

# TELECOMMUNICATIONS

1.78

## WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
<p>Improvement of regulations and their interpretation in the field of construction of radio base stations and protection against non-ionizing radiation:</p> <ul style="list-style-type: none"> <li>a) Issuance of guidelines to local self-governments by the Ministry of Environmental Protection would contribute to the cessation of excessive reference and arbitrary interpretation of the principle of prohibition of exposure to non-ionizing radiation sources and the principle of proportionality referred to in the Law on Non-Ionizing Radiation Protection by local environmental secretariats;</li> <li>b) In cooperation with the Ministry of construction and infrastructure and Ministry of State Administration and Local Self-Government, it is necessary to provide education to departments in local self-governments, in order to remove spatial restrictions for the construction and installation of mobile telecommunications infrastructure;</li> <li>c) in accordance with the comparative practice of developed EU countries such as Germany and Finland and countries in the region (e.g. Croatia), we propose to exclude mobile telecommunications facilities from List 2 of the Regulation on establishing the List of Projects Requiring a Mandatory Impact Assessment and List of Projects that May Require an Environmental Impact Assessment, so that instead of making an environmental impact assessment for each individual base station, it would be sufficient to provide the local self-government with a notification on the installation of the base station together with relevant technical data on the base station, as well as measurement after its commissioning, where the local self-government has the possibility of inspection supervision;</li> <li>d) abolition of the term "sources of special interest", given that all sources require control measurement, so there is no reason to single out sources of special interest;</li> <li>e) abolition of restrictions for base stations (especially for the roof top type) from urban plans, in terms of the minimum required distance where base stations can be placed in relation to neighboring facilities, since there is no basis for this, neither scientifically nor in regulations which regulate the field of non-ionizing radiation protection.</li> </ul>	2019			√
<p>Joint cooperation between the state and industry in choosing the model and period of public bidding for radio frequency spectrum intended for the development of 5G technology - operators propose and advocate a simple auction model to sell the bands that are most needed from the perspective of technologies used and market demands.</p>	2019		√	
<p>Adoption of the new Law on Electronic Communications and leaving sufficient time for the implementation of prepaid user registration and other innovations brought by the law.</p>	2017	√		

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Revision of results and preparation of new strategic documents for the forthcoming period, in terms of electronic communications, information society and development of new generation networks, with active participation of operators in the process.	2018		√	
When negotiating international agreements in the field of electronic communications, it is necessary to organize a process of public consultations and include industry representatives in order to consider the technical specifics, deadlines and financial implications, aimed at increasing business predictability.	2019			√
Adoption of the Rulebook on Amendments to the Rulebook on Number Portability for Services Provided via Public Mobile Communication Networks and the Rulebook on Amendments to the Rulebook on Number Portability in Public Telephone Networks at a Fixed Location within the shortest possible period of time.	2019			√
Enabling the provision of public electronic communications services at a fixed location using CLL technology in the Republic of Serbia, without restrictions.	2018	√		
More active role of the Government aimed at suppressing of conspiracy theories and false news about 5G technology in order to prevent attacks and disruption of critical telecommunications infrastructure necessary for the provision of basic electronic communications services such as voice and Internet access.	2020		√	
Issuance of a positive opinion of the National Bank of Serbia on the provision of Direct Carrier Billing service according to the EU model, in order to enable direct payment of digital content from Google Play and Apple Store via telecommunications operators according to the EU model.	2019			√

The COVID-19 pandemic caused by the SARS-CoV-2 virus in 2021 has also had a major impact on the business and activities of electronic communications operators in the Republic of Serbia. Electronic communications operators have continued the activities aimed at facilitating the process of faster and more comprehensive digital transformation of society, which has been further accelerated by avoiding contact to reduce health risks and expectations and needs of citizens and the economy during the pandemic that most services can be provided remotely. After the lack of mobile roaming traffic since the beginning of the pandemic, in the second half of 2021, after the stabilization of the epidemiological situation, a gradual return to regular activities in the field of telecommunications industry is noticeable.

The new Government of the Republic of Serbia was formed on October 28, 2020 and the Management Board of the Regulatory Agency for Electronic Communications and Postal Services elected a new Director of RATEL at its session on August 12, 2020. Also, at its session held on March

11, 2021, the National Assembly of the Republic of Serbia passed the Decision on the election of the President, Deputy President and members of the Management Board of the Regulatory Agency for Electronic Communications and Postal Services.

### CURRENT SITUATION

The improvement of the existing regulatory framework and its alignment with the needs of operators and customers, along with harmonization with the regulatory practice of the European Union is of key importance for the further development of the electronic communications market in the Republic of Serbia.

In the first half of 2021, the drafting of a new Draft Law on Electronic Communications began, which will be largely harmonized with the provisions of the EU Directive on the European Electronic Communications Code. For the purpose of drafting the Law, the Ministry of Trade, Tourism

and Telecommunications has formed a working group that includes representatives of the Foreign Investors Council and other business associations in whose work electronic communications operators actively participate. The adoption of the new Law on Electronic Communications is a precondition for further growth and development, not only of the electronic communications industry, but also for further digital transformation of the society and economy of our country.

In the first three quarters of 2021, the Ministry of Trade, Tourism and Telecommunications started the implementation of the first phase of the project of joint construction of broadband communication infrastructure in rural areas of the Republic of Serbia, by organizing three public calls for selection of electronic communications operators for the implementation of the above project, whose construction phase is scheduled from the beginning of the second half of 2021 to the end of the first half of 2022.

One of the preconditions for accelerated digitization are the activities that will enable the development and construction of 5G networks in the Republic of Serbia. Considering that the processes were previously postponed due to the coronavirus pandemic, the Foreign Investors Council expects that the preparation for the auction and the auction itself will be carried out by the end of 2021 or early 2022, in a transparent and efficient manner in order to create the optimum conditions for sustainable construction and investment in 5G infrastructure throughout Serbia at the earliest possible time after the conclusion of the public bidding and obtaining of licenses.

For the purpose of preparation for the auction, in the middle of the year RATEL published a Public call for registration of entities intending to use radio frequencies from the radio frequency bands 700 MHz, 900 MHz, 2100 MHz, 2600 MHz and 3500 MHz, with the aim of determining the interest of business entities not only for the frequency bands primarily intended for 5G, but also the remaining parts of the spectrum within which current technologies operate.

This requires infrastructure and finding a model/pattern of joint action of the state and industry to overcome the current barriers. And in 2021, the operators are facing difficulties related to the construction of radio base stations. Problems that hinder the installation and construction of radio base stations due to inadequate interpretation and application of regulations in the field of environmental

protection, as well as restrictions in local self-government regulations governing spatial planning, require improving the capacity of state administration to interpret regulations in the field of environment and their application by local self-government units in the environmental impact assessment procedure. The Foreign Investors Council emphasizes the need to settle these issues, bearing in mind that the elimination of obstacles to the efficient construction of radio base stations is of key importance for the upcoming development of 5G networks in the Republic of Serbia.

Obstacles regarding the construction of radio base stations are primarily related to the lack of regulations and legal basis for the implementation of the environmental impact assessment procedure, i.e. the preparation of the Environmental Impact Assessment Study for the installation of each individual radio base station, as well as insufficiently precise provisions defining the “sources of special interest”:

- arbitrary interpretation of the Law on Non-Ionizing Radiation Protection and excessive reference to the principle of prohibition of exposure to non-ionizing radiation sources and the proportionality principle by local secretariats for environmental protection;
- arbitrary interpretation of the meaning and inadequate definition of sources of special interest; (this in practice leads to the ban on setting up radio base stations classified as sources of special interest);
- arbitrary introduction of restrictions in urban plans determining the minimum required distance for sites where radio base stations can be set up in relation to adjacent facilities, although there are no grounds for such restrictions in the law governing non-ionizing radiation protection;
- although the Law on Environmental Impact Assessment does not impose the obligation to develop an Environmental impact assessment study for setting up of each individual radio base station, and in practice, this assessment is almost always required by local environmental protection secretariats (we would like to emphasize that in Serbia restrictions on the permissible level of electromagnetic radiation are several times stricter than in the European Union member states and that the actual values of the electromagnetic field measured on site are often ten times below the maximum permissible values);

With regard to these issues and primarily concerning the spatial restrictions in the planning documents, in August 2020, a meeting of the Working Group for fulfilling the

White Book recommendations was held at the Government of the Republic of Serbia, in the presence of representatives of the City of Belgrade. In the above meeting, readiness to tackle the specified issue was expressed and an agreement was reached regarding the lifting of spatial restrictions in the General Regulation Plan (PGR) of the City of Belgrade. In August 2021, the Ministry of Trade, Tourism and Telecommunications established a Government Expert Group to improve the regulatory framework for the installation of mobile telephony base stations.

With effect from July 1, 2021, the last phase of the implementation of the Agreement on reduction of the prices of roaming services in public mobile communication networks in the Western Balkans region, which includes the implementation of RLAH ("roam like at home") principle, has started. Accordingly, the additional roaming fee on the retail price of services paid by customers in domestic traffic has been lifted, so that customers use the regional roaming services under the same conditions as in the domestic network, subject to the appropriate use policy.

Based on the proposal of the competent Ministry, the Government of the Republic of Serbia adopted the Strategy for the Development of the Information Society and Information Security in the Republic of Serbia for the period from 2021 to 2026 and the Action Plan for the implementation of the Strategy for the Development of the Information Society and Information Security in the Republic of Serbia for the period from 2021 to 2023.

At the end of 2020 and the beginning of 2021, the Ministry of Trade, Tourism and Telecommunications conducted a public call for the selection of electronic communications operators for the implementation of the project of joint construction of broadband communication infrastructure in rural areas of Serbia, for which there was no commercial interest by operators to invest in the network. During February 2021, the Ministry made a decision on the selection of operators for the implementation of the first phase of the project of joint construction of the MIDDLE MILE segment in 89 settlements, which will be owned by the Ministry. A call has been issued for the next phase of construction of broadband network infrastructure in 555 settlements, which would provide up to 90,000 households in rural areas of the Republic of Serbia with access to the Internet with a maximum speed of not less than 100 Mbps.

In September 2021, the RS National Assembly adopted the

Law on Consumer Protection, almost two years after the public hearing and the formation of the new Government on October 28, 2020.

## POSITIVE DEVELOPMENTS

Activities on the adoption of the new Law on Electronic Communications make a significant contribution to the improvement of the regulatory framework in line with the market needs and the progress of the development of new technologies. It should be noted that through the formation and activities of the Working Group for drafting this regulation, a high degree of transparency and involvement of operators in the process of drafting the new law was ensured, who were able to contribute to the improvement of the legal framework that will ensure further growth and development of the electronic communications market.

The process of forming an expert group of the Government of the Republic of Serbia for the improvement of administrative conditions and the implementation of regulatory reform in areas of importance for the installation of mobile telephony radio base stations is underway. The primary objective of the expert group is to review the relevant regulations and administrative procedures for the installation of radio base stations and to propose the amendments to regulations and general policies with the aim of reducing administrative barriers. The expert group is expected to take into consideration the expert explanations and propose amendments to the Law on Non-Ionizing Radiation Protection, as well as amendments to the regulations on non-ionizing radiation sources in accordance with EU and ICNIRP recommendations (Rulebook on non-ionizing radiation sources of special interest and the period of their examination, as well as the Rulebook on limits of exposure to non-ionizing radiation), to review the grounds for prescribing metric restrictions for the construction of radio base stations in planning documents, and to seek to further improve the integrated electronic procedure through the introduction of a special electronic procedure for registration of non-ionizing radiation sources.

Activities related to the preparation for enabling the use of 5G technology in the Republic of Serbia represent progress in the development of the market and the creation of preconditions for the digital transformation of society, the realization of which requires an infrastructure based on new generation technologies. One of those activities is the

implementation of the Public Call for applications by entities intending to use radio frequencies from the radio frequency bands 700 MHz, 900 MHz, 2100 MHz, 2600 MHz and 3500 MHz and the adoption of bylaws related to the use of the radio frequency spectrum.

The Council expects that in the future a simple model of public bidding for radio frequency spectrum intended for the development of 5G technology will be selected (rather than a combined auction covering spectrum blocks of different bands), which will open space for necessary investments in network construction and introduction of innovative business models. Also, the preparation for the auction and the auction itself are expected to be carried out by the end of 2021 or the beginning of 2022, in accordance with previous announcements.

During 2021, the mobile operators started cooperation with the Prime Minister's Office and the Office for Information Technologies and Electronic Governance, which is being realized through the Foreign Investors Council. The objective of the cooperation is to achieve the largest possible use of the digital identity of citizens based on the electronic identification scheme of the Office for Information Technologies and Electronic Governance and the citizens could in this manner not only use 98% of electronic governance services but also enter into telecommunications contracts remotely.

In June 2021, RATEL issued a new decision on the requirements regarding allowing the provision of electronic communication services at a fixed location via public mobile network, using CLL technology throughout the Republic of Serbia, in all settlements, without restrictions on the number of inhabitants.

Allowing the provision of these services represents progress in the provision of electronic communications services based on technological neutrality in areas where there is no economic interest in building fixed electronic communications networks. The Foreign Investors Council positively evaluates Ratel's decision enabling the use of CLL technology without geographical restrictions.

The Foreign Investors Council welcomes the election of the new Managing Board of Ratel, which in the new convocation has a larger number of experts from the general sector and areas of importance for the telecommunications industry.

## REMAINING ISSUES

After numerous technical challenges in the implementation of the RLAH+ regime in the Western Balkans in 2019, one of the key recommendations of the Council is to consult the industry representatives in a timely manner when negotiating international agreements, which did not happen in the case of signing the Memorandum on Reducing International Roaming Charges between Serbia and Greece in May 2021.

Considering the regulatory and legal barriers on the part of the EU for concluding roaming agreements between the EU and the Western Balkans region, there is a risk of introducing an obligation to unilaterally reduce prices for operators operating in the Western Balkans, without reciprocal implementation by EU operators.

Despite the huge contribution during the current health crisis, in the same period, mobile operators are facing an unprecedented negative campaign and a large number of unfounded claims about the alleged connection between the infrastructure of mobile operators, 5G base stations and the current pandemic. This irrational phenomenon leads to huge problems in the field, which are primarily related to the obstruction of works on the construction and maintenance of base stations. Thus, false news and conspiracy theories affect the availability and quality of mobile networks and services, lead to delays in work, increase costs and cause significant damage to operators. As a result, citizens are deprived not only of the usual use of mobile phones but also of vital calls to emergency services, while at the same time the efficiency of the economy and public services is impaired. In this regard, mobile operators have already addressed the Government, and we expect that in the coming period the state will take all measures to protect the critical telecommunications infrastructure. Also, we believe that it is very important that state institutions actively contribute to science-based education of the population on health aspects of telecommunications technologies and raising public awareness regarding the implementation of 5G technology from the perspective of positive impact on the country's economy and quality of life. In that sense, we hope that the Expert Group of the Government for the improvement of the regulatory framework for the installation of mobile telephony base stations, established in August 2021, will solve the described problems.

It is necessary to adopt a new Law on Broadband Infrastructure (harmonized with Directive 2014/61/EU on measures

to reduce the cost of deploying high-speed electronic communications networks, as well as with Directive 2018/1972 on the European Electronic Communications Code), which will specifically regulate issues such as coordination of current and planned construction works and real-time publication of data on works through a single information point (public portal under the jurisdiction of public sector bodies); regulating the operators' access rights to publicly owned facilities and the conditions for using public facilities and public infrastructure for the needs of telecommunications infrastructure (e.g. wireless short-range access points (WAS/RLAN networks)), as well as defining in detail the rights to use and access infrastructure.

The problem remains to make the procedure of setting up and improving the capacity (upgrade) of mobile telephony radio base stations more optimal and efficient, which implies liberalization of licensing, i.e. transition from a complicated administrative system of licensing to a system of registration (notification) through a single contact point in the form of a public portal under the jurisdiction of RATEL, which will establish a notification system about the installed RBS at a specific location and publish independent measurements of cumulative electromagnetic radiation at the relevant location, as evidence that the operator complies with the prescribed exposure limits, for all sources and not only for sources of special interest. To make the above possible, Regulation on Establishing the List of Projects Requiring a Mandatory Impact Assessment (List I) and List of Projects that May Require an Environmental Impact Assessment (List II) need to be amended, by completely excluding the telecommunications facilities from the List II. Additionally, it is necessary to abolish the powers of local self-government units - the Secretariat for Environmental Protection, except in the part of inspection supervision according to the Law on Non-Ionizing Radiation Protection. Also, it is necessary to consider the more significant role of RATEL, which has both professional capacities and key powers over electronic communications operators, as well as experience with the establishment of similar portals. If the powers of the inspection for environmental protection are added to this, we believe that in this way effective protection of the public interest and optimization of procedures and costs would be achieved, which is recommended by Directive 2014/61 / EU on measures to

reduce the cost of deploying high-speed electronic communications networks

It is necessary to lift formal licenses for the use of radio frequencies within the licensed radio frequency spectrum (acquired through public bidding) relating to the fee for the issuance and renewal of an individual license for the use of radio frequency for a radio base station in a particular electronic communication service. However, when it comes to the so-called "licensed" radio frequency spectrum for mobile telephony, an individual license for the use of the same radio frequency according to the conducted public bidding procedure has been issued and a one-time fee referred to in Articles 89 and 90 of the Law on Electronic Communications has been paid. In addition, the operator pays an annual fee for the use of radio frequency spectrum according to the Law on Fees for the Use of Public Goods, Appendix 16, item 2.

Direct Carrier Billing (DCB) as the simplest, globally widespread way of purchasing apps from platforms such as Google Play, has not been enabled in Serbia yet. DCB involves the purchase of digital content for mobile devices in such a way that the billing of this content is done by charging payments to their mobile phone carrier bill. This model has been operating for years in the European Union, including the countries of the region, given that the Payment Services Directives (PSD1 and PSD2) recognize this transaction as an exception to payment services.

A new Law on Consumer Protection has been adopted, which envisages the introduction of the "Do not call" register to be established by RATEL, the idea behind this being that the citizens would sign up for this register through operators in order to object to being contacted by traders for direct advertising. Regarding the application of this provision, it is important to emphasize the negative impact of the register on the work of mobile operators in the form of major technical, organizational and financial issues, because all applicants from all over the Republic of Serbia would come to the operators' points of sale in order to give or withdraw consent to all traders in the RS, where the operators' employees would have to identify the applicants, receive requests, record and then send them to RATEL on a daily basis and at the same time be responsible for the accuracy of the entered data.

## FIC RECOMMENDATIONS

- Improvement of regulations and their interpretation in the field of construction of radio base stations and protection against non-ionizing radiation:
  - a) Issuance of guidelines to local self-governments by the Ministry of Environmental Protection would contribute to the cessation of excessive reference and arbitrary interpretation of the principle of prohibition of exposure to non-ionizing radiation sources and the principle of proportionality referred to in the Law on Non-Ionizing Radiation Protection by local environmental secretariats;
  - b) In cooperation with the Ministry of construction and infrastructure and Ministry of State Administration and Local Self-Government, it is necessary to provide education to departments in local self-governments, in order to remove spatial restrictions for the construction and installation of mobile telecommunications infrastructure;
  - c) in accordance with the comparative practice of developed EU countries such as Germany and Finland and countries in the region (e.g. Croatia), we propose to exclude mobile telecommunications facilities from List 2 of the Regulation on establishing the List of Projects Requiring a Mandatory Impact Assessment and List of Projects that May Require an Environmental Impact Assessment, so that instead of making an environmental impact assessment for each individual base station, it would be sufficient to provide the local self-government with a notification on the installation of the base station together with relevant technical data on the base station, as well as measurement after its commissioning, where the local self-government has the possibility of inspection supervision;
  - d) abolition of the term "sources of special interest", given that all sources require control measurement, so there is no reason to single out sources of special interest;
  - e) abolition of restrictions for base stations (especially for the roof top type) from urban plans, in terms of the minimum required distance where base stations can be placed in relation to neighboring facilities, since there is no basis for this, neither scientifically nor in regulations which regulate the field of non-ionizing radiation protection.
  - f) enable the transition from a complicated administrative system of issuing individual licenses for the use of radio frequencies for base stations to a system of recording (notification) through a single point of contact (so-called "single point of contact") in the form of a public portal under the jurisdiction of RATEL.
- Joint cooperation between the state and industry in selecting the model and period of public bidding for radio frequency spectrum intended for the development of 5G technology - operators propose and advocate a simple auction model to sell the bands that are most needed from the perspective of technologies used and market demands, at a price that will enable the smooth development of new technology and its rapid implementation, in accordance with positive examples from the neighboring countries.
- Adoption of the new Law on Electronic Communications and adoption of key bylaws for further market development within the shortest possible period of time. The new law is expected to bring significant progress in the digitization of the process of using telecommunications services, especially regarding the conclusion of contracts and invoicing in digital form.

- Adoption of the new Law on Broadband Infrastructure (harmonized with Directive 2014/61 / EU on measures to reduce the cost of deploying high-speed electronic communications networks, as well as with Directive 2018/1972 on the European Electronic Communications Code) and Directive 2014/61 / EU on measures to reduce the cost of deploying high-speed electronic communications networks, which will define in detail the rights to use and access the infrastructure.
- Lifting of formal licenses for the use of radio frequencies within the licensed radio frequency spectrum (acquired through public bidding) relating to the fee for the issuance and renewal of an individual license for the use of radio frequencies for a radio base station in a particular electronic communications service.
- When negotiating international agreements in the field of electronic communications, it is necessary to organize a process of public consultations and include industry representatives in order to consider the technical specifics, deadlines and financial implications, aimed at increasing business predictability.
- More active role of the Government aimed at suppressing of conspiracy theories and false news about 5G technology in order to prevent attacks and disruption of critical telecommunications infrastructure necessary for the provision of basic electronic communications services such as voice and Internet access.
- Amend Article 37 of the Law on Consumer Protection and abolish the obligation of operators provided for in this article.
- Involve the Foreign Investors Council in consultations for drafting bylaws for the implementation of Article 37 of the Law on Consumer Protection.
- Issuance of a positive opinion of the National Bank of Serbia on the provision of Direct Carrier Billing service according to the EU model, in order to enable direct payment of digital content from Google Play and Apple Store via telecommunications operators according to the EU model (using the billing model of the parking service).
- Adoption of the Rulebook on Number Portability for Services Provided via Public Mobile Communication Networks and the Rulebook on Number Portability in Public Telephone Networks at a Fixed Location within the shortest possible period of time after the adoption of the new Law on Electronic Communications.
- During the negotiation of international agreements for the implementation of the RLAH+ regime in the Western Balkans region, the representatives of the operators should be consulted in a timely manner.