services, users of radio frequencies (channels), telephone numbers and other electronic communications resources as well as from persons any information necessary for the Authority, the European Commission and national regulatory authorities of other EU Member States to perform the assigned tasks and functions, including financial information irrespective of its confidentiality. Providers of electronic communications networks and services, users of radio frequencies (channels), telephone numbers and other electronic communications resources as well as persons shall submit to the Authority any information at its request and to the a timescale and level of detail required by the Authority.
4. The Authority shall ensure the confidentiality of confidential information in accordance with the procedure and conditions set out in legal acts. Confidential information shall not include general information about individual electronic communications markets as well as data on the market share held by individual entrepreneurs, number of subscribers (including data on subscribers of specific types), income (including data on income from specific activities) and the size of electronic communications or call traffic and information received according to Article 34 paragraph 4 of this Law. The Authority shall keep the information received from EU institutions and/or other EU Member States in accordance with the procedure and conditions set out in EU legal acts.
5. The Authority may request from entrepreneurs engaged in electronic communications activities, to the extent that it is related to the pursuit of electronic communications activities or use of electronic communications resources or to the extent that it is related to the obligations imposed on an entrepreneur having significant market power on the relevant market or designated to provide universal service, information that is proportionate and objectively justified for the following purposes (not applicable to the provision of information relating to the installation of electronic communications infrastructure):
  - 5.1. systematic or case-by-case verification of compliance by an entrepreneur with the provisions of this Law and other legal acts related to the efficient and effective use of electronic communications resources, the funding of universal service or fees to the Authority as well as to payments to the state budget related to the right

of use of electronic communications resources and with the obligations imposed on an entrepreneur having significant market power on the relevant market or designated to provide universal service;

5.2. specific verification of compliance by an entrepreneur with the legal acts establishing the terms and conditions for engaging in electronic communications activities or the terms and conditions of use of electronic communications resources;

5.3. procedures for assigning electronic communications resources and assessment of relevant requests;

5.4. publication of comparative overviews of quality and price of services for the benefit of consumers;

5.5. clearly defined statistical purposes;

5.6. market analysis purposes;

5.7. assessment concerning future network or service developments that could have an impact on the wholesale services that entrepreneurs make available to competitors;

5.8. assessment of the possibility to share the facilities, establishment of a detailed inventory of the nature, availability and geographical location of the facilities, available to interested parties;

5.9. assessment of the security and/or integrity of the public electronic communications services and networks, including documented security policies.

6. The Authority may not request the information referred to in paragraph 5 of this Article, except for the information specified in sub-paragraph 5.3 of paragraph 5 of this Article, from an entrepreneur which intends to engage in an electronic communications activity before it is granted the right to pursue or before it starts pursuing the electronic communications activity (whichever is earlier) or as a precondition for obtaining such a right.

7. When requesting the information referred to in paragraph 5 of this Article from providers of electronic communications networks and services, the Authority shall inform entrepreneurs of the specific purpose for which this information is to be used.

**Article 19**  
**Issuing the rights for use**

Issuing the right for use of frequencies and numbering shall be made in compliance with the provisions of Chapter VII and VII of this Law.

**CHAPTER IV**  
**ELECTRONIC COMMUNICATIONS NETWORKS AND SERVICES**

**Article 20**  
**Provision of Public Communications Networks and Services**

Entrepreneurs that construct and/or use public electronic communications networks and provide publicly available electronic communications services are obliged to meet the conditions pursuant to this Law and other legal acts and by-laws, as well as the regulation issued based on this Law, in order not to endanger the public order, human life and health, public security and defense of the country.

**Article 21**  
**Construction and maintenance of Public Communications Networks**

Public communications networks and associated infrastructure shall be constructed and operated in compliance with this law, and other by-legal acts serving to this Law, and legal framework on territory planning and construction, the legal framework on protection of environment, as well as with other technical standards.

**Article 22**  
**Basis for the Installation of Electronic Communications Infrastructure**

1. Providers of electronic communications networks shall have the right to install electronic communications infrastructure in the land owned by them by ownership right or for which a servitude has been established or where the providers have the right to use it on some other basis without changing the purpose of land.
2. In cases where the economic use of space, city planning and protection of environment requires so, operators of the public electronic communications networks that have the right to construct and install communication equipments in the private or public property shall construct or install them in such way as to enable their joint use.
3. Electronic communications infrastructure removal works performed when building or reconstructing buildings, bridges and other structures shall be carried out by the investor

on their own account according to the technical specifications provided by the owners of electronic communications infrastructure and after having coordinated such work with the abovementioned owners, unless the investor and the owners do not agree otherwise.

4. Persons engaged in the construction of electronic communications networks shall, subject to the procedure, conditions and cases set out in the rules for installing, maintaining and protecting electronic communications infrastructure, make public information about the start of construction works and about the possibility for other persons to participate in construction sharing.

5. The installation, protection, sharing and maintenance of electronic communications infrastructure shall be regulated by the Law on Territorial Planning, the Law on Construction, the Law on Protected Territories, the Law on Environmental Impact Assessment of Planned Economic Activity, the Law on Roads, the rules for the installation and use of electronic communications networks approved by the Ministry, and other legal acts.

6. The construction of public communications networks and associated facilities is in the public interest. The immovable property tax do not apply for public communications networks and associated facilities, including those used for the mobile (e.g. GSM), base stations, satellites and the underground infrastructure.

### **Article 23**

#### **Installation, Protection, Sharing and Maintenance of Electronic Communications Infrastructure in Road Systems**

1. After having coordinated in accordance with the requirements of the relevant legislation, their actions with state or municipal institutions, operators may use the lanes of state and municipal roads, squares, pipelines, water bodies and their shores, bridges, viaducts, tunnels and other structures for the construction of public communications networks free or minimum charge to cover the administrative costs of respective Institutions.

2. Upon the completion of installing, reconstructing or repairing electronic communications infrastructure, the operators must put roads and/or related structures in order in accordance with the procedure established by other legislation.

### **Article 24**

#### **Joint Use of Facilities and Assets**

1. If a provider of public communications networks cannot realise the right to install the necessary electronic communications infrastructure or the costs of realisation of such a right are disproportionately high, the Authority may request that any provider of electronic communications networks or another person controlling the relevant



infrastructure should permit, on non-discriminatory terms, the sharing of the existing electronic communications infrastructure as well as of other relevant pipelines, cable ducts, collectors, towers, masts, buildings and other facilities or installation of electronic communications infrastructure where this is cost efficient and does not require significant additional work. In this case, the Authority shall consult interested persons in accordance with the procedure, terms and conditions set out in the rules referred to in paragraph 4 of Article 82 of this Law.

2. Authority shall encourage the entrepreneurs of the public communications networks to reach agreements for the joint use of the facilities and assets.

3. The procedure and conditions for usage of electronic communications infrastructure as well as other relevant pipelines, cable ducts, collectors, towers, masts, buildings and other facilities and for installing electronic communications infrastructure shall be stipulated in a contract. A person controlling the relevant infrastructure may not, in the cases established by this Law, refuse to conclude such a contract with a provider of public communications networks, request that it should be amended or terminated if contractual obligations are being fulfilled, even on the grounds that there are no documents providing evidence of legitimate control of the electronic communications infrastructure.

4. By agreement between the parties, the user of infrastructure shall pay a proper fee to the person whose infrastructure is being used.

5. The Authority shall establish the procedure and conditions for the sharing of electronic communications infrastructure in the rules for the installation and use of electronic communications infrastructure.

6. An entrepreneur of public communications network may refuse a request for joint use of the facilities and assets if the joint use of facilities and assets is technically unfeasible or damages the network's integrity and security.

7. In case the entrepreneurs of public communications networks do not reach to an agreement among them, Authority, at request of any party, shall initiate a procedure on dispute resolution according to the provision of this Law.

8. In cases where the joint use requires reconstruction of the communication facilities and assets, the reconstruction costs shall be borne by the party requesting the joint use.

## **Article 25**

### **Servitude to Install Electronic Communications Infrastructure**

1. Where a provider of public communications networks cannot realise the right to construct electronic communications networks neither through construction sharing nor through infrastructure sharing, nor by any other means provided for in this Law, also in case of failure of negotiations with the owners of property which could be used for the

installation of infrastructure which constitutes part of a public communications network, such a provider of public communications networks may apply to court for the granting of the right, where such an opportunity exists and where this does not impose an undue burden to the owner, to use state, municipal or private property for the installation of electronic communications infrastructure by establishing a servitude on such property. The court decision establishing servitude recommended to be taken as soon as possible.

2. Information about the procedure and conditions concerning servitudes to be applied according to this Article and other legal acts as well as information about the servitudes to install electronic communications infrastructure shall be submitted to the Authority, which shall publish it in accordance with the procedure and conditions set forth by the Authority.

## **Article 26**

### **Protection of Public Communications Networks**

1. The zone of protection of public communications networks shall comprise a strip of land along the wire lines of public communications networks and around electronic communications infrastructure objects including any plants and structures contained in it. It shall be prohibited in this zone to change the purpose of land, construct other buildings and structures, store equipment and materials, excavate, drill wells, conduct explosions and perform other works that may damage the electronic communications infrastructure without prior consent by the owners of electronic communications infrastructure.

2. The dimensions and methods of delimitating protection zones as well as the procedure for carrying out works within such zones shall be established by the Authority.

3. Employees or other representatives acting under the authority of a person who operates an infrastructure of public communications networks shall have the right to maintain electronic communications infrastructure according to the rules set forth by the Authority.

## **Article 27**

### **Payments for supervision of electronic communications market**

1. Entrepreneurs providing public communications networks and/or services and which yearly turnover is over the one hundred thousand (100 000) Euro shall be obliged to pay an annual payment for supervision of the market of electronic communications by Authority. This payment is made to cover Authority administrative costs.

2. Annual payment defined in paragraph 1 of this Article shall not be more than zero point five percent (0.5%) of the annual gross revenue of the previous calendar year.

3. Entrepreneur shall make the annual payment for the supervision of the market of electronic communications to Authority, until 30 April of each year, and following the

submission of the annual balance sheet of a report auditing case of the medium and large size enterprises and/or statement of a certified accounting expert in case of the small enterprises, which is filed by the entrepreneur to Authority.

4. The level of annual payment for supervision of the electronic communications, market within the limit of zero point five percent (0.5%) of the annual revenues, shall be defined by Authority in a regulation issued pursuant to this Law.

5. Definition of the annual payment level for the market supervision shall not distort the competition or to create barriers for the entering into market of new entrepreneurs.

6. Prior to the approval of the regulation according to the provisions in paragraph 4 of this Article, Authority shall notify in writing the entrepreneurs to submit their opinions and proposals in writing regarding the annual payment, method of calculation and its implementation. The deadline for submission of proposals by the entrepreneurs is thirty (30) days from the date of receipt of notification. The failure to submit the opinions and proposals within this deadline shall not comprise any hurdle to Authority to act in compliance with paragraph 4 of this Article.

7. The annual payment for supervision of electronic communication market shall be made in accordance of the provisions of the Article 83 of this Law.

## **CHAPTER V ENSURING UNIVERSAL SERVICE**

### **Article 28 Universal Service**

1. The provision of the following Universal Service shall be ensured in the territory of the Republic of Kosovo:

1.1. connection of the end-user to the public communications network at his/her request by ensuring access to the telephone service available to the public from a defined geographic location, enabling the user to make and receive local, national and international calls, facsimile communications and data communication;

1.2. publicly available directory enquiry services, that meets the general requirements provided in the paragraph 8 of this Article;

1.3. ensuring public pay telephone or other public voice telephony access points, satisfying the reasonable needs of the end-users in the entire territory in the Republic of Kosovo. Public pay telephone shall enable the connection to free emergency calls, without having to use any means of payment foreseen for them;

- 1.4. ensuring conditions for equivalent access to and use of telephone service made available to the disabled end-users, including access to emergency services and information in telephone directory for all users in the Republic of Kosovo.
2. The Authority shall have the right to establish additional universal service, the procedure and conditions for providing such service, quality of service requirements, and the procedure, conditions and cases for imposition of additional service obligations on providers of electronic communications services. Losses incurred in connection with the provision of additional universal service cannot be compensated from the funds of providers of electronic communications services.
3. The Authority shall monitor the evolution and level of retail tariffs of the services and if deemed necessary suggest to the Government to set price caps for universal service. The universal service obligations may also be related of being operator with significant market power on the relevant market.
4. The Government shall set the price caps for the universal services if deemed necessary as well as the procedure, conditions, cases and sources for compensation of losses incurred in connection with the provision of services.
5. The Authority shall adopt the rules for the provision of universal service and establish the scope of the universal services, quality of service requirements, the procedure and conditions for providing such service, the procedure, conditions and cases for imposition of universal service obligations on providers of electronic communications services. Also, universal service obligations can be related with the notion of having significant market power in the relevant market.
6. The Ministry may request the Authority to establish universal service quality requirements and the rules for publishing information on the quality of services, also to adopt legal acts implementing the rules for provision of universal service.
7. The Authority shall have the right to impose obligations on entrepreneurs not designated to provide universal service that are necessary for the provision of universal service in an appropriate manner, including the obligation to provide directory enquiry services on terms which are fair, objective, cost oriented and non-discriminatory and the obligation to make such services available.
8. When an entrepreneur designated in accordance with this Article intends to dispose of a substantial part or all of its local access network assets to a separate legal entity under different ownership, it shall inform in advance the Authority in a timely manner, in order to allow that authority to assess the effect of the intended transaction on the provision of access at a fixed location and of telephone services pursuant to paragraph 1 of this Article. The Authority may impose, amend or withdraw specific obligations in accordance with Article 32 of this Law.

9. When verifying if an entrepreneur with universal service obligations fulfills such obligations, the Authority shall have the right to order independent audits and/or similar reviews of the performance data, paid for by the entrepreneur concerned, in order to ensure the accuracy and comparability of the data. Such independent audits and/or similar reviews, paid for by the entrepreneur concerned, may be ordered not more often than once per calendar year, except for the cases where there is reasonable suspicion that the entrepreneur acts in violation of legal acts or where the entrepreneur seeks compensation for losses incurred in connection with the provision of services. An auditor or an audit firm shall be selected by tender. Tender conditions and procedure shall be established by the Authority.

10. The losses incurred in connection with the provision of services referred to in paragraph 1 of this Article shall be compensated from the sources set forth by the Government in accordance with the provisions of the paragraph 3 of this Article. The Authority shall have the right to establish other sources for compensation of losses incurred in connection with universal service. The Authority shall establish the rules for the calculation of losses, impose a compensation mechanism and determine the amount of losses in specific cases. The Authority shall have the right to review the accounts of an entrepreneur as well as other information used for the calculation of the amount of losses and to request the entrepreneur to submit an audit opinion. The results of the loss calculation and the conclusions of the review carried out by the Authority and/or the audit opinion shall be made publicly available.

11. Universal service provider appointed by the Authority for the publication of general telephone directory shall reflect at least once a year the changes occurred. General Telephone Directory shall contain at least: the full name of the subscribers, address, relevant telephone number, except for the subscribers that have requested in particular that the said information not be made public.

12. Providers of public telephone services shall provide information on their subscribers to the any provider of directory enquiry referred to in sub-paragraph 1.2 paragraph 1 of this Article, so that they shall include those data without exception to the general Telephone Directory, as well as in the Information Service provided.

13. Where a service provider does not provide the provider of directory enquiries with the data on its subscribers, Authority shall oblige the provider of telephone service to submit those data within a certain period of time. Provider of directory enquiries shall include those data in the general Telephone Directory and in Information Services with no discrimination on telephone service providers.

**CHAPTER VI**  
**REGULATION OF COMPETITION IN THE FIELD OF ELECTRONIC**  
**COMMUNICATIONS**

**Article 29**  
**General Provisions**

1. The Authority shall create conditions for effective competition and its development in the field of electronic communications as well as conditions to prevent the abuse of market power by entrepreneurs.
2. The Kosovar Competition Commission shall exercise supervision of competition in the field of electronic communications in accordance with the Law on Competition.

**Article 30**  
**Entrepreneurs with Significant Market Power**

1. An entrepreneur shall be considered to possess significant market power (SMP), if, either individually or jointly with others, it enjoys a position equivalent to dominance, i.e. a position of economic strength affording it a power to behave to an appreciable extent independently of competitors, customers and ultimately consumers.
2. Where an entrepreneur has SMP in a relevant market, it may also be deemed to have SMP on a closely related market (the second market), if the links between the two markets are such as to allow the market power held in one market to be leveraged into the second market, thereby strengthening the market power of the entrepreneur. Consequently, remedies aimed at preventing such leverage may be applied in the second market.
3. An entrepreneur shall be identified as having SMP where this has been determined by an order of the Authority based on market analysis, and it shall be deemed as such until the Authority determines by its order based on another market analysis that the entrepreneur does not have SMP.

**Article 31**  
**Market Analysis**

1. Market analysis shall be conducted by the Authority. The market analysis procedure shall be initiated by an order of the Authority. The purpose of a market analysis conducted by the Authority shall be to ensure effective competition in the field of electronic communications and prevent the abuse of market power by entrepreneurs with SMP. Taking into account the provisions of this Law and the European Commission guidelines on market analysis and the assessment of SMP under the EU regulatory

framework for electronic communications networks and services the Authority shall lay down the Regulation on market analysis.

2. When conducting a market analysis, the Authority shall act in conformity with this Law, Regulation on market analysis referred to in paragraph 1 of this Article and take account of the guidelines and recommendations adopted by the European Commission.

3. The Authority shall have the right to conduct a market analysis:

3.1. at the reasoned and justified request of interested entrepreneurs;

3.2. at the reasoned and justified request of state or municipal institutions;

3.3. at its own initiative.

4. The market analysis procedure shall include the following stages:

4.1. definition of a relevant market (product/service and geographic), the characteristics of which may be such as to justify the imposition of obligations referred to in Article 32 of this Law;

4.2. analysis whether a relevant market is effectively competitive and in the case it is not effectively competitive, identification of entrepreneurs with SMP on that market;

4.3. imposition, amendment and/or withdrawal of obligations referred to in Article 32 of this Law with respect to entrepreneurs with SMP.

5. The Authority shall have the right to complete only parts of the market analysis procedure, in cases of the markets which were anywhere it considers for justified reasons that it is not reasonable to complete the whole procedure.

6. Authority shall determine the relevant markets, susceptible to ex-ante regulation in compliance with the provisions of this Law, and with the principles of the Law on Competition and current conditions of the Kosovo market, taking into consideration the European Commission recommendations on relevant product and service markets susceptible to ex-ante regulation.

7. When conducting a market analysis, the Authority shall have the right to consult The Kosovo Competition Authority according to the provisions of the Article 14 of this Law. The Authority must obtain The Kosovo Competition Authority's opinion on the definition of a relevant market if the market definition differs from the definition established in the European Commission recommendation referred to in paragraph 6 of this Article. In all cases, the final decision shall be taken by the Authority.

8. The Authority shall complete the market analysis procedure within four (4) months after the order of the Authority referred to in paragraph 1 of the this Article to initiate a market analysis. The Authority shall consult on the draft order of Authority concerning market analysis results according to the consultation procedure established in the Article 82 of the Law. Time period required for consultation procedure on market analysis established in Article 82 of the Law should not be included into the term of market analysis procedure referred to in this paragraph. The period for market analysis procedure may be extended by a reasoned order of Authority, but not more than three (3) times and by not more than three (3) months each time. The Authority shall seek to complete the market analysis within the shortest period of time possible. The market analysis shall be completed by an order of Authority concerning market analysis results, which should incorporate the results of every completed stage of the market analysis, referred to in paragraph 4 of this Article.

9. In exceptional circumstances, when the Authority considers that there is an urgent need to act by way of derogation from the consultation procedure set out in Article 82 of this Law so as to safeguard competition and protect the interests of users, it may immediately adopt proportionate and provisional measures, i.e. define a relevant market, identify or not identify entrepreneurs with SMP on the relevant market and/or impose, not impose or withdraw one or more of the obligations referred to in Article 32 of this Law with respect to such entrepreneurs. Such provisional measures may be imposed for a period no longer than nine (9) months. The Authority may render such measures permanent or extend the time for which they are applicable in accordance with the consultation procedure established in Article 82 of this Law.

10. The Authority shall conduct the analysis of relevant market not less than once every three (3) years from the previous relevant final order of the Authority concerning market analysis results. The period referred to in this paragraph may be extended for up to three (3) additional years by the order of the Authority. When Authority deems that the facts that justified the order of Authority concerning market analysis results have changed and do not reflect the current situation on the relevant market, the Authority shall repeat the analysis of the relevant market.

11. The Authority shall publish the list of relevant markets for which entrepreneurs with SMP have been identified and the list of entrepreneurs with SMP as well as the obligations imposed on them, including information on the measures provided for in paragraph 9 of this Article and any changes in such information, in the Web page of the Authority.

12. When conducting a market analysis, deciding whether an entrepreneur has SMP and imposing obligations on entrepreneurs with SMP, the Authority shall take account of the relevant provisions of international treaties and/or agreements and shall ensure, within the scope of its competence, compliance with and implementation of such treaties and/or agreements in the Republic of Kosovo. When implementing and ensuring compliance with international treaties and/or agreements, the Authority shall have the right and *mutatis mutandis* subject to the consultation procedure set out in Article 82 of this Law,



to impose, amend or withdraw the obligations referred to in Article 32 of this Law with respect to entrepreneurs other than those with SMP on the relevant market.

### **Article 32**

#### **Imposition of Obligations on Entrepreneurs Having SMP on the Relevant Market**

1. The Authority shall have the right to impose the following obligations on entrepreneurs having SMP on the relevant market, taking account of their appropriateness in each specific case and setting the starting moment in time for the fulfillment of such obligations:

1.1. obligation of transparency in accordance with the provisions of Article 34 of this Law;

1.2. obligation of non-discrimination in accordance with the provisions of Article 33 of this Law;

1.3. obligation of accounting separation in accordance with the provisions of Article 35 of this Law;

1.4. obligation to provide access in accordance with the provisions of Articles 36 of this Law;

1.5. obligation of price control and cost accounting in accordance with the provisions of Articles 35 of this Law;

2. In the cases referred to in Article 38, Article 39 and Article 64 of this Law, entrepreneurs having SMP on the relevant market shall fulfill the relevant obligations without a separate order of the Authority. Entrepreneurs shall also, without a separate order of the Authority, fulfill the additional obligation specified in Article 34 of this Law. The Authority shall have the right to set the starting moment in time for the fulfillment of the aforementioned obligations. In the event that it does not do so, the entrepreneur shall fulfill the obligations referred to in this paragraph as of the moment of its identification as having SMP on the relevant market.

3. The Authority shall have the right to impose specific detailed obligations without exceeding the obligations referred to in paragraphs 1 and 2 of this Article.

4. In exceptional circumstances (i.e. where the Authority, having regard to paragraph 6 of this Article and/or paragraph 12 of Article 31 of this law, determines that the obligations referred to in paragraphs 1, 2 and 3 of this Article would not be sufficient to achieve the objectives set forth in paragraph 1 of Article 31 of this law), the Authority shall have the right to impose on operators having SMP other obligations for access, including interconnection, than those set out in paragraphs 1, 2 and 3 of this Article. The Authority

must obtain the Kosovar Competition Commission's opinion on other obligations referred to in this paragraph. The final decision shall be taken by the Authority.

5. The Authority shall have the right to attach to those obligations conditions covering fairness, reasonableness and timeliness. The Authority shall have the right to specify the obligations provided for in this Article and lay down the conditions of their fulfillment by approving, in the cases provided for in this Law, the rules, procedures and/or conditions mandatory for all entrepreneurs that have to fulfill the relevant obligations as well as by imposing, in all cases, specific detailed obligations and/or conditions of their fulfillment on specific entrepreneurs.

6. The obligations imposed on entrepreneurs by the Authority must be reasonable, based on the nature of the problem identified, proportionate and justified in the light of the principles and objectives of the regulation of electronic communications activities referred to in Article 3 of this Law.

7. Where it is established on the basis of a relevant market analysis that the market characteristics do not justify the imposition of obligations referred to in this Article and/or that there are no entrepreneurs having SMP in the said market, the Authority shall not impose, in accordance with the procedure and conditions set out in this Law, the obligations referred to in this Article and/or shall withdraw the obligations, if any, imposed on the entrepreneurs having SMP. When withdrawing obligations, the Authority may by a reasoned decision set the final date for their implementation which should not be later than twenty eight (28) days from the moment of the order of Authority concerning market analysis results.

8. After having conducted a repeated market analysis, the Authority may amend the imposed obligations by applying *mutatis mutandis* the provisions of this Article concerning the imposition of obligations.

### **Article 33** **Obligation of non-discrimination**

1. The Authority may impose obligations of non-discrimination, in relation to access, on an operator having SMP on the relevant market so that the operator does not discriminate against other entrepreneurs and, in particular, applies equivalent conditions in equivalent circumstances to other entrepreneurs providing equivalent services, and provides services and information to others under the same conditions and of the same quality as it provides for its own services, or those of its subunits or subsidiaries

2. The Authority shall impose the obligation defined in paragraph 1 of this Article, where necessary, to ensure that vertically integrated entrepreneurs, including entrepreneurs controlled by the State or municipalities, which provide electronic communications networks, built subject to exclusive or special rights, and which have SMP, do not discriminate against other entrepreneurs thus giving advantage to their own operations.

3. The Authority may require the Entrepreneur having SMP on the relevant market in accordance with the procedure and conditions set forth by the Authority to provide agreements concluded with regard to provision of relevant interconnection and/or access services, including associated services, by entrepreneur having SMP.

### **Article 34** **Obligation of transparency**

1. Authority, regardless to the provisions of the Article 18 of this Law, may impose obligation of transparency in relation to interconnection and/or access and require SMP Entrepreneurs to publish the information specified by the Authority, including:

1.1 accounting information;

1.2 technical specifications;

1.3 network characteristics/features;

1.4 terms and conditions for supply and use, including any conditions limiting access to and/or use of services and applications where such conditions are allowed by the legal acts;

1.5 tariffs, including the discount.

2. The Authority may require operators having SMP on the relevant market to publish a reference offer to provide access and the associated services to the conditions set forth by the Authority including the content requirements for reference offers. The offer must be sufficiently detailed to ensure that entrepreneurs are not required to pay for facilities which are not necessary for the service requested, giving a description of the relevant offerings broken down into components according to market needs, and the associated terms and conditions including justified prices. The Authority shall have the right to request that the operator having SMP change, within the time limit set by the Authority, the terms and conditions of a reference offer in order to give effect to obligations imposed under this Law on operators with SMP.

3. The Authority may specify the precise information to be made available under paragraphs 1, 2 and 5 of this Article, the level of detail required, the manner of publication and other terms and conditions of publication.

4. The information referred to in paragraphs 1, 2 and 5 of this Article, including geographic network interconnection points, conditions of interconnection testing, electronic communications infrastructure sharing and payment terms, conditions for selecting the electronic communications service provider and tariffs, may not be considered confidential information.

5. An operator having an obligation to provide wholesale network infrastructure access and/or unbundled access to the local loop must publish a reference offer according to the conditions set forth by the Authority including the content requirements for reference offers. Provisions of paragraphs 1 and 2 of this Article shall apply to such a reference offer.

### **Article 35** **Obligation for account separation**

1. The Authority may impose obligations for accounting separation in relation to specified activity or activities related to access on an operator having SMP on the relevant market.
2. The Authority shall establish the rules on accounting separation and the related requirements, including the auditing requirement.
3. The Authority may require a vertically integrated company to make transparent its wholesale prices and its internal transfer prices inter alia to ensure compliance where there is a requirement for non-discrimination under Article 33 of this Law or, where necessary, to prevent unfair cross-subsidy. The Authority may specify the format and accounting methodology to be used.
4. In order to facilitate the verification of compliance with obligations referred to in the Article 33 and 34 of this Law, the Authority may require that accounting records, including data on revenues received from third parties, be provided on request in the way and form defined in the Rules on accounting separation referred to in the paragraph 2 of this Article. Authority shall publish this information if necessary to contribute to an open and competitive market. In doing such, Authority shall take into account the rules pertaining to the confidential information.

### **Article 36** **Obligation to provide access and interconnection**

1. The Authority may impose obligations on an operator having SMP on the relevant market to satisfy reasonable requests by other entrepreneurs for access to, and use of, specific network elements and associated facilities, including:
  - 1.1. to give third parties access to specified network elements and/or facilities, including access to network elements which are not active and/or unbundled access to the local loop, to, inter alia, allow carrier selection and/or pre-selection and/or subscriber line resale offer;
  - 1.2. to provide specified services on the wholesale basis for resale by the third parties;

- 1.3. not withdraw access to facilities already granted;
  - 1.4. negotiate in good will and faith with entrepreneurs requesting access;
  - 1.5. to grant open access to technical interfaces, protocols or other important technologies that are indispensable for the interoperability of services or for services of virtual network;
  - 1.6. to provide co-location or other forms of associated facilities sharing;
  - 1.7. to provide specified services needed to ensure interoperability of end-to-end services to users, including facilities for intelligent networks services or roaming on mobile networks;
  - 1.8. to grant access in the Operational Supporting Systems or similar software systems necessary for assuring fair competition in offering the services;
  - 1.9. to interconnect networks or network facilities, including the possibility to interconnect networks at any network point where this is technically feasible;
  - 1.10. to provide access to associated services such as identity, location and presence service.
2. When adopting a decision on imposing or withdrawing the obligations and in particular when assessing how such obligations would be imposed referred to in paragraph 1 of this Article, the Authority shall take account of the principles and objectives of this Law and of the following factors:
- 2.1. technical and economic viability of use or installation of competing facilities with regard to the rate of market development, considering the nature and type of interconnection and/or access involved, including the viability of other upstream access products such as access to ducts;
  - 2.2. feasibility to provide the access requested, in relation to the capacity (resources) available;
  - 2.3. initial investment by the owner of facilities, taking into account of any public investment made and the risks involved in such investments;
  - 2.4. need to safeguard competition in long term with particular attention to economically efficient infrastructure-based competition;
  - 2.5. all intellectual property rights.
3. When imposing obligations on an operator to provide access in accordance with the provisions of this Article, the Authority may lay down technical or operational conditions

to be met by the provider and/or beneficiaries of such access where necessary to ensure normal operation of the network.

### **Article 37** **Access**

1. Entrepreneurs that are legitimately engaged in an electronic communications activity shall have the right to negotiate access freely. Operators shall have a right and, when requested by another operator or a public electronic communications service provider seeking to provide publicly available electronic communications services or to secure such provision, an obligation to negotiate network interconnection in order to ensure provision and interoperability of services.

2. The Authority shall encourage and where appropriate ensure, in accordance with the procedure established by this Law, adequate access and compatibility of services in order to promote efficiency, long-term competition, effective investments and innovations and give the maximum possible benefit to end users. With this aim in view the Authority shall have the right to impose, in accordance with the procedure established by this Law, obligations on entrepreneurs with significant market power as well as on other entrepreneurs, in particular:

2.1. to the extent that is necessary to ensure end-to-end connectivity, obligations on entrepreneurs that control access to end users, including the obligation to interconnect their networks where this is not already the case;

2.2. to the extent that is necessary to ensure accessibility for end users to specific digital radio and television broadcasting services, obligations on operators to ensure access to application program interfaces and electronic programme guides on fair, reasonable and non-discriminatory terms;

2.3. in justified cases and to the extent that is necessary, the obligations on entrepreneurs that control access to end-users to make their services interoperable.

3. Obligations to provide access imposed by the Authority and/or the related conditions imposed thereby shall be objective, transparent, proportionate and non-discriminatory and the relevant decisions shall be taken pursuant to the rules applied the cases specified in Article 82 of this Law and, mutatis mutandis, the rules laid down in Article 32 of this Law.

4. In the case referred to in paragraph 2 of this Article, an entrepreneur may refuse to provide, to unilaterally suspend or discontinue access only in the event that such actions are based on objective criteria, including technical non-feasibility or the necessity to ensure network integrity.

5. Entrepreneurs shall ensure that any information acquired from other entrepreneurs before, during or after negotiations for access, except for the information which may not be confidential subject to the procedure, cases and conditions set out in this Law, be used solely for the purpose for which it was supplied and respect the confidentiality of information transmitted or stored. Such information may not be passed on to any other party, in particular other subdivisions, subsidiaries or partners, for whom such information could provide a competitive advantage. The Authority may adopt rules detailing the measures to secure such requirements.

6. When resolving a dispute between entrepreneurs, the Authority shall have the right, in conformity with the principles established by this Law and in cases justified by the objectives thereof, to issue at its own initiative or in accordance with the procedure established in Chapter XIII of this Law a decision on the granting of access, which shall be binding on the entrepreneurs, including the imposition of obligations in respect of specific access, including interconnection, as specified in paragraph 2 of this Article.

7. The Authority shall have the right to adopt rules for granting and providing access, including network interconnection.

### **Article 38** **Obligation for carrier selection and pre-selection**

1. Entrepreneurs having SMP in the relevant market for access to and use of public telephone network at a fixed location shall, in accordance with the procedure and conditions set forth by the Authority, to enable on their own account their subscribers to access the services of any operator of publicly available telephone services to which they are interconnected through carrier selection or pre-selection.

2. Tariffs set for the access and the activation payment with regard to the carrier selection or pre-selection shall be cost-oriented. For this purpose, the rules set out in Article 40 of this Law shall apply. Tariffs imposed on subscribers for the exercise of such rights may not act as a disincentive for the use of such a possibility. For this purpose, the Authority may inclose a tariff ceiling.

3. The obligation referred to in paragraph 1 of this Article may be imposed by the Authority on any entrepreneur having SMP on the relevant market as well as in relation to the imposition of the obligation referred to in sub-paragraph 1.4 paragraph 1 of Article 32 of this Law.

### **Article 39** **Obligation for providing leased lines**

1. An entrepreneur having SMP on the relevant leased line market must provide a set of leased lines as established by the Authority and comply with the procedure and

conditions for providing such services set out in the rules approved by the Authority, also fulfill the obligations related to non-discrimination, cost-oriented prices including the introduction and use of a cost accounting system, transparency and creation of conditions for the provision of services.

2. An entrepreneur having SMP on the relevant leased line market shall provide leased line services at prices that are derived from costs including a reasonable rate of return on investment. For this purpose, the Authority may establish the highest price level for the leased line services. Paragraphs 4 and 5 of Article 40 of this Law shall apply *mutatis mutandis* to the cost-orientation of prices and cost accounting.

#### **Article 40**

#### **Price Control and Cost Accounting Obligation**

1. Authority may impose on entrepreneurs having SMP on relevant market obligations relating to cost recovery and price controls, including obligations for cost orientation of prices and obligations concerning cost accounting systems, for the provision of specific types of interconnection and/or access, in situations where a market analysis indicates that a lack of effective competition means that the operator concerned may sustain prices at an excessively high level, or may apply a price squeeze, to the detriment of end-users.

2. When imposing obligations, account shall be taken of the operator's right to a reasonable rate of return on investment.

3. The cost recovery mechanism and/or pricing methodology that is mandated must promote efficiency and long-term competition and maximize consumer benefits. In this regard the Authority may take account of prices available in comparable competitive markets.

4. Where an operator has an obligation regarding the cost orientation of its prices, the burden of proof that charges are derived from costs including a reasonable rate of return on investment shall lie with the operator concerned. The Authority may lay down cost accounting rules for the purpose of calculating the cost of efficient provision of services. The Authority may require an operator who has an obligation regarding the cost orientation of its prices to provide full justification for its prices and may set a reasonable mandatory time limit for the submission of such justification. Should the operator fail to provide justification for its prices within the established time limit, it shall be deemed that its prices are not cost orientated. The Authority shall have the right to require that the data submitted by the operator be audited. The Authority shall have the right to require that prices be adjusted or that the highest price level be set. Until an operator who has an obligation regarding the cost orientation of its prices provides full justification for its prices, the Authority may set temporary the highest price level taking into account the data about relevant costs obtained on the basis of indirect cost assessment methods, including the comparison of prices for relevant services having regard to the best practice of EU Member States, the practice of countries with a similar level of development and



the practice of the Republic of Kosovo, and the assessment of the ratio between relevant wholesale and retail prices.

5. Should the Authority request to implement a cost accounting system in order to support price control, the operator must, within the time limit and in accordance with the procedure and conditions set forth by the Authority, prepare a cost accounting system, make its description publicly available, submit it to the Authority, and maintain compliance with it. The cost accounting system and the manner of its publication must be in compliance with the cost accounting rules laid down by the Authority. The Authority shall have the right to establish a cost accounting system, methodology and/or format to be used by an operator or operators having SMP on the relevant market. The Authority shall make the accounting system, methodology and/or format public by publishing them on Authorities Web page. Compliance with cost accounting rules and other legal acts as well as with the cost accounting system, methodology and/or format prepared by the operator and/or established by the Authority shall be verified by an audit. The audit opinion shall be published annually according to the rules laid down by the Authority.

#### **Article 41** **Digital Television Distribution**

Providers of electronic communications networks used for the distribution of digital television services shall ensure the possibility to distribute wide-screen digital television services and programmes. Operators that receive and redistribute wide-screen digital television services or programmes shall maintain that wide-screen format.

#### **Article 42** **Conditional Access Services and Associated Facilities**

1. Entrepreneurs controlling conditional access systems shall use only such systems of conditional access to digital radio and/or television services, irrespective of the means of transmission, that would have the necessary technical capability for cost-effective transmission control (i.e. technical procedures enabling to transfer conditional access control from one broadcaster (transmission provider) to another broadcaster (transmission provider), allowing the possibility for full control at local or regional level of the services by operators using such systems.

2. Entrepreneurs that provide conditional access services to digital radio and/or television services, irrespective of the means of transmission, whose services broadcasters depend on to reach any group of potential viewers or listeners, irrespective of the means of transmission, are to:

2.1. offer to all broadcasters, on a fair, reasonable and non-discriminatory basis, technical services enabling the broadcasters' digitally-transmitted services to be

- received by viewers or listeners authorized by means of decoders provided and administered by the service providers (operators);
- 2.2. if entrepreneurs are engaged, apart from the provision of conditional access to digital radio and/or television services, in other activities, keep separate financial accounts regarding their activity as conditional access providers in accordance with the rules for accounting separation laid down by the Authority and in conformity with requirements related to accounting separation, including the auditing requirement.
3. The Authority shall have the right to establish the procedure and conditions for implementing the provisions of paragraphs 1 and 2 of this Article.
4. The Authority shall have the right to establish requirements for the provision and use of electronic programme guides and similar listing and navigation facilities.

### **Article 43**

#### **Special Measures Ensuring Effective Competition**

1. Central or local public enterprises or the ones holding exclusive or special rights, which have significant market power in a considerable part of the common market for the provision of public communications networks and publicly available telephone services and which control a cable television network installed using exclusive or special rights held or being held in the same geographical area, may provide a cable television network only through legal person other than the legal person used for the provision of a public communications network.
2. Providers of public communications networks and/or publicly available electronic communications services which have also been granted special or exclusive rights for the provision of services in other economic sectors of the Republic of Kosovo shall keep separate accounts for the activities associated with the provision of electronic communications networks and/or services in accordance with the accounting separation rules and related requirements including the audit requirement and the requirement to have structural separation for the activities associated with the provision of electronic communications networks and/or services as established by the Authority. The Authority shall have the right to specify the requirements for structural separation.
3. Paragraph 2 of this Article shall not apply to entrepreneurs the annual turnover of which in activities associated with electronic communications networks and/or services in the Republic of Kosovo is less than an equivalent of three hundred thousand (300 000) Euro.
4. Any entrepreneur providing public electronic communications networks or publicly available electronic communications services, except for small and medium-sized enterprises, shall ensure that their annual financial reports are audited and published. This

provision shall also apply to all separate accounts kept pursuant to paragraph 2 of this Article. The Authority shall have the right to specify the procedure and conditions for implementing the provisions of this paragraph.

#### **Article 44**

##### **Measures Ensuring the Interoperability of Electronic Communications**

1. The Authority shall adopt legal acts obligating to comply with the standards set by international and European standardization organizations, which have been transposed into Kosovo standards in accordance with the established procedure, as well as with original Kosovo standards, international and European specifications and/or recommendations for the provision of electronic communications networks and services as well as associated facilities and services including the broadcasting transmission of radio and/or television programmes, technical interfaces and/or network functions, and the interoperability of terminal equipment, including radio and television programme reception equipment. A natural or legal person shall be considered as having fulfilled the obligation to comply with Kosovo standards in the abovementioned areas if the person complies with the relevant international or European standards as well as with the relevant Kosovo standards transposing international or European standards.

2. Until international or European standards in the areas referred to in paragraph 1 of this Article have not been transposed into Kosovo standards, the Authority may request direct compliance with the relevant standards for the provision of electronic communications networks and services. After having transposed the relevant standard into a Kosovo standard, any reference to the international or European standard shall be considered to be a reference to the relevant Kosovo standard. A person or entrepreneur shall be considered as having fulfilled the obligation to comply with international or European standards in the areas referred to in paragraph 1 of this Article if the person/entrepreneur complies with the relevant standards transposing international or European standards.

3. Technical requirements of the standards declared by persons or entrepreneurs which have submitted on a voluntary basis a declaration of conformity of their products or services to such standards, including international, European, foreign and Kosovo standards, shall be binding on the said persons/entrepreneurs.

4. The Authority shall have the right to establish independent technical requirements in the areas referred to in paragraph 1 of this Article.

5. The owners of application program interfaces shall make available on fair, reasonable and non-discriminatory terms, and against appropriate remuneration, all such information as is necessary to enable providers of digital television services to provide all services supported by the API (“Application program interface (API)”) in a fully functional form.

6. Certificates of conformity issued by the relevant EU institutions and the relevant institutions authorized by EU Member States in respect of measuring instruments and standards recognized in EU Member States shall be recognized in the Republic of Kosovo. The procedure of such recognition shall be established by the Government in conformity with international commitments.

## **CHAPTER VII**

### **MANAGEMENT OF ELECTRONIC COMMUNICATIONS RESOURCES**

#### **Article 45**

##### **Basis for the Management of Electronic Communications Resources**

1. Authority shall, in accordance with the procedure and conditions set out in this Law, manage electronic communications resources. Radio frequencies (channels), telephone numbers, names and addresses, country code Top Level Domen (ccTLD) and other electronic communications resources shall be managed according to the provisions of this Law.
2. Radio frequencies (channels) shall be managed according to the National Plan of Radio Frequency and the Plan for Using Radio Frequencies (Channels) in conformity with the radio communication development plans.
3. Telephone numbers used in public electronic communications networks shall be managed according to the National Telephone Numbering Plan approved by the Authority. The Authority shall approve the procedure and conditions for implementing the National Telephone Numbering Plan.
4. The Authority shall establish the rules for management of other electronic communications resources.

#### **Article 46**

##### **Basis for the Assignment and Use of Electronic Communications Resources**

1. Electronic communications resources shall be assigned and used in accordance with the procedure and conditions set out in this Law and the rules for the assignment and use of electronic communications resources approved by the Authority.
2. Electronic communications resources may be used:
  - 2.1. without an individual authorization where the Authority establishes that certain electronic communications resources may be used without an individual authorization;

- 2.2. in order to ensure efficient and effective use of electronic communication resources, quality of electronic communications services and to avoid harmful interferences, upon receipt of an individual authorisation to use electronic communications resources issued by the Authority.
3. The Authority, in conformity with the international obligations of the Republic of Kosovo, Radio Regulations, National Plan of Radio Frequency, plan for the use of radio frequencies (channels) and radio communication development plans, shall assign radio frequencies (channels) and other electronic communications resources necessary for activities related to national defense, national security, maintenance of public order, public emergency services, guarding of state borders, civil aviation, rail traffic safety, stable and reliable operation of the national energy system and other non-commercial functions of the State (including foreign states) and its institutions.
4. The Authority shall perform the functions referred to in paragraph 3 of this Article without applying the provisions of Article 47 – 52 of this Law. The Authority shall establish the rules for the assignment of electronic communications resources, referred to in paragraph 3 of this Article, being lead by a principle of efficiency and efficacy when using the frequencies.
5. The duration of the right to use electronic communications resources shall be determined by the Authority. It may be prolonged in cases provided for in the rules for the assignment and use of electronic communications resources and in accordance with the procedure and conditions set out therein.
6. Where the use of radio frequencies (channels) has been harmonized, agreement has been reached on the conditions and procedure of their use, and entrepreneurs to be assigned radio frequencies (channels) have been selected according to international treaties and/or agreements, the Authority shall assign radio frequencies (channels) subject to the relevant rules. If all the conditions of radio frequency (channel) use established in the Republic of Kosovo have been fulfilled in the course of a general selection procedure, no additional conditions, criteria or procedures shall be established for the use of radio frequencies (channels), which might restrict, modify or delay the correct implementation of the general radio frequency (channel) assignment procedure.

#### **Article 47**

#### **Assignment of Electronic Communication Resources**

1. Where the Authority has not established that certain electronic communications resources may be used without an individual authorization, a person shall, prior to the use of such resources, submit to the Authority an application in the prescribed form for the assignment of electronic communications resources in accordance with the procedure and conditions set out in the rules for the assignment and use of electronic communications resources.

2. Where an entrepreneur submits an application for the assignment of electronic communications resources after its notification of the start of activity has been submitted to the Authority, the entrepreneur may, at the time of submitting the application, only confirm that the information and documents submitted earlier to the Authority have not changed and shall not need to re-submit the same information and documents. Should any changes occur in the activity of the entrepreneur after the date of submission of notification of the start of activity subject to the legal acts of the Authority, the entrepreneur must update the documents and information at the time of application for assignment of electronic communications resources.

3. A person requesting radio frequencies (channels) shall submit to the Authority information about the possibilities to fulfill the obligations relating to the use of radio frequencies (channels). The Authority shall set the scope of the information to be submitted and the procedure for the submission thereof. The Authority shall have the right to refuse to assign radio frequencies (channels) to a person who has failed to submit the requested information or who has submitted information that is not in conformity with the requirements set by the Authority.

4. A person may start using electronic communications resources as of the date of issue of the authorization, unless stated otherwise in the authorization. An authorization to use electronic communications resources shall be issued to persons who have been assigned electronic communications resources in accordance with the procedure and conditions set forth by the Authority.

5. The number of authorizations to use electronic communications resources shall be unlimited, except for the cases where restrictions are necessary to ensure effective use of radio frequencies (channels) or where other specific electronic communications resources are of exceptional economic value and/or a shortage of electronic communications resources is unavoidable, and this is justified by the principle of proportionality.

6. When adopting a decision to restrict the number of authorizations to use electronic communications resources, the Authority shall:

6.1 take adequate account of the necessity to maximize benefits to users and to encourage competition;

6.2 provide all interested parties, including users and consumers, with a possibility to express their opinion on any restriction within the scope and in accordance with the procedure and conditions set out in respect of public consultations defined in paragraph 1 of Article 82 of this Law;

6.3 publish a decision to restrict the number of authorizations to use electronic communications resources specifying the reasons for such restriction;

6.4 after having established the relevant procedure, publish an invitation to submit applications for the assignment of electronic communications resources;

- 6.5 periodically or upon receipt of a reasoned request by interested persons, review the restrictions.
7. The Authority, after having established that it can assign electronic communications resources that are subject to a restricted number of authorizations, shall publish its conclusion and an invitation to submit applications for the assignment of electronic communications resources. The Authority shall publish information about the allocation of electronic communications resources in accordance with the procedure and conditions set forth by it.
8. The Authority shall publish information about the applications submitted by persons for the assignment of electronic communications resources when the number of authorizations to use such resources is restricted. The rules for the publication of such information shall be established by the Authority.
9. The Authority may reserve specific electronic communications resources to ensure proper development of electronic communications networks and/or services and technologies.
10. A decision to assign electronic communications resources shall be taken, communicated to the applicant and made public as soon as possible after the receipt of the complete application conforming to the established requirements (complete information and documents) by the Authority, within twenty one (21) days in the case of telephone numbers and within forty two (42) days in the case of radio frequencies (channels). The later time limit shall be applied without prejudice to any time limits set in international treaties and/or other agreements.
11. Should the Authority decide that the rights of use for telephone numbers shall be granted by tender or auction, the maximum time limit of twenty one (21) days set in paragraph 10 of this Article shall be extended by another twenty one (21) days. Should the Authority decide to assign radio frequencies (channels) by tender or auction, the maximum time limit of forty two (42) days set in paragraph 10 of this Article shall be extended by a period which it is necessary to ensure fair, reasonable, open and transparent procedures to all interested parties, however, in any case, by no longer than eight (8) months. This time limit shall be applied without prejudice to any time limits set in international treaties and/or other agreements.
12. Fees for the right to use electronic communications resources to be paid by successful bidders or auction winners shall be paid to the state budget. Where a successful bidder or auction winner delays to pay the fee or part of the fee, the Authority shall have the right to adopt a decision imposing an obligation on the successful bidder or auction winner to make due payments and setting the time limit for making such payments. The decision adopted by the Authority shall be a document to be executed. If the decision is not executed, it shall be forwarded to be executed in accordance with the procedure established by the Legislation in force of Criminal Procedure. The decision may be presented for execution not later than within three (3) years from the date of its adoption.

**Article 48**  
**Methods of Assignment of Electronic Communications Resources**

1. The Authority shall assign electronic communications resources:
  - 1.1. directly to the person requesting them;
  - 1.2. by tender;
  - 1.3. by auction.

**Article 49**  
**Assignment of electronic communications resources directly to the requesting person**

1. The Authority shall have the right to assign electronic communications resources directly to the person requesting them, in cases when any of the following conditions is fulfilled:
  - 1.1 the Authority does not limit the number of authorizations to use the electronic communications resources requested;
  - 1.2. after the publication by the Authority about the receipt of an application for the assignment of electronic communications resources, no other person expresses an interest, within the time limit set by the Authority, to use the same resources, or there are sufficient resources to be assigned to all persons having expressed such interest.
2. Should the Authority receive applications for the assignment of electronic communications resources from several persons at the same time and the resources may not be assigned at the same time to all of the persons requesting them, such resources shall be assigned by public tender or by auction. Applications shall be considered as received at the same time if they have been submitted within the time limit set by the Authority, counting from the date of publication of information about the receipt of the first application.

**Article 50**  
**Assignment of Electronic Communications Resources by Tender**

A tendering procedure for the assignment of electronic communications resources shall be organized in accordance with the procedure provided for in the rules for the assignment of electronic communications resources approved by the Authority and by public tender conditions approved by the Ministry and pursuant to this Law. Tender conditions shall specify qualification requirements for tenderers, define the market in



which electronic communications resources will be used, and set forth the conditions of use of electronic communications resources. Tender conditions shall specify the criteria for selecting successful tenderers. Such criteria shall be based on special knowledge and effective performance, appropriate schemes of operations in terms of the provision of electronic communications networks and/or services, adequate service prices, time limits for the implementation of services in the market, amount of investments and promotion of effective competition. Where a radio frequency (channel) is assigned by tender, priority shall be given to those tenderers that may ensure larger geographic coverage by services within a shorter period of time.

### **Article 51**

#### **Assignment of Electronic Communications Resources by Auction**

1. The rules of auction shall be set by the Authority.
2. The rules of auction shall specify qualification requirements for bidders; define the market in which electronic communications resources will be used, the conditions of use of electronic communications resources and the minimum amount of electronic communications resources to be bought by a participant in the auction.

### **Article 52**

#### **Refusal to Assign Electronic Communications Resources**

1. The Authority may refuse to assign electronic communications resources if:
  - 1.1. no spare electronic communications resources are available. This includes those cases where the use of requested electronic communications resources would impede the use of other electronic communications resources already in use;
  - 1.2. the applicant's activities do not conform to the requirements of this Law, tender or auction requirements, the purpose of electronic communications resources or the applicant has been using the electronic communications resources available to it inefficiently or ineffectively;
  - 1.3. the applicant has failed to submit the documents or information requested;
  - 1.4. the application does not conform to the requirements of legal acts;
  - 1.5. the information or documents submitted by the applicant are inaccurate or incorrect;

1.6. the applicant was not successful in a tendering or auction procedure where such a procedure was organized for granting the right to use electronic communications resources;

1.7 the applicant has failed to pay the relevant fee or other charges within the set time limit.

2. Prior to adoption of a decision refusing to assign electronic communications resources to a person, the Authority may set a time limit for the person to rectify the situation hindering the Authority from issuing a refusing decision. The Authority shall inform the person about such a decision in specifying the deficiencies and the time limit for the elimination thereof. This paragraph shall not apply if a tendering or public auction procedure was held for granting the right to use electronic communications resources.

### **Article 53**

#### **Transfer of Right to Use Electronic Communications Resources**

A person may transfer, including lease, the right to use the assigned electronic communications resources, except the radio frequencies which purpose is radio and (or) television broadcasting, to another person, for the cases specified by the Authority.

### **Article 54**

#### **Use of Electronic Communications Resources**

1. The conditions set out in the rules for the assignment and use of electronic communications resources and in authorizations to use electronic communications resources shall be non-discriminatory, transparent and proportionate. The terms and conditions prescribed by the legal acts regulating the general terms and conditions for engaging in electronic communications activities shall not be repeated in the rules for the assignment and use of electronic communications resources and in authorizations to use electronic communications resources.

2. The conditions set out in the rules for the use of radio frequencies (channels) and in authorizations to use radio frequencies (channels) may only be related to:

2.1. designation of purpose for which radio frequencies (channels) are assigned (service, type of technology) as well as of coverage and quality requirements;

2.2. effective and efficient use of radio frequencies (channels);

2.3. technical and operational conditions necessary for the avoidance of harmful interference and for the limitation of exposure of the general public to electromagnetic fields, where such conditions are different from those included in

the general terms and conditions for engaging in electronic communications activities set forth by the Authority;

2.4. maximum time limit for the use of radio frequencies (channels), stated taking into account the purpose of radio frequencies (channels), effective use of radio frequencies (channels), amortization of investments;

2.5. transfer of the right to use radio frequencies (channels) at the initiative of the right holder and conditions for such transfer. The Authority shall specify such conditions in authorizations to use radio frequencies (channels);

2.6. payments for the supervision of use of radio frequencies (channels) and fees to the state budget in accordance with the procedure established by legal acts;

2.7. any commitments made by a person in the course of a tendering or auction procedure;

2.8. obligations under relevant international treaties and/or other agreements relating to the use of radio (frequencies) channels;

2.9. obligations specific to an experimental use of radio frequencies.

3. The conditions set out in the rules for the use of telephone numbers and in authorizations to use of telephone numbers may only be related to:

3.1. designation of purpose (service) for which telephone numbers are used, including any requirements linked to the provision of that service, and tariff principles and maximum prices that can apply in the specific number range;

3.2. effective and efficient use of telephone numbers;

3.3. subscriber's right to retain the telephone number;

3.4. obligation to provide directory enquiry services;

3.5. maximum time limit for the use of telephone numbers;

3.6. transfer of the right to use telephone numbers at the initiative of the right holder and conditions for such transfer. The Authority shall specify such conditions in authorizations to use telephone numbers;

3.7. fees for the supervision of use of telephone number and fees and payments payable to the state budget in accordance with the procedure established by legal acts;

3.8. any commitments which a person has made in the course of a tendering or auction procedure;

3.9. obligations under relevant international treaties and/or other agreements relating to the use of telephone numbers.

4. Persons shall use electronic communications resources effectively and efficiently. The criteria for effective and efficient use of electronic communications resources shall be laid down in the rules for the assignment and use of electronic resources and in authorizations to use electronic communications resources.

5. The Authority shall have the right to replace the assigned electronic communications resources with other resources of the same purpose giving notice to electronic communications resource users nine (9) months in advance or to revoke an authorization to use electronic communications resources giving notice to electronic communications resource users eighteen (18) months in advance, provided that this is required by international treaties obligations, legal acts of European Union, or if the purpose of electronic communications resources is changed. When implementing the provisions of this paragraph, the Authority shall apply *mutatis mutandis* the provisions of Article 55 of this Law.

6. An entrepreneur that forfeits the right to be engaged in electronic communications activities shall also forfeit the right to use the relevant electronic communications resources.

7. Where individual rights to use radio frequencies are granted for ten (10) years or more and such rights may not be transferred or leased between entrepreneurs, the Authority shall ensure that the criteria to grant individual rights of use apply and are in compliance with for the duration of the license validity, in particular in cases when the user of the right for use submits such a request and justifies the same request. If those criteria are no longer applicable, the individual right of use shall be changed into a general authorization for the use of radio frequencies, subject to prior notice and after a certain period of time, or shall be made transferable or leasable between entrepreneurs.

8. Authority shall ensure that radiofrequencies are efficiently and effectively used in accordance with this Law. They shall ensure competition is not distorted by any transfer or accumulation of rights of use of radio frequencies. For such purposes, Authority may take appropriate measures such as mandating the sale or the lease of rights to use radio frequencies.

**Article 55**  
**Change of Conditions for Usage of Electronic Communications Resources**

The rights, conditions and procedures relating to the use of electronic communications resources may only be amended in objectively justified cases and in a proportionate manner taking into account conditions related to the transfer or lease of the right of use the radio frequencies. Notice shall be given in an appropriate manner of the intention to make such amendments and interested parties, including users and consumers, shall be allowed a sufficient period of time to express their views on the proposed amendments, which shall be no less than thirty (30) days except in exceptional circumstances. Where amendments of the conditions for usage of radio frequencies (channels) on the basis of criteria set out in the legal acts result in a change of the coverage territory of radio and/or television programmes broadcast and/or re-broadcast under a license issued by the Independent Media Commission, such amendments shall be coordinated with Independent Media Commission.

**Article 56**  
**Activities of Radio Amateurs and Other Radio Station Users**

The procedure for granting the right to engage in radio amateur activities and any other activity of radio station users, the conditions for such activity as well as the procedure and conditions for issuing authorizations to radio amateurs and other radio station users shall be set forth by the Authority.

**Article 57**  
**Payments for the radio frequencies use**

1. Regular annual payments shall be paid for use of the radio frequency spectrum, and the calculation and the amount of the payments, as well as the manner of payment shall approved by the Authority in line with the provisions of sub-paragraph 2.6 of paragraph 2 of Article 54 of this Law.
2. The payments approved according to the paragraph 1 of this Article should ensure the optimal use of the radio frequency spectrum in accordance with the principles referred to in Article 3 of this Law.
3. The calculation and the amount of the payments referred to authorization to use shall not apply to radio frequency bands, which are, according to the Radio Frequency Allocation Table, subject to a public auction procedure in accordance with Article 51 of this Law whereby the amount of the payments for the right to use the frequency spectrum shall be established in the public auction procedure.

## **CHAPTER VIII NUMBERING, NAMES AND ADDRESSES**

### **Article 58 Numbering Plan**

1. Numbering plan defines the structure, length and allocation of the numbers for access to the public communications networks and services.
2. Authority shall administrate the Numbering Plan in order to:
  - 2.1. ensure efficient structuring and use of numbers and series of numbers;
  - 2.2. satisfy the reasonable needs of operators and providers of public electronic communications service for the allocation of the numbers under this Law;
  - 2.3. ensure that the allocation and use of numbers is fair, transparent and non-discriminatory.
3. Authority shall keep all data related to administration of the Numbering Plan.
4. Authority shall publish on its website the allocated numbers and number ranges, as well as their users.

### **Article 59 Use of Numbers, names and addresses**

1. The numbers and series of numbers, names and addresses of the Numbering Plan may be used only pursuant to Authority decision.
2. Authority prepares rules also for appointment and usage of names and addresses, aiming at ensuring transparency, fairness and non-discrimination for their users.

### **Article 60 Number portability**

1. Providers of public communications networks and/or publicly available electronic communications services shall ensure, on their own costs and in accordance with the procedure and conditions set forth by the Authority, that subscribers can port their numbers where there is a change of telephone service provider or the location of service provision or the way of provision of services.

2. The requirement that all subscribers with numbers from the national numbering plan, who so request can retain their numbers independently of the entrepreneur providing the service shall apply:

2.1. in the case of geographic numbers, at a specific location; and

2.2. in the case of non-geographic numbers, at any location. This paragraph does not apply to the porting of numbers between networks providing services at a fixed location and mobile networks.

3. Authority shall ensure that pricing between operators and/or service providers related to the provision of number portability is cost-oriented. For this purpose, the Authority shall have the right to apply the rules set out in Article 40 of the Law to all entrepreneurs bound by this Article. Tariffs imposed on subscribers for the exercise of such rights in the cases permitted by the Authority and according to the conditions set forth by it may not act as a disincentive for the use of such a possibility. For this purpose, the Authority may fix the highest price level.

### **Article 61** **Non-geographic numbers**

1. Entrepreneurs of public telephone networks or publicly available telephone services shall be obliged, where technically and economically feasible, to provide a possibility for the users from countries outside of the Republic of Kosovo to be able to call non-geographic numbers defined in the Republic of Kosovo according to National Numbering Plan.

2. Entrepreneurs of public telephone networks or publicly available telephone services shall not be obliged to comply with the obligation from paragraph 1 of this Article, where a called subscriber has chosen, for commercial reasons, to limit the calls originating from specific areas.

3. Entrepreneurs of electronic communication networks and public communications networks shall allow the use of nomadic public telephony service for their users.

**CHAPTER IX**  
**MEASURES FOR PROTECTION OF PUBLIC ELECTRONIC**  
**COMMUNICATIONS NETWORKS**

**Article 62**  
**Protection of network from damages**

Entrepreneur holds an accurate and full documentation for its own network. Upon official request, the entrepreneurs give to the institutions in charge by Law on the urban planning, and also to each other data for parts of this network, in order to avoid the damages in the network from the underground or construction works or from the possible electrical influences, caused by putting into action the devices near the electronic communications network.

**Article 63**  
**Protection of the network from damages caused by third parties**

1. Individuals or private public entities, who perform construction and excavation works, are required to inform public telecommunication operators prior to commencement of these works to prevent damage to the existing electronic communication network.
2. If the works in the existing electronic communication network are indispensable all expenditures for protecting, diverting, or repairing damage to the networks will be covered by the organization performing the works.
3. Disputes among parties shall be resolved in court.

**CHAPTER X**  
**END USERS' INTERESTS AND RIGHTS**

**Article 64**  
**Obligations Related to the Provision of Services to End Users**

1. The Authority, having decided that the obligations that may be imposed under Articles 33, 34, 35, 36, 37, and 40 of this Law and the obligations the fulfillment of which is mandatory, where applicable, under Article 38 of this Law are not sufficient in respect of an entrepreneur having significant market power (SMP) on the relevant market, shall impose obligations that are appropriate, based on the nature of the problem identified, proportionate and justified in the light of the objectives to be achieved, including requirements that the entrepreneur does not charge excessive prices, inhibit market entry or restrict competition by setting predatory prices, show undue preference to specific end-



users or unreasonably bundle services, also obligations to ensure the quality of service established by the Authority. In order to protect the end-user interests and promote effective competition, the Authority shall have the right to establish the highest price level, apply measures to control individual tariffs and impose obligations to orient tariffs towards costs or prices on comparable markets. Where an obligation is imposed on an entrepreneur to orient tariffs towards costs, provisions of paragraph 4 of Article 40 of this Law shall apply mutatis mutandis.

2. The Authority shall ensure that, where tariff regulation or other relevant obligations are imposed on an entrepreneur, the entrepreneur keeps its cost accounts in accordance with the rules established by the Authority. Such an entrepreneur shall within the time limit established by the Authority prepare a cost accounting system, publish its description and submit it to the Authority, and comply with the cost accounting system. The cost accounting system must be in conformity with the cost accounting rules established by the Authority. The Authority shall have the right to establish a cost accounting system and the format and accounting methodology to be used by entrepreneurs or a specific entrepreneur having significant market power (SMP) on the relevant market. The Authority shall publish the accounting system on its webpage. Compliance of an entrepreneur's cost accounting with the cost accounting rules and other legal acts as well as with the cost accounting system and/or accounting methodology and/or format prepared by the entrepreneur and/or established by the Authority shall be verified by an audit. The audit opinion shall be published annually in accordance with the rules established by the Authority.

## **Article 65**

### **Transparency and Publication of Information**

1. Providers of publicly available electronic communications services shall make publicly available transparent, comparable, adequate and up-to-date information on applicable prices and tariffs, on any charges due on termination of a contract and on standard terms and conditions in respect of access to, and use of, services provided by them to end-users and consumers in accordance with the rules for the publication of information and its submission the Authority, including the scope and content of information, the time limit, form and method of its publication and/or submission, and quality assessment rules.

2. Authority shall encourage the provision of comparable information to enable end-users and consumers to make an independent evaluation of the cost of alternative usage patterns, for instance by means of interactive guides or similar techniques. Where such facilities are not available on the market free of charge or at a reasonable price, Authority may decide upon development of such guide or techniques available itself or through third party procurement. Third parties shall have a right to use, free of charge, the information published by entrepreneurs providing electronic communications networks and/or publicly available electronic communications services for the purposes of selling or making available, such interactive guides or similar techniques.

3. Providers of publicly available electronic communications networks and services shall inter alia:

3.1. provide applicable tariff information to subscribers regarding any number or service subject to particular pricing conditions; with respect to individual categories of services, Authority may require such information to be provided immediately prior to connecting the call;

3.2. inform subscribers of any change to access to emergency services or caller location information in the service to which they have subscribed;

3.3. inform subscribers of any change to conditions limiting access to and/or use of services and applications, where such conditions are permitted under national law;

3.4. provide information on any procedures put in place by the provider to measure and shape traffic so as to avoid filling or overfilling a network link, and on how those procedures could impact on service quality;

3.5. inform subscribers of their right to determine whether or not to include their personal data in a directory, and of the types of data concerned, in accordance with this Law , and EU legislation for data protection and privacy on electronic communications; and

3.6. regularly inform disabled subscribers of details of products and services designed for them.

4. Authority may require that publicly available electronic communications networks and services distribute public interest information free of charge to existing and new subscribers, where appropriate, by the same means as those ordinarily used by them in their communications with subscribers. In such a case, that information shall be provided by the relevant public authorities in a standardized format and shall, inter alia, cover the following topics:

4.1. the most common uses of electronic communications services to engage in unlawful activities or to disseminate harmful content, particularly where it may prejudice respect for the rights and freedoms of others, including infringements of copyright and related rights, and their legal consequences; and

4.2. the means of protection against risks to personal security, privacy and personal data when using electronic communications services.

**Article 66**  
**Rights and Obligations of the Electronic Communications Service Providers and End Users**

1. When providing a user with terminal equipment free of charge or when offering the terminal equipment at a lower price than its cost price, the provider of publicly available electronic communications services must indicate in the contract on the provision of electronic communications services the difference in its selling price with and without a service provision contract as well as the period of time and manner in which this difference will be compensated.
2. The provider of electronic communications services shall examine all of the received applications, proposals and complaints concerning electronic communications services provided or intended to be provided by it and issue a reply within fifteen (15) days from the receipt thereof.
3. The provider of electronic communications services shall inform the subscriber free of charge about the services provided and about tariffs and prices if the subscriber so requests.
4. Providers of publicly available telephone services providing end users with access to the public telephone network shall ensure the provision of assistance services to end users. The Authority shall establish the rules for the provision of assistance services by the service provider.
5. Entrepreneurs providing electronic communications networks and/or services shall not provide third parties, at the request of subscribers, with information about the number, location and ownership of terminal equipment, except for the cases established by a decision of the Authority for the purpose of performing its tasks and to public order maintenance bodies identified by a decision of the Authority for the purpose of performing their tasks as well as in other cases established by the Laws.
6. All entrepreneurs providing public communications networks and/or publicly available electronic communications services shall ensure, in accordance with the procedure and conditions set forth by the Authority, that their subscribers and/or users including users with special needs and users of public pay telephones, are able to call the emergency services free of charge and without having to use any means of payment.
7. Providers of public telephone communications shall give subscribers who so request a possibility to choose a payment plan where charges for publicly available telephone services are imposed on the basis of calculation with the accuracy of a second, except for the cases where the provider of public telephone communications uses data rates as a basis for charging data communications.

**Article 67**  
**Subscribers Registration**

1. Entrepreneurs of electronic communications services and networks shall be obliged to register their subscribers, both postpaid and prepaid, prior to the service activation.
2. The form with the data which are compulsory to be given by the subscribers to enable their registration according to this Article, are defined by Authority.

**Article 68**  
**Personal Data Preservation and Administration for the criminal proceedings purposes**

1. Regardless of other definitions in this Law, the entrepreneurs of public electronic communications services and networks shall be obliged to store and administrate, for a period not longer than one (1) year, the data files of their subscribers referred to in paragraph 2 of this Article. Such storage shall be paid for by state funds in accordance with the procedure established by the Government.
2. Entrepreneurs providing electronic communications networks and/or services shall ensure that the following categories of data are retained:
  - 2.1. data necessary to trace and identify the resource of a communication concerning fixed network telephony and mobile telephony:
    - 2.1.1. the calling telephone number;
    - 2.1.2. the name and address of the subscriber or registered user;
  - 2.2. concerning Internet access, Internet e-mail and Internet telephony:
    - 2.2.1. the user ID (s) allocated;
    - 2.2.2. the user ID and telephone number allocated to any communication entering the public telephone network;
    - 2.2.3. the name and address of the subscriber or registered user to whom an Internet Protocol (IP) address, user ID or telephone number was allocated at the time of the communication;
  - 2.3. data necessary to identify the destination of a communication concerning fixed network telephony and mobile telephony:

2.3.1. the number(s) dialed (the telephone number(s) called), and, in cases involving supplementary services such as call forwarding or call transfer, the number or numbers to which the call is routed;

2.3.2. the name(s) and address(es) of the subscriber(s) or registered user(s);

2.4. concerning Internet e-mail and Internet telephony:

2.4.1. the user ID or telephone number of the intended recipient(s) of an Internet telephony call;

2.4.2. the name(s) and address(es) of the subscriber(s) or registered user(s) and user ID of the intended recipient of the communication;

2.5. data necessary to identify the date, time and duration of a communication:

2.5.1. concerning fixed network telephony and mobile telephony, the date and time of the start and end of the communication;

2.6. concerning Internet access, Internet e-mail and Internet telephony:

2.6.1. the date and time of the log-in and log-off of the Internet access service, based on a certain time zone, together with the IP address, whether dynamic or static, allocated by the Internet access service provider to a communication, and the user ID of the subscriber or registered user;

2.6.2. the date and time of the log-in and log-off of the Internet e-mail service or Internet telephony service, based on a certain time zone;

2.7. data necessary to identify the type of communication:

2.7.1. concerning fixed network telephony and mobile telephony: the telephone service used;

2.7.2. concerning Internet e-mail and Internet telephony: the Internet service used;

2.8. data necessary to identify users' communication equipment or what purports to be their equipment:

2.9. concerning fixed network telephony, the calling and called telephone numbers;

2.10. concerning mobile telephony;

- 2.11. the calling and called telephone numbers;
  - 2.12. the International Mobile Subscriber Identity (IMSI) of the calling party;
  - 2.13. the International Mobile Equipment Identity (IMEI) of the calling party;
  - 2.14. the IMSI of the called party;
  - 2.15. the IMEI of the called party;
  - 2.16. in the case of pre-paid anonymous services, the date and time of the initial activation of the service and the location label (Cell ID) from which the service was activated;
  - 2.17. concerning Internet access, Internet e-mail and Internet telephony:
  - 2.18. the calling telephone number for dial-up access;
  - 2.19. the digital subscriber line (DSL) or other end point of the originator of the communication;
  - 2.20. data necessary to identify the location of mobile communication equipment:
    - 2.20.1. the location label (Cell ID) at the start of the communication;
  - 2.21. data identifying the geographic location of cells by reference to their location labels (Cell ID) during the period for which communications data are retained.
3. Data, listed in paragraph 2 of this Article shall be made available, in the electronic format as well, to the authorities prescribed in the legislation of Criminal Procedure in force, upon their request.

## **Article 69**

### **Quality of the public communications service**

1. The entrepreneurs of the public electronic communications services and networks shall be obliged to publish comparable, adequate and up-to-date information on the quality of their services.
2. Authority, on the basis of special regulation, shall define the communications service quality parameters.

**Article 70**  
**Operator assistance**

1. Entrepreneurs shall be obliged to organize and to have functional help (assistance) services toward the end users , and to use all the possible means to inform the end users for these services and the possibility of their use, as well as the possible fees in case these services are offered completely or partially with a payment.
2. All end users with access to the public electronic communications network must have access to operator assistance of the entrepreneur.

**Article 71**  
**Itemized billing**

1. Entrepreneurs shall be obliged to provide for its subscribers to publicly available telephone services access to itemized billing that enables them to control the sum charged.
2. In the itemized billing, according to paragraph 1 of this Article may not cover calls to toll free phone numbers, including emergency call numbers.
3. The itemized billing for public telephone services shall include at least the following elements:
  - 3.1. billing period;
  - 3.2. fixed monthly payment for the service;
  - 3.3. type and amount of all other possible payments in the billing period;
  - 3.4. numbers called, date, time and call duration;
  - 3.5. respective payment for every communication done;

**Article 72**  
**Settlement of Disputes Based on End User Complaints**

1. In the event of a dispute arising between the provider of electronic communications services and the end user, the end user shall have the right to apply to the Authority for resolving the dispute through a preliminary out-of-court procedure. The end user may also apply directly to court.
2. Paragraphs 6, 7, 8, 9, 11, 12, 13, 15, 16, 17, 19 and 20 of Article 84 of this Law shall apply mutatis mutandis to the settlement of disputes based on complaints by end users.

3. Should an end user apply to the Authority without first applying to the provider of electronic communications services, the Authority shall take measures to reconcile the parties. The Authority shall not consider a dispute if the provider of electronic communications services proposes, within a time limit set by the Authority, a compromise settlement of the dispute and the end user accepts the proposal or does not reject it within a time limit set by the Authority.
4. A decision issued by the Authority regarding the dispute may be appealed against to the competent court within thirty (30) days from the date of its adoption.
5. The Authority shall establish the rules for the settlement of disputes based on complaints submitted by end users. The rules shall set out the requirements in respect of the form, content and filing of such applications, the submission and collection of evidence, and detailed reconciliation and dispute settlement procedures.

### **Article 73**

#### **Restriction or Interruption of Access**

1. The entrepreneurs providing access to the public electronic communications network may, without the consent of users, temporarily restrict or interrupt the access to their services if required due to upgrading, modernization or maintenance or in the event of faults or damage of the network.
2. Entrepreneurs shall inform Authority and notify the users for the restriction or the interruptions of the service which will last more than one (1) hour. This information must be delivered:
  - 2.1. at least forty eight (48) hours in advance in the case of planned upgrading, modernization or maintenance of network;
  - 2.2. as soon as practicable, but in no event later than forty eight (48) hours, following the occurrence of restriction or interruption caused by faults or damage of the network.
3. Entrepreneurs shall inform the Authority for the restriction or interruption of Access under conditions set forth according to the paragraph 4 of this Article.
4. Authority shall have a right to adopt the conditions and procedures for the provision of the information to Authority and End users in case of Restriction or Interruption of Access.
5. The entrepreneurs should undertake all the necessary measures, to make the restrictions and interruptions last as short as possible.



**Article 74**  
**Disconnections of the Subscriber**

1. Entrepreneurs providing access to the public communications networks may restrict the access to their services and/or may disconnect the subscribers and terminate the subscriber contract only if the subscriber fails to settle his or her liabilities or breaches other conditions laid down in the subscriber contract.
2. Entrepreneurs shall define accurately and in details in the contract conditions the cases when the service limitation, interruption or the contract interruption occurs.
3. In the cases when the conditions of the contract are not fulfilled by the subscriber, the entrepreneurs are obliged to send him/her a written notice within a reasonable time limit, not later than thirty (30) days from the day the operator has identified the breach, in order for the subscriber to fulfill the conditions of the contract.
4. Entrepreneurs shall not be obliged to notify subscribers in advance of measures undertaken if the breach of the contract:
  - 4.1. causes an immediate and serious threat to public order and safety or health of people and the environment;
  - 4.2. causes serious physical, material or operational damage to the network.
5. If a subscriber objects to the amount of a bill, the entrepreneur may not act in accordance with paragraph 1 of this Article until the final decision is reached, where the subscriber, shall be obliged to pay the amount within the defined time interval.
6. If technically feasible, operators shall be obliged to restrict access only to those services with regard to which the user breaches the subscriber contract, except in instances of abuse, persistent late payment or non-payment of bills.
7. Entrepreneurs shall not restrict the access to and use of emergency call numbers.

**CHAPTER XI**  
**ELECTRONIC COMMUNICATIONS IN SPECIAL CASES**

**Article 75**  
**Emergency Measures for the Provision of Services**

1. The entrepreneurs shall be obliged, with their own networks and services, to face the state needs in extraordinary situations, and when requested to serve to the national defense and public order interests.

2. The entrepreneurs providing access to public electronic communications network and provide electronic communications services available to public shall develop and submit to Authority a plan of measures to ensure the integrity of the public communications network and to ensure access to the public communications services applicable in extraordinary situations. In the meaning of this Law, extraordinary situation means serious network damages, natural disasters, state of emergency or state of war.
3. The plan of measures according to paragraph 2 of this Article shall ensure uninterrupted access and use of the emergency numbers.
4. The plans of measures shall oblige entrepreneurs to implement emergency measures throughout the duration of the extraordinary situation.
5. The Minister, in cooperation with the other structures legally assigned to cope with the extraordinary situations and with Authority, proposes to the Government the measures to be included in the plans of measures according to paragraph 1 of this Article.
6. Providers of electronic communications networks and services must give absolute priority to communication with emergency services and ensure uninterrupted access institutions servicing emergency calls, including any telecommunications related to safety of life on land, in the air or further space, also to epidemiological telecommunications of extreme urgency as defined by the World Health Organization. Users of radio stations must ensure reception of disaster signals and disaster messages of whatever resource, giving them absolute priority, responding in the same manner and taking immediate action in respect of them.

## **Article 76**

### **Cooperation of entrepreneurs in specific cases**

1. Entrepreneurs shall be obliged to cooperate among them and with the government organizations, inter-government and non-profitable organizations to use the electronic communications resources to facilitate and to cope with the specific cases:
  - 1.1. putting the ground and satellite communication equipment to prevent, supervise and ensure the prevention of the natural damages, disasters in general, and health ones in particular;
  - 1.2. giving notifications on natural disasters, health disasters through the organizations related with them, and spreading the data in the public especially in the communities that are mostly endangered;
  - 1.3. establishing and putting into function the flexible electronic communications services that are used by the humanitarian organizations.

2. To facilitate the implementation of above-stated measures, the entrepreneurs may sign special agreements, and set special payments or to sign amendments to the existing agreements.

**Article 77**  
**Provision of Universal Service during strikes**

Universal service providers shall be obliged to make a decision by which they will preliminary select the employees who must, during strikes, ensure the uninterrupted provision of universal service or fulfilling the obligations of the entrepreneur pursuant to Article 76 of this Law.

**CHAPTER XII**  
**FUNCTIONING OF THE AUTHORITY**

**Article 78**  
**Status and Board**

1. The Authority of Electronic and Postal Communications is a public, legal entity. Authority is chaired by the Board, which is independent in the decision making and functions based on the Authority Statute and Internal Regulation, adopted by the Board.

2. The members and chairperson of the Board shall be recommended by the Minister, proposed by the Government and shall be subject to appointment by the Assembly of the Republic of Kosovo.

3. When the mandate of the member of the Board expires, the member shall continue to perform his functions until the new Board members is appointed in compliance with paragraph 1 and 2 of this Article.

4. The Board of the Authority is composed of five (5) members one of whom is Chairperson. The term of the Board's members shall be for a period of five (5) years. The Board member cannot serve more than two (2) terms. The Chairperson shall chair meetings and activities of the board, and shall take responsibility for the administration of the Authority.

4.1. The Chairperson shall:

4.1.1. represent the Authority;

4.1.2. preside the meetings of the Board;

4.1.3. sign decisions and other documents of the Authority;

4.1.4. supervise the selection, hiring, termination and general administration of the staff; and

4.1.5. carry out other tasks provided for in this Law, other applicable legislation and the Authority's Statute.

4.2. In the absence of the Chairperson of the Authority, according to Article 80 of this Law, the Board shall appoint one of the Board members as an acting Chair for a period of six (6) months.

5. Members of the Board shall be graduates and qualified experts, with a minimum of seven (7) years experience and shall represent the sector of the electronic communications, economic, and judicial.

6. Any Board member, upon appointment shall resign from any official positions or functions, give up any for-profit activity, as well as to sell and liquidate any financial interest that he/she might have in companies that exercise commercial activity under the jurisdiction of the Authority of Electronic and Postal Communications.

7. Any Board member shall have no right, within a period of one (1) year after the termination of his position in the Board, to take up employment in management or audit institutions of entrepreneurs, which were directly supervised or controlled by the Authority.

8. After official separation from Board, a person or an entrepreneur in which Any Board member or his close relatives or family members hold over ten percent (10%) of the authorized capital or material contribution or are employed in the management or audit institutions, shall have no right for a period of one (1) year to enter into contracts with the Authority or seek individual privileges provided by the Authority for a period of one (1) year immediately prior to his leaving the service.

9. Limitations prescribed by paragraph 7 of this Article hereof shall not apply where the contract has been concluded prior to the person's entry into office in the Board, also with respect to a contract which is awarded by public tender and to contracts the value whereof does not exceed ten thousand (10 000) EUR per year.

10. An individual cannot be member of the Board if he/she:

10.1. is a spouse or has family ties with members of the Government, up to the second generation;

10.2. has been convicted with imprisonment of more than six (6) months by a final court judgment for any criminal act;

10.3. is debtor or creditor in a company which is subject to the regulatory framework of the Authority;

10.4. is excluded by law to hold public state positions/functions.

### **Article 79** **Decision Making and Structure of the Board**

1. Board shall make decision by a majority of votes when at least three (3) members are present. Each of the members, including the Chairman, has the right of one vote and the votes of a majority of the voting members shall be required to dispose of any item of business. In the event of a voting deadlock, the Chairman shall cast a second, deciding vote.

2. The Board shall issue decisions.

3. The members of the Board of the Authority shall not participate in the voting process, in case of a conflict of interest in accordance with Law on Preventing Conflict of Interest in Exercising Public Function in the Republic of Kosovo.

4. The Members of the Board do not have the status of civil servant. Members of the Board shall be paid according to the salary schedule and allowances applicable to members of Independent Boards and shall be approved by the Assembly of Kosovo for every year with the Law on annual budget until the promulgation of the Law on salaries of high public officials or any other Law that regulates this field.

5. Status of professional staff of the Authority shall be treated according to the Law on civil service of the Republic of Kosovo and shall be paid according to the Law on salaries of civil servants.

6. Organizational structure shall be defined by the Board in accordance with the Laws into force.

7. Board shall define the employment rules and criteria according to the legislation into force.

### **Article 80** **Discharge and dismissal of Board members**

1. A member of the Board is discharged or dismissed by the body that has appointed him/her if he/she:

1.1. is physically or mentally incapable of carrying on assigned tasks;

- 1.2. has been found guilty of a crime by a final court judgment while exercising the duties;
  - 1.3. is appointed or is running for member of Parliament or is appointed in the local government bodies, with exception when he/she is a member of professional associations and holds duties in them;
  - 1.4. has refused to or does not carry on assigned tasks without cause, or has been unable to exercise his/her duty for six (6) months or more;
  - 1.5. is included in any of the provisions of the paragraph 10 of Article 78 of this Law;
  - 1.6. acts in contradiction with provisions of this Law.
  - 1.7. on reaching retirement age;
  - 1.8. at the request to be released as a Chairman and/or as a Board member;
  - 1.9. on expiry of the term of powers;
2. When a member has been discharge or dismissed, according to paragraph 1 of this Article, a new member is appointed by the respective authority, as stated in Article 78 of this Law.
  3. A dismissed Board member shall not have the right to be re-appointed in the Board, except in the cases referred to in sub-paragraphs 1.8 and 1.9 of paragraph 1 of this Article.
  4. The decision to dismiss the member of the Board shall be made public at the time of dismissal. The dismissed member of the Board shall receive a statement of reasons and shall have the right to request its publication.

### **Article 81**

#### **Financing and Budget of the Authority**

1. Financing sources of the Authority shall be provided from the Budget of Kosovo, through the income of the Authority in accordance with Article 83 of this Law.
2. The Authority shall prepare the draft budget and submit it to the Assembly for review and approval, in accordance with the Law on Public Financial Management and Accountability.

3. The Authority shall keep complete and accurate accounts of actual expenses as well as auditing of financial statements, in compliance with the legislation into force on accounting and audit in the Republic of Kosovo.

4. The Authority shall report to the Assembly regarding the budgetary expenditures by annual report, at latest until 30 March of coming calendar year and special reporting whenever it is required by the Assembly.

## **Article 82**

### **Public consultations**

1. The Authority, when adopting legal acts on the basis of this Law or on the basis of implementing legal acts which are expected to have a significant impact on the relevant market, except for the cases referred to in paragraph 4 of Article 32 of this Law and except for the legal acts whereby disputes are settled, shall publish drafts of such legal acts in accordance with the procedure and conditions set forth by the Authority, granting interested persons a reasonable period of time to express their views.

2. The Authority shall, subject to the cases, procedure and conditions set forth by it, publish drafts of decisions of the Authority concerning issues related to any rights of the end users and consumers with respect to publicly available electronic communications services, in particular where decisions on such issues have a significant impact on the market, granting the end users and consumers (in particular disabled users), producers, and providers of electronic communications network and/or services a reasonable period of time to express their views.

3. The Authority shall consult interested persons when making decisions on mandatory application of standards adopted by international, European Union and other regional standards organizations as well as national standards.

4. The Authority shall establish consultation rules defining the cases, procedures and conditions of consultation. The information related to any consultations under way shall be placed on the webpage of the Authority. The Authority shall publish the results of consultations, except for the information which is confidential or which is related to the private life of a natural person.

5. The documentation filed to the Authority shall be made publicly available during a specified time within the business hours. Those files shall include documentation, which is indexed according to instructions, procedures and standards defined by the Board of the Authority, respecting the principle of confidentiality.

6. Important documentation such as criteria, notification procedures, issuance of authorization for the right to use, authorizations issued, technical rules and regulations, standards, etc, shall be published in the webpage of the Authority.

### **Article 83 Payments**

1. Payments regarding the activity of the Authority shall be done at the Budget of Kosovo, as following:

1.1. payment on supervision of electronic communication market according to the stipulations in Article 27 of this Law;

1.2. payment for universal service financing;

1.3. payment for allocation and usage of frequencies, according to stipulations in Article 57 of this Law;

1.4. payment for allocation and usage of numbers and series of numbers;

1.5. payments from economic sanctions imposed by the Authority.

2. Any other tax or payment foreseen by this Law shall be deposited to the Budget of Kosovo.

## **CHAPTER XIII DISPUTES**

### **Article 84 Disputes resolution**

1. The Authority shall, in the framework of mandatory preliminary out-of-court procedure, resolve disputes related to the subject of this Law which arises between entrepreneurs providing electronic communications networks and/or services, including those related to the issues of joint use of facilities and assets.

2. An entrepreneur that applies to the Authority for dispute settlement (including cases where a renewal of dispute resolution is requested) shall pay the Authority a dispute settlement fee set in accordance with the procedure and conditions set out in this Law. Where the application is satisfied in full or in part, the respondent, at the applicant's request, may be ordered by a decision satisfying the application to compensate the applicant for the amount of the fee paid in proportion to the amount of claims satisfied. Should the costs of dispute settlement exceed the fee paid by the applicant, the Authority shall have the right, when issuing a decision concerning the dispute, to distribute the costs of settling the dispute between the parties, taking account of whether or not the application is satisfied and the extent to which it is satisfied (i.e. in proportion to the amount of the claims satisfied and rejected). In the event that the application is rejected,



left without consideration or its consideration is discontinued, the Authority shall not refund the fees paid by the applicant.

3. At the request of the party in whose favor the decision of the Authority has been taken, the Authority may order the other party to compensate the winning party for the costs of dispute settlement. In this case, provisions of the legislation on Civil Procedure in force shall be applied. A party in whose favor the decision has been taken shall have the right to the compensation of expenses paid for lawyer's or assistant lawyer's advice in conformity mutatis mutandis with the relevant provisions of the legislation into force on Civil Procedure.

4. When accepting an application for dispute resolution, relevant provisions of the Legislation in force shall apply.

5. The Authority shall resolve the dispute in conformity with the principles and objectives of this Law as well as in conformity with the principles of concentration and cost effectiveness, cooperation, competition, disposition and procedural equality of the parties referred to the provisions of the legislation into force to be applied mutatis mutandis, unless provided for otherwise in this Law.

6. The Authority shall refuse to accept an application for dispute resolution in the following cases:

6.1. it is not competent to consider the dispute;

6.2. a decision by the Authority, court or arbitration court has come into effect regarding a dispute between same parties on same subject matter and on same basis, or a decision by the Authority or a court ruling on the refusal to accept the applicant's waiver of the application for dispute resolution or on the approval of an compromise settlement;

6.3. a dispute between same parties on same subject matter and on same basis is under consideration by the Authority or pending in court;

6.4. the parties have agreed to refer the dispute to arbitration and the respondent objects that it be considered by the Authority, demanding that the agreement on arbitration be respected, except for disputes that under the law may not be settled by arbitration;

6.5. an application for dispute resolution has been submitted by an unauthorized person on behalf of the entrepreneur.

7. The Authority shall discontinue the consideration of a dispute if circumstances referred to in sub-paragraphs 6.1. or 6.2. of paragraph 6 of this Article become known, also if:

- 7.1. the applicant has withdrawn the application for dispute resolution and the Authority has approved such withdrawal;
  - 7.2. a dispute between same parties on same subject matter and on same basis is pending in court;
  - 7.3. the parties have concluded an compromise agreement which has been approved by the Authority. In this case, the compromise agreement shall be considered to be a binding decision by the Authority.
8. The Authority shall leave the dispute not considered if circumstances referred to in sub-paragraphs 6.4. or 6.5. of paragraph 6 of this Article become known, also if:
  - 8.1. the Authority is considering a dispute between same parties on same subject matter and on same basis;
  - 8.2. the application for dispute resolution has deficiencies, such as failure to pay a dispute settlement fee to the Authority or submit proof of such payment and the applicant has failed to rectify the situation within a time limit set by the Authority.
9. The Authority shall suspend the consideration of a dispute in the following cases:
  - 9.1. one of the parties to the dispute ceases to exist (consideration shall be suspended until the rights and liabilities of the party which has ceased to exist are succeeded to or until circumstances due to which they have not been succeeded to become known). Where it is possible to identify claims unrelated to the party which has ceased to exist, the Authority shall continue the consideration of the dispute in respect of such unrelated claims;
  - 9.2. until another dispute is considered by the Authority or another case is pending in court, without the settlement of which the suspended dispute cannot be considered.
10. The Authority may, at the request of any party to the dispute or at the request of any other interested entrepreneur or person or at its own initiative, take provisional protection measures, i.e. issue an injunction to refrain from certain actions or to take certain actions where, in case of failure to take such actions the implementation of the decision by the Authority in respect of the application for dispute resolution may become more difficult or impossible. When applying provisional protection measures of the Legislation in force shall apply *mutatis mutandis*. Provisional measures shall remain in force until the decision concerning the dispute issued by the Authority comes into effect, except where the Authority revokes or modifies them at the request of any party to the dispute or at the request of any other interested entrepreneur or person or at its own initiative. A decision on provisional protection measures issued by the Authority may be appealed against to the relevant court within seven (7) days from the delivery thereof to the interested entrepreneur or person. The filing of an appeal to court shall not suspend the

consideration of the dispute by the Authority. The appeal shall be filed and considered in accordance with the procedure established in paragraph 18 of this Article.

11. Parties to the dispute and other interested entrepreneurs and persons participating in the consideration of the dispute shall have the right to gain access to the materials of the dispute, except for the materials which constitute confidential information of other entrepreneurs or the disclosure of which would violate the right to privacy of a natural person. The respondent shall always have the right to gain access to the text of the application for dispute resolution and the applicant shall always have the right to gain access to the text of the initial pleading. Parties to the dispute and other interested entrepreneurs and persons participating in the consideration of the dispute may submit evidences, explanations, arguments and responsive pleadings to the Authority, object to the requests, arguments and responsive pleadings of the other party or other interested entrepreneurs and persons taking part in the consideration of the dispute, receive copies of decisions on dispute settlement adopted by the Authority, appeal against decisions by the Authority, and exercise other rights granted by this Law and the rules for the settlement of disputes between entrepreneurs set by the Authority. The applicant shall have the right to withdraw its application for dispute resolution. The respondent shall have the right to acknowledge the application. The parties may end the consideration of the dispute by compromise agreement. Parties to the dispute and other interested entrepreneurs and persons participating in the consideration of the dispute must exercise their rights in a fair manner.

12. The Authority shall consider disputes by written procedure unless it decides, at the request of any party to the dispute or at the request of any other interested entrepreneur or person or at its own initiative, that the dispute may be better considered in an oral hearing. The Authority shall inform the parties about the sitting; however, failure to appear by any of the parties shall not prevent the Authority from considering the dispute, unless provided for otherwise in the rules for the settlement of disputes between entrepreneurs set by the Authority. The consideration of disputes at a sitting shall be public, except for the cases where the Authority decides to consider the dispute at a closed sitting in order to protect confidential information or protect a person's right to privacy.

13. The Authority shall have the right to refuse to accept evidence, requests and motivations if they could have been submitted earlier.

14. The Authority shall issue a decision on the dispute not later than within four (4) months from the date of acceptance of the application, except for the cases where a longer term is required by exceptional circumstances (large scope of evidences, complicated circumstances of the dispute, etc.).

15. The decision of the Authority (including procedural decisions adopted in the course of consideration of the dispute) shall come into effect and become binding as of the date of its adoption. Should the decision be appealed against in court, it shall remain in effect

and binding, except for the cases where the court rules otherwise in accordance with the procedure established by the Law.

16. Decisions on disputes issued by the Authority shall be public to the extent that it does not violate the protection of confidential information or the privacy of a natural person. The rules for the settlement of disputes between entrepreneurs set by the Authority shall establish the procedure whereby parties to the dispute and other interested entrepreneurs and persons who have participated in the consideration of the dispute shall specify which information in the text of the decision should be confidential. The Law interpretation rules set out in the text of the decision shall be public in all cases. The parties to the dispute shall be provided with a detailed and reasoned decision issued by the Authority.

17. Procedural decisions issued by the Authority in the course of consideration of the dispute, including a decision to reject the application, leave the dispute without consideration, suspend the consideration of the dispute as well as other procedural decisions, which prevent further consideration of the dispute, may be appealed against in conformity with of the respective Laws in force in relevant Court within seven (7) days from the delivery of such decision to the interested entrepreneur or person. The ruling handed down by a judge of the (mentioned in the previous sentence) court concerning a decision of the Authority shall not be subject to appeal.

18. A decision issued by the Authority whereby a dispute is resolved in substance or its consideration is discontinued may be appealed against to the relevant Court within thirty (30) days from the date of its adoption.

19. A decision issued by the Authority (including procedural decisions taken in the course of consideration of the dispute) shall be a document to be executed. If the decision is not executed, it may be executed in a compulsory manner in accordance with the procedure established by the relevant Laws in force. The decision may be executed not later than within ten (10) years from the date of its adoption.

20. The procedure of consideration of a dispute by the Authority may be renewed in conformity *mutatis mutandis* with the procedure established in relevant legislation into force.

21. The Authority shall adopt the rules for the settlement of disputes between entrepreneurs by the Authority. The rules shall set out the requirements in respect of the form, content and filing of applications for dispute resolution, the submission and collection of evidence; they shall specify the framework, procedure and conditions for applying, revoking and modifying provisional protection measures and establish a detailed dispute settlement procedure.

22. Entrepreneurs providing electronic communications networks and/or services shall have the right to call on the Authority to mediate between and/or achieve a reconciliation of the entrepreneurs in order to resolve a dispute related to the subject of this Law in a

compromise manner, without issuing a binding decision. The Authority shall establish the relevant rules of procedure.

## **CHAPTER XIV**

### **PROCESSING OF PERSONAL DATA AND THE PROTECTION OF PRIVACY IN THE ELECTRONIC COMMUNICATIONS SECTOR**

#### **Article 85**

#### **Security, Integrity and Reliability**

1. Entrepreneurs providing public communications networks or publicly available electronic communications services shall take appropriate technical and organizational measures to appropriately manage the risks posed to security of networks and services. These measures shall ensure a level of security appropriate to the risk presented. In particular, measures shall be taken to prevent and minimize the impact of security incidents on users and interconnected networks.
2. Entrepreneurs of public electronic communications networks and services shall be obliged to inform their users of particular network security risks and the means whereby users can reduce such risk, as well as of the potential costs covered by the users, if the risk lies outside the scope of measures which the entrepreneur may take.
3. Entrepreneurs providing public communications networks shall take all appropriate measures to ensure the continuity of supply of services provided over those networks.
4. Authority may establish technical and organizational requirements ensuring security, integrity and reliability of public communications networks and publicly available electronic communications services.
5. Entrepreneurs providing public communications networks or publicly available electronic communications services shall notify Authority in accordance with the regulation set by it of a breach of security or loss of integrity that has had a significant impact on the operation of networks or services. Authority may inform the public or require the entrepreneurs to do so, where it determines that disclosure of the breach is in the public interest.
6. While ensuring security, integrity and reliability of the public communication networks and publicly available communications services, preventing the spread of the security incidents, minimizing the risk of appearance of losses of providers' of public communications networks and (or) publicly available communications services and (or) end users of publicly available communications services caused by the security incidents, Authority may issue binding instructions to entrepreneurs providing public communications networks or publicly available electronic communications services and

establish time limits for implementation of such instructions. Binding instructions referred to in this paragraph may include obligation to perform a security audit carried out by a qualified independent body and make the results thereof available to Authority. The cost of the audit referred to in this paragraph shall be paid by the entrepreneur.

7. Consumers and other end uses, if they require, should have the opportunity to conclude a contract with other entrepreneurs providing electronic communications service and/or networks or access to public networks of electronic communications.

7.1. The contract should at least contain:

7.1.1. name and address of entrepreneur;

7.1.2. provided services, including:

7.1.2.1. whether there is provided or not an access to emergency services and information on location of caller, and any limitation in providing the emergency services;

7.1.2.2. information on other conditions that limit the access and/or use of applications and services, where these requirements are allowed based on legislation into force;

7.1.2.3. the lowest level of the quality of provided service, namely time for initiating the calling and, where it is adequate, other parameters of the quality of services defined by the Authority;

7.1.2.4. information on procedures undertaken by the entrepreneur to measure and modify the traffic in order to avoid the overload of the network and information that how these procedures impact in the quality of service;

7.1.2.5. information on kinds of maintenance and attention provided to consumers, as well as the ways for using these services;

7.1.2.6. any limitation on using the end equipments provided by the entrepreneur;

7.2. details on prices and tariffs, that way how the up-to-date information for all tariffs and expenditures of maintenance may be received, provided ways for payment, as well as every difference in prices according to the way of payment;

7.3. duration of contract and conditions for renewal of the contract, end of the contract as well as end of the services, including:

7.3.1. determination of the minimal duration to benefit from promoting offers;

7.3.2. any payment for numbers porting and other identifications;

7.3.3. any payment related to the termination of the contract, including even the payments related to the end equipments;

7.3.4. compensation and reimbursement in cases when the provided service is not in the level of contracted quality;

7.3.5. way of initiating the procedure for disputes resolution;

7.3.6. type of activity which can be taken by entrepreneur to react towards the security or violation of integrity and threat.

7.4. the contract may contain even any information on limitation that networks and/or electronic communications services not to be used for illegal activities or for distribution of harmful contents as well as for ways to be protected from dangers regarding the personal security, privacy and personal data.

7.5. subscribers shall have the right to terminate their contract without being punished after the notice on modification of the contract conditions proposed by the entrepreneurs providing electronic communications services and/or networks. Subscribers should be informed regarding all changes proposed in the contract conditions not later than thirty (30) days before entry of these changes. In case of disagreement on the changes of conditions, the subscriber shall have the right, without any consequence, to terminate the contract. The Authority should specify clearly the form on the notice of the change of contract conditions.

## **Article 86**

### **Confidentiality of Communications**

1. The confidentiality of communication and related traffic data by means of a public communications network and publicly available electronic communications services shall be preserved by the service provider. The service providers in particular shall impede the eavesdropping, interfering to telephonic calls, saving or other overhearing or observation forms of communication and traffic data related to it by the persons excluding the users, except when legally authorized to do so, in individual cases, always in accordance with the provisions of criminal procedure code. This does not prevent technical storage which is necessary for the conveyance of a communication without prejudice to the principle of confidentiality.

2. Paragraph 1 of this Article does not affect any legally authorized recording of communications and the related traffic data when carried out in the course of lawful

business practice for the purpose of providing evidence of a commercial transaction or of any other business communication.

3. The use of electronic communications networks to store information or to gain access to information stored in the terminal equipment of a subscriber or user is only allowed on condition that the subscriber or user concerned is provided with clear and comprehensive information in accordance with this Law, inter alia about the purposes of the processing, and is offered the right to refuse such processing by the data controller. This shall not prevent any technical storage or access for the sole purpose of carrying out or facilitating the transmission of a communication over an electronic communications network, or as strictly necessary in order to provide an information society service explicitly requested by the subscriber or user.

4. Entrepreneurs should take measures on the electronic communications systems and data processing systems to keep the secret of the electronic communications and personal data, as well as to prohibit the unauthorized access in the electronic communications systems and data processing systems.

5. Entrepreneur, the authorized people and its employees, shall be obliged to keep and protect the data and the communications confidentiality conducted through the network and its services throughout of the activity, as well as after its completion.

6. Entrepreneur may be informed about messages or data transmitted through his/her network only to the extent necessary to perform the duty for the provision of electronic communications services.

7. Receiving, registering, publishing and using of data and messages transmitted by the electronic communications network and that are not for the public, as well as their provision to unauthorized people is prohibited unless is defined otherwise in the legislation in force.

### **Article 87 Traffic Data**

1. Traffic data relating to subscribers and users processed and stored by the provider of a public communications network or publicly available electronic communications service must be erased or made anonymous when it is no longer needed for the purpose of the transmission of a communication.

2. Traffic data necessary for the purposes of subscriber billing and interconnection payments may be processed. Such processing is permissible only up to the end of the period during which the bill may lawfully be challenged or payment pursued.

3. For the purpose of marketing electronic communications services or for the provision of value added services, the provider of a publicly available electronic communications



service may process the data referred to in paragraph 1 of this Article to the extent and for the duration necessary for such services or marketing, if the subscriber or user to whom the data relate has given his/her consent. Users or subscribers shall be given the possibility to withdraw their consent for the processing of traffic data at any time.

4. The service provider must inform the subscriber or user of the types of traffic data which are processed and of the duration of such processing for the purposes mentioned in paragraph 2 of this Article and, prior to obtaining consent for the purposes mentioned in paragraph 3 of this Article.

5. Processing of traffic data, in accordance with the preceding paragraphs in this Article, shall be restricted to persons acting under the authority of providers of the public communications networks and publicly available electronic communications services handling billing or traffic management, customer enquiries, fraud detection, marketing electronic communications services or providing a value added service, and must be restricted to what is necessary for the purposes of such activities.

6. Paragraphs 1, 2, 3 and 5 of this Article shall apply without prejudice to the possibility for competent bodies to be informed of traffic data in conformity with applicable legislation with a view to settling disputes, in particular interconnection or billing disputes.

## **Article 88**

### **Presentation and Restriction of Calling and Connected Line Identification**

1. Where presentation of calling line identification is offered, the service provider must offer the calling user the possibility, using a simple means and free of charge, of preventing the presentation of the calling line identification on a per-call basis. The calling subscriber must have this possibility on a per-line basis.

2. Where presentation of calling line identification is offered, the service provider must offer the called subscriber the possibility, using a simple means and free of charge for reasonable use of this function, of preventing the presentation of the calling line identification of incoming calls.

3. Where presentation of calling line identification is offered and where the calling line identification is presented prior to the call being established, the service provider must offer the called subscriber the possibility, using a simple means, of rejecting incoming calls where the presentation of the calling line identification has been prevented by the calling user or subscriber.

4. Where presentation of connected line identification is offered, the service provider must offer the called subscriber the possibility, using a simple means and free of charge, of preventing the presentation of the connected line identification to the calling user.

5. Where presentation of calling and/or connected line identification is offered, the providers of publicly available electronic communications services shall inform the public thereof and of the possibilities set out in paragraphs 1, 2, 3 and 4 of this Article.

6. Government shall set forth the transparent procedures governing the way in which a provider of a public communications network and/or a publicly available electronic communications service may override the elimination of the presentation of calling line identification on a temporary basis, upon application of a subscriber requesting the tracing of malicious or nuisance calls. In this case, in accordance with national law, the data containing the identification of the calling subscriber will be stored and be made available by the provider of a public communications network and/or publicly available electronic communications service;

7. Providers of public communications networks and publicly available electronic communications services shall not impose the elimination of the presentation of calling line identification in respect of specific lines operated by institutions dealing with emergency calls, such as police, ambulance services, fire brigades and other emergency services for the purpose of responding to such calls by the subscriber or the actual user of electronic communications services. Detailed conditions and procedures for the implementation of provisions of this paragraph may be set forth in accordance with the procedure and conditions provided for in paragraph 6 of Article 66 of this Law.

## **Article 89**

### **Location Data other than Traffic Data**

1. Where location data other than traffic data, relating to users or subscribers of public communications networks or publicly available electronic communications services, can be processed, such data may only be processed when they are made anonymous, or with the consent of the users or subscribers to the extent and for the duration necessary for the provision of a value added service.

2. The service provider shall inform the users or subscribers, prior to obtaining their consent, of the type of location data other than traffic data which will be processed, of the purposes and duration of the processing and whether the data will be transmitted to a third party for the purpose of providing the value added service.

3. Users or subscribers shall be given the possibility to withdraw their consent for the processing of location data other than traffic data at any time.

4. Where consent of the users or subscribers has been obtained for the processing of location data other than traffic data, the user or subscriber shall continue to have the possibility, using a simple means and free of charge, of temporarily refusing the processing of such data for each connection to the network or for each transmission of a communication.

5. Processing of location data other than traffic data in accordance with paragraphs 1, 2, 3, and 4 of this Article shall be restricted to persons acting under the authority of the provider of the public communications network or publicly available communications service or of the third party providing the value added service, and must be restricted to what is necessary for the purposes of providing the value added service.

### **Article 90 Automatic Call Forwarding**

Service providers shall ensure that any subscriber has the possibility, using a simple means and free of charge, of stopping automatic call forwarding by a third party to the user's terminal.

### **Article 91 Directories of Subscribers**

1. Service providers shall ensure that subscribers are informed, free of charge and before they are included in the directory, about the purpose(s) of a printed or electronic directory of subscribers available to the public or obtainable through directory enquiry services, in which their personal data can be included and of any further usage possibilities based on search functions embedded in electronic versions of the directory.

2. Service providers shall ensure that subscribers are given the opportunity to determine whether their personal data are included in a public directory, and if so, which, to the extent that such data are relevant for the purpose of the directory as determined by the provider of the directory, and to verify, correct or withdraw such data. Not being included in a public subscriber directory, verifying, correcting or withdrawing personal data from it shall be charged on the basis of real costs if such charges are applicable.

3. Service providers may require that for any purpose of a public directory other than the search of contact details of persons on the basis of their name and, where necessary, a minimum of other identifiers, additional consent shall be asked of the subscribers.

### **Article 92 Unsolicited Communications**

1. The use of automated calling systems without human intervention (automatic calling machines), facsimile machines (fax) or electronic mail for the purposes of direct marketing may only be allowed in respect of subscribers who have given their prior consent.

2. Notwithstanding paragraph 1 of this Article, where a natural or legal person obtains from its customers their electronic contact details for electronic mail, in the context of the sale of a product or a service, in accordance with this Law, the same person may use

these electronic contact details for direct marketing of its own similar products or services provided that customers clearly and distinctly are given the opportunity to object, free of charge and in an easy manner, to such use of electronic contact details when they are collected and on the occasion of each message in case the customer has not initially refused such use.

3. Service providers shall take appropriate measures to ensure that, free of charge, unsolicited communications for purposes of direct marketing, in cases other than those referred to in paragraphs 1 and 2 of this Article are not allowed either without the consent of the subscribers concerned or in respect of subscribers who do not wish to receive these communications.

4. The practice of sending electronic mail for purposes of direct marketing disguising or concealing the identity of the sender on whose behalf the communication is made, or without a valid address to which the recipient may send a request that such communications cease, shall be prohibited.

### **Article 93**

#### **Technical Features and Standardization**

No mandatory requirements for specific technical features are imposed on terminal or other electronic communication equipment which could impede the placing of equipment on the market and the free circulation of such equipment within and outside of Kosovo.

## **CHAPTER XV**

### **RADIO EQUIPMENT AND TELECOMMUNICATION TERMINAL EQUIPMENT, ELECTROMAGNETIC COMPATIBILITY**

#### **Article 94**

##### **Radio Equipment and Telecommunications Terminal Equipment**

The conditions and basic requirements for the connection of radio equipment and telecommunications terminal equipment, the obligations related to the provision of information on interface specifications and to the connection of radio equipment and telecommunications terminal equipment, the procedure and conditions for the placing on the market, selling and use of such equipment, the requirements for radio equipment and telecommunications terminal equipment, the procedure and conditions of conformity assessment, approval and monitoring as well as related requirements shall be laid down in the Technical Regulations of Radio Equipment and Telecommunications Terminal Equipment approved by the Authority.

**Article 95**  
**Electromagnetic Compatibility**

The conditions for applying electromagnetic compatibility requirements, the procedure and conditions for the placing on the market and use of equipment and devices, the requirements for equipment and devices, the requirements for their installation and use, the procedure and conditions of assessment, approval and monitoring of compliance with electromagnetic compatibility shall be laid down in the Technical Regulation on Electromagnetic Compatibility approved by the Authority, in accordance with EU legislation.

**Article 96**  
**Use of Equipment and Devices**

1. The rules for the use of industrial, medical and scientific equipment and devices, i.e. equipment and devices the operation of which generates and consumes radio wave energy and which are intended for industrial, medical, scientific, domestic and similar purposes, except for purpose of electronic communications, shall be prepared and approved by the Authority.
2. The owner and/or user of equipment and devices shall allow officials from the Authority to inspect equipment and/or devices, also to take it away.

**Article 97**  
**Radio Monitoring**

1. The Authority shall control compliance with the requirements of the legal acts regulating radio communication and shall carry out radio monitoring. By means of radio monitoring, control and analysis shall be carried out to establish to what extent the range of radio frequencies is occupied by radiation of radio stations, whether the radiation spectrums and radio disturbance levels are in conformity with the requirements of legal acts.
2. The protection of fixed and mobile radio monitoring stations by the Authority against strong electromagnetic fields generated by radio transmitters operating in their environment shall be implemented in accordance with the procedure and conditions set forth by the Authority.
3. The information obtained during radio monitoring shall be used only in the activities of the Authority which are regulated by this Law.
4. Authority monitors the frequency band stipulated in the National Plan of Frequencies in order to:

- 4.1. usage of frequencies allocated upon authorization is made in compliance with the legal framework in force, for the implementation of the conditions of the authorization;
  - 4.2. the frequency band is used only by authorized users according to provisions of this Law;
  - 4.3. create a suitable environment and with no interferences harmful to operating of radio transmission systems and stations which will be used for private or public purposes.
5. Monitoring of the frequencies shall be made in compliance with the respective regulation drafted by the Authority.
  6. Monitoring of the frequencies can be made upon request of the subjects who own an authorization issued by the Authority.

**Article 98**  
**Elimination of Radio Interferences**

1. Any radio interference must be eliminated by the owner or user of equipment and/or devices which causes such interference. If interference is produced in a radio receiver or reception device due to changes in (deterioration of) its technical parameters or improper use, the resource of such interference (radio disturbances) must be eliminated by the owner or user of the receiver or device. If radio interference is caused to other legitimately operating equipment and/or device, the owner or user of the equipment and/or devices which produce it shall, on instruction from the Authority, eliminate its source (radio disturbances) or reduce its level. The procedure for eliminating or reducing radio interference, where radiation parameters of the equipment producing and receiving it conform to the requirements of legal acts, shall be established by the Authority.
2. When conducting radio monitoring and investigation of (search for) radio interference, providers of electronic communications networks and/or services as well as other persons shall submit to the Authority relevant information and ensure unrestricted access to possible radio interference.

## **CHAPTER XVI SUPERVISION OF COMPLIANCE WITH THE LAW**

### **Article 99 Procedure for the Supervision of Compliance**

1. Where the Authority finds that an entrepreneur does not comply with the legal acts specifying the terms and conditions for engaging in electronic communications activities or the terms and conditions of use of electronic communications resources or fails to fulfill one or more of the obligations imposed on it as an entrepreneur having significant market power on the relevant market or designated to provide universal service, it shall notify the entrepreneur of those findings and give the entrepreneur an opportunity to state its views or remedy any breaches within:

1.1. one (1) month after sending the notice;

1.2. a shorter period agreed by the entrepreneur or stipulated by the Authority in case of repeated breaches;

1.3. a longer period, if the Authority decides so.

2. If the entrepreneur concerned does not remedy the breaches within the period as referred to in paragraph 1 of this Article, the Authority shall take appropriate and proportionate measures aimed at ensuring compliance, including the imposition of economic sanctions specified in Article 101 of this Law. The Authority shall communicate the measures and the reasons on which they are based to the entrepreneur concerned within seven (7) days of their adoption and shall stipulate a reasonable period for the entrepreneur to comply with these measures.

3. The Authority shall have the right to impose economic sanctions for failure to provide information in accordance with provisions of Article 34 of this Law or for failure to provide information referred to in sub-paragraphs 5.1 and 5.2 of paragraph 5 of Article 18 of this Law, including impeding access to information as provided for in Article 100 of this Law and/or failure to fulfill the requirements set out in Article 100 of this Law, without imposing the procedure established in paragraphs 1 and 2 of this Article.

4. In cases of serious or repeated breaches of the legal acts specifying the terms and conditions of engaging in electronic communications activities or the terms and conditions of use of electronic communications resources or of the obligations imposed on an entrepreneur having significant market power on the relevant market or designated to provide universal service, where measures undertaken under paragraph 2 of this Article have been not sufficient to remedy the breaches, the Authority shall have the right to prohibit an entrepreneur from continuing to provide electronic communications networks and/or services for a period of up to three (3) years or suspend the right to use electronic communications resources for a period of up to three (3) years or withdraw it.

5. Irrespective of the provisions of paragraph 1, 2 and 4 of this Article, where the Authority has evidence of a breach of the legal acts specifying the terms and conditions for engaging in electronic communications activities or the terms and conditions of use of electronic communications resources or of the obligations imposed on an entrepreneur having significant market power or designated to provide universal service that represents an immediate and serious threat to public order, public safety or public health or will create serious economic or operational problems for other providers or users of electronic communications networks and/or services, it shall have the right to take urgent provisional measures, including a temporary detention of objects that were a tool or a direct object of breach of this Law and/or a temporary prohibition of the pursuit of electronic communications activities or of use of electronic communications resources. Where such measures have been taken by the Authority, it shall give the entrepreneur concerned a reasonable opportunity to state its views and propose any remedies.

6. The provisions of this Chapter shall apply to entrepreneurs to the extent that it is related to the pursuit of electronic communications activities. Where the provisions of this Chapter, except for this paragraph and Article 18 of this Law, are not applied to the suspension and/or withdrawal of the right to use electronic communications resources due to a breach of legal acts, the right to use electronic communications resources shall be suspended and/or withdrawn subject to the cases, procedure and conditions set out in the Law of Administrative Disputes and the rules for the assignment and use of electronic communications resources.

### **Article 100** **Officials of the Authority**

1. Officials authorized by the Authority, having presented a document issued by the Authority attesting their authorizations and functions, shall have the following rights related to the supervision of compliance with this Law exercised on behalf of the Authority:

1.1. to obtain necessary information in accordance with the procedure and conditions set out in this and other laws and legal acts;

1.2. upon presentation of a 'permit issued by the court', to gain access to and inspect premises, areas and vehicles used by an entrepreneur, to review its documents which are necessary for investigation, to obtain copies of and extracts from such documents, and to gain access to information stored in computers and magnetic media;

1.3. to obtain oral and written explanations from persons related to the activity of the entrepreneur under inspection; to request that they give explanations in the office of an authorized official conducting the investigation;



- 1.4. to obtain from other entrepreneurs any data and documents on economic operations of the entrepreneur under inspection, irrespective of the subordination of such other entrepreneurs, or copies of such documents; to obtain such data and documents or copies thereof from state and municipal institutions and persons;
  - 1.5. to inspect (audit) economic operations of an entrepreneur, to obtain opinions from expertise bodies based on inspection materials, to carry out a detailed review of the cost and/or income accounting systems of the entrepreneur;
  - 1.6. to seize, for a period of up to sixty (60) days, documents and objects necessary for or to be used as evidence in the investigation of an infringement, leaving a reasoned decision for the seizure and a list of documents and/or objects seized; to request that copies of the specified documents are made;
  - 1.7. to use the services of specialists and experts for the investigation;
  - 1.8. to use technical means during the investigation in accordance with the procedure established by the Law;
  - 1.9. to conduct on-the-spot inspections of equipment and/or devices;
  - 1.10. to exercise other rights provided for by this and other Laws.
2. When performing their functions, the officials authorized by the Authority may use the services of police officers.
  3. When exercising the rights granted to them, the officials authorized by the Authority shall draw up documents (statements, protocols, requests, etc.). The form of such documents and filing requirements shall be specified by the Authority.
  4. Instructions of the officials authorized by the Authority given when performing the actions indicated in this Article shall be binding on persons and entrepreneurs as well as their management and administration staff, who must duly cooperate with authorized officials. Sanctions provided for in this and other laws shall be imposed for failure to comply with the said instructions.
  5. Entrepreneurs shall have the right to appeal to the Board of the Authority against illegal actions by its officials. The appeal shall be filed not later than ten (10) days after learning about the actions appealed against. The Board of the Authority shall adopt a decision regarding the appeal within ten (10) days from the receipt thereof. Should a person disagree with the decision of the Board or should the Board fail to adopt a decision within ten (10) days, the person concerned shall be entitled to appeal to court. Filing of an appeal shall not stop relevant actions by the officials.
  6. A request for permission to take actions referred to in sub-paragraph 1.2 of paragraph 1 of this Article shall be filed with the court. In this case, a request for permission to take actions shall be filed to court in accordance with the procedure set out above within

twenty four (24) hours after the adoption of such decision. Should the court (judge) refuse to issue a permit, the actions shall be discontinued and any information received while taking such actions shall be destroyed immediately.

7. The damage incurred on entrepreneurs by illegal actions of institutions regulating electronic communications activities or officials thereof shall be compensated in accordance with the procedure established by the Law.

## **Article 101**

### **Economic Sanctions**

1. Should an entrepreneur fail to comply with the legal acts specifying the conditions for the pursuit of electronic communications activities or the conditions of use of electronic communications resources including consumer or user rights, or should it fail to fulfill obligations imposed on it as an entrepreneur having significant market power or designated to provide universal service or should it fail to comply with the decisions adopted by the Authority upon settlement of a dispute or should it fail to comply with the Technical Regulations of Radio Equipment and Telecommunications Terminal Equipment or the Technical Regulation on Electromagnetic Compatibility, the Authority shall have the right to impose a fine to the entrepreneur of up to seven percent (7 %) of the annual gross income from activities associated with electronic communications, and if it is difficult or impossible to calculate the volume of such activity – the Authority imposes a fine to the entrepreneur in the amount of not more than eighty six thousand (86,000) EUR.

2. In case where an entrepreneur commits a repeated or serious infringement referred to in paragraph 1 of this Article, the Authority shall have the right to impose a fine of up to ten percent (10 %) of the annual gross income from activities associated with electronic communications, and if it is difficult or impossible to calculate the volume of such activity – the Authority imposes a fine to the entrepreneur in the amount of not more one hundred and fifty thousand (150,000) EUR.

3. Where the annual gross income of entrepreneurs referred to in paragraphs 1 and 2 of this Article is less than eighty five thousand (85,000) EUR, a fine of up to three thousand (3,000) EUR shall be imposed, while in the case of a repeated or serious infringement, a fine of up to ten thousand (10,000) EUR shall be imposed.

4. If an entrepreneur fails to comply with the obligation imposed by the Authority to discontinue illegal activities, does not submit information in accordance with the procedure and conditions set out in this Law (submission of incorrect information shall also be considered as failure to submit information), impedes officials authorized by the Authority to perform their duties or does not comply with the requirements of the Authority, including any provisional protection measures, the Authority shall have the right to impose a fine of up to fifteen thousand (15,000) EUR and in the event of

continuous infringement – a fine of up to one thousand and five hundred (1,500) EUR for each continued infringement.

5. In addition to the economic sanctions provided for in paragraphs 1 till 4 of this Article and in paragraph 4 of Article 103 of this Law, the Authority may order seizure of objects that were a tool or direct object of infringement of this Law and/or payment of damages caused by illegal activities.

6. Where an entrepreneur is a group of associated persons, members of the group who acted as a single economic unit when committing an infringement shall be considered as offenders.

## **Article 102**

### **Imposition of Economic Sanctions and Determination of their Size**

1. Economic sanctions shall be imposed on an entrepreneur by the Authority. The Authority shall adopt rules regulating the procedure for imposing economic sanctions.

2. The procedure for imposing economic sanctions on the basis provided for in paragraphs 2, 3 or 4 of Article 101 of this Law shall be initiated by a proposal from an official of the Authority. The proposal shall specify the circumstances of the infringement of this Law and the proposed economic sanction. Upon the receipt of an official notice by the official, the Chairman/Board of the Authority or a person authorized by him shall hold a meeting on the imposition of an economic sanction. The entrepreneur on which a sanction is to be imposed shall be informed about the meeting. The entrepreneur must submit supporting evidence to prove that there is no element of infringement of this Law as well as evidence of mitigating circumstances or any other relevant evidence in support of an adequate sanction before the meeting.

3. The meeting on the imposition of an economic sanction may be attended, with the right to present explanations, by an entrepreneur on which the sanction is to be imposed as well as persons whose participation is required for a proper examination of the issue of imposition of sanctions (witnesses, experts, specialists or other persons). Failure by an entrepreneur on which the sanction is to be imposed or other entrepreneurs or persons to attend the meeting shall not prevent the meeting from being held. The meeting shall be public, except for the cases where the Authority decides to examine the issue at a closed meeting with a view to safeguarding state, business or commercial secrets or ensuring a person's right to privacy.

4. The meeting shall be started by a report of the official from the Authority who has made the proposal. Representatives of entrepreneurs and persons attending the meeting may present their explanations. Other participants in the meeting may put questions to any person who has made a report or provided an explanation.

5. The minutes of the meeting shall be executed not later than five (5) days from the day of the meeting. The minutes shall be signed by the Chairman of the Authority or a person authorized by him and the secretary of the meeting.

6. The entrepreneur on which a sanction is to be imposed or has been imposed and other interested entrepreneurs and persons shall have the right to gain access to the materials collected by the Authority, except for those materials which constitute a state, business or commercial secret or the disclosure of which would violate the right to privacy of a natural person. The entrepreneur on which a sanction is to be imposed shall always be provided access to the text of the proposal by the official from the Authority and the minutes of the meeting on the imposition of an economic sanction.

7. After the meeting on the imposition of an economic sanction, the Board of the Authority or a person authorized by the Board shall make the final decision. The decision on the imposition of an economic sanction may be appealed against the Competent Court in accordance with the procedure and conditions set out in the legislation in force.

8. The Board or a person authorized by the Board shall have the right at any moment of the procedure of imposition of an economic sanction to instruct officials from the Authority to supplement the materials collected. Upon fulfillment of such instructions by officials of the Authority, a supplemented proposal shall be drawn up and the procedure of imposition of an economic sanction shall be started anew.

9. When imposing economic sanctions on entrepreneurs, account shall be taken of:

9.1. amount of damages incurred by the infringement;

9.2. duration of the infringement;

9.3. circumstances mitigating (attenuating) or aggravating the liability of the entrepreneur;

9.4. amount of income that the entrepreneur has received as a result of the infringement;

9.5. where the infringement has been committed by several entrepreneurs, the share of each entrepreneur in committing the infringement.

10. Mitigating (attenuating) circumstances shall include actions of the entrepreneur concerned taken at its own initiative to prevent the harmful consequences of the infringement as well as its assistance to the Authority in the investigation of the infringement, compensation of losses or elimination of the damage done.

11. Aggravating circumstances shall include actions by the entrepreneur concerned to impede the investigation procedure, conceal the infringement, and continue the infringement despite the Authority's instructions to discontinue illegal actions as well as

a repeated infringement for which sanctions provided for in this Law have already been imposed on the entrepreneur.

12. When determining the size of the economic sanction, the Authority may also recognize other circumstances as mitigating circumstances.

### **Article 103 Implementation of Economic Sanctions**

1. The entrepreneur must implement the economic sanction imposed by the Authority by paying the fine to the Authority account in accordance with the provisions of the Article 86 of this Law and/or transferring gratis the seized or confiscated objects not later than three (3) months after the receipt of the decision.

2. At a reasoned request of the entrepreneur, the Authority may defer by its decision the payment of the fine or part thereof for a period of up to six (6) months.

3. A decision on the imposition of an economic sanction issued by the Authority shall be an executive document. Where it is not implemented, the decision shall be forwarded for implementation in accordance with the procedure established by the Legislation of Criminal Procedure in force. A decision may be presented for execution not later than three (3) months after its adoption.

4. Any seized objects shall be realized in accordance with the procedure established by relevant legislation.

5. The Authority shall have the right to determine the terms and conditions for compensating the damage incurred by the illegal actions of an entrepreneur.

6. Where the sanction is imposed on an entrepreneur that is a group of associated persons, all members of the group shall be jointly and severally liable for the adequate implementation of economic sanctions, taking account of the provisions of paragraph 6 of Article 101 of this Law.

**CHAPTER XVII**  
**SUPERVISION AND MONITORING OF ELECTRONIC COMMUNICATIONS**  
**TRAFFIC**

**Article 104**  
**Supervision and Monitoring**

1. Entrepreneurs providing electronic communications networks and/or services shall have the right to record and store technical data on electronic communications and their participants only to the extent that is necessary to ensure economic activities of the said entrepreneurs. Entrepreneurs providing electronic communications networks and/or services must submit, in accordance with the procedure established by the law, to operational investigation services, pre-trial investigation institutions, prosecutors, courts or judges information which is available to them and which is necessary to prevent, investigate and detect criminal acts. Such information shall be submitted, immediately and free of charge, by entrepreneurs providing electronic communications networks and/or services to the main institutions of operational investigation services and pre-trial investigation institutions designated by the Government in electronic form in response to their enquiries. Pre-trial investigation institutions designated by the Government shall provide their subdivisions and/or other pre-trial investigation institutions with access to such information in accordance with the procedure established by the Government. All persons taking part in the exchange of information shall make necessary arrangements to ensure data security in accordance with the procedure and conditions set forth by the Government; the additional equipment necessary for this purpose shall be obtained from and maintained by Government funds. If the information presented by an entrepreneur providing electronic communications networks and/or services needs to be confirmed for a pre-trial investigation purposes, the pre-trial investigation officer shall directly address the entrepreneur in writing and the entrepreneur shall provide a written response.

2. Entrepreneurs providing electronic communications networks and/or services shall store technical information used during the transmission of electronic communications traffic only for a period that is necessary to ensure their economic activity which will not exceed six months, except for cases referred to in Article 68 of this Law; where such information is necessary for operational investigation services, pre-trial investigation institutions, prosecutors, courts or judges to prevent, investigate and detect criminal acts, entrepreneurs providing electronic communications networks and/or services shall, on instruction from an institution (operational investigation service) authorized by the Government, store such information for a longer period, but no longer than additional six (6) months. Such storage shall be paid for by state funds in accordance with the procedure established by the Government.

3. Where there is a reasoned court ruling, entrepreneurs providing electronic communications networks and/or services must provide operational investigation services, in accordance with the procedure established by the law, and pre-trial investigation institutions, in accordance with the procedure established by the Legislation

of Criminal Procedure in force, with technical possibilities to exercise control over the content of information transmitted by electronic communications networks. Equipment necessary for this purpose shall be obtained from and maintained by Kosovo budget.

4. A Government authorized institution (operational investigation service) shall organize and provide, in accordance with the procedure established by the Government, each operational investigation service and, in the event of criminal proceedings, each pre-trial investigation institution with a technical opportunity to exercise independent control over the content of information transmitted by electronic communications networks.

5. Entrepreneurs providing electronic communications networks and/or services shall inform a Government authorized institution (operational investigation service) and the Authority about any changes to be made in their networks or at points of interconnection with other electronic communications operators, which may affect the operation of equipment referred to in paragraphs 1 and/or 3 of this Article and the volume of information presented, as soon as they get to know about it.

6. Technical commands sent by an electronic communications network to start or discontinue wire tapping or any other control of the information transmitted over electronic communications networks shall be safe kept at the premises of a Government authorized institution (operational investigation service) in such a way that would prevent the command data to be modified by the Government authorized institution which has sent such commands or by the entrepreneur which has received them. The Prosecutor General or his authorized prosecutor shall exercise control over compliance with the provisions of this paragraph.

## **Article 105**

### **Extraordinary Circumstances and Special Rules for Securing Communication**

1. The Government or an institution authorized by it shall approve a programme on implementing preparations for extraordinary circumstances and a scheme for organizing communications in extraordinary circumstances. Entrepreneurs shall participate in the preparation of these legal acts and ensure their effective functioning.

2. In cases of force majeure, extreme situations or other extraordinary circumstances or for the purpose of preparing for universal mobilization or national defense or ensuring national security and public order, the Government or an institution authorized by it may, in accordance with the procedure established by laws and other legal acts, issue mandatory instructions, tasks and assignments to entrepreneurs providing electronic communications networks and/or services as well as to owners or users of equipment and devices in order to protect and maintain the relevant electronic communications networks as well as to interconnect them and, where necessary, restrict public use of electronic communications networks.

3. Providers of electronic communications networks and services shall take any measures necessary to secure the functioning of public communications networks and services in the case of catastrophic network failure or force majeure such as unusual weather conditions, earthquakes, floods, lightning or fires as well as in other extraordinary circumstances. In such cases, relevant entrepreneurs and institutions shall take all possible measures to maintain the highest service level in line with the priorities established by the Government or an institution authorized by it.

4. Providers of electronic communications networks and services must give absolute priority to communication with emergency services and institutions servicing emergency calls, including any telecommunications related to safety of life on land, in the air or further space, also to epidemiological telecommunications of extreme urgency as defined by the World Health Organization. Users of radio stations must ensure reception of disaster signals and disaster messages of whatever resource, giving them absolute priority, responding in the same manner and taking immediate action in respect of them.

5. Providers of electronic communications networks and/or services must give priority, in respect of other telecommunications, to telecommunications conducted by heads of state and government or members of government, chief commanders of land, or air forces, diplomatic or consular representatives of the Republic of Kosovo and other member states of the International Telecommunication Union, the Secretary General of the United Nations, heads of United Nations main bodies and the International Tribunal or to telecommunications provided in response to such telecommunications to the extent that is necessary to take account of a specific request by the sender of relevant information.

6. The Authority shall have the right to set forth the procedure and conditions for implementing the obligations referred to in paragraphs 4 and 5 of this Article.

7. It shall be prohibited to send or transmit false or misleading signals of disaster, urgency, security or identification.

8. Information constituting state and/or official secret shall only be transmitted over encoded radio communication channels.

### **Article 106** **Transitional provisions**

1. Government and Authority shall adopt all the secondary legislation related to frequency management not later than within the time period of six (6) months from the date specified in Article 110 of this Law. Government, Ministry and Authority shall adopt all other secondary legislation than those mentioned in the first part of this paragraph by implementing this Law within the time period of twelve (12) months from the date specified in Article 110 of this Law.

2. After this Law comes into force, the Law on Telecommunications shall become repealed as it is specified in the Article 109 of this Law; however, entrepreneurs that have



been identified by the Authority, prior to coming into force of this Law, as entrepreneurs having significant market power shall continue to fulfill the obligations imposed on them, including any obligations binding on entrepreneurs having significant market power, within the scope and subject to the conditions set out in the Law on Telecommunications and accompanying legal acts, until the Authority, having completed market analysis in accordance with the procedure established in this Law, decides to revoke and/or modify such obligations.

3. Personal data included in public directories of subscribers prior to coming into force of this Law may be kept in these directories until the subscriber expresses a wish to have them erased. Providers of publicly available electronic communications services shall publicly inform the subscribers whose data have been included in respective directories about the rights granted to them by this Law.

4. Subordinate legal acts adopted prior to coming into force of this Law shall be valid to the extent that they do not contradict this Law. A provision shall not be considered as contradicting only because it applies to entrepreneurs having significant market power identified in accordance with the procedure established by the Law on Telecommunications.

5. Any dispute between entrepreneurs to be settled in accordance with Article 84 of this Law and any dispute based on end user complaints to be settled in accordance with Article 72 of this Law that were accepted for consideration prior to coming into force of this Law shall be examined and appealed against subject to the legal norms valid prior to coming into force of this Law.

6. Procedures (such as market analysis and assignment of electronic communications resources, including tenders and auctions) that were commenced in accordance with the Law on Telecommunications and the legal acts implementing it shall be concluded subject to the legal norms valid prior to coming into force of this Law. The adoption of a decision by the Authority indicating procedure results shall be regarded as the end of the procedure; in the event that an authorization is issued after the procedure is completed; its issue shall be regarded as the end of the procedure.

7. Licenses and permissions to use radio frequencies and numbering granted prior to the date specified in the Article 110 of this Law should be considered to be the authorizations to use radio frequencies and numbering according to this Law and are valid until the expiration or renewal date.

8. The Chairman and the members of the Board appointed prior to coming into force of this Law shall perform their functions until the expiry of their term of office unless dismissed earlier on the grounds specified in this Law.

9. EU legal acts that regulate the subject of this Law shall be implemented in accordance with the provisions of this Law (including the settlement of relevant disputes and

imposition of sanctions) without prejudice to the conditions of such legal acts and the competence of EU institutions.

10. State institutions that apply this Law within the scope of their competence shall take into account the relevant recommendations of the European Commission.

11. The Authority shall be the legal successor of the Telecommunication Regulatory Authority and shall take over its moveable and immovable assets, equipments, archives and other documentations, funds and accounts, as well as all other rights and obligations of the Telecommunication Regulatory Authority.

**Article 107**  
**Exceptions from the Application of the Law**

This Law shall not regulate any social relations pertaining to the services delivered using networks and services referred to in Article 1 of this Law as well as any content conveyed over electronic communications networks and any services associated with such content.

**Article 108**  
**Implementation of the Law**

For the implementation of this Law, the Government, Ministry and Authority shall issue the sub-legal acts determined by this Law.

**Article 109**  
**Repeal**

There shall be repealed Law no. 2002/7 On Telecommunications, dated 12.05.2003 and Law No.03/L-085 on amending Law on Telecommunication, dated 13.06.2008.

**Article 110**  
**Entry into force**

This Law shall enter into force fifteen (15) days after its publication in the Official Gazette of the Republic of Kosovo.

**Law No. 04/L-109**  
**4 October 2012**

**President of the Assembly of the Republic of Kosovo**

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**Jakup KRASNIQI**