

**REPUBLIC OF ALBANIA
ASSEMBLY**

**LAW
No 8618 dated 14.6. 2000**

On Telecommunications in the Republic of Albania

Based on Articles 78 and 83/1 of Constitution,
on the proposal of the Council of Ministers,

**ASSEMBLY
OF THE REPUBLIC OF ALBANIA**

D E C I D E D:

**CHAPTER I
GENERAL PROVISIONS**

Article 1

Scope of the Law

This law governs telecommunications activity in the Republic of Albania and is intended to safeguard public interests and to create a transparent legal and regulatory environment, which will promote investments and free competition.

Article 2

Definitions

In the application of this law the following terms shall mean:

1. "Spectrum Management" means technical, administrative and juridical activities for efficient use of the radio frequency spectrum on national and international levels.
2. "Access to Internet" means the service enabling access to the Internet service network.

3. "Interconnection" is the physical and logical connection of public telecommunications networks to enable subscribers of public telecommunications services of one public telecommunications operator to be connected or to communicate with subscribers of public telecommunications services of another public telecommunications operator.
4. "Leased circuit" means a telecommunications service consisting in the provision of fixed, permanent or virtual circuits by a public telecommunications operator connecting network terminal points, for the use by one subscriber in return for payment.
5. "Minister" is the Minister responsible for the telecommunications sector, through the General Department of Post-Telecommunications.
6. "Telephone book (Directory)" is the publication listing the telephone numbers and the addresses of the subscribers of a public telecommunications operator.
7. "Numbers" are signs serving for the purpose of identification in telecommunications networks.
8. "Independent Telecommunications Operator" is an entity which has a licence to set up an independent telecommunications network to effect communications only within one or more closed groups of users.
9. "Public Telecommunications Operator" is the entity who has a licence to set up and operate a telecommunications network and/or offer to the public telecommunications services.
10. "Operator" is the entity which has a licence in conformity with the provisions of this law.
11. "Organisation with Significant Market Power" means an organisation authorised to provide fixed public telephony networks and/or fixed and/or mobile public telephony services , and/or leased circuits in the Republic of Albania, which has been designated as such by the TRE.
12. "Terminal Equipment" is any equipment used by a subscriber which is directly or indirectly connected to a terminal point of the telecommunications network for the purpose of effecting telecommunications. Terminal equipment can be connected to the network by wire, optical fibres, radio and coaxial cable and in this case it is called fixed. If the equipment is connected in the network with radioelectric means, it is called mobile.
13. "Radiocommunication Equipment" means devices for transmission, emission or reception of radio waves for radiocommunication purposes.
14. "Telecommunication equipment" means any technical means (transmitting line, switching equipment, and any other equipment necessary to ensure the normal functioning of a telecommunications network) for the purpose of sending, receiving or processing information.
15. "User" means any natural person or legal entity making use of public telecommunication services.
16. "Network terminal points" are physical connections and their technical specifications, which are part of the public telecommunications network and enable access to the public telecommunications

network to which terminal equipment is connected and efficient communication through this network.

17. "National radio frequency plan" is the documents defining the radio frequency bands and setting out the basic conditions for the allocation and operation of the radio frequencies, for the purpose of efficient use of the radio frequency spectrum and avoidance of interference.
18. "Radiocommunication" means telecommunication by means of radio waves.
19. "Regulation" is the measures taken to achieve the objectives provided in Article 3 of this law, in order to ensure the efficient use of radio frequencies without interference.
20. "Independent or Internal Telecommunications Network" means a telecommunications network, available to one or more private individuals or legal entities which constitute one or more closed group of users to perform communication only within the group.
21. "Telecommunications network" means the transmitting line, switching equipment, and any other equipment necessary to ensure the normal functioning of a telecommunications network for the purpose of effecting telecommunications.
22. "Public Telecommunications Network" means a telecommunications network used, among other functions, to offer public telecommunications services.
23. "Global mobile personal communications service" means the mobile telephony service realised through a direct connection between mobile terminal equipment and a satellite system. It is known also as GMPCS.
24. "Information service" means the transmitting of information to public telecommunications network users, provided on the request of an individual, through the telecommunications network.
25. "Public Telecommunications Service" means the commercial activity of offering telecommunications services to the public, as well as offering leased circuits to third parties.
26. "Public land mobile telephony service" is the public telephony service, offered to the users, through a public telecommunications network, which terminal points are in fixed locations, enabling users to communicate within the areas covered by such service, independently of their location.
27. "Fixed (immobile) public telephony service" is the public telephony service provided to the users, by means of terminal equipment connected to terminal points in fixed location of public telecommunication networks.
28. "Public Telephony Service" is the commercial activity of direct transfer of the voice, in real time, among users connected to the terminal points of a telecommunications network, enabling any subscriber to use equipment connected with terminal points for the purpose of communication with another terminal point.

29. "Universal service" is a minimum defined category of services, of a determined quality, available to all citizens, independently of their geographical location, and offered with acceptable prices.
30. "Data transmission service" is the commercial activity involving direct transmission of data between public network terminal points by means of switching, making possible for any user to use connected equipment with a network terminal point, in order to communicate with another terminal point.
31. "Value added service" means transfer in real time of data base information, videotext, information services, remote data processing, electronic mail, transactions services, speed and protocol conversions.
32. "Paging Service" involves commercial activity for the transmission of short texts or acoustic signals through a special mobile terminal.
33. "Radiocommunications System" means one or more transmitters or receivers or a combination of transmitters and receivers, including the accessory equipment, necessary at one location for carrying on a radiocommunications service or the radio astronomy service.
34. "Radio Frequency Spectrum" means spectrum including frequencies from 9 kHz to 400 GHz.
35. "International Standard" means standard approved by international organisations such as, ITU, CEPT, to which Republic of Albania adheres.
36. "Telecommunications" means transmitting, receiving and switching signs, signals, texts, images, or sounds, through telecommunications networks, which does not include radio or television broadcasting.
37. "Radio or television broadcasting" means transmitting to the public of radio or television signals, through transmission of electromagnetic waves in ether or in a cable infrastructure.

Article 3

Long-Term Policy Objectives

The long-term objective of development of telecommunications policy in the Republic of Albania is the harmonised development of telecommunications infrastructure and its gradual expansion throughout the country, so as to ensure:

- a. access to basic telephone services at affordable prices;
- b. the full range of modern services is accessible by all the population of the Republic Albania;
- c. liberalisation of the market, competition of services and choice for users;
- d. better consumer protection.

CHAPTER II

ROLE OF THE STATE IN TELECOMMUNICATIONS

Article 4

Definition of Development Policy and Regulation of Telecommunications Sector

The Council of Ministers on the proposal of the Minister defines telecommunication development policy within the framework set out by this Law.

The Telecommunication Regulatory Entity shall monitor the regulatory framework set out by this law and also by the sector policy approved by the Council of Ministers.

Article 5

Decision-making for Implementation of Telecommunications Policy

The Council of Ministers on the proposal of the Minister, after consultations with TRE and the consumers' associations, takes all the necessary actions to achieve the targets of telecommunications development policy.

Article 6

General Directorate of Posts and Telecommunications

GDPT is a public legal entity, financed from the state budget, which exercises its powers and duties in a manner designed to fulfill objectives of policy on telecommunications.

GDPT is under the Minister who is responsible for the activities in telecommunications sector.

Article 7

Duties of GDPT

GDPT is entitled to:

- a. Prepare draft laws and draft sublegal acts for the development of the telecommunications sector;
- b. Co-ordinate work for the preparation of the national radio frequency plan as well as the harmonisation of such a plan with international policies for development of radio frequency spectrum;
- c. Co-ordinate the work necessary to meet the requirements of the state institutions, such as Ministry of Defence, Ministry of Public Order, State Information Service, etc;

- d. Gather and elaborate the statistical data from all public telecommunications operators in the country;
- e. Follow up the fulfillment of obligations of telecommunications sector deriving from bilateral agreements and/or multilateral convention or protocols to which Republic of Albania adheres;
- f. Co-ordinate the national services of coastline radio connection;
- g. Support the activity of radio amateurs in the Republic of Albania;
- h. Co-operate with local administrations on matters concerning telecommunications;
- i. Co-ordinate efforts for the development of human resources in the telecommunications sector;
- j. Prepare development plans of telecommunications and proposes recommendations to the Minister.

Article 8

Telecommunications Regulatory Entity

Telecommunications Regulatory Entity (TRE) is the regulatory authority that monitors the regulatory framework of this law and of the policy objectives defined by the Council of Ministers.

Article 9

Duties of Telecommunications Regulatory Entity

Telecommunications Regulatory Entity shall:

- a) Promote development of telecommunications, through application of licensing procedures in compliance with this law;
- b) Award licences as provided by this law and supervise the fulfillment of its terms and conditions;
- c) Regulate interconnection between telecommunications operators;
- d) Supervise the quality of the services offered by operators and ensures they are in conformity with the defined standards;
- e) Encourage competition among telecommunications operators, based on principles of transparency, non-discrimination and fair competition;
- f) Prepare and approve national numbering plan and ensure its performance;

- g) Safeguard the interests of users of telecommunications networks and services from operator's unfair practices.
- h) Certify the type of imported telecommunications equipment and adopt the domestic telecommunications equipment
- i) Prepare and approve conditions and technical standards for telecommunications networks, in line with international recommendations.
- j) Allocate frequency bands for each civil user, except radio or television broadcasting operators, through issuing licences and also takes measures to identify violators and prevent abusive use of frequencies;
- k) Supervise the compliance of tariffs of public telecommunications operators with requirements of this law.

The acts issued by TRE shall be published in the Bulletin of TRE.

CHAPTER III

NETWORKS AND TELECOMMUNICATIONS SERVICES

Article 10

Telecommunications Networks

Public telecommunications networks are established to support public telecommunications services and operate as a national network open to all users and all operators, and integrated into the international network in conformity with international standards.

Construction and maintenance of independent telecommunications networks is performed by licensed individuals or legal entities to meet needs of public and private legal entities. Operators agree between them to connect with the public telecommunications networks.

Installation of new telecommunications networks is performed by licensed entities in conformity with legislation and sub-legal acts in force.

Article 11

Protection of network from damages

Telecommunications operators keep complete and accurate documentation for their network. With an official request they may give to each other and to other companies information about parts of

their network, for the purpose of protecting the network from damage caused by excavations or from electrical interference caused by installing other equipment close to the network.

Article 12

Right to use public and private property

For the installation of nodes, lines, transmitter stations and any other telecommunication equipment, as well as for their maintenance, a public telecommunication operator is entitled to use state owned land or facilities, including building and conduits, any subsurface and air space rights of the public, state-owned roads, lakes, forests, etc.

Before starting works on land or public facilities, public telecommunication operators must give notice to the competent authorities and comply with any reasonable rules they determine. Disputes between a public operator and any authority are subject to court decision.

Operator is required to use properties stated in paragraph 1 of this Article in conformity with environmental law and with termination of the works, when possible, to restore environment as it was before.

A public telecommunications operator, in conformity with the legislation in force, may enter into negotiations with owners of private land and facilities.

When installation and maintenance of telecommunications equipment causes damages to the property or changes its destination, the public telecommunications operator is under obligation to compensate for damages according to the legislation in force.

Article 13

Obligation of operators for maintenance

Telecommunications operators are required to maintain in good working telecommunications equipment in accordance with technical and state standards.

Employees, who are authorised by the operator, have the right to enter public and private property for maintaining telecommunications equipment, as well as for placing different signs that indicate the presence of telecommunications facilities.

An operator has the right to cut trees, shrubs, branches and roots which may damage telecommunications equipment, as established by appropriate regulations, for assuring proper functioning of telecommunications equipment. If the owner hinders the operator when carrying out these duties, the operator has the right of appeal to competent authorities, which must intervene to enforce request of the operator within 15 days.

Article 14

Protection of the network from damages caused by third parties

Individuals or private or public entities, who perform construction and excavation works, are required to inform public telecommunications operators prior to the commencement of these works to prevent damage to the existing telecommunications network.

If the works in the existing telecommunications network are indispensable all expenditures for protecting, diverting, or repairing damage to the networks will be covered by the organisation performing the works.

Disputes among parties shall be resolved in court.

Article 15

Obligations of the construction undertakers

In case of construction of buildings for commercial activities with more than six apartments, the undertaker shall establish the internal telephony network.

Article 16

Standards of telecommunications equipment

Only equipment with technical characteristics in accordance with Albanian and/or international standards to which the Republic of Albania adheres may be connected to a public telecommunications network.

Article 17

Organisation with Significant Market Power

TRE determines whether an organisation is an Organisation with Significant Market Power. An organisation shall be presumed to have significant market power when it has a share of more than 25% of the market in a geographical area where such organisation is authorised to operate.

Nevertheless, TRE may determine that an organisation with a market share of less than 25% in the relevant market has significant market power. TRE may also determine that an organisation with a market share of more than 25% in the relevant market does not have significant market power. In either case, TRE takes into account the organisation's ability to influence market conditions, incomes in terms of market size, supervision over the means of access to terminal users, and experience to offer products and services in the market.

Article 18

Obligation of operators to provide services

A public telecommunications operator, in its area of operation, will have the following duties:

- a) To offer telecommunications services and facilities to subscribers and other operators without undue preference or discrimination, when it is an organisation with significant market power,
- b) To ensure continuation of the traffic to and from other operators, maintain and develop the public telecommunications network they administer.
- c) To co-operate with other operators for the following:
 - i) mutual exchange of information and co-ordination of technical data so that their networks are co-ordinated;
 - ii) methods of measurement of the use of systems;
 - iii) harmonisation of maintenance systems, co-ordination of work for maintenance of systems;
 - iv) repair of defects;
- d) To contribute to solving problems of public order and national security.
- e) To fulfill all terms and conditions of the licence.

Article 19

Obligation of operators to provide information

Public operators must provide the GDPT and TRE with statistical data. GDPT or TRE have authority to define the type of data and the timing when such data shall be given

Article 20

Operator's obligation toward national defence and public order

Public telecommunications operators shall give a high priority to national defence and public order matters, in conformity with provisions of this law and licence terms and conditions

Article 21

Employment relations

Employment relations between a public telecommunications operator and its employees shall be governed by the labour legislation in force.

Article 22

Privacy

A public telecommunications operator must take all the measures against telecommunications and data processing systems to protect privacy of telecommunications and personal data as well as to hinder the unauthorised access to telecommunications and data processing systems.

A public telecommunications operator, its representatives and its employees shall protect any information and the confidentiality of communications through its services and network, during the licence period and after its expiration.

An operator may be informed about messages or other transmitted data through its network only at the extent required to fulfill its duty for providing telecommunications services.

Receiving, registering, publishing and using data and messages that are transmitted through the telecommunications network and which are not available to the public is prohibited.

Article 23

Professional confidentiality

It is prohibited to reproduce signals that are not included in the licence, use for other purposes, disclosure of their existence and give them to unauthorised persons.

Article 24

Obligation to inform state authorities

Notwithstanding Article 22, public telecommunications operators, for purposes of conducting criminal investigations, are required to maintain files for subscribers, when such procedure shall be required by TRE or any other authority mentioned in Penal Procedure Code. Such files may contain only details of called numbers from the subscriber, the date and time of call, whether or not they appear in the telephone book.

Such files shall be made available to relevant state authorities so that they can produce individual data or package of data in electronic form according to TRE decisions.

Article 25

Communication Surveillance

Notwithstanding Article 22, public telecommunications operators shall allow bodies authorised by law to survey, record and reproduce the network communications, in conformity with Penal Procedure Code procedures and the Regulation issued pursuant to Article 57.

Devices to be installed or linked to the telecommunications public telephony network for interception of telephone conversations shall be compatible with the systems of telecommunications and not create interference with such systems.

Article 26

Primary obligations in special cases

In the event of emergency, natural disaster or national defence and public order matters, public operators shall make available to the state networks and services they offer.

The aforementioned obligations can be defined in the conditions of the licence or by the TRE, case by case.

Telecommunications operators must co-operate between themselves, as well as governmental, intergovernmental and non-governmental entities to facilitate dealing with the consequences resulting from such events through:

- a) installation of terrestrial or satellite equipment to prevent, supervise, and ensure the prevention of natural disasters, and health catastrophes;
- b) distribution of information about natural disasters and health catastrophes in co-operation with other organisations and dissemination of such information to the general public, in particular amongst those who are mostly exposed to the risk;
- c) provision of immediate assistance to ease the effects of disaster;
- d) convenient installation and function of telecommunications services provided by humanitarian organisations.

For the purpose of carrying out these tasks telecommunications operators may enter into special agreements or sign amendments of already existing agreements.

Article 27

Right to Subscription

Everyone is entitled to subscribe to and use a public telecommunications network, if available in the location where he lives or carries out his activity.

Article 28

The Rights and Obligations of the users

Any user of public telephone services is entitled to use public telecommunications network for domestic and international traffic on non-discriminatory, objective and transparent basis, except when conditioned by the limited capacity of public operator.

Users of public telephone services must receive proper, effective and uninterrupted service.

Users of public telephone services are entitled to explanations for complaints in regard with offered service which shall be solved effectively.

Users of public telephone services shall use the services in return for payment.

Users of public telephone services must take care of and maintain terminal points for protection of the network.

Article 29

Service agreement

A provider of public telephone services shall enter into a contract with the user for the use of public telephone services.

The standard contract between operator and the user shall be based on the principle of equality between the parties. The contract shall be prepared and approved by the TRE.

Article 30

Billing

A provider of public telephone services should guarantee the accuracy in tariff setting and billing of rendered services. To prove the accuracy of tariffs and billing of rendered services, the public telephony service provider shall keep a copy of the bills at least for two years.

Billing is made on periodical basis by agreement and the subscriber must be informed of the financial obligation within 1 month from the day he was billed.

The public telephony service provider shall send to each user his bill, free of charge. The bill shall contain the basic elements, that make possible the verification and controlling of tariff setting or billing process.

At the request of the subscriber, a provider of public telephone services must provide a detailed invoice, in return for a reasonable fee.

Article 31

Treatment of other than Public Telephone Services

Where the TRE determines that an operator is an Organisation with Significant Market Power in relation to a service other than public telephone service, the TRE may decide that Articles 28, 29, 30 shall apply, in whole or in part, to that service.

Article 32

Obligation of Operators for Protection of Health and Environment

Public telecommunications operators must take all measures for protection of health of the users of telecommunications networks and all other persons who are exposed to these networks and the environment protection.

Article 33

Obligation to Provide Quality of Service

Public telecommunications operators are required to provide users with services in conformity with approved quality standards in the area where they conduct their activity.

In special cases, a user and operator may sign a contract for service of higher quality against additional payment.

Article 34

Requirement for Publication of Telephony Numbers Book

The public telecommunications operator who controls the largest market share for fixed telephone services is required to publish a directory at least once per year. Other public telecommunication operators must provide to that operator necessary data of their subscribers, so that data for publication are accurate and complete. The directory must also contain paid public telephony numbers and prepaid card numbers.

Subscribers are entitled to have their names published in directory, to verify and if necessary to correct data or to demand their removal from directory.

TRE shall ensure that operator who provides services subject of paragraph 1 of this Article follow the principle of non discrimination in the treatment and presentation of data.

Article 35

Information Services

The public telecommunications operator, providing telephone services, shall provide the information service for his users.

The public telecommunications operator, providing telephone services, shall provide the information service, also, for subscribers that have signed the contract after the publication of the last directory, through its employees or other forms. The information service data must be refreshed every month.

Article 36

Data Available to Clients

In order to offer information service for the public or publication of telephone directories, telecommunications operators providing voice telephone public services should give, upon request, other licensees offering similar services access in a convenient form to data regarding users, subject to the data protection rules.

In such cases fees are set based on costs incurred for providing an effective service.

Article 37

Emergency Services

A public telecommunications operator who provides telephone public services has to provide free emergency calls. Emergency services are calls to short numbers to relevant emergency institutions such as:

- law enforcement (police);
- fire department; and
- first medical aid.

Article 38

Universal Service

Council of Ministers classifies universal service and obligation for such service in the framework of policy of telecommunications development which should aim at readiness and affordable of such service for all users in their district, regardless of geographical zone.

The State applies a special policy for users in rural areas or areas with high costs, as well as to disabled persons or persons with special social need, to afford basic services.

Monetary obligations of the operator to provide universal service set out in the licence terms and conditions shall be paid into the universal service fund which is administered by the General Department of Posts and Telecommunications.

CHAPTER IV

OPEN NETWORK AND INTERCONNECTION

Article 39

Essential Requirements of Open Network

To guarantee efficient operation of public telecommunications networks and services, operators must meet essential requirements for:

- a) safety of the network operation;
- b) maintenance of integrity of the network;
- c) co-operation between services, when justified;
- d) data protection.

Article 40

Basic Principles of the Open Network

Principles and harmonised rules for the function of the open network should rely upon objective criteria, be transparent and published in the proper manner, guarantee equal access to users and not be discriminatory.

Article 41

Interfaces of the open network

TRE publishes standards of technical interfaces harmonised with relevant European standards in order to enable an open network.

These standards mean that:

- a) when a service provider applies these standards, he meets the essential requirements; and
- b) when a telecommunications organisations meets these standards, he is able to comply with the requirements of an open network.

Article 42

Obligations for Interconnection of Organisations with Significant Market Power

Organisations with Significant Market Power shall:

- a) interconnect with entities providing similar services on similar conditions in similar circumstances;
- b) provide interconnection facilities and circuits (including information) to other operators in the same quality and tariffs as they provide for their own services and for those subsidiaries or partners;
- c) provide all information, including technical specification, necessary to conclude an interconnection agreement with another entity, including information on network changes planned for implementation within the next 6 months, unless agreed otherwise by TRE;
- d) send copies of their interconnection agreements to TRE, and make them available on request to interested parties. Information which is commercially sensitive (other than details of interconnection charges, terms and conditions) can be withheld with the consent of the TRE.

When TRE finds violation of paragraph 1, it may declare part or all of the agreement invalid.

Notwithstanding the requirements under paragraph 1/a of this Article, various categories of operators may be imposed different terms, conditions and tariffs, subject to the fact whether or not they operate their own networks.

Article 43

Interconnection Agreement

An interconnection agreement is an agreement between two parties which defines the technical and financial conditions for realisation of interconnection. A copy of the agreement shall be given to TRE.

Upon request for interconnection, any public telecommunications operator has to give an offer for interconnection.

When public telecommunications operators fail to sign an interconnection agreement within 2 months from the start of the negotiations, TRE after hearing both parties issues a written order for the conclusion of the interconnection agreement within 1 months from the date of entering into force of the order.

Article 44

Publication of Terms and Conditions of Interconnection

The organisations with significant market power must publish interconnection technical terms and conditions and interconnection tariffs.

TRE must make available to concerned third parties during work time, free of charge, the interconnection agreements, except those parts of the agreements regarding party's commercial policy.

TRE defines the interconnection agreement parts that shall be considered commercial policy of the parties.

Article 45

Monopoly Agreement

The Telecommunications Regulatory Entity may intervene to ensure that an interconnection agreement does not infringe the competition principles in the telecommunications market.

Article 46

Interconnection tariffs

Interconnection fees should be cost-oriented and cover effective cost for using the network.

Organisations with significant market power will have to set the interconnection tariffs in compliance with the rules contained in Articles 60, 63, 64, 65.

CHAPTER V

LICENSING

Article 47

Obligation for Licence

No individual or legal entity can provide public telecommunications services in Albania, or between Albania and another place, unless he has a licence under this Law.

Article 48

Classification of Licences

In telecommunications sector licences are classified as:

- a) Individual licences; or
- b) General licences.

Individual licences are divided into 2 categories:

CATEGORY I: Individual licences of Category I are issued for fixed public telephone or mobile public telephone services at the national level. The Council of Ministers decides their number.

CATEGORY II: Individual licences of Category II are issued for telephone services in rural areas, paging service, global mobile personal communications service and for any other service using radio frequency spectrum.

General licences are issued for Internet access services, data transmission services, value added services, payphones, including cardphone public services, and also all other services that do not fall under Category I or II of individual licences.

Classification of services which may arise in the future as a result of technological progress is made by the Council of Ministers.

Article 49

Licensing Procedures

Individual licences of Category I are issued to operators who win an international open tender.

On proposal of TRE, the Minister shall submit to Council of Ministers the criteria and terms and conditions for issuance of Individual licences of Category I as well as tender procedures.

The tender procedures for granting the individual licence of Category I shall begin on the order of Minister.

Upon request for licence and payment of relevant fees, the individual licences of Category II and general licences shall be issued within 30 days.

Article 50

Criteria to Obtain a Licence

Any legal entity may apply and be considered capable to obtain a licence, if the licensing authority considers that applicant complies with the criteria of credibility, efficacy and specific knowledge.

Every one that shall:

- a) observe, as a licensee, the provisions of the law shall be considered as credible;
- b) have sufficient financial means to establish and operate the network, shall be considered as efficient;
- c) have knowledge, experience and ability of individuals engaged in exercise of the rights of the licence shall be considered in possession of specific knowledge.

TRE may ask for data and certificates supporting applicant's request and may refuse to issue the licence to the applicant, if he does not meet criteria provided in this Article.

Council of Ministers approves the criteria for individual licences of Category I.

TRE approves the criteria for the issuance of the individual licence of Category II and general licences.

Article 51

Issuance of Licences

Individual licences of Category I shall be issued by TRE after the order of the Minister for the tender winner.

Individual licences of Category II and general licences shall be issued by the TRE.

A licence is valid for a term stated in the licence, which shall not exceed 25 years.

Article 52

Licence terms and conditions

A licence may contain conditions relating to the following matters:

- a) provision by the licensee of service to rural or sparsely populated areas or other specified areas;
- b) provision of service by the licensee to disadvantaged persons;
- c) compliance by the licensee with payphone or cardphone service;
- d) compliance by the licensee with special requirements relating to the provision of international services, such as compliance with treaty obligations, proportionate return policies, establishment of accounting rates and settlement procedures, traffic routing requirement;
- e) payment by the licensee of licence fees;
- f) payment by the licensee of a contribution toward the maintenance of a universal service fund or similar fund;
- g) interconnection of the licensee's system with any other system, the interoperability of

services between systems, and the resolution by the TRE of disputes between operators relating to such matters;

- h) provision by the licensee to the GDTP or the TRE of any information they require for the exercise of their duties under this law or to ensure compliance by the licensee with licence conditions;
- i) publication of prices, terms and conditions of service and the manner of such publication;
- j) compliance by the licensee with specific technical or quality standards;
- k) provision by the licensee of a directory information service or access to such a service and the resolution by the TRE of disputes between operators relating to the sharing of directory information;
- l) provision by the licensee of a minimum set of leased circuits;
- m) maintenance by the licensee of a specified system of financial accounts;
- n) provision of consumer services and in particular compliance by the licensee with terms and conditions and/or code of practice specified by the TRE for such services;
- o) regulating of prices charged by a licensee which is an organisation with significant market power;
- p) connection of subscriber equipment to the licensee's network;
- q) obligation of the licensee to comply with regulations according to Article 57;
- r) provision of free emergency services;
- s) give TRE access to receive automatically information for supervision purposes;
- t) provision of a suitable information to subscribers for invoicing and fees;
- u) obligation for national security.
- v) obligation to keep separate financial accounts for international business;
- w) obligation to inform about changes in structure of shareholders;
- x) obligation to enter into agreements with subscribers to provide telephone services;
- y) obligation to keep, for not less than 2 years, the subscribers' bills for telephone services.

Article 53

Notification of complaints to licensees

The TRE notifies the licensee of any complaint, so that the licensee is able to react and explain himself in relation to the complaints.

Article 54

Refusal

The TRE may refuse an application for licence when:

- a) TRE has no frequencies to assigned to the applicant for a radio link; or
- b) there is sufficient evidence that:
 - i) the applicant is not reliably, efficient, and lacks professional knowledge required for obtaining a licence; or
 - ii) issuance of the licence may jeopardise national security and public order.

Article 55

Amendment and Revocation of the Licence

A licence may be revoked, suspended or amended in any moment.

The Telecommunications Regulatory Entity may amend the licence terms and conditions, in order to protect the public interest and to achieve the telecommunication policy objectives.

TRE on its own initiative or on proposal of its supervisors may revoke the licence when:

- a) After the issuance of the licence it is proved that the documentation submitted by the licensee during its application contained incorrect information that makes uncertain the application of the licence term and conditions.
- b) The licensee has violated the provisions of this law.
- c) The licensee does not comply with licence terms and conditions.
- d) The licensee has passed into a bankruptcy process or is in a winding-up process.
- e) The licensee has not paid the licence or radio frequency tariffs within 30 days from the due date, or 15 days after the notice given by TRE.

Article 56

Non-transferability of a licence

A licensee may not transfer, lease, pledge, exchange or deal in any other form with the licence without prior written approval of the licensing authority.

Approval for the transfer of the licence may not be refused or delayed without cause.

Article 57

Regulations and Directives

In order to fulfill the regulatory framework, provided by this law and other legal acts, the Minister may issue regulations for:

- a) Publication of interconnection agreements.
- b) Implementation of carrier selection and pre-selection and number portability.
- c) Facility sharing by licensees, including collocation.
- d) Maintenance of essential requirements by licensees, including security of network operations and maintenance of network integrity, the interoperability of services, data protection, the protection of environment, town and country planning objectives, the effective use of radio frequency spectrum and the avoidance of harmful interference between radio-based telecommunications systems and other space or terrestrial technical systems.
- e) Numbering and the implementation of a numbering scheme defined by the TRE.
- f) The interoperability of networks to ensure the maintenance of end-to-end quality service.
- g) The interception of communications on licensee's network.
- h) Protection of consumers' data.

Pursuant to this law, legal and sub-legal acts in force and the regulations pursuant to paragraph 1 of this article, TRE shall issue the necessary regulation that are mandatory.
TRE publishes the Regulations in its Bulletin.

CHAPTER VI

TARIFFS

Article 58

Setting of tariffs

Tariffs for public telecommunications services are set by public telecommunications operators and telecommunications service providers.

Article 59

Tariff Control

Prices charged by organisations with significant market power are subject to tariff control. The methods and control terms shall be defined in the licence.

When TRE determines that there is sufficient competition in the market for a service or group of services that is the subject of a tariff control under the terms of a licence, in conformity with licence terms and conditions, TRE proposes to the Minister for submission to the Council of Ministers a sublegal act excluding tariff controls for a service or group of services.

When TRE determines that there is not sufficient competition in the market for a service or group of service to ensure reasonable tariffs, TRE proposes to the Minister for submission to the Council of Ministers the sublegal act for application of tariff control to that service or group of services and determines terms of price control.

Where a licence contains a condition subjecting prices to tariff controls, law no. 8044, dated 7.12.1995 “On competition” applies only under circumstances described in paragraph 2 of this article.

Article 60

Criteria of Tariff Regulation

Prices of organisations with significant market power should be cost-oriented, allow the licensee to be paid out for the investment in a reasonable time, be transparent and published in an appropriate manner, not reduce competitiveness between operators in the telecommunication market as well as not be discriminative and provide equal treatment.

Article 61

Publication

The TRE must publish once a year a Bulletin of services with corresponding to geographical zones and organisations with significant market power, where service providers are subject of tariff regulation.

Article 62

Tariff Setting Methodology and Procedure

TRE proposes to the Minister for submission to the Council of Ministers procedures and methodology of tariff regulation.

Article 63

Regulatory Procedures for Tariffs Subject to Control

Every year TRE verifies whether tariffs applied by operators for services which are subject to tariff control are in conformity with approved methodology and publish the results. If not, the TRE imposes sanctions and sets time limits for the operator to comply with required conformity.

If licensee wants to make changes, he shall give written notice to TRE, within 60 days.

Licensee may change tariffs only in conformity with approved methodology and procedures.

Article 64

Notice to the Public

For any change of approved tariffs, licensee should make them public through mass media at least 15 days before new tariffs enter into force. Notice should be given in mass media no less than 3 consecutive days.

Article 65

Prohibition to Abusing Tariffs

TRE must prohibit transactions using tariffs that are not in conformity with approved procedures and methodology.

CHAPTER VII
NUMBERING PLAN

Article 66

Determination and Administration of Numbering Plan

TRE is responsible for drafting the numbering plan. TRE is responsible for the structure and configuration of numbering plan to satisfy the demands of operators and service providers. Essential elements of the structure and configuration of numbering plan must be published in the Bulletin of TRE.

TRE is responsible for administration of the numbering plan and allocation of numbers to operators and service providers.

TRE must allocate numbers on non-discriminatory basis and must ensure an effective use of them.

TRE may set conditions which should be fulfilled the applicant before a number is allocated to him. Such conditions and rules of number allocation must be published in the Bulletin of TRE.

Article 67

Allocation of Numbers

Numbers must be allocated pursuant to a request made by the operator and service provider against a fixed fee.

Article 68

Changes to Numbering Plan

TRE may change the structure and configuration of numbering plan, as well as the allocation of numbers for the purpose of satisfying international obligations or recommendations and to ensure satisfactory readiness of number allocations. Proposed changes should be made known before their approval.

Operators and service providers who may be affected by the changes, must take all necessary measures for their implementation.

TRE may decide for selection and pre-selection of the operator, number portability, etc.

CHAPTER VIII
RADIOCOMMUNICATIONS

Article 69

Use of Radio Frequency Spectrum

The radio frequency spectrum, as a natural limited resource, is used to fulfill needs of frequency users. For the efficient use radio frequencies and to avoid interference, a national radio frequency plan shall be prepared and the assigned frequencies and their use are subject to control..

Article 70

National radio frequency plan

National radio frequency plan and its amendment shall be approved by the Council of Ministers on proposal of Minister. The preparation work for drafting the plan shall be co-ordinated by GDPT. The drafting process shall be in co-operation with TRE and national defence and public order state institutions as well as with National Council of Radio-Television. The national radio frequency plan must contain radiocommunications services for concerned lines. The national radio frequency plan must contain provisions that allows the use of radio frequencies and other detailed definitions, for the purpose of its efficiency and of using radio frequencies without interference.

Article 71

Supervision of radio frequency spectrum

In order to eliminate interference and to assure the normal service functioning, TRE supervises the frequency spectrum.

Article 72

Authorities of Radio Frequency Management

Radio frequencies spectrum is managed by:

- a) TRE, for frequency bands designated for civil purposes and public or private use, except the frequency spectrum for radio or television broadcasting that shall be managed by National Council of Radio Television;
- b) Ministry of Defence, Ministry of Public Order and National Information Service, for frequency bands intended for national defence use.

For the use of radio frequencies, the civil users shall pay a fee. The fee is subject to a separate law.

Article 73

Co-operation Amongst Radio Spectrum Frequency Authorities

For the purpose of protecting radiocommunications services, organs of radio frequency management shall exchange information concerning frequency assignments in respective frequency bands and co-operate in order to identify and discover unauthorised emissions and interference.

Article 74

Regulation and Management of Radio Frequencies

TRE manages radio frequency spectrum for civil purposes, except the radio frequency spectrum for radio or television broadcasting and make regulations in relation with civil spectrum activities, as well as technical regulations provided in this Law.

Regulations and activities falling within radiocommunications must be in conformity with rules of international organisations, conventions and treaties where Republic of Albania is a party.

Article 75

Frequency assignment and change

The frequency assignment shall be made in accordance with the national plan of radio frequencies and telecommunications regulations in force.

Frequency assignment for equipment and radiocommunications waves shall be given:

- a) with the licence, if it contains the respective working frequencies; or
- b) with permission to use frequency, for other cases.

Upon request, TRE shall provide information regarding frequency assignment for telecommunications services.

TRE shall offer data concerning existing or planned radiocommunication stations and networks in geographical areas and respective frequency bands, except those for radio or television broadcasting.

Article 76

Refusal to Assign a Frequency

Refusal of a frequency assignment is made if conditions in respect of frequency allocation no longer apply, or if it is deemed necessary by the TRE.

When TRE deems reasonable may authorise changes of an assigned frequency.

Article 77

Non-transferability of Assigned Frequencies

Frequencies for civil purposes, except those for radio or television broadcasting, shall be assigned by the TRE and may not be transferred to third parties.

Article 78

Manufacturing and Use of Radio Communications Equipment

Every individual or legal entity can trade, manufacture, install, maintain, possess, and interconnect radiocommunications equipment, under the provisions of this Law.

Article 79

Use of Radio Equipment with Licence

Any radio communications equipment, except radio or television equipment, can be installed and operate when TRE has issued a licence or based on TRE decisions.

Radio equipment which is covered with a licence issued by foreign authorities may be brought into and used for a short term in Albania, without further authorisation, provided this is defined in the international agreements, recognised by the Republic of Albania.

Article 80

Conditions Precedent

Radio equipment must operate only with frequencies assigned under licence.

Everyone using radio equipment must ensure that no interference with other radio services occurs, including reception and broadcasting of radio or television signals.

A licence is issued after approval of type in pursuance with provisions of this Law.

In special cases, TRE may issue a licence for installation and use of an radio equipment even if it is not an approved type.

CHAPTER IX
TYPE APPROVAL

Article 81

Technical Regulation

TRE approves technical regulations that terminal equipment of telecommunications should meet.

Essential requirements aim at ensuring a user's life and at the limitation of interference with other radiocommunication and telecommunication services, as well as at efficient use of the radio frequency spectrum.

Article 82

Type Approval Procedures

TRE may type approve equipment if it complies with the technical regulations referred to in Article 16 this Law, or equivalent standards in other countries with which Albania has signed agreement for reciprocal recognition of type approval.

Every person who trades, manufactures or imports terminal equipment of telecommunications in the Republic of Albania must have type approval. For this purpose, TRE publishes the list of equipment which needs type approval.

Article 83

Temporary approvals

For telecommunication equipment and radiocommunications temporarily located in the Republic of Albania TRE makes type approval through simplified procedures.

CHAPTER X
TELECOMMUNICATIONS REGULATORY ENTITY

Article 84

Legal status of TRE. Board of TRE

TRE is a public independent legal entity. TRE is managed by a Board, independent in making its decisions and operating in conformity with its regulation approved by the Board of TRE.

The registered office of TRE is in Tirana.

Board of TRE is composed of five members nominated for a 5 year office term appointed by the People's Assembly with the proposal of Council of Ministers and can be nominated for two other office more terms. One of the Board members is appointed by Parliament. The Chairman of the Board is the Executive Director of TRE.

Board members shall be graduates and qualified experts, with a minimum of 10 years experience and shall represent telecommunications sectors including economic, law, and public administration.

Every Board member, before nomination, should resign from his office or official function, give up any profit-bearing activity, and also should sell and liquidate all his financial interests in companies that are under jurisdiction of TRE.

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

- a) has family ties with a member of the Council of Ministers, up to the second generation;
- b) have been convicted by a final court judgment for any criminal act;
- c) has financial interests(debtor or creditor) in a company, which is subject of regulatory framework of TRE;;
- d) does not qualify to be nominated in any civil service office in state.

Article 85

Structure and decision making powers of the Board

Board of TRE decides by majority of votes. Any Board member, including the chairman, has a right to one vote. A vacancy in the membership of the Board shall not affect the right of the rest of the members of the Board to exercise all of the rights granted to the Board of the Regulatory Entity.

The Board members shall not participate in the voting process, when is verified one of the provisions of Article 37 of Administrative Procedure Code of the Republic of Albania.

Board shall set the organigramme, number and salary of the employees of the TRE.

Council of Ministers sets salary of members of the Board, on the proposal of the Minister.

Article 86

Release and Dismissal of Board members

The authority who has appointed a Board member shall release or dismiss him/her if he/she:

- a) is physically or mentally incapable of carrying on assigned tasks;
- b) has been found guilty of a crime by a final court judgment while a member;
- c) is appointed in public administration or elected as member of Parliament or in the local administration. However, this paragraph does not apply to membership of professional or political associations or duties in them;
- d) refuses to or does not carry on assigned tasks without cause, or has been unable to exercise his/her duty for 6 months or more;
- e) is subject to Article 84 of this Law.

When a Board member has been dismissed according to paragraph 1 of this Article, a new member is appointed by the respective authority as stated in Article 84 of this Law.

A dismissed Board member may not be re-appointed in the Board.

Article 87

Funding and Budget of TRE

Funding sources of TRE are tariffs for processing any licence or other applications under this Law and also fees for the licence issued by TRE

Not later than three months before a financial year starts, TRE makes a forecast of the operational cost and submits it to the Council of Ministers for approval.

TRE shall keep full and accurate accounts of expenses in conformity with Accounting Legislation.

Any amount exceeding the expense of TRE shall go the state budget.

Article 88

Obligation to Report

At the end of each year, TRE should submit to Parliament and Council of Ministers a report on the work done, economic standing, and plans for the coming year.

During the year, TRE shall submit all the information the Minister considers necessary to achieve the telecommunications development policy objectives.

Article 89

Publication

Filed documentation of TRE is open to public for specified time during regular working days. These files shall include documentation which can be indexed according to instructions, procedures and standards defined by Board of TRE, provided that principle of privacy is maintained.

Important information such as licensing criteria, procedures, issued licences, rules and technical regulations, standards, etc., must be published in the Bulletin of TRE.

CHAPTER XI

FEES

Article 90

Types of Fees

The following services are offered against payment:

- a) processing of request by the TRE;
- b) issuance of licence;
- c) annual payment for the licence;
- d) number allocation;
- e) type approval

Payments under letter “a”, “b”, “d” and “e” are to be made only once, while payments under letter “c” are payable every year.

Article 91

Setting of Licence Fees

With proposal of TRE, the Minister shall submit to the Council of Ministers the structure of fees, according to Article 90. The main criteria to determine fee rates is coverage of the administrative costs of TRE.

CHAPTER XII

INSPECTION, SUPERVISION AND ADMINISTRATIVE MEASURES

Article 92

Inspection by the TRE

TRE appoints inspectors to supervise activity of the licensee.

Inspectors of TRE must carry proof of identity. They may inspect in the premises where licensee conducts the activity even without prior notice, to verify the conformity with provisions of this law and the licence terms and conditions.

A licensee may not prevent inspectors from doing their duty and is obliged to co-operate with them.

A licensee is obliged to give information to inspectors, if they require such information.

Inspectors may ask for an expert, when inspection requires expertise.

Article 93

Equipment blocking

Inspectors may give orders to block and seal equipment when no licence has been issued, they are not approved, or terms and conditions of the licence have not been fulfilled.

The blocked equipment shall be inventoried and after 1 month from the date of the block, the equipment shall be sold by authorised entities. The part of the proceeds of sale that shall be subject to a contract between TRE and the above entity shall pass to the state budget

Article 94

Administrative contravention

When TRE inspectors have sufficient evidence to prove that a licensee has contravened this Law, terms and conditions of the licence and approved regulations, they may:

- a) impose fines pursuant to Article 96, and demand licensee to correct his act by setting time limits;
- b) propose to the Board of TRE suspension of activity of the licensee;
- c) propose to the Board of TRE revocation of licence;

After hearing the inspectors report, in conformity with letter “b” and “c” of this Article, the Board of TRE may:

- (i) give a written warning to licensee, by defining violation committed;
- (ii) suspend or revoke the individual or general licence.

Before making the decision for suspension or revocation of the licence, TRE must notify the

licensee for nature and grounds of the decision to give the licensee an opportunity to make representations.

If, after considering representations, the TRE decides to confirm the order, it shall issue the order and give licensee a copy of it. The TRE shall publish the order in the Bulletin and shall follow the enforcement of the order.

Article 95

Appeal

The decisions of TRE that nullify, revoke or amend the licence terms and conditions are subject to appeal within 10 days of the date of the decision. Fines are subject to appeal to the Board of TRE within 10 days from imposition. The Minister shall decide within 30 days from the date of the appeal.

The Minister's decision is subject to appeal before the court, according to rules provided in the Code of Civil Procedure, chapter "Judgement of administrative disputes".

Article 96

Fines

The following violations, when do not constitute a criminal offence, shall be considered as administrative contraventions and shall be subject to fines:

From 30.000 (thirty thousand) lek to 50.000 (fifty thousand) lek:

- a) Failure to give data or giving not correct data to GDPT and TRE as under article 19;
- b) Operating a radio station without a licence, as under article 79;
- c) Trade of equipment without approval, as under article 82.

From 250,000 (two hundred fifty thousand) lek to 1,000,000 (one million) lek:

- a) Third parties damaging nodes, lines, transmitting stations, and other telecommunications equipment under circumstances of gross negligence as under article 14. In such a case, third parties shall indemnify all expenses required for the equipment repair;
- b) Violation of primary obligations, in case of natural disasters and national defence and public order, as under article 20 and article 26;
- c) Violation of article 24 or article 25;
- d) Interference from the operation of a radio station and/or operation of radiocommunications equipment not in conformity with the licence frequencies, as under article 80;
- e) Prevention of inspectors to enter in premises where telecommunications equipment are located or failure to give required information, as under article 90;
- f) Injuries of users health and environment pollution, as under article 32;
- g) Violation of article 34.
- h) The undertaking investors violate article 15;

From 1,000,000 (one million) lek to 10,000,000 (ten million) lek:

- a) Operating a public telecommunications network or providing public telecommunications services without licence, according to Article 47;

- b) Violation of privacy or communication to unauthorised persons, as under article 22;
- c) Violation of TRE order for interconnection, according to article 43;
- d) Operating with abusive tariffs contrary to tariff setting methodology, as under article 63;
- e) Violation of confidentiality, as under article 23.

Fines are subject of appeal to the Board of TRE within 10 days from its imposition. The Board decides within 30 days from the issuance.

The decision of fine imposition is subject to appeal within 5 days, to the District Court, where the contravention takes place.

Examination of administrative contravention, appeal and execution of the decision shall be made in conformity with law no. __, date. _____, “On administrative contravention”, and with its respective amendments.

Fines are executive titles, are paid to TRE and shall go to the state budget.

Article 97

Co-operation with Other Organs

TRE must be supported by local authorities and police to fulfill its assigned tasks.

CHAPTER XIII

TRANSITIONAL PROVISIONS

Article 98

Continuation of Board of TRE

This law shall validate the appointment of TRE Board under law nr.8288, dated 18.2.1998 “On Telecommunications Regulatory Entity”. Members of the Board at the date of the entrance into effect of this law shall remain in office for the rest of their respective office term, as if they were appointed pursuant to this law. The calculation of their term shall start from the day of their nomination.

Regardless of the abrogation of the respective laws, TRE or Minister decisions and directives as well as all issued licences, based on law no. 8038, dated 23.11.1995, “On Telecommunications in the Republic of Albania” or law no. 8288, dated 18.2.1998 “On Telecommunications Regulatory Entity”, shall remain effective, until they are amended pursuant to this law, but not over 6 months as of the date of entering into force of this law.

Article 99

Repeals

Law nr.8038, dated 23.11.1995 “On Telecommunications in the Republic of Albania”, law nr.8287, dated 18.2.1998 “On amendments to law nr.8038, dated 23.11.1995 “On telecommunications in the Republic of Albania” and law nr.8288, dated 18.2.1998 on “Telecommunications Regulatory Entity” are repealed.

Article 3/4 of law no. 7973, dated “On Concessions and participation of private sector in public services and infrastructure” is repealed.

Article 100

Entry into force

This law enters into 15 days after its publication in the Official Journal.