

TELECOMMUNICATIONS LAWS OF THE WORLD

Slovenia



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SLOVENIA



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OVERVIEW OF LEGAL LANDSCAPE

The Slovenian telecommunications market is subject to a stringent system of legal acts to provide a fair and competitive market in the telecommunications sector.

The competent authority/regulator in the telecommunications sector is the Agency for Communication Networks and Services of the Republic of Slovenia (*Agencija za komunikacijska omrežja in storitve Republike Slovenije* – hereinafter referred to as "**Agency**") and, to a lesser extent, the Slovenian Ministry of Economic Development and Technology (*Ministrstvo za gospodarski razvoj in tehnologijo*).

The mainstay of relevant provisions within the Slovenian legal framework can be found in the Slovenian Electronic Communications Act (*Zakon o elektronskih komunikacijah*, hereinafter referred to as "**ZEKom-I**"). ZEKom-I is expected to be amended in the near future by the new Slovenian Electronic Communications Act (*Zakon o elektronskih komunikacijah*), transposing the Directive (EU) 2018/1972 of the European Parliament and of the Council of 11 December 2018 establishing the European Electronic Communications Code (EECC) into the Slovenian legal system.

KEY TELECOMMUNICATIONS LAWS, REGULATIONS AND POLICIES

Besides ZEKom-I, the following non-extensive list of legal acts includes provisions for the regulation of telecommunications:

- General Act on the radio frequency utilisation plan – NURF-4 (*Splošni akt o nartu uporabe radijskih frekvenc*)
- General Act on network and service security (*Splošni akt o varnosti omrežij in storitev*)
- General Legal Act on the conditions for the use of radio frequencies envisaged for amateur and amateur-satellite services (*Splošni akt o pogojih za uporabo radijskih frekvenc, namenjenih radioamaterski in radioamaterski satelitski storitvi*)
- General Act on the method for calculating fees for radio frequency usage (*Splošni akt o načinu izračuna plačil za uporabo radijskih frekvenc*)
- General Act on the method for calculating fees for the use of numbering resources (*Splošni akt o načinu izračuna višine plačil za uporabo elementov oštevilčenja*)
- General Act on data transfer rates suitable for functional internet access (*Splošni akt o prenosni hitrosti, primerni za funkcionalen dostop do interneta*)
- Decree on the radio frequency band allocation plan (*Uredba o nartu razporeditve radiofrekvenčnih pasov*)

The key features of ZEKom-I are:

- Prior to the commencement or alteration of the provision of public communications networks and/or public communications services, notification must be given in writing to the Agency (Article 5 of ZEKom-I)
- Specific provisions for the construction of networks and associated infrastructure (Part III of ZEKom-I)
- Special rules on expropriation and restriction of the right to property (Part IV of ZEKom-I)
- Special provisions on ensuring competition. To ensure competition under this chapter, the Agency may not request or receive instructions from other national authorities. The Agency may, with a view to promoting regulatory predictability, prepare and publish on its website multi-year regulatory strategies (Part VIII of ZEKom-I)
- Regulating of digital radio and television broadcasting (Part IX)
- Universal services, which are defined as a minimum set of services of specified quality available to all end users in Slovenia at an affordable price, regardless of their geographic location (Part X of ZEKom-I)
- Specific rights of users (Part XI of ZEKom-I)
- Special provisions on processing of personal data and protection of privacy of electronic communications. For example, service providers may only collect specific data from their subscribers as specified in the Article 148 (Part XII of the ZEKom-I)
- Cookies (Article 157 of ZEKom-I) and unsolicited communication (Article 158m of ZEKom-I) are specifically regulated
- Where personal data protection is violated, the public communications service provider must immediately inform the Agency (Article 159 of ZEKom-I)
- The provisions governing the operation of the Agency, the Agency's bodies and their powers, regulatory principles, competences of the Agency in the area of electronic communications, cooperation of the Agency with other bodies in the area of electronic communications etc. (Part XIV of ZEKom-I)
- Electronic Communications Council of the Republic of Slovenia, which is an advisory body in steering the development of electronic communications and in the protection of consumer interests in the area of electronic communications in Slovenia (Article 229 of ZEKom-I)

REGULATORY BODIES OR AUTHORITIES

Communications Networks and Services Agency of the Republic of Slovenia

Address: Stegne 7, 1000 Ljubljana, Slovenia

Telephone: +386 (0)1 583 63 00

Website: www.akos-rs.si

Ministry of Economic Development and Technology

Address: Kotnikova ulica 5, 1000 Ljubljana, Slovenia

Telephone: +386 (0)1 400 33 11

Website: www.gov.si

TYPES OF TELECOMMUNICATIONS ACTIVITIES AND/OR PERSONS WHICH ARE SUBJECT TO LEGAL AND REGULATORY REQUIREMENTS

Article 4 of ZEKom-I stipulates that any natural person or legal entity may provide electronic communications networks and/or electronic communications services, subject to certain conditions set out in ZEKom-I and implementing regulations issued on the basis thereof and other applicable legislation.

An “**electronic communications network**” means a transmission system and, where applicable, switching or routing equipment and other resources, including inactive network elements, which permit the conveyance of signals by wire, by radio, by optical, or by other electromagnetic means, including satellite networks, fixed (circuit- and packet-switched, including Internet) and mobile terrestrial networks, electricity cable systems, if 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 (Article 3 No. 3 of ZEKom-I).

Additionally, an “**electronic communications service**” is defined as 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, but excluding services providing, or exercising editorial control over, content transmitted using electronic communications networks or electronic communications services. It does not, however, include information society services which do not consist wholly or mainly in the conveyance of signals on electronic communications networks (Article 3 No. 6 of ZEKom-I).

ZEKom-I also sets out the conditions for the use of electronic communications equipment.

OVERVIEW OF CONSENTS, LICENCES AND AUTHORISATIONS REQUIRED PRIOR TO THE COMMENCEMENT OF TELECOMMUNICATIONS ACTIVITIES

In Slovenia, the provision of telecommunication services is generally license-exempt, however, there is a mandatory written notification requirement to the Agency prior to the commencement or alteration of the provision of public communications networks and/or public communications services.

The notification referred to in the preceding paragraph must cite the following data required by the Agency, in particular:

1. name, address and tax number for natural persons,
2. company name, registered office, tax number and indication of the legal representative for legal entities,
3. brief description of public communications networks and/or public communications services, including a description of typical physical and environmental characteristics of the networks and facilities, and of the manner of their provision,
4. envisaged date of commencement or alteration of the provision of public communications networks and/or public communications services.

The Agency specifies the contents and form of the notification by way of a general act.

Radio frequencies in Slovenia are to be used on the basis of general authorisation arising from the general act referred to in Article 27 of ZEKom-I.

DOMICILE RESTRICTIONS PREVENTING THE OPERATION OF CERTAIN TELECOMMUNICATIONS ACTIVITIES BY NON-DOMICILED ENTITIES

ZEKom-I does not provide for any specific requirements for providers of telecommunication services to be domiciled in Slovenia whilst providing telecommunication services. Therefore, foreign entities are allowed to provide public communication networks and/or public communication services. To do so, a foreign entity would need to either:

- establish a branch office in Slovenia, or
- provide services directly in Slovenia (which would require the foreign entity to be registered in the Slovenian Tax Registry and obtain a Slovenian tax number).

Additionally, please note that the latter option is limited only to entities based in a Member State of the EU – conversely, as far as entities based outside of the EU are concerned, Articles 676 in conjunction with 680 of the Slovenian Companies Act (*Zakon o gospodarskih družbah*) stipulate that provision of services on a lasting basis requires establishment of a local branch office.

An establishment of a local branch would be required if the entity in question would not be based in the EU.

Nevertheless, a local entity might be required for the purposes of obtaining right of ownership in immovable property (provided earth stations will be built thereon), which depends on potential bilateral agreements/other regimes of the states concerned.

EXISTENCE OF RELEVANT INTERCONNECTION/ROAMING REGULATIONS

ZEKom-I provides for certain obligation regarding interconnection/roaming regulations as operators shall, by notification to the Agency, acquire the right to negotiate interconnection with other operators and obtain operator access or interconnection from them. Under certain terms and conditions, an operator may be designated as a universal service provider subject to Article 117 ZEKom-I

Additionally, operators of public communications networks have the right and/or obligation to negotiate amongst themselves contracts regarding interconnection for the provision of public communications services. Public communications network operators shall also provide other operators operator access and/or interconnection under conditions compliant with the obligations imposed by the Agency in accordance with Article 90 et. seqq. ZEKom-I.

TELECOMMUNICATION LAWS AND REGULATIONS AFFECTING CONSUMERS

ZEKom-I contains numerous provisions pertaining to customer protection. These provisions do not exclusively refer to the term “customer” but also to “consumers”, “end-users” and “subscribers”.

"Consumer" (*potrošnik ali potrošnica*) means any natural person using or requesting a publicly available communications service for purposes other than their trade, business or profession.

"End user" (*konni uporabnik ali konna uporabnica*) means a user not providing public communications networks or publicly available electronic communications services.

"Subscriber" (*naronik ali naronica*) means any natural person or legal entity which is a party to a contract with a provider of publicly available electronic communications services for the supply of such services.

Specific obligations relating to customer protection include, for example:

- The requirement to include certain minimum terms in contracts with subscribers (Article 129 of ZEKom-I)
- The initial minimum contract term of a contract with a subscriber may not exceed 24 months (Article 130 of ZEKom-I)
- The availability of number portability to all subscribers (Article 131 of ZEKom-I)
- Operators are encouraged to publish transparent, comparable, appropriate and up-to-date information on valid prices and tariffs, on all payments related to contract termination, and on general conditions of access to and use of publicly available electronic communications services by end users and consumers. Such information shall be published in a clear, comprehensive and easily accessible form (Article 132 of ZEKom-I)

- The obligation of providing free of charge and without the use of any means of payment to emergency call numbers (Article 134 of ZEKom-I)
- The obligation to take into account the interests of disabled users (Article 135 of ZEKom-I)
- Subscribers of publicly available telephone services shall have the right to be registered in the universal directory (Article 137 of ZEKom-I)
- The obligation to provide to subscribers itemised billing upon request (Article 139 of ZEKom-I)

REGULATORY TAXES AND FEES

There is no licensing requirement for the provision of telecommunication services *per se*, but Article 5 of ZEKom-I sets forward a notification requirement which imposes fee amounts based on a percentage of annual revenues.

Standard value added tax of 22 per cent and corporate income tax of 19 per cent apply. The Slovenian VAT Act also provides for special provisions entities that are not established in Slovenia but provide telecommunications services to non-taxable entities.

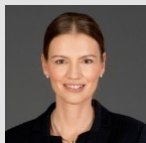
Additional fees pertaining to the establishment of a branch office in Slovenia might apply (i.e., court registry registration, tax registry registration etc.).

KEY SANCTIONS AND PENALTIES IN THE CASE OF CONTRAVENTION OF TELECOMMUNICATIONS LAWS AND REGULATIONS

Pursuant to Article 228 of ZEKom-I the competent decision-making bodies for the enforcement of telecom regulations are the Agency and the Information Commissioner.

ZEKom-I sets forward a various array of measures that can be taken by the competent decision-making bodies, whereas the predominant focus lies on administrative penalty provisions stating fines for minor offences (Article 232 et seqq.). The fines vary for legal persons, sole proprietorships, and individual who performs independent activities, ranging between EUR 1,000 to EUR 400,000 whilst also including fines for the respective responsible persons. Some fines are also calculated as a percentage of the total turnover generated in the public communications network and/or public communications services market in the respective financial year.

KEY CONTACTS



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