



**Autoriteti Rregullator i Telekomunikacionit  
Telecommunication Regulatory Authority  
Regulativni Autoritet Telekomunikacije**

**Draft  
Regulation on procedures for dispute resolution**

**Section 1  
Legal Basis**

This regulation derived from section 4 and 11 of the Law on Telecommunications UNMIK/ REG 2003/16.

**Section 2  
Purpose**

The purpose of this regulation is the definition of procedures for dispute resolution between participants in telecommunications activities including but not limited to dispute resolution between service providers, users, and land and equipment owners.

**Section 3  
Commission for dispute resolution**

3.1 Featured disputes will be resolved by the Commission for Dispute Resolution.

3.2 Chairman of TRA Board will establish Commission for Dispute Resolution, comprised of three members, where one of them will be appointed as Head of the Commission.

3.3 Members of the Commission shall not participate at the commission in cases when there is a conflict of interest due to family relations or another factor that makes him/her fall under suspicion.

3.4 In case there are reasons for dismissal of any Commission Members, the TRA Chairman shall replace them.

#### **Section 4**

##### **Commission Competences**

4.1 The Commission duties are to take into consideration the requests/complaints submitted by persons mentioned in section 2 of this regulation.

4.2 Chairman of this Commission heads meetings, sessions, questions parties, submits proof and gives the right of speech to other Commission Members, parties, representatives and authorized persons.

4.3 Members of the Commission shall safeguard confidentiality of information and data given during the official assignment, the information that is considered confidential by the Commission.

#### **Section 5**

##### **Procedure Initialization**

The Commission shall initialize the procedure for dispute resolution on the request of one party involved or by self-initiative.

5.1 In cases where the procedure of dispute resolution begins with self-initiative, Commission will inform parties that have legal interest about the initiation of the proceedings.

5.2 In cases where the procedure is initiated by the request of the party involved, the request is submitted in writing, handed to TRA Official, and the party then sends a copy to all persons or parties involved directly or indirectly on the procedure requested by TRA.

5.3 In support to their claim, parties should enclose together with their request, the necessary documentation, evidence and proofs.

#### **Section 6**

##### **Acceptance-Refusal of the Request**

When TRA receives a request by the party to initiate procedure for dispute resolution, it has not more than 6 weeks to collect necessary information in order to make a decision about the acceptance or refusal of such request.

6.1 TRA will collect and keep information including, here but limited to:

- a) Statistics;
- b) Finance;
- c) Employment Reports
- d) Reports on network operation or other reports that the Commission will find useful.

6.2 Commission can, at any time, refuse to proceed with request for conclusion if it concludes:

- a) Issue is not under Authority's jurisdiction;
- b) Request abuses the process, is irrelevant or incomplete;
- c) If the parties did not make necessary efforts to resolve the issue;
- e) If the issue (dispute) in question is the actual court debate between parties.

6.3 If TRA refuses the request for initiation of procedure for dispute resolution, parties will be informed in writing, together with the reasons for refusal.

## **Section 7**

### **Withdrawal of request for dispute resolution**

7.1 Involved Parties can in writing, partially or fully withdraw the request from proceeding.

7.2 After withdrawal of the request by the interested party, the Commission will take a decision for termination of proceeding. Opposing party will be informed by TRA for the completion of the proceeding.

7.3 The decision taken by the Commission in relation to proceedings, after the retraction of one of the interested parties, can be opposed by any of the interested parties.

7.4 Withdrawal of one of the parties will not lead to interruption of proceeding, if the Commission decides that the continuation of proceedings is in the public interest or interest of the parties involved.

## **Section 8**

### **Amendment of the request**

8.1 The party responsible for initiation of the procedure can amend the request up until the end of the process.

8.2 For any amendment to the request by one party when the other party is notified, both parties need to give their consent to the amendment.

8.3 Commission will allow amendment to the requests if such amendment is not in contradiction with the interest of parties involved in the procedure, and is not in contradiction with the public interest.

## **Section 9 Agreement**

9.1 Commission will invite the conflicting parties in a meeting and will try to arrange an agreement between them.

9.2 If the parties reach an agreement, the Commission will draw-up a reconciliation act.

9.2.1 Reconciliation act between two or more parties is prepared in written form and it comes into effect after it is signed by the parties involved.

9.2.2 Reconciliation act has the same impact as the decision.

9.2.3 A copy of reconciliation document will be given to parties in the proceedings.

9.3 The Commission will reject conciliation between parties in the proceedings if this conciliation is detrimental to public interest or detrimental to legal interests of other individuals or legal persons.

## **Section 10 Hearing Session**

If reconciliation between disputing parties is not reached, the Commission, will arrange a hearing session, and involved parties will be notified about this hearing session 8 days in advance.

10.1 Hearing Session is held in order to enunciate all the facts, documents and proofs presented by the parties involved.

10.2 If the involved parties are not present for the session, it does not justify the postponement of the session. An exception is, when the parties present their reasons of default prior to the session.

10.3 During the Session, a party can be represented by the legal representative; the legal person shall be represented by the person appointed by law or by procedures of appointment.

10.4 During the Session meetings minutes will be taken on the decisions taken during the session.

10.5 The Commission will than determine the actual position.

## **Section 11**

### **Request to Present Proofs**

The Commission can request the parties to present their proofs in cases of their non-presence.

11.1 If the involved party does not respond to this request, Commission can make another request or interrupt the proceedings, if such thing does not compromise a public interest or a private legal interest.

11.2 If the requested documents are necessary in order to proceed with the claim raised by parties, the proceedings will adjourn until the involved party provides the documentation requested. The party involved will be informed about this decision.

## **Section 12**

### **Proof Verification**

12.1 The Commission requests and studies all the relevant facts in order to take a final decision, using all methods authorized by law.

12.2 The facts known publicly, or for the facts TRA is aware of, verification is not required.

## **Section 13**

### **Inquiry Procedures**

13.1 The TRA Commission may investigate any conditions, actions or issues that the Commission finds necessary in order to take a decision.

13.2 Inquiry Procedures are carried out by the Commission, under which authority final decision is reached.

13.3 The Commission can delegate the right to carry out the inquiry to inspectors or to another authorized body.

13.4 Authority in charge of the inquiry can require that the interested parties present their information, documents or objects that will undergo inspection or any other form of inquiry in order to confirm the claim.

#### **Section 14**

##### **Report from inspectors or the Authority responsible for the inquiry procedures**

The Authority responsible for the progress of the inquiry procedure, which is not competent to reach the final decision, shall prepare a report for the Commission. This report will present claims of the interested parties, will summarize the history of the proceedings and makes a recommendation before reaching the final decision. It will also summarize all the facts and legal reasons that will justify the decision.

#### **Section 15**

##### **Assistance from other Authorities**

The Authority responsible for the progress of the inquiry procedure can ask from other Authorities to take necessary measures in order to provide facts and proofs, in cases when the Authority can not ensure the evidence itself.

#### **Section 16**

##### **Expertise and other measures**

16.1 During proceedings, expertise, reports, evaluation and other similar measures are performed by specialized professionals only.

16.3 Involved parties are informed about the expertise, its aims, and the appointed professional/s, excluding here cases that deal with highly confidential issues.

16.4 Every time the Commission appoints an expert, the interested parties can appoint their experts, too.

#### **Section 17**

##### **Expenditures for obtained evidence and expertise**

Expenses encountered during actions undertaken by the Commission in order to ensure evidence or expertise, in exception of evidence and expertise that is acquired by the Commission will be covered by the parties that requested them.

## **Section 18**

### **Intervention**

All individual and legal persons, not involved in the proceedings can submit a written request for intervention on the issue that is being considered. A copy of this request should be sent to other parties involved in the proceedings.

## **Section 19**

### **End of proceedings**

19.1 Proceeding will end within the 30 days period from the date of the decision to proceed with the request, exception to this, are cases that foresee otherwise, or when postponement is due to exceptional circumstances.

19.2 Proceedings will end once the final decision is reached, or for other reasons-facts foreseen in this regulation.

## **Section 20**

### **Decision of the Commission**

20.1 By the final decision, the Commission includes decisions about all issues raised during the hearing.

20.2 The decision of the Commission will be issued in writing and it shall be enforceable for parties involved, until it is amended or canceled by the court.

## **Section 21**

### **Amendment or revocation of the decision**

Commission can decide to amend or revoke its decision based on the initiative of the parties involved, self-initiative or based on the decision taken by the court regarding complaint presented against this decision.

## **Section 22**

### **Implementation of the decision**

22.1 The decision shall be implemented within 15 days from the acknowledgement of the decision by the parties involved.

22.2 If the parties do not apply the decision reached, then the implementation of the decision will be enforced based on general administrative procedures, except if a complaint against this has been raised and it postpones the enforcement.

## **Section 23**

### **Plaint against the decision**

23.1 Decisions of the Commission can be appealed against by the unsatisfied parties.

23.2. The complaint may be raised within 30 (thirty) days of the notice of the party.

23.3 The complaint may be submitted to the TRA Board.

23.4 The Board considers the complaint and takes a decision within 30 (thirty) days after the date of its submission.

23.5 If no decision has not been taken on the complaint within the specified deadline in the paragraph 4 of this section, the parties will have the right to address to the competent court.

## **Section 24**

24.1 The Board in charge of considering the complaint may decide upon:

- a) Keeping the decision effective and announcing the complaint as not having grounds;
- b) Invalidation/revocation of the decision and acknowledgment of the complaint;
- c) Modification of the decision by a partial acknowledgement of the complaint;
- d) Enforcement of the Commission to take a decision if this decision has been refused unlawfully.

24.2 The unsatisfied parties may continue the consideration through administrative and court procedures.



**Section 25**  
**Validity of the decision**

This regulation will become effective on the day of the signature.

Prishtina  
Date 11<sup>th</sup> June 2007

Telecommunications Regulatory Authority  
Anton Berisha, Chairman

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