

Acting upon subscribers' complaints in practice and the light of the new Law on Electronic Communications

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Law on Electronic Communications („Official Gazette of the Republic of Serbia”, No. 44/10, 60/13-CC, 62/14 and 95/18-other law)

Article 113 refers to RATEL’s mediation in out-of-court dispute resolution

RATEL does not decide on the case merits (substance) and does not apply provisions of General Administrative Procedure Act.

Current procedure is based on RATEL years-long practice of handling subscribers’ complaints.

Subscriber is a physical person or legal entity who has concluded a contract with the operator of publicly available electronic communication services on the provision of those services

Relevant bylaws:

- Rulebook on general terms and conditions for performing electronic communication activities under general authorization regime (“Official Gazette of the Republic of Serbia”, No. 58/18)
- Rulebook on quality of parameters for publicly available electronic communication services and monitoring of electronic communication activity (“Official Gazette of the Republic of Serbia”, No. 73/11 and 3/14)
- Rulebook on obligations of value-added services providers (“Official Gazette of the Republic of Serbia”, No. 126/20)
- Rulebook on number portability on public telephone networks at a fixed location (“Official Gazette of the Republic of Serbia”, No. 52/11)
- Rulebook on number portability for services provided via public mobile communication networks (“Official Gazette of the Republic of Serbia”, No. 101/14)

Law on Consumer Protection ("Official Gazette of the Republic of Serbia", No. 88/21)

Service of general economic interest means a service wherein the quality, conditions of provision or price are fixed or controlled by a state body or another holder of public authority, particularly because of the high value of the initial investment, limited resources necessary for its provision, sustainable development, social solidarity and the need for balanced regional development, with a goal of satisfying the common social interest.

In the sense of this law, the services of general economic interest are in particular electronic communication services, postal services, etc.

Consumer is a physical person who uses or requests the use of a publicly available electronic communication service for personal needs, which are not related to the performance of business activities, profession or trade

Subscriber's complaints to electronic communications operator

The subscriber is entitled to file a complaint to the operator regarding the amount charged for the provided service or/and quality of the provided service.

The subscriber can also claim reimbursement related to the quality of the provided services lower than agreed.

Complaint deadline – 30 days following the receipt of service bill, i.e. 30 days from the provided service.

The operator is obliged to reply to the subscriber in written form, within 15 days from complaint`s reception.

The subscriber whose complaint has been rejected may address to RATEL or initiate court proceedings at a court of law within 15 days from the day of the receipt of the operator`s reply to the complaint, or 15 days from the expiry of the deadline within which the operator was under the obligation to declare his stand concerning the complaint.

Complaint *must be in written form and* can be submitted:

- via regular mail
- via an Internet portal where the form is normally found
- via an Internet address: ratel@ratel.rs .

RATEL sends a request to the operator urging it to make a statement, send a reply with a deadline of 15 days and remove possible defects.

After receiving the operator's statement, RATEL replies to the subscriber, whereby it attaches a copy of the operator's statement and advises subscriber to address again to the RATEL in a continuation of the mediation in the event that a new evidence or fact arises or if the operator's statement is found disputable.

If RATEL establishes irregularities in operator's work, it sends a request for an additional statement, highlighting the identified irregularity and leaving the deadline for its removal.

RATEL is entitled to report to the line ministry inspection when operator does not remove the irregularity within the set deadline.

RATEL also performs analysis of General Terms and Conditions

The analyses provides, among other, Orders and Recommendations to operators to make changes and amendments to the submitted General Terms and Conditions, in order to comply with the obligation of performing their operations and procedures in line with the Law and other regulations and/or to ensure better conditions for end users through additional benefits, higher protection level and similar.

RATEL also resolves complaints referring to:

- number portability in mobile networks at a fixed location,
- operator's failure to inform end users on changes in contract terms and conditions and prices,
- availability of services to persons with disabilities,
- invoices sent out without detailed specification of provided services,
- control of costs,
- lack of migration code and other.

**Law on Electronic Communications
(„Official Gazette of the Republic of Serbia,, No. 35/23),
came into force on 7 May 2023**

Transposition of the European Electronic Communication Code (EECC)

Article 139 refers to the end-user`s complaint

End-user is a user who does not provide services for the use of public electronic communication networks or publicly accessible electronic communication services.

Article 140 refers to RATEL`s out-of-court dispute resolution.

RATEL shall adopt the bylaw on the dispute resolution procedure (Article No. 140 paragraph 6) within 12 months from the day of entry to the force of the new law. Until the adoption of the bylaw, the provisions of Article 113 of the old law shall apply.

RATEL shall adopt within *12 months* from the day of entry to the force of the new law bylaw on general terms and conditions for performing electronic communication activities under general authorization regime

RATEL shall adopt within *18 months* from the day of entry to the force of the new law, bylaws on: information on contract terms and service prices that the operator is obliged to publish, contract summary form, content of notices on how to change the terms of the contract, obligations of value-added services providers, number portability for communication services between persons based on the use of numbering and provided via public communication networks at a fixed location and number portability for communication services between persons based on the use of numbering and provided via public mobile communication networks (RATEL/MIT line ministry).

Article 139:

The end-user is entitled to file a complaint to the operator regarding the amount charged for the provided service or/and quality of the provided service.

The end-user can also claim reduction of the bill related to the quality of the provided services lower than agreed.

Complaint deadline – 30 days following the receipt of service bill, i.e. 30 days from the provided service or lack of the service.

The operator is obliged to reply to the end-user in written form, within the period defined by Law on Consumer Protection, no longer then 30 days from complaint submittal (roaming, value added services, international traffic).

The end-user whose complaint has been rejected may address to RATEL within 60 days from the day of the receipt of the operator's reply to the complaint, or 60 days from the expiry of the deadline within which the operator was under the obligation to declare his stand concerning the complaint.

Article 140:

RATEL starts out-of-court dispute resolution after receiving of the complaint.

If a dispute can not be resolved consensually, RATEL will make a decision according to Article 24.

RATEL shall make a decision on the basis of received documents, information and statements of the parties, without conducting an oral discussion (acc. to the rule) within 90 days from the day of starting the out-of-court dispute resolution.

In justified cases, RATEL may extend the deadline for making decision for mostly 90 additional days.

Article 24 refers to decision making and legal remedies:

The regulator, in accordance with the law, decides on the rights and obligations of the users and business entities in a form of decision, acting upon the request of the interested party or ex officio.

The provisions of the law regulating the general administrative procedures are applied to the procedure for deciding on rights and obligations.

RATEL's decision is final and can be challenged through an administrative dispute only.

Thank you for your time!

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